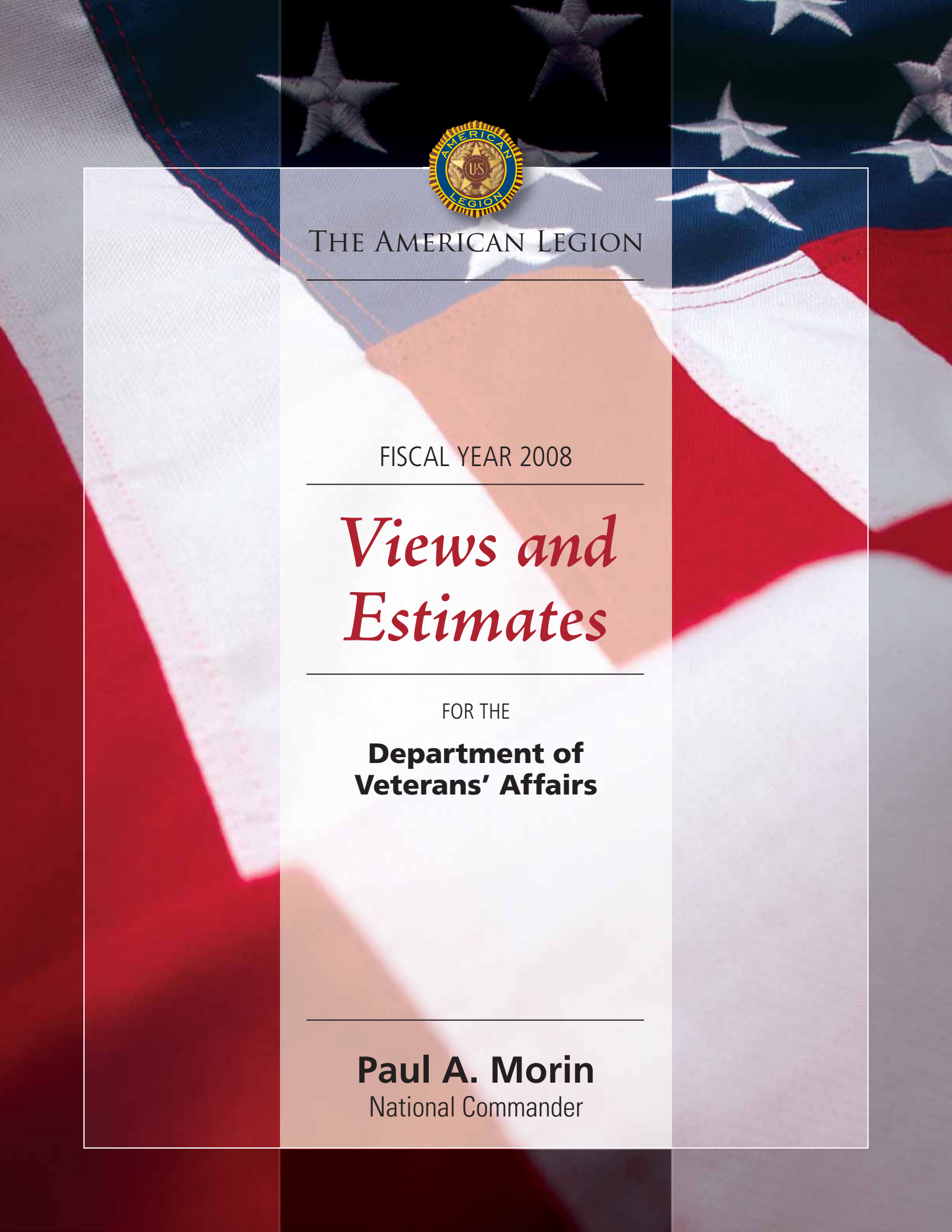


THE AMERICAN LEGION

FISCAL YEAR 2008

Views and Estimates

FOR THE

Department of Veterans' Affairs

Paul A. Morin
National Commander

Statement of
Paul A. Morin
National Commander
The American Legion

Before
The Veterans' Affairs Committee,
United States Senate

On The Legislative Priorities
of The American Legion

SEPTEMBER 20, 2006

Mr. Chairman and Members of the Committee:

As The American Legion's newly elected National Commander, I thank you for this opportunity to present the views of its 2.7 million members on issues under the jurisdiction of your committee. At the conclusion of The American Legion's 88th National Convention in Salt Lake City, Utah, over 3,000 delegates adopted 233 organizational resolutions with 222 having legislative intent. These organizational mandates will create the legislative portfolio of The American Legion for the 110th Congress.

As Legionnaires gathered at the National Convention to once again determine the path of the nation's largest veterans' service organization, it was with respect for those who have worn the uniform before us, friendship for those with whom we served, and admiration for those who currently defend the freedoms of this great nation. Each generation of America's veterans has earned the right to quality health care, disability compensation, rehabilitation and transitional programs available through the Department of Veterans Affairs (VA).

The American Legion will continue to work with Congress to ensure that VA is indeed capable of providing the highest quality health care services "*…for him who shall have borne the battle and for his widow and his orphan.*" With young American service members continuing to answer the nation's call to arms in every corner of the globe, we must now, more than ever, work together to honor their service and sacrifices. Those service members who return from battle with career-ending injuries and life changing memories will turn to VA for their health care, health care they have earned through their honorable military service to this country. VA must be funded at levels that will ensure all enrolled, eligible veterans receive quality health care in a timely manner.

ELIGIBILITY

All veterans who are eligible to receive benefits from VA should have timely access to the VA health care system. To disallow any eligible veteran, who was prepared to give their life for this country, is shameful and an unacceptable policy. Honorable military service, whether for a single enlistment or for a 30–year career, is not merely another period of employment in an individual's personal history. It is a defining portion of one's life.

Earlier this year, NBC News reported that "VA hospitals have undergone an amazing transformation, offering what several surveys say is the best medical care in the country." This glowing commentary on VA health care is certainly a reason to be proud. To maintain that quality of care should be a national priority. But that quality care is being denied to a large number of America's eligible veterans. As I testify before you here today, veterans are being denied access to VA facilities for want of adequate federal funding.

As the Global War on Terrorism continues, fiscal resources for VA will continue to be stretched and veterans will continue to go begging to their elected officials for the money to sustain a viable VA. A viable VA is one that cares for all veterans, not just the most severely wounded among us. The VA is often the first experience veterans have with the federal government after leaving the military. This nation's veterans have never let our country down; Congress should do its best to not let them down.

It is vital that VA and the Department of Defense (DoD) work together to ensure that transitioning service members are assisted in every step of their departure from active duty to the ranks of America's veterans. According to the FY 2007 President's budget request, VA expects to treat 199,667 fewer patients in Priority Groups 7 and 8 in 2007 than that estimated for 2006. VA states that the reason for the decline is the legislative policies proposed in the Administration's budget. While every veteran of Operation Enduring Freedom and Operation Iraqi Freedom is guaranteed two years of VA health care at no cost, after those two years, each of these new veterans will be reassigned to a Priority Group. Unfortunately, some believe Priority Group 7 and 8 veterans are not considered the "core" of VA patients. The American Legion believes every service member is a "core" element of the national

security – the total force. There must be a more efficient means of saving money than by locking veterans out of the very health care system created for their unique needs. Whether one served in combat or in a support capacity, he or she has earned the right to be called a veteran and that status should not be denigrated.

With that in mind and on behalf of The American Legion, I offer the following budgetary recommendations for the Department of Veterans Affairs for FY 2008:

BUDGET PROPOSALS FOR SELECTED DISCRETIONARY PROGRAMS

FOR DEPARTMENT OF VETERANS AFFAIRS FOR FISCAL YEAR 2007

Program	Current Funding	President's Budget Request for FY 07	House Passed HR 5385	Senate Approp Committee HR 5385	Legion's FY 2008 Request
Medical Care Including:	$31.4 billion	$30.7 billion	$28.4 billion	$ 30.9 billion	$36 billion
• *Medical Services*	*$21.6 billion*	*$22.4 billion*	*$23.1 billion*	*$25.5 billion*	
• *Medical Administration*	*$2.9 billion*	*$3.2 billion*	*$3.3 billion*	*$3.2 billion*	
• *Medical Facilities*	*$3.3 billion*	*$3.5 billion*	*$3.6 billion*	*$3.6 billion*	
• *Information Technology*	*$1.2 billion*	*$1.2 billion*	*$1.3 billion*	*$1.3 billion*	
Medical Care Collections	($2.2 billion)	($2.3 billion)	($2.3 billion)	($2.3 billion)	$2.1 billion*
Emergency Supplemental	$1.5 billion				
Medical & Prosthetics Research	$412 million	$399 million	$412 billion	$412 million	$472 million
Construction	(Katrina Sup. 586m)				
• Major	$607 million	$399 million	$283 million	$429 million	$348 million
- CARES	$532 million	($253 million)		($293 million)	$1 billion
• Minor	$201 million	$198 million	$210 million	$168 million	$279 million
State Extended Care Facilities	$85 million	$85 million	$105 million	$85 million	$250 million
State Veterans' Cemeteries	$32 million	$32 million	$32 million	$32 million	$42 million
NCA Operations	$157 million	$161 million	$161 million	$161 million	$178 million
General Administration	$1.4 billion	$1.5 billion	$1.5 billion	$1.5 billion	$2.2 billion

* Third-party reimbursements should supplement rather than offset discretionary funding.

VETERANS' HEALTH CARE

A SYSTEM WORTH SAVING

In 2002, The American Legion initiated the "I Am Not A Number" campaign to better understand the quality and timeliness of health care delivery within the Department of Veterans Affairs (VA). This program surveyed veterans on their personal experiences with the VA health care system and provided The American Legion with a clear snapshot of the needs of VA system wide. These first-hand accounts of veterans' experiences highlighted a trend within VA: veterans reported that the quality of care was exceptional, but complained of the difficulty of accessing that care.

During that year, then National Commander Ron Conley visited 60 VA Medical Centers nationwide and compiled a report highlighting the issues affecting VA as a result of years of inadequate funding. This report, titled "A System Worth Saving," covered issues from Medical Care Collection Fund (MCCF) targets, to wait times, to budgetary shortfalls, to staffing levels. This comprehensive report was presented to Congress and shared with VA in an attempt to bring attention to the budgetary needs of the VA health care system.

This year marks the printing of the third "A System Worth Saving" report. The American Legion System Worth Saving Task Force along with Field Service staff has visited 45 facilities in the past year. With the publication of the 2006 report, The American Legion has visited all VA Medical Centers in the continental United States.

Although it has been four years since the initial visits, The American Legion still has concerns about the effects of inadequate budgets on VA's ability to deliver quality care in a timely manner. America's veterans are turning to VA for their health care needs and, as we welcome home newly injured veterans from the War on Terrorism, it is our responsibility as advocates to work together to ensure VA is, indeed, capable of treating all eligible veterans.

MANDATORY FUNDING FOR VETERANS' HEALTH CARE

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

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

Unfortunately, without urgent changes in health care federal funding, new veterans will soon discover their battles are not over. They will be forced to fight for the life of the VA health care system. Just as the veterans of the 20th century, they will be forced to fight for the care they each are eligible to receive, but most will be denied.

The American Legion believes that the solution to the Veterans Health Administration's (VHA) recurring fiscal difficulties will only be achieved when its funding becomes a mandatory spending item. Under mandatory funding, VA health care funding would be guaranteed by law for all eligible enrollees.

The American Legion continues to support legislation that would establish a system of capitation-based funding for VHA. This new funding system would provide all of VHA's funding, except that of the State Extended Care Facilities Construction Grant Program, which would be separately authorized and funded as discretionary appropriations. The Veterans Health Administration is currently struggling to maintain its global preeminence in 21st century health care with funding methods that were developed in the 19th century. No other modern health care organization could be expected to survive under such a system. The American Legion believes that health care rationing for veterans must end. It is time to guarantee health care funding for all veterans seeking VA health care.

MEDICAL CARE COLLECTIONS FUND

The Balanced Budget Act of 1997, Public Law 105-33, established the VA Medical Care Collections Fund (MCCF), requiring that amounts collected or recovered from third-party payers after June 30, 1997, be deposited into this fund. The MCCF is a depository for collections from third-party insurance, outpatient prescription co-payments and other medical charges and user fees. The funds collected may only be used to provide VA medical care and services and for VA expenses for identification, billing, auditing and collection of amounts owed the federal government. The American Legion supported legislation to allow VA to bill, collect, and reinvest third-party reimbursements and co-payments; however, The American Legion adamantly opposes the scoring of MCCF as an offset to the annual discretionary appropriations since the majority of these funds come from the treatment of non-service-connected medical conditions. Historically, these collection goals far exceed VA's ability to collect accounts receivable.

In FY 2004, VHA collected $1.7 billion, a significant increase over the $540 million collected in FY 2001. VA's ability to capture these funds is critical to its ability to provide quality and timely care to veterans. Miscalculations of VA required funding levels results in real budgetary shortfalls. Seeking an annual emergency supplemental is not the most cost-effective means of funding the nation's model health care delivery system.

Government Accountability Office (GAO) reports have described continuing problems in VHA's ability to capture insurance data in a timely and correct manner and has raised concerns about VHA's ability to maximize its third-party collections. At three medical centers visited, GAO found an inability to verify insurance, accepting partial payment as full, inconsistent compliance with collections follow up, insufficient documentation by VA physicians, insufficient automation and a shortage of qualified billing coders were key deficiencies contributing to the shortfalls. VA should implement all available remedies to maximize its collections of accounts receivable.

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

MEDICARE

As do most American workers, veterans pay into the Medicare system without choice throughout their working lives, including while on active duty. A portion of each earned dollar is allocated to the Medicare Trust Fund and, although veterans must pay into the Medicare system, VA is prohibited from collecting any Medicare reimbursements for the treatment of allowable, non-service-connected medical conditions. This prohibition constitutes a multi-billion dollar annual subsidy to the Medicare Trust Fund. The American Legion does not agree with this policy and supports Medicare reimbursement for VHA for the treatment of allowable, non-service-connected medical conditions of allowable enrolled Medicare-eligible veterans.

CAPITAL ASSET REALIGNMENT FOR ENHANCED SERVICES (CARES)

In March 1999, GAO published a report on VA's need to improve capital asset planning and budgeting. GAO estimated that over the next few years, VA could spend one of every four of its health care dollars operating, maintaining, and improving capital assets at its major delivery locations, including 4,700 buildings and 18,000 acres of land nationwide.

Recommendations stemming from the report included the development of asset-restructuring plans for all markets to guide future investment decision making, among other initiatives. VA's answer to GAO and Congress was the initiation and development of the Capital Asset Realignment for Enhanced Services (CARES) program.

The CARES initiative is a blueprint for the future of VHA -- a fluid work in progress, in constant need of reassessment. In May 2004, the long awaited final CARES decision was released. The decision directed VHA to conduct 18 feasibility studies at those health care delivery sites where final decisions could not be made due to

inaccurate and incomplete information. VHA contracted Price Waterhouse Cooper (PWC) to develop a broad range of options and, in turn, develop business plans based on a limited number of selected options. To help develop those options and to ensure stakeholder input, then-VA Secretary Principi constituted the Local Advisory Panels (LAPs), which are made up of local stakeholders. The final decision on which business plan option will be implemented for each site is the responsibility of the Secretary of Veterans Affairs.

The American Legion is dismayed over the slow progress in the LAP process and the CARES initiative overall. Both Stage I and Stage II of the process include two scheduled LAP meetings at each of the sites being studied with the whole process concluding on or about February 2006. It wasn't until April 2006, after nearly a seven-month hiatus, that Secretary Nicholson announced the continuation of the services at Big Spring, Texas, and it, like all the other sites, has only been through Stage I. Seven months of silence is no way to reassure the veterans' community that the process is alive and well. The American Legion continues to express concern over the apparent short circuiting of the LAPs and the silencing of the stakeholders. The American Legion intends to hold accountable those who are entrusted to provide the best health care services to the most deserving population – the nation's veterans.

Upon conclusion of the initial CARES process, then-Secretary Principi called for a "billion dollars a year for the next seven years" to implement CARES. The American Legion continues to support that recommendation and encourages VA and Congress to "move out" with focused intent.

MEDICAL CONSTRUCTION AND INFRASTRUCTURE SUPPORT

Major Construction

Over the past several years, Congress has kept a tight hold on the purse strings that control the funding needs for the construction program within VA. The hold out, presumably, is for the development of a coherent national plan that will define the infrastructure VA will need in the decades to come. VA has developed that plan and it is CARES. The CARES process identified more than 100 major construction projects in 37 states, the District of Columbia, and Puerto Rico. Construction projects are categorized as major if the estimated cost is over $7 million. Now that VA has a plan to deliver health care through 2022, it is up to Congress to provide adequate funds. The CARES plan calls for, among other things, the construction of new hospitals in Orlando and Las Vegas, and replacement facilities in Louisville and Denver for a total cost estimated to be well over $1 billion for these four facilities. VA has not had this type of progressive construction agenda in decades. Major construction money can be significant and proper utilization of funds must be well planned. Recently, funding for a new VAMC in Denver was passed in both the House and Senate Committees. However, if timely completion is truly a national priority, The American Legion is concerned because adequate funding appears to be AWOL.

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

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

The American Legion recommends $348 million for Major Construction in FY 2008.

Minor Construction

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

The American Legion recommends $279 million for Minor Construction in FY 2008.

SECURITY OF INFORMATION

The data theft that occurred in May serves as a monumental wake up call to the nation. VA can no longer ignore Information Technology Security (IT). The recovery of the laptop is, indeed, cause for optimism; however, we must not discount the possibility that every name on that list could still be subject to possible identity theft. The complete overhaul of VA IT is only in its beginning stages. Meanwhile, there are still unresolved security breaches within VA including the most recent theft of a laptop from a VA contractor. How many computers need to be stolen before veterans get some real assurances from the federal government that their information is not only safe, but that safeguards will be in place to protect them against identity theft? The American Legion once again calls on VA and the Administration to keep its promise to veterans and provide free credit monitoring for one year. The American Legion is hopeful that the steps VA takes to strengthen its IT security will renew the confidence and trust of veterans who depend on VA for the benefits they have earned.

Funding for the IT overhaul should not be paid for with money from other VA programs. This would, in essence, make veterans pay for VA's gross negligence in the matter. The American Legion hopes that Congress will not attempt to fund the solution to this problem with scarce fiscal resources allocated to the VA for health care delivery. With this in mind, The American Legion is encouraged by the fact that IT now is a line item in the budget recommendation.

VA has shown it can be a leader in the areas of care and service. Its accomplishments, from providing high quality medical care to leading the world in the development of electronic records, are indicators that VA can also be the nation's leader in IT security.

The American Legion believes that there should be a complete review of IT security government wide. VA isn't the only agency within the government that needs to overhaul its IT security protocol. I urge Congress to exercise its oversight authority and review each federal agency to ensure that the personal information of all Americans is secure.

The American Legion recommends $1.5 billion for IT.

THE AGING OF AMERICA'S VETERANS

VA'S LONG-TERM CARE MISSION

VA's Long-Term Care (LTC) has been the subject of discussion and legislation for nearly two decades. In a landmark July 1984 study, *Caring for the Older Veteran*, it was predicted that a wave of elderly veterans had the potential to overwhelm VA's long-term care capacity. Further, the recommendations of the Federal Advisory Committee on the Future of Long-Term Care, in its 1998 report *VA Long-Term Care at the Crossroads*, made recommendations that serve as the foundation for VA's national strategy to revitalize and reengineer long-term care services. It is now 2006 and that wave of veterans has arrived.

Additionally, Public Law 106-117, the Millennium Act, enacted in November 1999, required VA to continue to ensure 1998 levels of extended care services (defined as VA nursing home care, VA domiciliary, VA home-based primary care, and VA adult day health care) in its facilities. Yet, VA has failed to maintain the 1998 bed levels mandated by law.

VA's inability to adequately address the long-term care problem facing the agency was most notable during the CARES process. The planning for the long-term care mission, one of the major services VA provides to veterans, was not even addressed in the CARES initiative, which is touted as the most comprehensive analysis of VA's health care infrastructure that has ever been conducted.

Incredibly, despite 20 years of forewarning, the February 2004 CARES Commission Report to the Secretary of VA states that VA has yet to develop a long-term care strategic plan with well-articulated policies that address the issues of access and integrated planning for the long-term care of seriously mentally ill veterans. The commission also reported that VA had not yet developed a consistent rationale for the placement of LTC units. It was not for lack of prior studies that VA has never had a coordinated LTC strategy. The Secretary's CARES Decision agreed with the commission and directed VHA to develop a strategic plan, taking into consideration all the complexities involved in providing such care across the VA system.

The American Legion supports the publishing and implementation of a LTC strategic plan that addresses the rising long-term care needs of America's veterans. We are, however, disappointed that it has now been over two years since the CARES Decision and no plan has been published.

The American Legion believes that VA should take its responsibility to America's aging veterans seriously and take proactive steps to provide the care mandated by Congress. Congress should do its part and provide adequate funding to VA to implement its mandates.

The American Legion supports current legislation that will ensure appropriate payments for the cost of long-term care provided to veterans in State Veterans Homes. Stronger oversight of payments to state veterans homes, full reimbursement for the treatment of veterans 70 percent service-connected or higher and the more efficient delivery of pharmaceuticals.

It is vital that VA meet the long-term care requirements of the Millennium Health Care Bill and we urge this committee to support adequate funding for VA to meet the long-term care needs of America's veterans.

State Extended Care Facility Construction Grants Program

Since 1984, nearly all planning for VA inpatient nursing home care has revolved around State Veterans' Homes (SVHs) and contracts with public and private nursing homes. The reason for this is obvious: for FY 2004, VA paid a per diem of $59.48 for each veteran it placed in SVHs, compared to the $354 VA claims it cost in FY 2002 to maintain a veteran for one day in its own nursing home care units (NHCUs).

Under the provisions of title 38, United States Code, VA is authorized to make payments to states to assist in the construction and maintenance of SVHs. Today, there are 109 SVHs in 47 states with over 23,000 beds providing nursing home, hospital, and domiciliary care. Grants for Construction of State Extended Care Facilities provide funding for 65 percent of the total cost of building new veterans homes. Recognizing the growing long-term health care needs of older veterans, it is essential that the State Veterans Home Program be maintained as an important alternative health care provider to the VA system. The American Legion opposes attempts to place moratoria on new SVH construction grants. State authorizing legislation has been enacted and state funds have been committed. The West Los Angeles State Veterans' Home, alone, is a $125 million project. Delaying this and other projects will result in cost overruns from increasing building materials costs and may result in states deciding to cancel these much needed facilities.

The American Legion supports:

- Increasing the amount of authorized per diem payments to 50 percent for nursing home and domiciliary care provided to veterans in State Veterans' Homes;
- Providing prescription drugs and over-the-counter medications to State Homes Aid and Attendance patients along with the payment of authorized per diem to State Veterans' Homes; and

- Allowing for full reimbursement of nursing home care to 70 percent service-connected veterans or higher, if the veterans reside in a State Veterans Home.

The American Legion fully supports H.R. 5671, the Veterans Long Term Care Security Act, which would amend title 38, United States Code, to ensure appropriate payment for the cost of long-term care provided to veterans in State veterans' homes and for other purposes. The American Legion urges Congress to move quickly on passing this bill and end the financial punishment veterans must endure should they choose to stay in a State Veterans Home.

The American Legion recommends $250 million for the State Extended Care Facility Construction Grants Program in FY 2008.

MEDICAL SCHOOL AFFILIATIONS

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

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

VHA's recent and numerous recognitions as a leader in providing safe, high-quality health care to the nation's veterans can be directly attributed to the relationship that has been fostered through the affiliates. The American Legion remains committed to this mutually beneficial affiliation between VHA and the medical schools of this nation. We also believe that medical school affiliates should be appropriately represented as a stakeholder on any national task force, commission, or committee established to deliberate on veterans' health care.

The American Legion affirms its strong commitment and support for the mutually beneficial affiliations between VHA and the medical schools of this nation.

MEDICAL AND PROSTHETICS RESEARCH

The American Legion believes that VA's focus in research should remain on understanding and improving treatment for conditions that are unique to veterans. The Global War on Terrorism is predicted to last at least two more decades. Service members are surviving catastrophically disabling blast injuries due to the superior armor they are wearing in the combat theater and the timely access to quality triage. The unique injuries sustained by the new generation of veterans clearly demand particular attention. It has been reported that VA does not have state-of-the-art prostheses like DoD, and that the fitting of the prostheses for women has presented problems due to their smaller stature.

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

The American Legion recommends $472 million for Medical & Prosthetics Research in FY 2008.

ENVIRONMENTAL EXPOSURES

Agent Orange

One of the top priorities of The American Legion has been to ensure that long overdue major epidemiological studies of Vietnam veterans who were exposed to the herbicide Agent Orange are carried out. In the early 1980s, Congress held hearings on the need for such epidemiological studies. The Veterans' Health Programs Extension and Improvement Act of 1979, P.L. 96-151 directed VA to conduct a study of long-term adverse health effects in veterans who served in Vietnam as a result of exposure to herbicides. When VA was unable to do the job, the responsibility was passed to the Centers for Disease Control (CDC). In 1986, CDC also abandoned the project, asserting that a study could not be conducted based on available records.

The American Legion did not give up. Three separate panels of the National Academy of Sciences have agreed with The American Legion and concluded that CDC was wrong and that epidemiological studies based on DoD records are possible.

The Institute of Medicine (IOM) report, *Characterizing Exposure of Veterans to Agent Orange and Other Herbicides Used in Vietnam*, is based on the research conducted by a Columbia University team. Headed by principal investigator Dr. Jeanne Mager Stellman, the team has developed a powerful method for characterizing exposure to herbicides in Vietnam. The American Legion is proud to have collaborated in this research effort. In its final report on the study, the IOM urgently recommends that epidemiological studies be undertaken now that an accepted exposure methodology is available. The American Legion strongly endorses that report.

The American Legion is extremely concerned about the timely disclosure and release of all information by DoD on the use and testing of herbicides in locations other than Vietnam during the war. Over the years, The American Legion has represented veterans who claim to have been exposed to herbicides in places other than Vietnam. Without official acknowledgement by the federal government of the use of herbicides, proving such exposure is virtually impossible. Information has come to light in the last few years leaving no doubt that Agent Orange, and other herbicides contaminated with dioxin, were released in locations other than Vietnam. This information is slowly being disclosed by DoD and provided to VA.

In April 2001, officials from DoD briefed VA on the use of Agent Orange along the Korean demilitarized zone (DMZ) from April 1968 through July 1969. It was applied through hand spraying and by hand distribution of pelletized herbicides to defoliate the fields of fire between the front line defensive positions and the south barrier fence. The size of the treated area was a strip 151 miles long and up to 350 yards from the fence to north of the civilian control line. According to available records, the effects of the spraying were sometimes observed as far as 200 meters downwind. Original estimates projected as many as 80,000 troops were possibly exposed during this period. This number was later reduced to 12,056. DoD identified the units that were stationed along the DMZ during the period in which the spraying took place. This information was given to VA's Compensation and Pension Service, which provided it to all 58 regional offices. Just recently, VA has decided to add several more units to the list of those exposed to herbicides at the Korean DMZ. VA Central Office has instructed its Regional Offices to concede exposure for veterans who served in the identified units during the period the spraying took place.

In January 2003, DoD provided VA with an inventory of documents containing brief descriptions of records of herbicides used at specific times and locations outside of Vietnam. The information, unlike the information on the Korean DMZ, does not contain units involved or individual identifying information. Also, according to VA, this information is incomplete, reflecting only 70 to 85 percent of herbicide use, testing and disposal locations outside of Vietnam. VA requested that DoD provide it with information regarding the units involved with herbicide operations or other information that may be useful to place veterans at sites where herbicide operations or testing was conducted.

Obtaining the most accurate information available concerning possible exposure is extremely important for the adjudication of herbicide-related disability claims of veterans claiming exposure outside of Vietnam. For herbicide-related disability claims, veterans who served in Vietnam during the period of January 9, 1962, to May 7, 1975,

are presumed by law to have been exposed to Agent Orange. Veterans claiming exposure to herbicides outside of Vietnam are required to submit proof of exposure. This is why it is crucial that all information pertaining to herbicide use, testing, and disposal in locations other than Vietnam be released to VA in a timely manner. Congressional oversight is needed to ensure that additional information identifying involved personnel or units for the locations already known by VA is released by DoD, as well as all relevant information pertaining to other locations that have yet to be identified. Locating this information and providing it to VA must be a national priority.

Gulf War Illness

Hallmark legislation was enacted in 1994 to ensure compensation for Gulf War veterans suffering from unexplained illnesses. Although the Veterans' Benefits Improvement Act of 1994, P.L. 103-446, looked good on paper, a 75 percent denial rate was the reality for sick Gulf War veterans seeking VA service connection for Gulf War related undiagnosed illness. As a result, The American Legion supported legislation to amend title 38 to correct this problem.

Despite the enactment of the Veterans Education and Benefits Expansion Act of 2001, P.L. 107-103 -- which clarified and expanded the definition of undiagnosed illness by including medically unexplained chronic multi-symptom illness, such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome -- the denial rate for these claims remains very high. The restrictive nature of VA's final rule, published in the Federal Register on June 10, 2003, implementing P.L. 107-103 will likely reinforce this pattern. We urge Congress to conduct oversight of the Gulf War related provisions of P. L. 107-103.

In January 2003, the Secretary of Veterans Affairs requested that the IOM review medical and scientific literature on the long-term health effects of sarin published since its initial report on sarin in September 2000. In its 2000 report, the IOM concluded that there was insufficient evidence to determine if an association exists between exposure to sarin, at levels too low to cause acute symptoms, and subsequent long-term adverse health effects. The IOM recommended that studies using laboratory animals be conducted to explore long-term health effects of acute short-term sarin exposure at levels that do not cause immediate acute symptoms. Subsequent to the September 2000 report, studies conducted by the U.S. Army Medical Research Institute of Chemical Defense found that low-level sarin exposure causes long-term health effects in animals. On August 20, 2004, IOM completed its review of all available peer-reviewed literature. Once again, IOM was unable to rule-out low level sarin exposure as a possible cause of long-term adverse health effects in Gulf War veterans. As in its 2000 report, IOM concluded that there is still insufficient/inadequate evidence to determine whether an association does or does not exist between sarin at levels too low to cause immediate acute symptoms and subsequent long-term adverse health effects.

Recent revelations involving the number of military personnel potentially exposed to sarin following the demolition of an Iraqi munitions storage complex in Khamisiyah, Iraq, in March 1991, makes this research imperative. On June 1, 2004, the Government Accountability Office (GAO) confirmed its June 2003 preliminary findings in a final report titled: *Gulf War Illnesses: DOD'S Conclusions about U.S. Troops' Exposure Cannot Be Adequately Supported*. Due to the unreliability of DoD plume modeling, GAO determined that DoD's conclusions about the number of troops exposed are highly questionable. DoD models estimated that approximately 100,000 military personnel were potentially exposed to low-levels of nerve agent. According to GAO, as many as 350,000 U.S. military personnel may have been exposed to nerve agents in Iraq. GAO also concluded that given the weak data, further modeling efforts would not be any more accurate or helpful.

In July 2005, IOM released its study on mortality in Khamisiyah veterans, *Mortality in US Army Gulf War Veterans Exposed to 1991 Khamisiyah Chemical Munitions Destruction*. The researchers, comparing the mortality of exposed veterans with unexposed veterans, found no significant difference, with one exception -- exposed veterans exhibited an increased risk of brain cancer deaths. The 2000 plume model was used to identify both groups of veterans. While researchers note that sarin and cyclosarin are not known carcinogens, this finding may be an indication that low-level sarin exposure can produce long-term adverse health effects in Gulf War veterans.

GAO's investigation clearly invalidates DoD's modeling efforts as well as the usefulness of any future efforts, and suggests the number of troops exposed to nerve agents is likely much greater than estimated by DoD, and that an increase in brain cancer deaths has been identified as unique among those presumed to be exposed during the demolition at Khamisiyah. The American Legion urges that a presumption of exposure be granted for every service member in the region at the time of the demolition.

In 2003, VA and DoD released a study on amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease) a fatal neurodegenerative disease affecting nerve cells in the brain, brain stem, or the spinal cord. Researchers found that deployed Gulf War veterans are twice as likely as their non-deployed counterparts to develop ALS. The Secretary of VA responded to this finding by offering Gulf War ALS cases expeditious adjudication -- on a direct service connection basis. However, VA determined that it would be premature at this time to create a regulatory presumption for service connection for Gulf War veterans with ALS. A one-year presumptive period is assigned for this disease, regardless of service area.

ALS is characterized by the loss of the ability to speak, swallow, chew and breathe, and muscle weakening to the point of paralysis. Initial onset of the disease varies in time and degree. Symptoms may be mild, or the condition may appear dormant with little or no progression for years. Indicators may be so mild that they may be disregarded or misdiagnosed. Since Gulf War veterans are twice as likely to develop ALS, and symptoms may have delayed manifestation, legislation is needed to protect Gulf War veterans who may suffer from this disease in the future. ALS needs to be added to the presumptive list of illnesses for Gulf War veterans and the general presumptive period for all veterans with ALS needs to be extended to seven years following discharge from active duty.

Fifteen years after the war, thousands of Gulf War veterans continue to suffer from chronic unexplained illnesses that have unknown causes; no effective treatments are available to alleviate their symptoms. The current presumptive period for undiagnosed illnesses will expire December 2006. However, the symptoms experienced by Gulf War veterans are not well understood and may not be for years to come. Therefore, The American Legion believes that legislation should be enacted to extend the presumptive period indefinitely.

Atomic Veterans

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

As a result of the court decision in *National Association of Radiation Survivors v. VA* and studies by GAO and others of the U.S.'s nuclear weapons test program, the accuracy and reliability of the assumptions underlying DTRA's dose estimate procedures have come into question. On May 8, 2003, the National Research Council's Committee to Review the DTRA Dose Reconstruction Program released its report. It confirmed the complaints of thousands of atomic veterans that DTRA's dose estimates have often been based on arbitrary assumptions resulting in underestimation of the actual radiation exposures. Based on a sampling of DTRA cases, it was found that existing documentation of the individual's dose reconstruction, in a large number of cases, was unsatisfactory and evidence of any quality control was absent. The committee concluded their report with a number of recommendations that would improve the dose reconstruction process of DTRA and VA's adjudication of radiation claims.

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

There are currently 1,417 pending non-presumptive claims, to include new cases and those requiring reassessments. Fifty-three percent of the pending cases are for skin cancer, a disease not currently on the list for presumptive illnesses for ionizing radiation exposure. The average time that a pending skin cancer case has been at DTRA is 708 days, not including time involved with initial processing at VA. The oldest case has been pending at DTRA for 1,266 days. Individual radiation dose assessments (RDA) can cost as much as $27,000, depending on complexity. The 221 dose assessments DTRA produced for skin cancers alone cost approximately $4.1 million or about $18,000 per case; VA medical and compensation costs for skin cancers during the same time frame are estimated at less than $1 million.

The American Legion believes that the dose reconstruction program should not continue. It is not possible to accurately reconstruct the radiation dosages to which these veterans were exposed. The process prolongs claims decisions on ionizing radiation cases, ultimately delaying treatment and compensation for veterans with fatal diseases. We urge the enactment of legislation to eliminate this provision in the claim of a veteran with a recognized radiogenic disease who was exposed to ionizing radiation during military service.

Mustard Gas Exposure

In March 2005, the VA initiated a national outreach effort to locate veterans exposed to mustard gas and Lewisite as participants in chemical warfare testing programs while in the military. The purpose of the testing programs was to evaluate the effectiveness of various types of protective clothing, ointments and equipment that could be used to protect American soldiers on the battlefield. Some participants were exposed during full-body exposure wearing various degrees of protective gear and some were tested by having a droplet of the agent applied to their forearms. For this recent initiative, VA is targeting veterans who have been newly identified by DoD for their participation in the testing, most of which had participated in programs conducted during WWII. DoD estimated 4,500 service members had been exposed.

Since the most recent VA outreach effort was announced, The American Legion has been contacted by veterans who contend that the number of participants identified was understated by tens of thousands, and that participation in these clandestine chemical programs extended decades beyond the World War II era. Investigators did not always maintain thorough records of the events, adverse health effects were not always annotated in the service members' medical records, and participants were warned not to speak of the program. Without adequate documentation of their participation, participants may not be able to prove that their current ailments are related to the testing. It is important that DoD commits to investigating these claims as they arise to see if they have merit. It is also important that VA commits to locating those identified by DoD in a timely manner, as many of them are WWII era veterans. Congressional oversight may be necessary to ensure that these veterans are granted the consideration they deserve.

HOMELESS VETERANS

VA has estimated that there are at least 250,000 homeless veterans in America and approximately 500,000 are homeless in a given year. Most homeless veterans are single men; however, the number of single women with children has drastically increased within the last few years. Homeless female veterans tend to be younger, are more likely to be married, and are less likely to be employed. They are also more likely to suffer from serious psychiatric illness.

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

The American Legion has a vision to assist in ending homelessness among veterans by ensuring services are available to respond to veterans and their families in need before they become homeless. Toward that objective,

The American Legion in partnership with the National Coalition for Homeless Veterans created a Homeless Veterans Task Force. The mission of the Task Force is to develop and implement solutions to end homelessness among veterans through collaborating with government agencies, homeless providers and other veteran service organizations. In the last two years, 16 homeless veterans workshops were conducted during The American Legion National Leadership Conferences, National Convention and Mid-Winter Conferences. Currently, there are 51 Homeless Veterans Chairpersons within The American Legion who act as liaison to federal, state and community homeless agencies and monitor fundraising, volunteerism, advocacy and homeless prevention activities within participating American Legion Departments.

The current Administration has vowed to end the scourge of homelessness within ten years. The clock is running on this commitment, yet words far exceed deeds. While veterans comprise less than nine percent of the nation's population, 34 percent of the nation's homeless are veterans and 75 percent of those are wartime veterans.

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

Homeless Providers Grant and Per Diem Program Reauthorization

In 1992, VA was given authority to establish the Homeless Providers Grant and Per Diem Program under the Homeless Veterans Comprehensive Service Programs Act of 1992, P.L. 102-590. The Grant and Per Diem Program is offered annually (as funding permits) by the VA to fund community agencies providing service to homeless veterans.

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

BLINDED VETERANS

There are currently over 38,000 blind veterans enrolled in the VA health care system. Additionally, demographic data suggests that in the United States, there are over 135,000 veterans with low-vision problems. Due to staffing shortages, over 1,500 blind veterans will wait months to get into one of the ten blind rehabilitative centers. VA currently employs twenty-six Blind Rehabilitative Outpatient Specialists (BROS) to provide services in twenty medical centers. The training BROS provide is critical to the continuum of care for blind veterans.

DoD medical system is dependent on VA to provide blind rehabilitative services. There is only one BROS for the Washington/Baltimore VAMC, which covers both Walter Reed Army Medical Center and Bethesda Naval Medical Center.

Given the critical skills that a BROS teaches to help blind veterans and their families adjust to such a devastating injury, VA must recruit more of these specialists.

COMPENSATION AND PENSION

VETERANS BENEFITS ADMINISTRATION

Veterans Benefits Administration (VBA)

The VA has a statutory responsibility to ensure the welfare of the nation's veterans, their families, and survivors. Providing quality decisions in a timely manner has been, and will continue to be, one of the VA's most difficult challenges.

Workload and Claims Backlog

There are approximately 2.6 million veterans receiving disability compensation and VA reports that this number is increasing at a rate of 5,000-7,000 per month. VA reported that its 57 Veterans Benefits Administration (VBA) regional offices issued more than 763,000 disability determinations in FY 2005. Three- and four-percent increases are expected in FY 2006 and 2007, amounting to approximately 826,000 claims in FY 2006 and 842,000 in FY 2007. A majority of these claims involve multiple issues that are legally and medically complex and time consuming to adjudicate.

The increasing complexity of VA claims adjudication continues to be a major challenge for VA rating specialists. Since judicial review of veterans' claims was enacted in 1988, the remand rate of those cases appealed to the United States Court of Appeals for Veterans Claims (CAVC) has been about 50 percent. In a series of precedent-setting decisions by the CAVC and the United States Court of Appeals for the Federal Circuit, a number of longstanding VA policies and regulations have been invalidated because they were not consistent with statute. These court decisions immediately added thousands of cases to regional office workloads, since they require the review and reworking of tens of thousands of completed and pending claims.

As of August 19, 2006, there were more than 389,000 rating cases pending in the VBA system. Of these, 92,047 (23.6 percent) have been pending for more than 180 days. According to the VA, the appeals rate has also increased from a historical rate of about 7 percent of all rating decisions being appealed to a current rate that fluctuates from 11 to 14 percent. This equates to more than 152,000 appeals currently pending at VA regional offices, with more than 132,000 requiring some type of further adjudicative action.

Staffing

Whether complex or simple, VA regional offices are expected to consistently develop and adjudicate veterans' and survivors' claims in a fair, legally proper, and timely manner. The adequacy of regional office staffing has as much to do with the actual number of personnel as it does with the level of training and competency of the adjudication staff. VBA has lost much of its institutional knowledge base over the past four years due to the retirement of many of its 30-plus year employees. As a result, staffing at most regional offices is made up largely of trainees with less than five years of experience. Over this same period, as regional office workload demands escalated, these trainees have been put into production units as soon as they completed their initial training.

Concern over adequate staffing in VBA to handle its demanding workload was addressed by VA's Office of the Inspector General (IG) in a report released in May 2005 (Report No. 05-00765-137, dated May 19, 2005). The IG specifically recommended, "…in view of growing demand, the need for quality and timely decisions, and the ongoing training requirements, reevaluate human resources and ensure that the VBA field organization is adequately staffed and equipped to meet mission requirements." The Under Secretary for Benefits has conceded that the number of personnel has decreased over the last few years. And the congressionally mandated Veterans' Disability Benefits Commission is also closely looking at the adequacy of current staffing levels.

It is an extreme disservice to veterans, not to mention unrealistic, to expect VA to continue to process an ever increasing workload, while maintaining quality and timeliness, with less staff. Our current wartime situation provides an excellent opportunity for VA to actively seek out returning veterans from Operations Enduring Freedom and Iraqi

Freedom, especially those with service-connected disabilities, for employment within VBA. To ensure VA and VBA are meeting their responsibilities, The American Legion strongly urges Congress to scrutinize VBA's budget requests more closely. Given current and projected future workload demands, regional offices clearly will need more rather than fewer personnel and The American Legion is ready to support additional staffing. However, VBA must be required to provide better justification for the resources it says are needed to carry out its mission and, in particular, how it intends to improve the level of adjudicator training, job competency, and quality assurance.

Training

Proper mandatory training is a key factor in the quality of regional office rating decisions. The Board of Veterans' Appeals (BVA) combined remand and reversal rate (59.4 percent) of regional office decisions for FY 2005 is a direct reflection of the lack of importance placed on training by regional office. Over the past few years, The American Legion's Quality Review Team has visited nearly 40 VA regional offices for the purpose of assessing overall operation. This includes a review of recently adjudicated claims. Our site visits have found that, frequently, there have been too few supervisors or inexperienced supervisors to provide trainees necessary mentoring, training, and quality assurance. In addition, at many stations, ongoing training for the new hires as well as the more experienced staff was postponed or suspended, so as to focus maximum effort on production.

Although the Under Secretary for Benefits has stated on numerous occasions that training of personnel is a top priority within VBA, the inconsistency in VBA's training approach and in its implementation needs to be thoroughly reviewed and addressed by upper management within the Department as the lack of proper training and oversight adversely impacts all areas of VBA. Each of VBA's 57 regional offices appears to have different approaches to training and they also differ in the importance placed on training. According to a VA Office of the Inspector General (VAOIG) survey of rating veteran service representatives (RVSR) and decision review offices (DRO), conducted in conjunction with its May 2005 report on "State Variances in VA Disability Compensation Payments," the respondents expressed positive opinions regarding the quality of their training, but indicated that training has not received high priority.

- 57 percent reported the quality of training to be good or very good
- 16 percent reported the quality of training to be poor or very poor
- 45 percent reported that they had received 10 hours or less of formal classroom instruction on rating policies and procedures in the last 12 months.
- 24.1 percent reported that they had received 11-20 hours of formal classroom instruction in the last 12 months.
- 18 percent responded that their regional office provides formal classroom instruction on rating policies and procedures once a week.
- 45.6 percent responded that their regional office provides formal classroom instruction on rating policies and procedures once a month.
- 36.4 percent responded that their regional office provides formal classroom instruction on rating policies and procedures once a quarter or less often.

Production Versus Quality

Any rational, informed observer of the VA adjudication system would find that the VA suffers from a quality problem. Despite the fact that VBA's policy of "production first" has resulted in many more veterans getting faster action on their claims, the downside has been that tens of thousands of cases have been prematurely and arbitrarily denied. Approximately 65 percent of VA raters and Decision Review Officers (DRO) surveyed by the IG, in conjunction with its May 2005 report, admitted that they did not have enough time to provide timely and quality decisions. In fact, 57 percent indicated that they had difficulty meeting production standards if they took time to

adequately develop claims and thoroughly review the evidence before making a decision. Inadequate staffing levels and pressure to make quick decisions, resulting in an overall decrease in quality of work, has also been a consistent complaint among Service Center employees interviewed by The American Legion staff during its regional office quality checks. As a consequence, the appeals burden at the regional offices, the Board of Veterans' Appeals (Board or BVA) and the Appeals Management Center (AMC) continues to grow. In FY 2005, the BVA issued more than 34,000 decisions and, of these, the BVA either overturned the regional offices' decisions or remanded for additional development in almost 60 percent of the appeals.

For years, The American Legion and other veterans' service organizations (VSOs) have stated that the driving force behind most VA adjudications is the need for the VA to process as many claims as possible in the fastest possible time. Awards and bonuses are often centered on production and even the IG acknowledged that because the VA often does not take the time to obtain all relevant evidence and information, there is a good chance that these claims are not properly adjudicated. The emphasis on quantity and speed of adjudication results in premature adjudications, improper denials of benefits and, of course, inconsistent decisions. The growing claims backlog and the immense pressure on VA leadership to reduce it and provide timely decisions are often at odds with efforts to maintain or improve the quality of the decisions. Instituting realistic production goals and timelines that take into consideration the number of pending cases and the complexity of the work must be done if VA is to ever reach a much needed balance between production and quality in its adjudication process. In addition to providing rating personnel with enough time to properly develop and rate claims, it is essential for VA management to actively encourage and reward quality work.

Additional Areas of Concern

VBA Communication with Veterans

The Veterans' Claims Assistance Act of 2000 (VCAA), P.L. 106-475, was designed in part to improve the way VBA communicated with claimants and the way in which VA regional offices developed claims. Great pains were taken in the wording of the statute to make clear the exact nature and extent of VA's obligations and responsibilities in notifying and assisting claimants. Essentially, the VCAA required the VA to inform veterans of the evidence and information that was needed in order for the VA to award benefits. This process was a major departure from longstanding adjudication policies and procedures, which did not adequately inform and assist individuals with their claims. This legislation was expected to result in claims that were more fully developed and which could be adjudicated in a more expeditious and accurate manner, thereby improving service to claimants. There was also an expectation that these improvements would increase claimant satisfaction with the decision received and, over time, reduce the appellate workload for the Decision Review Officers and for the Board of Veterans' Appeals.

Unfortunately, many VCAA development letters have not fulfilled the intent of the legislation. It is the experience of The American Legion, based on over 36 quality reviews of VA regional offices that many VCAA letters are poorly written and difficult to understand. We have identified instances where the letter sent to the claimant did not even begin to address relevant issues. Additionally, during our site visits, some VA regional office adjudicators and managers expressed dissatisfaction with the content of the VCAA letters issued by VA Central Office. These regional office employees were upset that they were not permitted to alter or amend the language provided by VA Central Office. In addition, it has been the experience of The American Legion that in some VA regional offices, relatively inexperienced regional office employees are tasked with the job of developing claims. Inadequate early development and notification can lead to many later adjudication problems.

Veterans seeking VA benefits should not have to wait until they receive a statement of case in order to understand what evidence the VA needs in order to properly adjudicate their claims. Properly and promptly informing the claimant of the evidence and information required to win the claim is an essential part of the VA's duty to assist the claimant in the development of his or her claim and it is an integral part of the non adversarial VA claims adjudication process. It is evident from the high appeals rate and remand rate for VCAA deficiencies that in many instances this is not being done.

The American Legion wants to stress that besides inadequate VCAA notifications being a legal issue, the failure to properly communicate with veterans seeking VA benefits is a fairness issue. It makes no sense for the VA to hide from what evidence would support the granting of VA benefits.

Veterans' Disability Benefits Commission
The purpose of the commission mandated by the Defense Authorization Act of 2004, P.L. 108-136, is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service. Although VA will play a supporting role in its work, the commission is an independent body and VA will not have any control over it or its report to Congress.

P.L. 108-136 requires the commission to submit a report on its study to the President and Congress within 15 months after the date of its first meeting. Cognizant of the enormous task ahead, Chairman James T. Scott stated, during the commission's first public meetings May 9-10, 2005, that he would, most likely, request an extension of the 15-month report deadline. The National Defense Authorization Act for FY 2006, signed by the President on January 6, 2006, contained a provision extending the deadline of the report from August 2006 to October 2007.

Concerned about the questionable history surrounding the creation of the commission and the impact its recommendations will undoubtedly have on VA's disability compensation program, The American Legion staff has met with representatives from the other major veterans' service organizations (VSOs) on several occasions to discuss its mutual concerns and strategies for monitoring and responding to the commission. Most recently, The American Legion, Disabled American Veterans (DAV), Veterans of Foreign Wars of the United States (VFW) and the Military Order of the Purple Heart (MOPH), at the commission's May 2006 public meeting, presented a joint statement regarding the commission's desire to collect social security disability insurance (SSDI) data as part of its study. After much debate, commissioners agreed to a compromise that would allow the commission to collect aggregate SSDI data, not data for individual recipients. The American Legion continues to closely monitor the commission's activities.

Attorney Representation

Three bills have been introduced in the Congress this year seeking to lift the current restrictions on attorney representatives before VA. Chairman Craig's bill, S. 2694, passed the Senate on August 3, 2006, and is pending further action. The American Legion does not oppose the concept of attorney representation in the VA system or the lifting of current restrictions on attorney representation. We are concerned that such legislation should contain adequate safeguards to ensure each attorney's competency, training and reasonable fee limits.

Although we do not disagree with the reasoning of these bills -- namely that a veteran should have the right to hire counsel to represent him or her in the VA claims administrative process -- we do not concede that attorneys would necessarily do a better job representing claimants before the VA than experienced veterans' service organization (VSO) representatives who currently provide this service free of charge. Just because a veteran's advocate is an attorney does not mean that he or she is proficient in this very specialized area of administrative law and would be a more effective representative. In fact, the data at the administrative level does not indicate that attorneys are better or more effective representatives than VSO service officers. A review of the Board of Veterans' Appeals (BVA) disposition of appeals for Fiscal Year (FY) 2005 demonstrates that VSOs do as well, if not better, than attorneys in achieving a favorable resolution of an appeal.

Additionally, The American Legion disagrees with the notion that lifting current restrictions so attorneys can enter the administrative process before a final VA administrative decision will fix all the problems that currently exist in the VA claims process. We are concerned that attorneys may make these problems worse by clogging the system with frivolous motions and other paperwork requests, and may change the current non-adversarial nature of the VA administrative process. Moreover, some claimants who begin the process with an attorney may, at some point during the claims process for whatever reason, sever the attorney-client relationship and then seek the services of a VSO representative. This situation may put both the claimant and the VSO representative at a disadvantage.

The American Legion does not believe lifting current restrictions on attorney representation in the VA is a solution

to resolving the major problems that exist in the VA adjudicative process. We urge the Congress to address the major problems that currently exist including, but not limited to, lack of accountability in the adjudicative process, training, inadequate staffing levels, and lack of quality and consistency in rating decisions by the rating officials and veteran law judges.

GI BILL EDUCATION BENEFITS

The American Legion commends the 109th Congress for its actions to improve the current Montgomery GI Bill (MGIB). A stronger MGIB is necessary to provide the nation with the caliber of individuals needed in today's Armed Forces. The American Legion appreciates the efforts that this Congress has made to address the overall recruitment needs of the Armed Forces and to focus on the current and future educational requirements of the All-Volunteer Force.

Over 96 percent of recruits currently sign up for the MGIB and pay $1,200 out of their first year's pay to guarantee eligibility. However, only one-half of these military personnel use any of the current Montgomery GI Bill benefits. We believe this is directly related to the fact that current GI Bill benefits have not kept pace with the increasing cost of education. According to "The College Board", a not-for-profit membership association that includes more than 5,000 schools, colleges, universities, and other educational organizations, the average cost of attending a four year public institution or university is $15,566. Tuition plus room and board alone (this does not include costs for books, supplies, transportation and other expenses) average $12,127. On October 1, 2005, the basic monthly rate of reimbursement under MGIB was raised to $1,034 per month for a successful four-year enlistment and $840 for an individual whose initial active duty obligation was less than three years. The current educational assistance allowance for persons training full-time under the MGIB Selected Reserve is $297 per month.

The Servicemen's Readjustment Act of 1944, P.L. 78–346, the original GI Bill, provided millions of members of the Armed Forces an opportunity to seek higher education. Many of these individuals may not have been afforded this opportunity without the generous provisions of that act. Consequently, these former service members made a substantial contribution not only to their own careers, but also to the economic well being of the country. Of the 15.6 million veterans eligible, 7.8 million took advantage of the educational and training provisions of the original GI Bill. Between 1944 and 1956, when the original GI Bill ended, the total educational cost of the World War II bill was $14.5 billion. The Department of Labor estimates that the government actually made a profit, because veterans who had graduated from college generally earned higher salaries and, therefore, paid more taxes.

Today, a similar concept applies. The educational benefits provided to members of the Armed Forces must be sufficiently generous to have an impact. The individuals who use MGIB educational benefits are not only improving their career potential, but also making a greater contribution to their community, state, and nation.

The American Legion recommends the 110th Congress make the following improvements to the current MGIB:

- **The dollar amount of the entitlement should be indexed to the average cost of a college education including tuition, fees, textbooks, and other supplies at an accredited public university, college, or trade school for which they qualify;**
- **The educational cost index should be reviewed and adjusted annually;**
- **A monthly tax-free subsistence allowance indexed for inflation must be part of the educational assistance package;**
- **Enrollment in the MGIB shall be automatic upon enlistment; however; benefits will not be awarded unless eligibility criteria have been met;**
- **The current military payroll deduction ($1,200) requirement for enrollment in MGIB must be terminated;**

- **If a veteran enrolled in the MGIB acquired educational loans prior to enlisting in the Armed Forces, MGIB benefits may be used to repay those loans;**
- **If a veteran enrolled in MGIB becomes eligible for training and rehabilitation under Chapter 31, of title 38, United States Code, the veteran shall not receive less educational benefits than otherwise eligible to receive under MGIB;**
- **Separating service members and veterans seeking a license, credential, or to start their own business must be able to use MGIB educational benefits to pay for the cost of taking any written or practical test or other measuring device;**
- **Eligible veterans shall have an unlimited number of years after discharge to utilize MGIB educational benefits;**
- **Eligible veterans should have the right to transfer their earned benefits to their spouse and dependents; and**
- **Eligible members of the Select Reserves who qualify for MGIB educational benefits shall receive not more than half of the tuition assistance and subsistence allowance payable under the MGIB and have up to 5 years after their date of separation to use MGIB educational benefits.**

Education and the Total Force GI Bill

Historically, The American Legion has encouraged the development of essential benefits to help attract and retain service members into the Armed Services, as well as to assist them in making the best possible transition back to the civilian community. These historic pieces of legislation, authored by the leadership of The American Legion, enabled veterans to purchase their first homes, attend college, and start businesses. The emergence of the American middle class, the suburbs, civil rights, and a worldwide economic boom can be attributed to this important legislation. The majority of individuals who join the National Guard or Reserves enter the Armed Forces straight out of high school, and many are full or part time students.

With the number of activations since 9/11, these same Reservists who are attending colleges and universities around the country are discovering that their actual graduation date may be extended well past their initial anticipated graduation date due to their military obligations.

One local Reservist who recently completed a 14-month tour in Iraq left school after 9/11 because he was told his unit would soon be deploying. This same Reservist recently graduated from the University of Maryland after eight years and has accumulated $50,000 in debt. The other half of this travesty is that it took 15 months for him to receive his first GI Bill payment; nevertheless, his immediate plans are to leave the service when his contract ends in 2007. It is important that VA provide viable educational programs to the Reserve and Guard forces as their commitment to the Global War on Terrorism increases.

Background of the Reserve Force

In the twenty years since the Montgomery GI Bill went into effect on June 30, 1985, the nation's security has changed radically from a fixed cold war to a dynamic "Global War on Terror." In 1991, the Active Duty Force (AF) of the Military stood at 2.1 million; today it stands at 1.4 million. Between 1915 and 1990 the Reserve Force (RF) was involuntarily mobilized only nine times.

There is now a continuum of service, beginning with those who serve in the reserve only, extending through those in the reserve who are called to active duty for a considerable period of time, and ending with those who enlist in the active Armed Forces and serve for a considerable period of time. Since 9/11 more than 480,000 members of the 860,000-member Selected Reserve (SelRes) have been activated.

Today approximately 40 percent of troops in Iraq are Guardsmen or Reservists. Despite this, the Montgomery GI Bill (MGIB) and the Montgomery GI Bill--Selected Reserve (MGIB-SR) still reflect benefits awarded twenty years ago. The members of the Selected Reserve rarely served on active duty at that time. The idea that any projection of military power would require the activation of at least some Reservists was never considered in creating these programs.

Currently, the GI Bill pays the average reservist $297.00 a month for 36 months compared to his or her active duty counterpart who is paid $1,004.00. With the rising cost of tuition, many Reservists are forced to apply for government and commercial loans, along with other sources, to supplement their GI Bill benefits.

Because most Reservists have both careers and families , these activated citizen soldiers face additional burdens as financial and career obligations mount, while their families, employers, and communities frequently face significant sacrifices and hardships as well. This has led to inequitable situations. First, Selected Reserve members and members of the Individual Ready Reserve (IRR) may be called to active duty for considerable periods, but less than two years. When they return to civilian life, what is available to help them readjust? They either have the same $297 per month benefit as those members of the Selected Reserve who never serve on active duty, or they may have nothing at all if their active duty is at the end of their six-year commitment to the Selected Reserve.

As the distinctions between the service requirements of active and Reserve forces continue to diminish, the difference between the active and Reserve forces of the GI Bill should diminish as well. Benefits should remain commensurate with sacrifice and service. The American Legion agrees with the concept of the Total Force Montgomery GI Bill which is designed to update the GI Bill by incorporating the new security realities of this current open-ended Global War on Terror, and addressing the recruiting and retention issues, which arise from it, to include the expanded role that the Reserve forces play in this modern era. The current members of the Reserve and active duty forces are being asked to perform in a manner literally unprecedented since WWII.

VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICE (VR&E)

The mission of the VR&E program is to help qualified, service-disabled veterans achieve independence in daily living and, to the maximum extent feasible, obtain and maintain suitable employment. The American Legion fully supports these goals. As a nation at war, there continues to be an increasing need for VR&E services to assist Operations Iraqi Freedom and Enduring Freedom veterans in reintegrating into independent living, achieving the highest possible quality of life, and securing meaningful employment. To meet America's obligation to these specific veterans, VA leadership must focus on marked improvements in case management, vocational counseling, and -- most importantly — job placement.

The success of the rehabilitation of our severely disabled veterans is determined by the coordinated efforts of every Federal agency (DoD, VA, DoL, OPM, HUD etc.) involved in the seamless transition from the battlefield to the civilian workplace. Timely access to quality health care services, favorable physical rehabilitation, vocational training, and job placement play a critical role in the "seamless transition" of each veteran, as well as his or her family.

Administration of VR&E and its programs is a responsibility of the Veterans Benefits Administration (VBA). Providing effective employment programs through VR&E must become a priority. Until recently, VR&E's primary focus has been providing veterans with skills training, rather than providing assistance in obtaining meaningful employment. Clearly, any employability plan that doesn't achieve the ultimate objective --a job -- is falling short of actually helping those veterans seeking assistance in transitioning into the civilian workforce.

Vocational counseling also plays a vital role in identifying barriers to employment and matching veterans' transferable job skills with those career opportunities available for fully qualified candidates. Becoming fully qualified becomes the next logical objective toward successful transition.

Veterans Preference in federal hiring plays an important role in guiding veterans to career possibilities within the federal government and must be preserved. There are scores of employment opportunities within the federal government that educated, well-trained, and motivated veterans can fill -- given a fair and equitable chance to

compete. Working together, all federal agencies should identify those vocational fields, especially those with high turnover rates, suitable for VR&E applicants. Career fields like information technology, claims adjudications, debt collection, etc., offer employment opportunities and challenges for career-oriented applicants that also create career opportunities outside the federal government.

Several reports published by GAO have cited VA as lacking in its efforts to find employment for disabled veterans. Employment programs have historically been marketed to veterans as an education program and not an employment program. Many veterans attend universities and colleges with few enrolled in training programs such as apprenticeships and on-the-job training that can lead to direct job placement. However, in FY 04 the VR&E service program instituted a number of recommended changes to re-focus the program to become more employment oriented. A five-track employment pilot project was initiated in October 2004 and completed in September 2005. Four areas of the country participated in this project called the "5-Tracks Employment Model." This model includes a "Job Resource Lab" comprising:

- An Employment Resource Center for:
  - Veterans
  - Employment Coordinators
  - Vocational Rehabilitation Counselors and Counseling Psychologist
- Resource for Labor Market Information
- Resource for Job Readiness Assistance
- Internet-Based Employment Resource
- An on-line employment services system to support;
  - Veterans
  - VR&E staff
  - Working Partners
- Virtual one-stop employment network

The VR&E's Job Resource Labs are to be placed in all VA regional offices by the end of 2006. The American Legion applauds this initiative and will be monitoring the implementation phase of the Job Resource Labs.

GAO has also cited exceptionally high workloads for a limited number of staff members at VR&E offices. This increased workload hinders the staff's ability to effectively assist individual veterans with identifying employment opportunities. In April 2005, the average caseload of a typical VR&E counselor approached 160 veterans. The President's FY 2006 budget request included an additional 21 management Directors and Support FTEs to be redirected from other business lines. Currently, VA representatives report the numbers of FTEs have increased and the average caseload has dropped slightly over the past six months. The American Legion is pleased that an additional number of FTEs will be hired and we applaud the President's request for an increase of $10.5 million and 130 FTEs for FY 07. It is vital that Congress approve this request to adequately address the expected increase of veterans needing assistance.

VETERANS' EMPLOYMENT AND TRAINING SERVICE

The 2004 VA Vocational Rehabilitation and Employment Task Force report cited that VR&E had made no significant improvements since the 1996 GAO report. In FY 05 and earlier, many states did not refer veterans from the VR&E program to the Veterans Employment and Training Service (VETS) for assistance in obtaining employment. Veterans with high-tech skills and advanced education were referred to expensive commercial placement agencies that do not specialize in employment assistance for veterans. VETS representatives in Michigan reported seeing "more referrals then we can handle" due to the shortages of DVOPs and LVERs and the worsening employment situation in the state. In Texas, the VETS program and the VR&E program are still

completely separate. Previously, The American Legion has stated that some VR&E counselors had not effectively communicated with their VETS counterparts. That situation has improved in a number of states. Some VETS representatives have commended their VR&E counterparts for their willingness to improve the communication process in order to increase services to veterans.

REHABILITATION AND EMPLOYMENT OUTCOMES

Numbers of Rehabilitated/Employed Veterans – FY 2007 Budget Submission

Year	Veterans successfully rehabilitated	YEAR	Veterans successfully employed with suitable jobs
FY 03	9,549	FY 03	7,525
FY 04	11,129	FY 04	8,392
FY 05	12,013	FY 05	9,279

The above demonstrates the improved outcomes for the VR&E program.

The American Legion recommends exploring possible training programs geared specifically for VR&E Counselors through the National Veterans Training Institute (NVTI). Contracting for standardized or specialized training for VR&E employees could very well strengthen and improve the overall program performance. NVTI serves as a valuable resource for VETS employment specialists and has contributed to a marked improvement in VETS performance. We are pleased to note that VETS and VR&E representatives report that VR&E counselors began training at the NVTI site in January 06.

PERFORMANCE STANDARDS

The American Legion applauds the efforts of VR&E to create and publish national performance standards for both the VR&E Officer position and the Vocational Rehabilitation Counselor/Counseling Psychologist positions. The progress that management is making will go a long way in ensuring an adequate system for evaluating the effectiveness of the VR&E Service in place.

It seems that the VR&E program has remained in a perpetual state of transition for the past 25 years, according to numerous GAO and VA reports. The 2004 Task Force report stated that the VR&E system must be redesigned for the 21st C entury employment environment. The American Legion continues to support strong leadership and continued verification of the recommendations made in the 2004 task force report. Additional FTE requirements along with an increased workload of veterans expected to use the program services require additional funding.

HOME LOAN GUARANTY PROGRAM

VA's Home Loan Guaranty program has been in effect since 1944 and has afforded approximately 17 million veterans the opportunity to purchase homes. The Home Loan programs offer veterans a centralized, affordable and accessible method of purchasing homes in return for their service to this nation. The program has been so successful over past years that not only has the program paid for itself, but has also shown a profit in recent years. The American Legion believes that it is unfair for veterans to pay high funding fees of 2 to 3 percent, which can add approximately $3,000 to $11,000 for a first time buyer. The VA funding fee was initially enacted to defray the costs of the VA guaranteed home loan program. The current funding fee paid to VA to defray the cost of the home loan has had a negative effect on many veterans who choose not to participate in this highly beneficial program. Therefore, The American Legion strongly recommends that the VA funding fee on home loans be reduced or eliminated for all veterans whether active duty, Reservist, or National Guard.

Specially Adapted Housing
The American Legion believes that with the increasing numbers of disabled veterans returning from Iraq and Afghanistan, the need for specially adapted housing is paramount. Therefore, The American Legion strongly recommends that the current $50,000 grant for specially adapted housing be increased to $55,000 and special home adaptations be increased from $10,000 to $12,300. Specially adapted housing grants are available for the installation of wheelchair ramps, chair lifts, modifications to kitchens and bathrooms and other adaptations to homes for veterans who cannot move about without the use of wheelchairs, canes or braces or who are blind and suffer the loss or loss of use of one lower extremity. Special home adaptation grants are available for veterans who are legally blind or have lost the use of both hands.

ECONOMIC OPPORTUNITY FOR VETERANS

DEPARTMENT OF LABOR

Veterans' Employment And Training Service

The American Legion's position regarding VETS programs is that this is and should remain a national program with federal oversight and accountability. The American Legion is eager to see this program grow and especially would like to see greater expansion of entrepreneurial based, self-employment opportunity training. The mission of VETS is to promote the economic security of America's veterans. This stated mission is executed by assisting veterans in finding meaningful employment. The American Legion believes that by strengthening American veterans, we in turn strengthen America. Annually, DoD discharges approximately 250,000 service members. Recently separated service personnel will seek immediate employment or increasingly have chosen some form of self-employment. In order for the VETS program to assist these veterans to achieve their goals, it needs to:

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

The American Legion believes staffing levels for Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representatives (LVERs) should match the needs of the veteran community in each state and not be based solely on the fiscal needs of the state government. Such services will continue to be crucial as today's active duty service members, especially those returning from combat in Iraq and Afghanistan, transition into the civilian world. Education, vocational and entrepreneurial training and employment opportunities will enable these veterans to succeed in their future endeavors. Adequate funding will allow the programs to increase staffing to provide comprehensive case management job assistance to disabled and other eligible veterans.

Title 38 U.S.C. § 4103A requires that all DVOP specialists shall be qualified veterans and preference be given to qualified disabled veterans in appointment to DVOP specialist positions. 38 U.S.C. § 4104(a)(4) states:

> *"[I]n the appointment of local veterans' employment representatives on or after July 1, 1988, preference shall be given to qualified eligible veterans or eligible persons. Preference shall be accorded first to qualified service-connected disabled veterans; then, if no such disabled veteran is available, to qualified eligible veterans; and, if no such eligible veteran is available, then to qualified eligible persons."*

The American Legion believes that the military experience is essential to understanding the unique needs of the veteran and that all LVERs, as well as all DVOPs, should be veterans and should be additionally educated to be able to address the needs of veterans who desire entrepreneurial support.

Make Transitional Assistance Program (TAP)/Disabled Transitional Assistance Program (DTAP) a Mandatory Program

DoD estimates that 68 percent of separating service members attend the full TAP seminars and only 35 percent of the Reserve components attend. The American Legion believes this low attendance number is a disservice to all transitioning service members, especially the reserve component. Currently, numerous National Guard and Reserve troops have returned from the war in Iraq and Afghanistan only to encounter difficulties with their federal and civilian employers at home, and the number of destroyed and bankrupt businesses due to military deployment is still being realized. In numerous cases brought to the attention of The American Legion by veterans and other sources, many of these returning service members have lost jobs, promotions, businesses, homes, cars and, in a few cases, become homeless. The American Legion strongly endorses the belief that service members would greatly benefit by having access to the resources and knowledge that the Transitional Assistance Program (TAP) and Disabled Transitional Assistance Program (DTAP) can provide and the TAP/DTAP program needs to update their program to recognize the large number of guard and reserve business owners who now require training, information and assistance while they attempt to salvage or recover from a business which they abandon to serve their country.

Service Members Occupational Conversion and Training Act

The American Legion urges the reinstatement of the Service Members Occupational Conversion and Training Act (SMOCTA). SMOCTA was developed as a transitional tool designed to provide job training and employment to eligible veterans discharged after August 1, 1990. Veterans eligible for assistance under SMOCTA were those with a primary or secondary military occupational specialty that DoD has determined is not readily transferable to the civilian workforce; or those veterans with a service-connected disability rating of 30 percent or greater.

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

Small Business Administration

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

The impact of deployment on self-employed reservists is tragic with a reported 40 percent of all veteran owned businesses suffering financial losses and in some cases bankruptcies. Many small businesses have discovered they are unable to operate and suffer some form of financial loss when key employees are activated. The Congressional Budget Office in a report, *"The Effects of Reserve Call-Ups on Civilian Employers,"* stated that it "expects that as many as 30,000 small businesses and 55,000

self-employed individuals may be more severely affected if their Reservist employee or owner is activated." The American Legion is a strong supporter of the "Hope at Home Act of 2005," which is a bipartisan bill that would not only require the federal government to close the pay gap between their Reserves and National Guard service member's civilian and military pay but it would also provide tax credits up to $30,000 for small businesses with service members who are activated.

Additionally, the Office of Veterans' Business Development within the SBA remains crippled and ineffective due to a token funding of $750,000 per year. This amount, which is less than the office supply budget for the SBA, is expected to support an entire nation of veteran entrepreneurs. The American Legion feels that this pittance is an insult to American veteran business owners, undermines the spirit and intent of P.L. 106-50 and continues to be a source of embarrassment for this country. The American Legion strongly supports S. 1014, "Supporting Our Patriotic Businesses Act of 2005," and recommends that the SBA Office of Veterans Business Development annual budget be immediately increased to a minimum of $2,000,000 and the office of Veterans Contracting Assistance be immediately reinstated.

VETERANS' PREFERENCE

A grateful nation, following each war, has indicated its thanks to those who bore the brunt of the battle by providing certain rights and benefits, one of which has been a small advantage when seeking federal employment because absence from a highly competitive job market creates an unfair and unequal burden on veterans who have been absent from the market while serving their country. The American Legion suggests that the Office of Personnel Management (OPM), which has the task of monitoring compliance of veterans' preference within all federal agencies subject to title 5, United States Code, create an Office of Veterans Affairs within OPM to ensure that all veterans are getting their employment preferences.

VETERANS MEMORIALS

NATIONAL CEMETERY ADMINISTRATION

The mission of the National Cemetery Administration is to honor veterans with final resting places in national shrines and with lasting tributes that commemorate their service to this nation. The National Cemetery Administration's mission is to serve all veterans and their families with the utmost dignity, respect, and compassion. Every national cemetery should be a place that inspires visitors to understand and appreciate the service and sacrifice of our nation's veterans.

National Cemetery Expansion

The American Legion supported P.L. 108-109, the National Cemetery Expansion Act of 2003, authorizing VA to establish new national cemeteries to serve veterans in the areas of: Bakersfield, Calif.; Birmingham, Ala.; Jacksonville, Fla.; Sarasota County, Fla.; southeastern Pennsylvania; and Columbia-Greenville, S.C. All six areas have veteran populations exceeding 170,000, which is the threshold VA has established for new national cemeteries.

The NCA requested $160 million and 1,589 FTEs for Operations and Maintenance in 2007. This will provide a net increase of $11 million in budget authority and 23 FTEs over the 2006 current estimate level. Workloads continue to grow at existing cemeteries, and additional funding for 23 FTEs, contract maintenance, and supplies is essential to maintain existing service levels. The NCA also requested $18.7 million for minor construction costs for FY 2007.

There are approximately 26.6 million veterans alive today. Nearly 676,000 veteran deaths are estimated to occur in 2008, peaking at 690,000 by 2009. The VA expects that at least 12 percent of these veterans will request burial in a national cemetery. Considering the growing cost of burial services and the excellent quality of service the NCA is providing, The American Legion foresees that this percentage will be much greater.

Congress must provide sufficient major construction appropriations to permit NCA to accomplish its stated goal of ensuring that burial in a national or state cemetery is a realistic option by locating cemeteries within 75 miles of 90 percent of eligible veterans.

National Shrine Commitment

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

The American Legion recommends $178 million for the National Cemetery Administration in FY 2008.

State Cemetery Construction Grants Program

The FY 2007 budget request recommended $32 million for the State Veterans Cemetery Grant Program. This is "no-year money" and so any monies not spent in the previous fiscal year can be carried over into the next fiscal year. This program is not intended to replace National Cemeteries, but to complement them. Grants for state-owned and operated cemeteries can be used to establish, expand and improve on existing cemeteries. VA has awarded 150 grants totaling more than $260 million to establish, expand or improve 63 veterans cemeteries in 37 states, Guam and Northern Mariana Islands. There are 60 operational cemeteries and two more under construction. Since NCA concentrates its construction resources on large metropolitan areas, it is unlikely that new national cemeteries will be constructed in all states. Therefore, individual states are encouraged to pursue applications for the State Cemetery Grants Program. Fiscal commitment from the state is essential to keep the operation of the cemetery on track. NCA estimates it requires about $300,000 a year to operate a state cemetery.

The American Legion recommends $42 million for the State Cemetery Grants Program in FY 2008.

FILIPINO VETERANS' BENEFITS

The American Legion supports full recognition and benefits to all veterans, American or Filipino, who were part of the defense of the Philippine Islands during World War II. VA, in VETPOP2001 revised, estimated that there were 60,000 surviving Filipino veterans who are classified as Philippine Commonwealth Army, Recognized Guerrilla and New Philippine Scouts veterans, of whom 45,000 reside permanently in the Philippines and 15,000 reside permanently in the U.S.

Of the 45,000 residing in the Philippines, 41,000 do not receive any compensation or pension benefit from VA, and most are sickly, over 70 years old and live below the poverty level. Those veterans living in the Philippines currently receive only 50 cents on the dollar as compensation for their service connected conditions. Veterans of those groups who live in the United States and members of the Regular Commonwealth Army living in the Philippines receive their full entitlement.

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

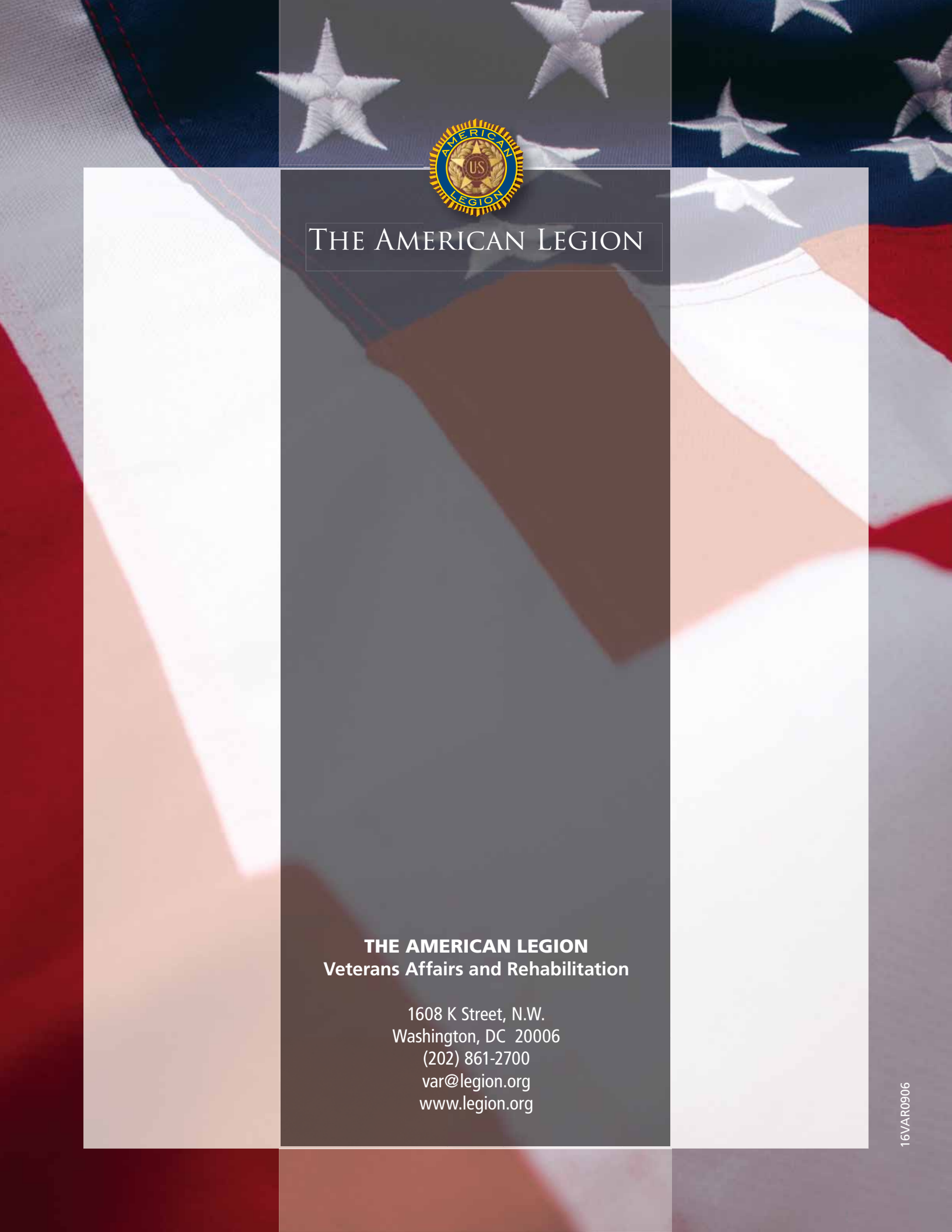
Filipino veterans have recently been somewhat successful in incrementally increasing benefits to parity with other U.S. veterans; however, the exclusion of these veterans from full benefits remains a fundamental unfairness in the law that has stood for too many years. As the numbers of these deserving veterans quickly dwindle, Congress has little time left to redress this injustice.

SUMMARY

Mr. Chairman and Members of the Committee, The American Legion appreciates the strong relationship we have developed with this committee. With increasing military commitments worldwide, it is important that we work together to ensure that the services and programs offered through VA are available to the new generation of American service members who will soon return home. You have the power to ensure that their sacrifices are, indeed, honored with the thanks of a grateful nation.

The American Legion is fully committed to working with each of you to ensure that America's veterans receive the entitlements they have earned. Whether it is improved accessibility to health care, timely adjudication of disability claims, improved educational benefits or employment services, each aspect of these programs touches veterans from every generation. Together we can ensure that these programs remain productive, viable options for the men and women who have chosen to answer the nation's call to arms.

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



THE AMERICAN LEGION

THE AMERICAN LEGION
Veterans Affairs and Rehabilitation

1608 K Street, N.W.
Washington, DC 20006
(202) 861-2700
var@legion.org
www.legion.org

16VAR0906