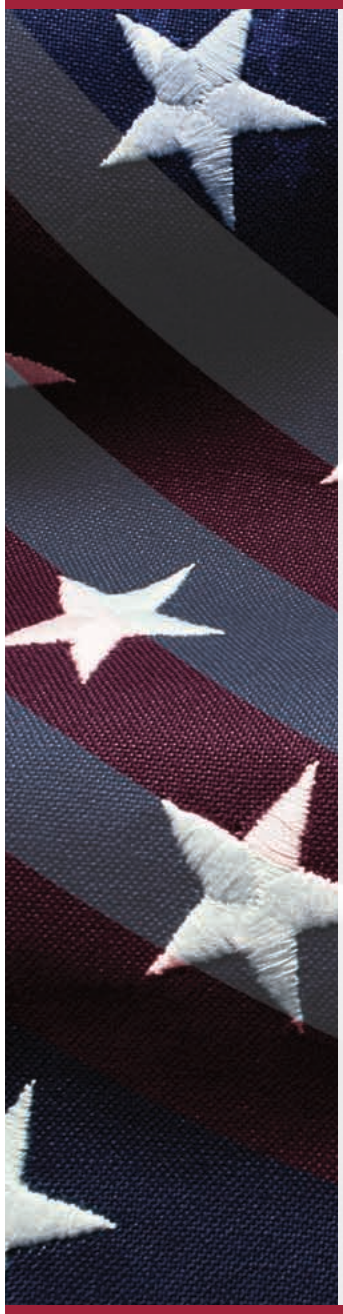
The American Legion



FISCAL YEAR 2009

Views and Estimates

FOR THE

Department of
Veterans' Affairs

Martin F. Conatser
National Commander

Statement of
Martin F. Conatser
National Commander
The American Legion

Before a
Joint Session of
The Veterans' Affairs Committees
United States Congress

On The Legislative Priorities of
The American Legion

SEPTEMBER 20, 2007

INTRODUCTION

The American Legion's National Commander, Martin F. "Marty" Conatser to the House and Senate Committees on Veterans' Affairs

Messrs. Chairmen and Members of the Committees:

As The American Legion's newly elected National Commander, I thank you for this opportunity to present the views of its 2.7 million members on issues under the jurisdiction of your Committees. At the conclusion of The American Legion's 89th National Convention in Reno, Nevada, delegates adopted forty organizational resolutions, with thirty-four having legislative intent. These mandates, along with those passed at the 88th National Convention, create the legislative portfolio of The American Legion for the 110th Congress.

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). With this in mind, The American Legion applauds the actions of the 110th Congress for finishing the FY 2007 VA budget with an increase. Also, FY 2008 funding allocations for many VA accounts meet or exceed funding targets proposed by The American Legion in testimony presented earlier this year. The American Legion commends these actions. Congress has not exceeded funding targets of The American Legion in many years.

The American Legion will continue to work with Congress to ensure that VA is indeed capable of providing timely access to the highest quality health care services. With young American servicemembers 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 servicemembers 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. Whether it be VA health care, the disability claims process, or finding a job, VA must be funded at levels that will ensure all veterans receive quality service in a timely manner.

PRESIDENT'S COMMISSION ON CARE FOR AMERICA'S RETURNING WOUNDED WARRIORS

The conditions at Walter Reed Army Medical Center (WRAMC) exposed a terrible gap in the appearance and in the reality of a seamless transition for our severely injured servicemembers. While the physical conditions at WRAMC, which servicemembers had to endure, were not the fault of VA, other shortcomings in the whole transition process were exposed. Besides the horrible living conditions that were brought to light at WRAMC, the most often heard complaint from servicemembers was not quality of care issues as much as the confusion over the transition processes itself. Often it was the transition process that delayed the receiving of quality VA health care and other earned benefits for our newest generation of wartime veterans. All have agreed that this is a failure on the part of The Department of Defense (DOD) and VA.

The "President's Commission On Care for America's Returning Wounded Warriors" has made six recommendations to assure a seamless transition for the severely wounded. The American Legion is aware that these recommendations are being put into legislative form. Some of these reforms have already have been suggested by members of Congress. We commend the Commission's philosophy of a creating a "patient-centered" approach that also includes the needs of the patient's family members.

The American Legion strongly urges the enactment of reforms that will simplify the transition process not only for the severely injured, but also for any servicemember facing medical discharge – whether in time of war or peace. Congress must be careful in its attempts to fix the problem. Creating more layers of bureaucracy will only cause more frustration to servicemembers and veterans. Any solution must reduce paperwork, increase cooperation between DOD and VA, and include the care of the entire family, not just the servicemember or veteran.

ELIGIBILITY

The American Legion strongly supports the reinstatement of enrollment for Priority Group 8 veterans.

All veterans eligible to receive benefits from VA should have timely access to the VA health care system. The American Legion opposes any enrollment policy that would disallow any eligible veterans, who were prepared to give their lives for this country, to access to what is often seen as the best health care in the nation. 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.

Maintaining the quality of care VA is now known for 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.

FY 2007 saw the continuation of suspension of enrollment of new Priority Group 8 veterans due to the increased demands for services. According to VA, the number of Priority Group 8 veterans denied enrollment in the VA health care system as of January 2007 is 378,495. The American Legion believes this number would be significantly higher if it were possible to include those veterans who have not even tried to use the VA since the suspension took effect. Denying earned benefits to eligible veterans does not solve the problems resulting from an inadequate Federal budget.

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. VA is often the first experiences 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.

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 2009:

BUDGET PROPOSALS FOR SELECTED DISCRETIONARY PROGRAMS

FOR DEPARTMENT OF VETERANS AFFAIRS FOR FISCAL YEAR 2009

Program	Current Funding for FY 2007	FY 2008 President's Budget Request	House Passed HR 2642	The American Legion's FY 2009 Recommendations
Total Medical Care Including:	$32.4 billion	$34.6 billion	$37 billion	$38.4 billion (Includes Medical and Prosthetics Research)
• *Medical Facilities*	*$3.6 billion*	*$3.6 billion*	*$4.1 billion*	
• *Medical Services*	*$25.5 billion*	*$27.2 billion*	*$28.9 billion*	
• *Medical Administration*	*$3.2 billion*	*$3.4 billion*	*$3.6 billion*	
• *Medical & Prosthetics Research*	*$412 million*	*$411 million*	*$412 million*	$476 million
Medical Care Collections	($2.2 billion)	($2.4 billion)	($2.4 billion)	$2.1 billion*
Information Technology	$1.2 billion	$1.9 billion	$1.9 billion	$2.3 billion
Construction				
• Major	$399 million	$727 million	$1.4 billion	$560 million
- CARES				$1 billion
• Minor	$200 million	$233 million	$615 million	$485 million
State Extended Care Facilities	$85 million	$85 million	$165 million	$275 million
State Veterans' Cemeteries	$32 million	$32 million	$37 million	$45 million
NCA Operations	$161 million	$167 million	$170 million	$228 million
General Administration	$1.5 billion	$1.5 billion	$1.6 billion	$2.8 billion

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

VETERAN'S 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 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 fifth "A System Worth Saving" report. The American Legion's 2007 System Worth Saving report, a compilation of information gathered from site visits conducted by field service representatives and the System Worth Saving Task Force members, focuses on Vet Centers and Polytrauma Centers. The American Legion visited Vet Centers that were located near demobilization sites and select Polytrauma Centers and network sites to ascertain the effects of the number of returning veterans on the services provided. Approximately 47 Vet Centers and 20 Polytrauma Centers were selected. The reports highlighted key issues in determining quality care: staffing levels, funding, physical plant, and obstacles and challenges to providing care.

Although it has been five 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 injured veterans from the Global War on Terrorism (GWOT), 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 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. Previous generations of wartime veterans were welcomed at VA medical facilities until the 1980s. Unfortunately, without urgent changes in health care Federal funding, new veterans will soon discover their battles are not over. Our nation's newest heroes will be fighting 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.

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 – patient-based rather than budget-driven annual Federal appropriations.

The American Legion will continue 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 integrated health care delivery system with funding methods that were developed in the 19th century for an inpatient delivery system that no longer exists. No other modern health care organization could be expected to survive under such an inconsistent budget process.

The American Legion's position on VA health care funding is 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 result 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 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. Since over half of VA's enrolled patient population is Medicare-eligible, this prohibition constitutes a multi-billion dollar annual subsidy to the Medicare Trust Fund.

The American Legion is opposed to the current policy on Medicare reimbursement and supports Medicare reimbursement for VHA for the treatment of allowable, non-service-connected medical conditions of allowable enrolled Medicare-eligible veterans.

VET CENTERS

The American Legion is proud to have been involved with the Vet Center program since its inception in 1979. During the developmental phase, some of the Vet Centers operated out of local American Legion posts while searching for permanent storefront locations. The American Legion has stated on many occasions that we receive more positive comments on the Vet Center program than any other program administered by VA.

Vet Centers are a unique, invaluable asset to the VA health care system. They were designed to provide services exclusively for veterans who served in theaters of conflict, or those who experienced military sexual trauma. Vet Centers are community-based and veterans are assessed the day they seek services. They provide mental health counseling to not just the veteran, but those in his or her support system–such as the spouse and children. Services have also expanded to provide bereavement counseling to family members of those who have died while fighting in support of Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF).

Vet Centers provide services in a non-clinical environment, which may appeal to those who would be reluctant to seek mental health care in a medical facility. A high percentage of the staff, more than 80 percent, are combat veterans and can relate to the readjustment issues experienced by the those seeking services.

The most important aspect of the Vet Centers is that they provide timely accessibility. Since Vet Centers are community-based and veterans are assessed within minutes of their arrival, eligible veterans are not subjected to long wait times for disability claims decisions to determine eligibility for enrollment, or long wait times for available appointments. VA's plan to create 23 new Vet Centers within the next two years which will bring the number of Vet Centers to 232. This will improve timely access to readjustment services for many combat veterans and their families, some of which reside in under-served areas. VA needs to ensure that future Vet Centers are positioned to reach as many rural veterans as possible.

Although Vet Centers have extensive outreach plans, more outreach is needed to reach other groups of veterans who may not know they are eligible to use Vet Centers or those who may not be familiar with the program in general. Many veterans learn of Vet Centers by word of mouth. Reaching veterans residing in rural areas will be a challenge. The VA's plan to hire 100 new Vet Center GWOT outreach coordinators will also enhance outreach to eligible veterans.

The American Legion believes that all Vet Centers need to be fully staffed with qualified providers to ensure that combat veterans seeking care for readjustment are afforded the same standard of quality care, no matter which Vet Center they use.

TRAUMATIC BRAIN INJURY (TBI)

In a July 2006 report entitled "Health Status of and Services for Operation Enduring Freedom and Operation Iraqi Freedom Veterans after Traumatic Brain Injury Rehabilitation," the Department of Veterans Affairs' Office of Inspector General examined the Veterans Health Administration's ability to meet the needs of OEF/OIF veterans who suffered from traumatic brain injury (TBI). Fifty-two patients from around the country — including Montana, Colorado, North Dakota, and Washington — were interviewed at least one year after completing inpatient rehabilitation from a Lead Center (Minneapolis, MN; Palo Alto, CA; Richmond, VA; and Tampa, FL) that included those who lived in states with rural veteran populations.

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

Some of the challenges noted by family members who care for these veterans in rural settings include the necessity for complicated special arrangements and the absence of VA rehabilitative care in their communities.

Case managers working at Lead Centers and several secondary centers noted limited ability to follow patients after discharge to rural areas and lack of adequate transportation.

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

POLYTRAUMA CENTERS

In 2005, VHA designated four VA Medical Centers as Polytrauma Rehabilitation Centers (PRC). They provide specialized care for returning servicemembers and veterans who suffer from multiple and severe injuries. The Centers provide specialized rehabilitation to help the injured servicemember or veteran optimize the level of independence and functionality they are capable of achieving. The Polytrauma Centers are located in Minneapolis, MN; Palo Alto, CA; Richmond, VA; and Tampa, FL. Another unique aspect of the Polytrauma Center is that those needing care for TBI, amputations, blindness and psychosocial/mental health issues can receive that care in one location.

In addition to the four sites, VA has established 17 Polytrauma Network Sites (PNS)--one in each Veterans Integrated Services Network--and approximately 75 Polytrauma Support Clinic Teams to augment the care of those with multiple injuries.

During the System Worth Saving site visits to the Polytrauma Centers, many of the PRCs had vacancies for highly specialized rehabilitative fields and nursing. The biggest challenge to filling the vacancies was the inability to offer competitive salaries. VA must be adequately staffed in order to maintain or enhance services provided to veterans and servicemembers who are recovering from multiple injuries.

ACCESS TO CARE FOR RURAL VETERANS

Research conducted by VA indicated that veterans residing in rural areas are in poorer health than their urban counterparts. It was further reported that nationwide, one in five veterans who enrolled to receive VA health care lives in rural areas. Providing quality health care in a rural setting has proven to be very challenging, given factors such as limited availability of skilled care providers and inadequate access to care. Even more challenging will be VA's ability to provide treatment and rehabilitation to rural veterans who suffer from the signature ailments of the on-going Global War on Terror—traumatic blast injuries and combat-related mental health conditions. VA's efforts need to be especially focused on these issues.

A vital element of VA's transformation in the 1990s was the creation of Community Based Outpatient Clinics (CBOCs) that moved access to VA primary care closer to the veterans' community. Over the last several years, VA has established hundreds of CBOCs throughout the system and today there are over 700 that provide health care to the nation's veterans.

There is great difficulty serving veterans in rural areas. Veterans in states such as Nebraska, Iowa, North Dakota, South Dakota, Wyoming, and Montana face extremely long drives, a shortage of health care providers and bad weather. The Veterans Integrated Services Networks (VISNs) rely heavily upon CBOCs to close the gap.

One concern of The American Legion is that many of the CBOCs are at or near capacity and many still do not provide adequate mental health services to veterans in need. The provision of mental health services in CBOCs is even more critical today with the ongoing wars in Iraq and Afghanistan. It has been estimated that nearly 30 percent of the veterans who are returning from combat suffer from some type of mental stress. Further, statistics show that mental health is one of the top three reasons a returning veteran seeks VA health care.

The American Legion believes that where there is very limited access to VA health care it is in the best interest of veterans residing in highly rural areas that local care be made available to them. Some of these veterans have physical limitations or suffer from conditions that make extensive travel dangerous. Many veterans have expressed concerns to our organization about their limited financial resources prohibiting travel, citing the rising cost of gas, the limitations of the mileage reimbursement rate, and the need to pay for overnight accommodations as obstacles. Providing contracted care in highly rural communities – when VA health care services are not possible – would alleviate the unwarranted hardships that these veterans encounter when seeking access to VA health care.

SEAMLESS TRANSITION

VA has an Office of Seamless Transition that is available to participate in DOD, National Guard and Reserves Transition Assistance Programs (TAP) and Disabled Transition Assistance Programs (DTAP). The American Legion remains concerned, however, that many servicemembers returning home from OEF/OIF duty are not being properly advised of the benefits and services available to them from VA--and other Federal and State agencies. This is especially true of Reserve and National Guard units that are demobilized at hometown Reserve Centers and National Guard armories, rather than at active duty demobilization centers.

Legionnaires at the state level have briefed Guard and Reserve units on VA's benefits and services. Many transitioning servicemembers were unaware of the existence of the Office of Seamless Transition and did not know the office has staff available to provide briefings to their respective units that had recently returned from or planned to deploy to in support of GWOT.

It is important that there is improved communication between VA and Reserve and National Guard units to ensure that reservists who are eligible are aware of all of their earned VA benefits.

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 over 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 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 2007 and that wave of veterans has arrived.

Additionally, Public Law 106-117, the Millennium Health Care and Benefits 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 initial CARES initiative, which is touted as the most comprehensive analysis of VA's health care infrastructure ever 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.

VA should 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 will continue to support 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 and Benefits Act and we urge your Committees 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 126 SVHs in 47 states with over 27,000 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 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. Delaying 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 veterans reside in a State Veterans' Home.**

The American Legion recommends $275 million for the State Extended Care Facility Construction Grants Program in FY 2009.

MEDICAL AND NURSING SCHOOL AFFILIATIONS

VHA and its medical school affiliates have enjoyed a long-standing and exemplary relationship for nearly 60 years. This relationship 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.

VA recently established a Nursing Academy to address the nationwide nursing shortage issue. The Nursing Academy has embarked on a five-year pilot program that will establish partnerships with a total of 12 nursing schools. The initial set of partnerships implemented this year included nursing schools in Florida, California, Utah and Connecticut. More partnerships will be selected in 2008 and 2009. This pilot program will train nurses to understand the health care needs of veterans and make more nurses available to allow VA to continue to provide veterans with the quality care they deserve.

The American Legion affirms its strong commitment and support for the mutually beneficial affiliations between VHA and the medical and nursing 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. Servicemembers 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.

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 continue to 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 and Prosthetics Research in FY 2009.

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, Public Law 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 this IOM report.

The IOM's most recent report on veterans' herbicide exposure in Vietnam, Veterans and Agent Orange: Update 2006, added two new illnesses to the category of "limited or suggestive evidence of association," AL amyloidosis and hypertension. This is a profound finding since many Vietnam War veterans suffer from hypertension. Although the VA still has to review the IOM Committee's findings and recommendations before deciding whether or not to add these ailments to the list of presumptive illnesses for veterans who were exposed to herbicides, The American Legion strongly urges VA to make a timely decision on the recommendations and provide timely notification of the decision to add or not add to the presumptive list.

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. 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 of the regional offices. 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.

The American Legion endorses this IOM report and strongly urges VA to make a timely decision on its recommendations and provide timely notification of the decision to add or not add to the presumptive list.

Gulf War Illness

In the Research Advisory Committee on Gulf War Veterans' Illness (RACGWI) initial report released in November 2004, it was found that, for a large majority of ill Gulf War veterans, their illnesses could not be explained by stress or psychiatric illness and concluded that current scientific evidence supports a probable link between neurotoxin exposure and subsequent development of Gulf War veterans' illnesses. Earlier government panels concluded that deployment-related stress, not the numerous environmental and other exposures troops were exposed to during the war, was likely responsible for the numerous unexplained symptoms reported by thousands of Gulf War veterans.

Gulf War research is moving away from the previous stress theories and is beginning to narrow down possible causes. However, research regarding viable treatment options is still lacking. The American Legion applauds Congress for having the foresight to provide funding to the Southwestern Medical Center's Gulf War Illness research program. The Center, headed by Dr. Robert Haley at the University of Texas Southwestern, was awarded $15 million, renewable for five years, to further the scientific knowledge on Gulf War Veterans Illnesses research. This research will not only impact veterans of the 1991 Gulf War, but may prove beneficial for those currently serving in the Southwest Asia Theater and the Middle East. The purpose of the research is to fill in the gaps of knowledge where there is little, yet suggestive information. Dr. Haley's research will further this knowledge about Gulf War veterans' illnesses and hopefully help improve the lives of ill Gulf War veterans and their families who suffer beside them. We owe ill Gulf War veterans our exhaustive efforts in finding treatments for their ailments.

VA must continue to fund research projects consistent with the recommendations of the Research Advisory Committee on Gulf War Veterans' Illness (RACGWI). It is important that VA continues to focus its research on finding medical treatments that will alleviate veterans' suffering as well as on figuring out the causes of that suffering. The American Legion also recommends that your Committees thoroughly review the RACGWI's second report, which will be released this fall.

Public Law 103-210, which authorized the Secretary of Veterans Affairs to provide priority health care to the veterans of the Persian Gulf War who have been exposed to toxic substances and environmental hazards, allowed Gulf War Veterans--and veterans of the Vietnam War--to enroll into Priority Group 6. The last sunset date for this authority was December 31, 2002. Since this date, information provided to veterans and VA hospitals has been conflicting. Some hospitals continue to honor Priority Group 6 enrollment for ill Gulf War veterans seeking care for their ailments. Other hospitals, well aware of the sunset date, deny Priority Group 6 enrollment for these veterans and notify them that they qualify for Priority Group 8. To these veterans' dismay, they are completely denied enrollment because of VA's restricted enrollment for Priority Group 8 since January 2003. Even more confounding is the fact

that eligibility information disseminated via internet and printed materials does not consistently reflect this change in enrollment eligibility for Priority Group 6. VA has assured The American Legion that this issue will be rectified.

Although these veterans can file claims for these ailments and possibly gain access to the health care system once a disability percentage rate is granted, those whose claims are denied cannot enroll. According to the May 2007 version of VA's Gulf War Veterans Information System (GWVIS), there were 14,874 claims processed for undiagnosed illnesses. Of those undiagnosed illness claims processed, 11,136 claims were denied. Because the nature of these illnesses are difficult to understand and information about individual exposures may not be available, many ill veterans are not able to present strong claims. They are then forced to seek care from private physicians who may not have enough information about Gulf War Veterans' illnesses to provide appropriate care.

VA recently published its comments on the IOM's Gulf War and Health, Volume 2: Insecticides and Solvents report, released in February 2003 in the Federal Register. The Department decided not to establish a presumption of service connection for any diseases, illnesses or health effects considered in the report, based on exposure to insecticides or solvents during service in the Persian Gulf during the Persian Gulf War. Many of VA's justifications for not establishing presumption mirror the reasons why ill Gulf War veterans have problems justifying their claims. The IOM report notes that little information is known about the use of solvents in the theater.

VA notes that veterans may still be granted service connection, if evidence indicates an association between their diseases and their exposures. This places the burden of proof on Gulf War veterans to prove their exposures and that the level of exposure is sufficient enough to warrant service connection. IOM and VA have acknowledged that there is insufficient information on the use of the identified solvents and pesticides during the Gulf War.

VA states that Public Law 105-277 does not explain the meaning of the phrase, "known or presumed to be associated with service in the Armed forces in the Southwest Asia theater of operations during the Persian Gulf War" and that there is no legislative history explaining the meaning of the phrase. VA has had adequate time to get Congress to clarify the statute's intent and should have clarified the intent prior to delivering a charge to the IOM for the report. VA's interpretation is that Congress did not intend VA to establish presumptions for known health effects of all substances common to military and civilian life, but that it should focus on the unique exposure environment in the Persian Gulf during the war. The IOM was commissioned to ascertain long-term health effects of service in the Persian Gulf during the war, based on exposures **associated** with service in theater during the war as identified by Congress, not exposures **unique** to the Southwest Asia theater. The determination to not grant presumption for the ailments identified should be based solely on the research findings, not on the legitimacy of the exposures identified by Congress.

The IOM has a similar charge to address veterans who served in Vietnam during the war. Herbicides were not unique to the operations in the Southeast Asia theater of conflict and there had not been, until recently, a definitive notion of the amounts of herbicides to which servicemembers had been exposed. Peer-reviewed, occupational studies are evaluated to make recommendations on which illnesses are associated with exposure the herbicides—and their components--known to be used in theater. For ailments that demonstrate sufficient evidence of a causal relationship, sufficient evidence of an association, and limited evidence of an association, the Secretary may consider presumption. Gulf War and Health Volume 2 identifies several illnesses in these categories. However the Secretary determined that presumption is not warranted.

VA needs to clearly define what type of information is required to determine possible health effects, for instance clarification of any guidance or mandate for the research. VA also needs to ensure that its charge to the IOM is specific enough to help it make determinations about presumptive illnesses. VA noted that neither the report, nor the studies considered for the report identified increased risk of disease based on episodic exposures to insecticides or solvents and that the report states no conclusion whether any of the diseases are associated with "less than chronic exposure," possibly indicating a lack of data to make a determination. If this was necessary, it should have been clearly identified.

Finally, 38 USC 1118 mandates how the Secretary should respond to the recommendations made in the IOM reports. The Secretary is required to make a determination of whether or not a presumption for service connection is warranted for each illness covered in the report no later than 60 days after the date the report is received. If the Secretary determines that presumption is not warranted for any of the illnesses or conditions considered in the report, a notice explaining scientific basis for the determination has to be published in the Federal Register within 60 days after the determination has been made. Gulf War and Health, Volume 2 was released in 2003, four years ago. Since then, IOM has released several other reports and VA has yet to publish its determination on those reports as well.

The American Legion urges VA to provide clarity in the charge for the IOM reports concerning what type of information is needed to make determinations of presumption of service connection for illnesses that may be associated with service in the Gulf during the war. The American Legion urges VA to get clarification from Congress on the intent of the phrase "known or presumed to be associated with service in the Armed forces in the Southwest Asia theater of operations during the Persian Gulf War," get clarification from the IOM committee to fillin as many gaps of information as possible, and re-evaluate the findings of the IOM report with the clarification provided.

The American Legion also urges Congress to provide oversight to ensure that VA provides timely responses to the recommendations made in the IOM reports.

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 50 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.

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.

The American Legion believes that the dose reconstruction program should not continue. We urge the enactment of legislation to eliminate this provision in the claim of a veteran with a recognized radiogenic disease who was exposed to ionizing radiation during military service.

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 servicemembers 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 servicemember's 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.

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 10 blind rehabilitative centers. VA currently employs approximately 26 Blind Rehabilitative Outpatient Specialists (BROS) to provide services in 20 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.

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

MEDICAL CONSTRUCTION AND INFRASTRUCTURE SUPPORT

Major Construction

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 approved by Congress. However, if timely completion is truly a national priority, The American Legion is concerned because funding appears to be inadequate.

In addition to the cost of the proposed new facilities are the many construction issues that have been "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. 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 $560 million for Major Construction in FY 2009.

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 $485 million for Minor Construction in FY 2009.

INFORMATION TECHNOLOGY FUNDING

The data theft that occurred in May 2006 served as a monumental "wake-up call" to the nation. The complete overhaul of VA Information Technology (IT) is only in its beginning stages. 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 is its own line item in the budget recommendation.

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. The American Legion urges Congress to exercise its oversight authority and review each Federal agency to ensure that the personal information of all Americans is secure.

In FY 2006, Congress created the centralized IT Systems Appropriation. In FY 2006, VA detailed 5,010 staff from the VA administrations and staff offices to the VA Chief Information Officer (CIO). This change allowed VA to place IT-related maintenance and operations projects, contracts and procurement, including telephone systems, under the control of the VA CIO. While the total request for VA IT in the President's FY 2008 budget is $1.86 billion, $5.6 million is a result of the centralization process. Approximately $1.3 billion is what has been requested to maintain and expand existing resources.

The American Legion supports the centralization of VA IT. The amount of work that needs to be done to truly secure the information being handled by VA is immense. While VA seems to be taking IT security seriously, in the past it has not. The American Legion urges Congress to maintain close oversight of VA IT restructuring efforts and to fund VA IT to ensure the most rapid implementation of all proposed security measures.

The American Legion recommends $2.3 billion for Information Technology.

BENEFITS

COMPENSATION AND PENSION

Veterans Benefits Administration

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 VA's most difficult challenges.

Workload and Claims Backlog

There are approximately 2.7 million veterans receiving disability compensation benefits, an increase of approximately 400,000 since 2003. This equates to about $34.5 billion in disability benefits paid to veterans and their survivors in FY 2006. VA reported that its 57 Veterans Benefits Administration (VBA) regional offices issued more than 774,000 disability determinations in FY 2006. This represents an increase of about 11,000 decisions from the previous fiscal year. VA received 806,382 rating claims in FY 2006 and expects to receive approximately 811,000 in FY 2007. A majority of these claims involve multiple issues that are legally and medically complex and time consuming to adjudicate.

According to VBA's "Monday Morning Workload Report," there were 378,000 rating claims pending at the end of FY 2006, 21.9 percent of which were pending over 180 days. Unfortunately, the backlog of pending disability claims has continued to increase since last year. As of August 25, 2007, there were 400,000 rating claims pending, 25.6 percent of which were pending more than 180 days. The current appeals rate of approximately 11 to 14 percent has resulted in almost 162,000 appeals pending at VA regional offices, with 141,748 of these requiring some type of further adjudicative action. There are also more than 17,500 remands pending at the Appeals Management Center (AMC) and there are about 31,000 appeals awaiting adjudication at the Board of Veterans' Appeals (BVA).

According to the Government Accountability Office (GAO), in a report on challenges VA faces in improving its claims processing, dated March 13, 2007, although VA made progress earlier this decade in reducing the size and age of its pending claims backlog, it is currently losing ground due, in part, to increased filing of claims, including those filed by OIF and OEF veterans. Additional factors, according to GAO, were an increase in the complexity of claims, changes in law and precedent setting court decisions and challenges obtaining necessary evidence in a timely manner.

Another factor is the increase in the number of claims filed with multiple issues. Each issue basically amounts to a separate claim and, according to VA, the number of claims with eight or more issues/disabilities increased from 21,814 in FY 2000 to 51,260 in FY 2006. This represents a 135 percent increase over FY 2000 and a 15 percent increase over FY 2005.

Staffing

Inadequate staffing levels and pressure to make quick decisions, resulting in an overall decrease in quality of work, has been a consistent complaint among service center employees interviewed by The American Legion staff during our regional office quality checks. The American Legion is pleased with the new hiring initiatives conducted by VBA this year and we are hopeful that this trend will continue in order to ensure VBA has adequate personnel and resources to handle a workload that continues to increase each year. However, in order to ensure VA and VBA are meeting their responsibilities, The American Legion strongly urges Congress to scrutinize VBA's budget requests more closely.

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 opportunities within VBA. 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. VBA, however, 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.

In order to ensure VA and VBA are meeting their responsibilities, The American Legion strongly urges Congress to scrutinize VBA's budget requests more closely.

Training

Proper mandatory training is a key factor in the quality of VA regional office rating decisions. The BVA's combined remand and reversal rate (56 percent) of regional office decisions for the first 10 months of FY 2007 is a direct reflection of the lack of importance placed on training by the VA regional offices. Over the past few years, The American Legion's Quality Review Team has visited more than 40 VA regional offices for the purpose of assessing overall operation. The American Legion reviews recently adjudicated claims and interviews service center staff. Our site visits reveal that, at many regional offices, there have been too few experienced supervisors that could provide trainee adjudicators proper mentoring and quality assurance. In addition, at many stations, ongoing training for the new hires as well as the more experienced staff would be postponed or suspended, so as to focus maximum effort on production.

Despite the assurances of the Under Secretary for Benefits 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 VBA. In the experience of The American Legion, the lack of proper training and oversight adversely impacts all areas of VBA. Please note that each of VBA's 57 regional offices appear to have different approaches to training and also differ in the importance placed on training. According to a May 2005 report from the VA Office of the Inspector General (VAOIG) based on a survey of rating veteran service representatives (RVSRs) and decision review offices (DROs), 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.

The information obtained in the VAOIG's survey is consistent with what The American Legion has found in talking to service center staff during our quality review site visits. Some stations have regular formalized or structured training programs, while others have training programs that are best described as more informal and sporadic. Some stations have well established and structured training for new employees, but ongoing training for experienced staff is very limited.

The VAOIG also recommended that a scientific study be conducted to further examine the variances in disability payments. VA subsequently contracted the Institute for Defense Analyses (IDA) to conduct the study. IDA released its report earlier this year. IDA noted that although VBA provides centralized training modules for training purposes, many regional offices supplement this training with material developed locally. IDA also noted that many rating specialists interviewed stated that they received "on-the-job" training from senior raters

and identified these individuals as the biggest influence on their rating styles. IDA suggested that a "stronger mechanism" would reduce the potential for persistent differences among regional offices in ratings and ensure that raters VA wide are receiving the same training. IDA further recommended that raters be given standardized test cases, reflecting the most likely areas of variation, as part of an ongoing training process.

We are appreciative of the importance the Under Secretary for Benefits has placed on training of VBA personnel. We are also aware of the centralized training program that has been implemented; however, a national training standard/requirement, in addition to the centralized training conducted by Compensation and Pension Service (C&P), for regional office personnel is also needed. Consistent and standardized training at each regional office must take place for all personnel—experienced and new hires alike. The American Legion believes it is crucial that such a program be implemented and closely monitored for compliance by the Under Secretary for Benefits. Management in stations not in compliance with such training requirements must be held accountable; otherwise any national or centralized training effort will not be successful.

Additionally, The American Legion believes it is essential to proper training that information (reasons for remand or reversal) from BVA decisions, DRO decisions and errors noted in National STAR and other internal quality reviews be tracked and examined for patterns. This information should then be used in mandatory formal training to ensure that common errors and other discrepancies occurring in regional office rating decisions are not repeated. This information should also be used for remedial training purposes when patterns of errors are identified for specific individuals. Although such data is currently being collected and disseminated to the regional offices, it appears that consistent utilization of this data in regular formalized and specific training has been lacking. Unless regional offices (both managers and individual adjudicators) learn from their mistakes and take corrective action, there will continue to be a high rate of improperly adjudicated claims, resulting in a consistently high appeals rate and subsequent high BVA remand/reversal rate of regional office decisions.

The American Legion believes a national training standard/requirement, in addition to the centralized training conducted by Compensation and Pension Service (C&P), is needed for regional office personnel. Additionally, The American Legion believes it is essential to proper training that information (reasons for remand or reversal) from BVA decisions, DRO decisions and errors noted in National STAR and other internal quality reviews be tracked and examined for patterns.

Performance Standards

The emphasis on production continues to be a driving force in the VA regional office, often taking priority over such things as training and quality assurance. Performance standards of adjudicators and rating specialists are centered on productivity as measured by work credits, known as "End Products." Both VSRs and RVSRs have minimum national productivity requirements that must be met each day. Some stations also set their own standards, based on their claims backlog and other station specific requirements that are over and above the national requirement. 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 DROs surveyed by the VAOIG, 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. This fact does not bode well for veterans and should be an unacceptable outcome no matter what the system criteria are.

Unfortunately, the end product work measurement system essentially pits the interests of the claimant against the needs of VA managers. The conflict is created because the regional offices have a vested interest in adjudicating as many claims as possible in the shortest amount of time. Awards and bonuses are often centered on production. This creates a built-in incentive to take shortcuts so that the End Product can be taken. The system, in effect, rewards regional offices for the gross amount of work they report, not whether the work is done accurately or correctly, often resulting in many claims being prematurely adjudicated. These problems are caused by

inadequate development, failure to routinely identify all relevant issues and claims and ratings based on inadequate examinations. Even the VAOIG 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. Such errors, however, are often overshadowed by the desire of VA managers to claim quick End Product credit. The result has been a traditionally high remand rate by BVA and the U.S. Court of Appeals for Veterans Claims (CAVC). The BVA's combined remand and reversal rate (56 percent) for the first ten months of FY 2007 is arguably a direct reflection of the greater emphasis placed on production over training and quality assurance.

It seems to The American Legion that VBA management has been reluctant to establish a rigorous quality assurance program to avoid exposing the longstanding history of the manipulation of workload data and policies that contribute to poor quality decision-making and the high volume of appeals. VBA's quality-related problems and the fact that little or no action is being taken to prevent or discourage the taking of premature End Products have been longstanding issues for The American Legion. The current work measurement systems, and corresponding performance standards, are used to promote bureaucratic interests of regional office management and VBA rather than protecting and advancing the rights of veterans. The End Product work measurement system, as managed by the VA, does not encourage regional office managers to ensure that adjudicators do the "right thing" for veterans the first time. For example, denying a claim three or four times in the course of a year before granting the benefit sought allows for a total of FIVE End Product work credits to be counted for this one case, rather than promptly granting the benefit and taking only one work credit. In the view of The American Legion, the need for a substantial change in VBA's work measurement system is long overdue. A more accurate reliable work measurement system would help to ensure better service to veterans. Ultimately, this would require the establishment of a work measurement system that does not allow work credit to be taken until the decision in the claim becomes final, meaning that no further action is permitted by statute whether because the claimant has failed to initiate a timely appeal or because the BVA rendered a final decision.

The American Legion recommends a substantial change in VBA's work measurement system. A more accurate reliable work measurement system would help to ensure better service to veterans.

Proficiency/Competency

C&P conducted an open book (pilot) job skill certification test for VSRs several years ago in which the pass rate was extremely low (approximately 23 percent). Even more alarming than the low-test scores was the fact that those who took the test had several years of experience in the position and were considered to be proficient.

C&P subsequently finalized its VSR proficiency test and conducted tests in May and August 2006. Employees participating in the testing underwent 20 hours of training prior to taking the test. Although the pass rate (about 42 percent) for these tests was much higher than the pilot test, it is still very low and can hardly be considered acceptable. C&P did not conduct any tests in 2007 as of August 2007.

The American Legion applauds the new testing program as a step in the right direction, but we still have concerns. Although successful completion of the test will be required for promotion or assignment to a rating board, it is not mandatory as a condition of employment in that position and is completely optional. C&P is in the process of developing a test for RVSRs and DROs but a timeline for completion or implementation has not yet been determined. Unfortunately, like the VSR test, the test for RVSRs and DROs will not be mandatory as a condition of employment.

The ultimate goal of proficiency or competency testing should be to ensure that an individual in any given position is competent, proficient, and otherwise qualified to perform the duties required of that position. This goal will not be achieved if testing is not mandatory, or is not provided for all levels or for all positions, and remedial training or other corrective action is not required for those who do not successfully pass the test. Although this concept may not be embraced by some, the ultimate goal is to have qualified and competent staff who will provide the best service possible for our veterans.

The American Legion applauds the new testing program as a step in the right direction. The ultimate goal of having qualified and competent staff who provide the best service possible for veterans is in harmony with the mission of VA.

Additional Areas of Concern

- **Veterans' Disability Benefits Commission (VDBC or Commission)**

  The VDBC is scheduled to release its report and recommendations to Congress and the President on October 1, 2007. The American Legion has closely monitored the Commission's activities during the past two years and has testified before it on several occasions.

  The American Legion will provide both Committees with our written comments on the Commission's report once it is released.

- **President's Commission on Care for America's Returning Wounded Warriors**

  The American Legion has serious concerns with the Commission's recommendation regarding the streamlining of the DOD/VA retirement and disability compensation system that would appear to establish different compensation programs based on whether a condition is the result of combat. Service incurred disabilities are no less disabling if incurred in a non-combat environment and should not be treated differently from those that are the result of combat.

  Additionally, this recommendation, if implemented, would put additional burdens on an already overloaded VA system. VA currently has backlogs that are unacceptable and is simply not capable of handling the extra work that would result from the implementation of this recommendation unless given many more FTEs. The American Legion is also concerned about putting the disability examination process solely in DOD control, but then requiring VA to assign disability ratings without any input in the examination process.

  The American Legion will continue to work with the Congress on how to best streamline the DOD/VA retirement and disability compensation system.

- **Attorney Representation**

  On December 22, 2006, President Bush signed into law legislation (Public Law 109-461) allowing attorneys to represent veterans before VA, for a fee, after a notice of disagreement (NOD) has been filed. This provision took effect June 20, 2007.

  The American Legion does not oppose the concept of attorney representation in the VA system or the lifting of the restrictions on attorney representation. However, we are insistent that such public law contains adequate safeguards to ensure each attorney's competency, training and reasonable fee limits. As the law was fairly broad, the Secretary of VA had substantial discretion in the rule making process.

  The proposed regulation was published in the Federal Register on May 7, 2007. The American Legion closely scrutinized the proposed regulation to ensure that all of our concerns, as just discussed, were adequately addressed. We subsequently provided substantial written comment on the matter.

  Proposed § 14.69(b) would implement a testing requirement for attorneys based on VA's experience in accrediting agents under previous procedures. The American Legion strongly supports the testing of attorneys who plan to charge fees before VA will accredit them. Although the final rule has not yet been published, we recently learned that VA plans on removing the testing requirement, most likely due to pressure from attorneys and bar associations, in favor of a continuing legal education requirement.

  Although The American Legion does not think the testing requirement is necessary for attorneys who agree to represent claimants on a pro bono basis, we believe it is a crucial part of ensuring the competence and proficiency of those attorneys that will charge fees for their services. We strongly oppose removing the testing requirement and urge VA to maintain this provision in its final regulation, with modifications addressed in our written comments regarding pro bono attorneys.

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. The American Legion has adopted a resolution to "Support Legislation to Grant Filipino World War II Veterans Equal VA Benefits."

In 1941, at the outbreak of World War II, Filipinos were considered nationals of the United States and thousands were conscripted to serve with the U.S. Armed Forces in the Far East (USAFFE) under the command of U.S. officers headed by General Douglas MacArthur, by order of President Franklin D. Roosevelt.

These Filipino World War II soldiers served and died with courage, loyalty and dedication to stop the Japanese invaders in Bataan and Corregidor, walked the famous Death March together with their American comrades-in-arms and continued guerilla warfare against the Japanese until the U.S. Armed Forces recaptured the Philippines in 1944.

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. These numbers continue to shrink at a rapid rate giving Congress very little time to address this issue.

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.

Full benefits for our Filipino comrades should never be at the expense of other veterans' benefits. The American Legion is opposed to any attempt at denying a group of veterans their earned benefits to fund another benefit.

The American Legion recommends that Filipino veterans be granted the full benefits that they have earned.

GI BILL AND VETERAN EDUCATION BENEFITS

The American Legion has a proud history of developing the Servicemen's Readjustment Act of 1944 (Public Law 78-346), also known as the GI Bill of Rights, assisting 16 million veterans of WWII to make the American Dream come true and reshaping the United States.

The American Legion supports passage of major enhancements to the current All-Volunteer Force Education Assistance Program, better known as the Montgomery GI Bill (MGIB). The current make up of the operational military force requires that adjustments be made to support all armed forces members. The American Legion supports legislation that will allow members of the Reserve components to earn credits for education while mobilized, just as active-duty troops do, and then use them after they leave military service. One of the top priorities of any veteran education legislation is equity and portability of benefits. However, it is clear that the current dollar value of benefits must be increased to meet the demands of today's higher education fees.

In the 20 years since the MGIB 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 Terrorism. In 1991, the Active-Duty Force (ADF) 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. Since 9/11 more than 600,000 members of the 860,000-member Selected Reserve have been activated. Over 85,000 have deployed more than once to a combat theater. Today, approximately 40 percent of troops in Iraq are Guard personnel or Reservists.

According to the FY 2008 MGIB pay rates, troops who serve on active-duty three or more years can collect up to $1,101 a month for 36 months as full-time students totaling $39,636. Active duty servicemembers currently have up to 10 years after separation from service to use their MGIB benefits, while members of the Selected Reserve must forfeit ALL of the educational benefits earned once they have completed there service contract. Members of today's Selected Reserve are often so busy training and deploying that they have little time to actually use their MGIB

benefits. Their ability to use the benefits while serving is curtailed because of repeated deployments and denied entirely once they finish their service.

Reserve and Guard personnel can earn percentages of the full-time active-duty rate depending on length of their mobilization. If they are mobilized for 18 months, the current average length of deployment since 2001, and then go to school full-time, they can only receive up to a maximum of $23,781 (FY 2008 rates) using their Reserve Education Assistance Program (REAP) benefits. However, they can collect only if they remain in a Guard or Reserve unit. If they go into the inactive Reserve (Individual Ready Reserve) or are discharged, they no longer are eligible for education benefits.

Under current law, members of the Reserve component face many challenges in using the MGIB-SR benefits. Since September 11, 2001, the use of the Reserve components to augment the Active Duty Force (ADF) presents complications for those members of the Guard and Reserves enrolled in college programs. The uncertainty associated with unit activations, lengthy activations, individual deactivations, and multiple unit activations makes utilization of educational benefits extremely difficult. Such decisions as whether to enroll for a semester, long-range planning for required courses, or whether to finish a semester are among the challenges confronted. Other factors include accrued student loan debt, falling behind peers in studies, and limbo status due solely to the military's indecision.

With the number of activations of the Reserve component since September 11, 2001, 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. The College Board, an association composed of more than 5,200 schools, colleges, universities, and other educational organizations, states that the average public university student now takes 6.2 years to finish. They also report that tuition and fees represent only a fraction of the total cost of attending college. The overall cost (tuition, fees, room, board, books, and other expenses, such as commuter transportation) of a four-year public college is $12,796, a four year private college would cost $30,367. (College Board 2007)

Recommendations:

1. The American Legion recommends that activated Reservists get one month of benefits, at the active-duty rate, for each month of mobilization up to 36 months and there should be no delimiting date for use of the benefits from the last date of Active or Reserve service.

2. The American Legion recommends that Congress move Montgomery GI Bill-Selected Reserve (MGIB-SR) from title 10, USC, to title 38, USC, and that VA have administrative authority for both the MGIB and the MGIB-SR. We recommend that the annual appropriations for the MGIB and the MGIB-SR become one annual appropriation within the VA.

3. The American Legion supports the termination of the current military payroll contribution ($1200) required for enrollment in MGIB.

4. The American Legion supports eliminating the ten-year delimiting period for veterans to use Montgomery GI Bill educational benefits and supports legislation that would allow all Reservists and National Guard members to use their MGIB-SR benefits for up to ten years after separation.

5. The American Legion supports an MGIB-SR participant reimbursement rate adjusted for time spent on federalization activation, State activation, and normal service for a period not to exceed 36 months.

6. The American Legion recommends that the dollar amount of the entitlement should be indexed to the average cost of college education including tuition, fees, textbooks and other supplies for commuter students at an accredited university, college or trade school for which they qualify and that the educational cost index should be reviewed and adjusted annually.

7. The American Legion supports a monthly tax-free subsistence allowance indexed for inflation as part of the educational assistance package.

8. The American Legion believes that if a veteran enrolled in the MGIB program acquired educational loans prior to enlisting in the Armed Forces, MGIB benefits may be used to repay existing educational loans.

9. The American Legion supports that enrollment in the MGIB shall be automatic upon enlistment. However, benefits will not be awarded unless eligibility criteria have been met and if a veteran enrolled in the MGIB becomes eligible for training and rehabilitation under Chapter 31 of title 38, USC. In such a case, the veteran shall not receive less educational benefits than otherwise eligible to receive under MGIB.

10. The American Legion supports that any veteran with six years of service will be qualified to transfer education entitlements upon re-enlistment for four years and to amend title 38, USC, to restore the reimbursement rate for correspondence and distance learning training to 90 percent of tuition.

11. The American Legion supports the transfer of Montgomery GI Bill benefits from veterans to their immediate family members if the veteran elects to do so.

Accelerated Payments

The American Legion supports granting veterans the option to request an accelerated payment of all monthly educational benefits upon meeting the criteria for eligibility for MGIB financial payments. The selection of courses veterans undergo remain exclusively the decision of the individual veteran, and all earned veterans' education benefits should be made available to veterans in support of their endeavors. Accelerated education payments allow veterans to achieve education goals in the manner that they decide. Binding the time frame of an education payout may restrict educational options for some veterans.

In addition to the traditional institutions for higher learning, MGIB benefits can be used for training at Non-College-Degree Institutions, On-the-Job or Apprenticeship Training, Independent, and Distance or Internet training. The MGIB also allows the VA to reimburse veterans for the fees charged for national tests for admission to institutions of higher learning and national tests providing an opportunity for course credit at institutions of higher learning. Examples of tests covered are SAT, GRE, CLEP, GMAT, LSAT, etc. The MGIB for veterans, and not those eligible under Survivors and Dependents Educational Assistance (DEA), is available for Flight Training and Correspondence Training.

The significance of expanding the scope of accelerated education payments is that the preceding categories are eligible for MGIB payments, yet **excluded** from accelerated education payments. The American Legion recommends that all MGIB-approved courses, including the On-the-Job Training (OJT) and Apprenticeship courses, become eligible for accelerated education payments.

The American Legion supports the expansion of Public Law 107-103 to include but not limited to:

1. **Survivors and Dependents Educational Assistance (DEA, or Chapter 35)**

2. **Post-Vietnam Era Veterans' Educational Assistance Program (VEAP, or Chapter 32)**

3. **Reserve Educational Assistance Program (REAP, or Chapter 1607)**

State Approving Agencies

The American Legion is deeply concerned with the timeliness that veterans, especially returning wartime veterans, receive their education benefits. Annually, approximately 300,000 servicemembers (90,000 of them belonging to the National Guard and Reserve) return to the civilian sector and use their earned education benefits from the Department of Veterans Affairs.

Any delay in receipt of education benefits or approval of courses taken at institutions of higher learning can adversely affect a veteran's life. There are time restrictions on most veterans' education benefits, significantly, the National Guard and Reserve in which they must remain in the Selected Reserve to use their earned benefits.

The American Legion believes that every effort should be made to ensure that the MGIB and related veterans' education benefits are delivered without problems or delays. Furthermore, veterans are unique in that they volunteer for military service; therefore, these educational benefits are earned as the thanks of a grateful nation. The American Legion believes it is a national obligation to provide timely oversight of veterans' education programs to assure they are administered in a timely, efficient, and accurate manner.

The Government Accountability Office (GAO) Report entitled "VA Student Financial Aid; Management Actions Needed to Reduce Overlap in Approving Education and Training Programs and to Assess State Approving Agencies" (GAO-07-384) focuses on the need to "ensure that Federal dollars are spent efficiently and effectively."

GAO recommends that VA should require SAA to track and report data on resources spent on approval activities, such as site visits, catalog review, and outreach in a cost-efficient manner. Additionally, GAO recommended that VA establish outcome-oriented performance measures to assess the effectiveness of SAA efforts. The American Legion agrees with both of these recommendations. In response, VA Deputy Secretary Mansfield plans to establish a working group with SAA to create a reporting system for approval activities and develop outcome-oriented measures with a goal of implementation in the FY 2008 budget cycle.

Finally, GAO recommended that VA should collaborate with other agencies to identify any duplicate efforts and use the agency's administrative and regulatory authority to streamline the approval process. The American Legion agrees. VA Deputy Secretary Mansfield responded that VA would initiate contact with appropriate officials at the Departments of Education and Labor to help identify any duplicate efforts.

SEC. 301 of Public Law 107-330 created increases in the aggregate annual amount available for state approving agencies for administrative expenses from FY 2003 - FY 2007 to the current funding level of $19 million. The American Legion fully supports reauthorization of SAA funding.

The American Legion strongly recommends funding SAA at $19 million in FY 2009 to assure current staffing and activities.

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 OEF/OIF 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 severely disabled veterans is determined by the coordinated efforts of every Federal agency (DOD, VA, DOL, OPM, HUD etc.) involved in the 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 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 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.

It is our observation from talking to veterans, counselors, Disabled Veteran Outreach Program Specialists (DVOP) and Local Veteran Employment Representatives (LVER) that it would be beneficial if all VR&E counselors assist in employment of veterans by expanding their current employment efforts. Because these counselors deal directly with veterans on a full time basis, as opposed to DVOPs and LVERs on a part-time basis, they are more devoted and specialized in their approach to an individual veteran. These counselors may have input into the employability of a service-connected veteran, but The American Legion asserts that VA must rely on an expert medical opinion from a qualified, competent physician to determine unemployability. We appreciate the significance of a vocational assessment in establishing entitlement to total disability ratings for compensation based on unemployability of the individual (TDIU) and we welcome the participation of a vocational or rehabilitation specialist in this process, however, a medical opinion is still extremely important in determining unemployability and must be given proper consideration and weight.

The American Legion recommends VR&E counselors expand their current employment efforts in assisting veterans with finding employment.

Interagency Cooperation Between DOL-VETS and VA

It is our experience that the interagency collaboration and communication between the VR&E program, and the Department of Labor (DOL) Veterans Employment and Training Service (VETS) is lacking.

In recent years, many states did not refer veterans from the VR&E program to 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, and difficult to place veterans were sent to VETS. Therefore, to assist in the correction of these deficiencies a Memorandum Of Understanding (MOU) between VA and DOL was developed and signed in October 2005 stating that each agency would work for the smooth transition of veterans to the civilian work force. This agreement is authorized in accordance with 38 U.S.C. §4102A(b)(3).

In discussions with numerous VETS representatives across the country, The American Legion is hearing a variety of opinions on the current implementation process and progress of the MOU. Some states report a total lack of communication and information sharing while other states already enjoy a strong relationship between the local VETS and VR&E Offices.

A majority of VETS representatives contacted spoke of a markedly improved level of communication between the two agencies, along with other positive developments such as improvement in local data sharing and combined training on the local and national levels. In addition, national representatives from the two agencies are currently reporting a close and cooperative relationship, and the expectation is that this relationship will continue to improve over time.

In some states, however, it has been reported that the signing of the MOU has not led to an improvement in cooperation between the two agencies. Some problems cited were a difference in the perceptions of the primary mission, differing education levels of VA case managers and the DVOPs and LVERs, and the unenforceable mandate for the two agencies to communicate and cooperate on a local level. The DVOPs and LVERs are controlled by each individual state and have their own requirements making a state and federal program difficult to synchronize.

Concerns such as education levels of VA's case managers and DOL DVOPs and LVERs (case managers from the VA generally have BA or MA degrees, while the DVOPs and LVERs require only a high school education), job philosophies, and performance standards are cited as problems that affect the delivery of employment and rehab services to veterans.

While poor coordination between VR&E counselors and their VETS counterparts has contributed to the shortfalls of the VR&E program, a number of states have begun to improve communications. A majority of VETS representatives have commended their VR&E counterparts for their willingness to ensure the successful implementation of the joint MOU that is designed to improve rehabilitation, training and employment outcomes for disabled veterans.

The American Legion has recommended 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 overall program performance. NVTI serves as a valuable resource for VETS employment specialists and has contributed to a marked improvement in VETS performance.

Provide Military Occupational Skills And Experience Translation For Civilian Employment Counseling

The American Legion notes that due to the current demands the military, greater emphasis on the Reserve members of the Armed Forces created employment hardships for Reservists. The American Legion supports to amend title 38, US Code, Chapter 41, Section 4101(5) to add Subsection (D) to the list of "Eligible Persons" for Job Counseling, Training, and Placement Service for Veterans, to include members in good standing of Active, Reserve and Guard Units of the Armed Forces of the United States who have completed basic and advanced Duty for Training (ACDUTRA) and have been awarded a Military Occupation Specialty.

DOD provides some of the best vocational training in the nation for its military personnel and establishes, measures and evaluates performance standards for every occupation with the armed forces. There are many occupational career fields in the armed forces that can easily translate to civilian counterparts that require a license or certification. In the armed forces, these unique occupations are performed to approved military standards that may meet or exceed the civilian license or certification criteria.

Upon separation, many former military personnel, certified as proficient in their military occupational career, are not licensed or certified to perform the comparable job in the civilian workforce, thus hindering chances for immediate civilian employment and delaying career advancement. This situation creates an artificial barrier to employment upon separation from military service.

A study by the Presidential Commission on Servicemembers' and Veterans' Transition Assistance identified a total of 105 military professions where civilian credentialing is required. The most easily identifiable job is that of a Commercial Truck Driver in which there is a drastic shortage of qualified drivers. Thousands of veterans must venture through each state's laws instead of a single national test or transfer of credentials from the military. We have testified alongside members of the trucking industry to the House Veterans' Affairs Subcommittee on Economic Opportunity for the need for accelerated MGIB payments for these courses and other matters.

The American Legion support efforts to eliminate employment barriers in the transfer of military job skills to the civilian labor market. The Department of Defense must take appropriate steps to ensure that servicemembers be trained, tested, evaluated and issued any license or certification that may be required in the civilian workforce. The American Legion support efforts to increase the civilian labor market's acceptance of the occupational training provided by the military.

HOME LOAN GUARANTY PROGRAM

VA's Home Loan Guaranty program has been in effect since 1944 and has afforded approximately 18 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. Administrative costs constitute a relatively small portion—less than 10 percent—of the total capital and operating costs. The predominant costs are claims costs and other costs associated with foreclosure and alternatives taken to avoid foreclosure. Each claim costs the Federal government about $20,000. However, revenues that VA collects from different sources, including the funding fee that borrowers pay, property sales, and proceeds from acquired loans and vender loans, offset this cost.

The VA funding fee is required by law and is designed to sustain the VA Home Loan Program by eliminating the need for annual appropriations from Congress. Congress is not required to appropriate funding for this program, however, because veterans must now 'buy' into the program, it no longer serves the intent of helping veterans afford a home.

The fee, currently 2.15 percent, on no down payment loans for a first-time use, is intended to enable the veteran who obtains a VA home loan to contribute toward the cost of this benefit, and thereby reduce the cost to taxpayers. The funding fee for second time users who do not make a down payment is 3.3 percent. The idea of a higher fee for second time use is based on the fact that these veterans have already had a chance to use the benefit once, and also that prior users have had time to accumulate equity or save money toward a down payment.

The following persons are exempt from paying the funding fee:

- Veterans receiving VA compensation for service-connected disabilities.
- Veterans who would be entitled to receive compensation for service-connected disabilities if they did not receive retirement pay.
- Surviving spouses of veterans who died in service or from service-connected disabilities (whether or not such surviving spouses are veterans with their own entitlement and whether or not they are using their own entitlement on the loan).

The funding fee makes the VA Home Loan program less beneficial than a standard, private loan, in some aspects. The current rate for mortgages (August 2007) is approximately 6.9 percent. The funding fee would be in addition to the rate given by the lender. A $300,000 loan would generate a fee in addition to any rate the veteran would achieve. The funding fee mandates the participant to buy into the program, however, that goes directly against the intention of the law which is to provide veterans a resource for obtaining a home.

The American Legion reaffirms its strong support for the Department of Veterans Affairs' Loan Guaranty Service and its programs. The American Legion also supports any administrative and/or legislative efforts that will improve and strengthen the Loan Guaranty Service's ability to serve America's veterans.

Specially Adaptive Housing

The American Legion is pleased to support the Secretary of VA in improving housing arrangements to better suit disabled veterans' needs. The American Legion additionally applauds efforts to assist disabled veterans to receive adaptive equipment for automobiles.

The American Legion strongly supports the expansion of the Specially Adaptive Housing benefit to include those veterans suffering from TBI, and other debilitating injuries. The American Legion is also concerned with the ambiguity of the term "severe" in that there are many different levels of injury where a severe injury to one individual may not be as severe to another.

HOMELESS VETERANS

The American Legion supports the efforts of public and private sector agencies and organizations with the resources necessary to aid homeless veterans and their families. The American Legion supports proposals that will provide medical, rehabilitative and employment assistance to homeless veterans and their families.

Currently, VA has no authority to provide grant funding to create affordable permanent housing units for low-income veterans and those who have completed transition programs. Veteran service providers must compete with other housing projects for limited HUD funding, and constantly search for additional funding sources to provide this housing option.

Homeless veteran programs should be granted full appropriations to provide supportive services such as, but not limited to; outreach, health care, rehabilitation, case management, daily living, personal financial planning, transportation, vocational counseling, employment and training, and education.

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, Public Law 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.

VA can provide grants and per diem payments to help public and nonprofit organizations establish and operate supportive housing and/or service centers for homeless veterans.

Funds are available for assistance in the form of grants to provide transitional housing (up to 24 months) with supportive services, supportive services in a service center facility for homeless veterans not in conjunction with supportive housing; or to purchase vans.

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.

Potential Homeless Veterans of Operation Enduring Freedom and Operation Iraq Freedom

OEF/OIF veterans are at high risk of becoming homeless. Combat veterans of OEF/OIF and GWOT who need help are beginning to trickle into the nation's community-based homeless veterans' service organizations. Already stressed by an increasing need for assistance by post-Vietnam Era veterans and strained budgets, homeless services providers are deeply concerned about the inevitable rising tide of combat veterans who will soon be requesting their support.

Since 9/11, nearly 800,000 American men and women have served or are serving in a war zone. Rotations of troops returning home from Iraq are now a common occurrence. Military analysts and government sources say the deployments and repatriation of combat veterans is unlike anything the nation has experienced since the end of the Vietnam War.

The signs of an impending crisis are clearly seen in VA's own numbers. Under considerable pressure to stretch dollars, VA estimates it can provide assistance to about 100,000 homeless veterans each year, only 20 percent of the more than 500,000 who will need supportive services. Hundreds of community-based organizations nationwide struggle to provide assistance to as many of the other 80 percent as possible, but the need far exceeds available resources.

VA's HCHV reports 1,049 OEF/OIF era homeless veterans with an average age of 33. HCHV further reports that nearly 65 percent of these homeless veterans experienced combat. Now receiving combat veterans from Iraq and Afghanistan daily, the VA is reporting that a high percentage of those casualties need treatment for mental health problems. That is consistent with studies conducted by VA and other agencies that conclude anywhere from 15 to more than 35 percent of combat veterans will experience some clinical degree of PTSD, depression or other psychosocial problems.

Homeless Women Veterans and Children

Homeless veteran service providers' clients have historically been almost exclusively male. That is changing as more women veterans and women veterans with young children have sought help. Additionally, the approximately 200,000 female Iraq veterans are isolated during and after deployment making it difficult to find gender-specific peer-based support. Access to gender-appropriate care for these veterans is essential.

The FY 2006 VA CHALENG (Community Housing Assessment, Local Education and Networking Group) report states, "Homeless providers continue to report increases in the number of homeless veterans with families (i.e., dependent children) being served at their programs. Ninety-four sites (68 percent of all sites) reported a total of 989 homeless veteran families seen, with Los Angeles seeing the most families (156). This was a 10 percent increase over the previous year of 896 reported families. Homeless veterans with dependents present a challenge to VA homeless programs. Many VA housing programs are veteran-specific. VA homeless workers must often find other community housing resources to place the entire family – or the dependent children separately. Separating family members can create hardship."

The American Legion supports adequate funding for all domiciliary programs for all qualified veterans.

ECONOMIC OPPORTUNITY FOR VETERANS

DEPARTMENT OF LABOR VETERANS EMPLOYMENT AND TRAINING SERVICE (DOL–VETS)

The American Legion Recommends Full Funding for DOL-VETS.

VETS programs are 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 300,000 servicemembers. 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 DVOP specialists and 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.

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.

The American Legion supports legislation that will restore language to Chapter 41, title 38, USC, that require that half-time DVOP/LVER positions be assigned only after approval of the DVET, and that the Secretary of Labor be required to monitor all career centers that have veteran staff assigned.

Public Law 107-288 has eliminated the requirement that DOL/VETS review all workforce centers annually and this has minimized Federal oversight of the programs. Since the funds have been drastically cut that were allocated for this activity, a policy was established that only 10 percent of the centers operated under title 38, USC, will be reviewed. In addition, Public Law 107-288 has removed the job descriptions of the DVOP Specialists and LVERs from title 38, USC, and gave the States the ability to establish the duties and responsibilities, thus weakening the VETS program across the country by eliminating the language that required these staff positions provide services only to veterans.

The American Legion also supports legislation that restores the duties and responsibilities of DVOPs and LVERs to include case management, outreach to veterans and job development.

The President requested $228.1 million in FY 2008 to support the staffing and grant making ability of VETS. This is a $5.1 million, or 2.3 percent, increase over FY 2007. For FY 2008, the House provided an additional $3 million for HVRP, $1 million for NVTI, and $1 million for additional employees, including one additional employee in each of the six regional offices to address complaints and investigations arising under USERRA.

Veterans returning from Afghanistan, Iraq and other tours of duty are not always coming back to a hero's welcome – at least not from employers. The jobless rate for veterans between ages 20 to 25 was a startling 16 percent in FY 2005, more than three times the national unemployment rate of 5.1 percent. The jobless rate for all 20 to 25 year olds in FY 2005 was 8.7 percent. These numbers improved in 2006 but are still higher than the national average of non-veterans within the same age group and significantly higher than the general population as a whole. Numerous national publications have reported veterans are having a more difficult time finding jobs than non-veterans. According to a recent national survey, one in five veterans said finding a job took six months or longer; one in 10 said it took more than a year. The employment market is tougher for young veterans. This is a key reason why the funding for the VETS program is so critical.

Veterans need proper training and tools to begin new careers after they leave military service. For example, the VWIP account has only received $7.3 million in annual funding, which has allowed the program to operate in only 11 states. This is absolutely unacceptable. There are thousands of veterans available for work, but some they lack marketable, technological skills, especially for those jobs that exist in the information technology age economy. The problem is clearly a lack of adequate funding. Veterans are the only participants in this program.

The American Legion Recommends Full Funding for DOL-VETS.

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

The American Legion is deeply concerned with the timely manner that veterans, especially returning wartime veterans, transition in to the civilian sector. Annually, for the past 6 years, approximately 300,000 servicemembers, 90,000 of them belonging to the National Guard and Reserve, enter the civilian sector each year.

DOD estimates that 68 percent of separating servicemembers 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 servicemembers, 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 total number of destroyed and bankrupt businesses due to military deployment is still being tallied. In numerous cases brought to the attention of The American Legion by veterans and other sources, returning servicemembers have lost jobs, promotions, businesses, homes, and cars and, in a few cases, become homeless.

The American Legion recommends that the TAP/DTAP program be updated to recognize the large number of Guard and Reserve business owners who would benefit from training, information and assistance while they attempt to revitalize their business after returning from deployment.

The American Legion strongly supports TAP/DTAP. Additionally, The American Legion supports that

DOD require all separating, active-duty servicemembers, including those from Reserve and National Guard units, be given an opportunity to participate in TAP/DTAP training not more than 180 days prior to their separation or retirement from the armed forces.

Studies have shown that servicemembers who participate in TAP employment workshops find their first civilian jobs three weeks earlier than veterans who do not participate in TAP. VETS is vital in ensuring that all TAP participants leave the session with a draft resume, a practice interview session, and having visited their state job board.

VETS is critical in supporting veterans as they transition from the military and into the private sector. It assists veterans in their efforts to be granted federal employment using their earned veterans preference, and assists veterans in achieving substantially gainful employment.

At the end of the Cold War, the DOD dramatically downsized its personnel strength. In an attempt to assist separating servicemembers in making a successful transition back into the civilian workforce, Congress enacted Public Law 101-510 that authorized the creation of the Transition Assistance Program that provides separating servicemembers with three days of comprehensive training with emphasis on such topics as networking, how to conduct a job search, resume writing, career decisionmaking, interview techniques, as well as current occupational and labor market conditions.

VETS provides professional veterans' employment personnel, DVOP specialists and LVERs, to participate in the TAP program. Higher demands placed on LVERs to deliver TAP modules, in addition to their normal employment assistance programs, has the potential for weakening their overall capability.

To ensure that all veterans, both transitioning and those looking for employment assistance well past their discharge receive the best care; the DOL-VETS program must be adequately funded. However, we feel that the current funding levels are inadequate.

Contrary to the demands placed upon VETS, funding increases for VETS since 9/11 do not reflect the large increase in servicemembers requiring these services due to the Global War on Terror. In support of this fact, the inflation rate from January 2002 to January 2007 was 14.29 percent and yet for State Grants alone, funding has only increased a mere 1.19 percent ($158 million to $161 million).

More services and programs are needed and yet, since 2002, the VETS program has only received a modest 4 percent increase. Transition assistance, education, and employment are each a pillar of financial stability. They will prevent homelessness, afford the veteran the ability to compete in the private sector, and allow our nation's veterans to contribute their military skills and education to the civilian sector. By placing veterans in suitable employment sooner, the country benefits from increased income tax revenue and reduced unemployment compensation payments, thus greatly offsetting the cost of TAP training.

Service Members Occupational Conversion And Training Act (SMOCTA)

The American Legion continues to encourage Congress to reauthorize and adequately appropriate funds for the Service Members Occupational Conversion and Training Act (SMOCTA) program. SMOCTA was developed as a transitional tool designed to provide job training and employment to eligible veterans discharged after August 1, 1990. SMOCTA was the only Federal job training program available strictly for veterans and the only Federal job training program specifically designed and available for use by State veterans' employment personnel to assist veterans with barriers to employment.

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 per cent or higher. SMOCTA is a unique job–training program because there is a job for the veteran upon completion of training. Specialists publicly praised the effectiveness of SMOCTA because it successfully returned veterans to the civilian workforce.

The American Legion recommends SMOCTA be reauthorized.

Homelessness (DOL-VETS)

The American Legion notes that there are approximately 200,000 homeless veterans on the street each night. This number, compounded with 300,000 servicemembers entering the private sector each year since 2001, with at least a third of them potentially suffering from mental illness, requires that intensive and numerous programs to prevent and assist homeless veterans be available.

Homeless Veterans Reintegration Program (HVRP) is a competitive grant program. Grants are awarded to states or other public entities and non-profits, including faith-based organizations, to operate employment programs that reach out to homeless veterans and help them become gainfully employed. The purpose of the HVRP is to provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force and to stimulate the development of effective service delivery systems that will address the complex problems facing veterans. HVRP is the only nationwide DOL program focusing on assisting homeless veterans to reintegrate into the workforce.

The American Legion recommends $40,000,000 for this highly successful grant program.

Training

The National Veterans' Employment and Training Services Institute (NVTI) was established to ensure a high level of proficiency and training for staff that provide veterans employment services.

NVTI provides training to Federal and state government employment service providers in competency based training courses. Current law requires all DVOPs and LVERs to be trained within 3 years of hiring.

The American Legion recommends that these personnel should be trained within 1 year. The American Legion recommends $6,000,000 of funding to NVTI.

Veterans Workforce Investment Program (VWIP)

VWIP grants support efforts to ensure veterans' lifelong learning and skills development in programs designed to serve the most-at-risk veterans, especially those with service-connected disabilities, those with significant barriers to employment, and recently separated veterans. The goal is to provide an effective mix of interventions, including training, retraining, and support services, that lead to long term, higher wage and career potential jobs.

The American Legion recommends funding of $20,000,000 for VWIP.

EMPLOYMENT RIGHTS AND VETERANS' PREFERENCE

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protect civilian job rights and benefits of veterans and members of the armed forces, including National Guard and Reserve members. USERRA also prohibits employer discrimination due to military obligations and provides reemployment rights to returning servicemembers. VETS administers this law, conducts investigations for USERRA and Veterans' Preference cases, conducts outreach and education, and investigates complaints by servicemembers.

Since September 11, 2001, nearly 600,000 National Guard and Reserve members have been activated for military duty. During this same period, DOL/VETS has provided USERRA assistance to well over 400,000 employers and servicemembers.

Veterans' Preference is authorized by the Veterans' Preference Act of 1944. The Veterans' Employment Opportunity Act (VEOA) of 1998 extended certain rights and remedies to recently separated veterans. VETS was given the responsibility to investigate complaints filed by veterans who believe their Veterans' Preference rights have been violated, and to conduct an extensive compliance assistance program.

Veterans' Preference is being unlawfully ignored by numerous agencies. Whereas figures show a decline in claims by veterans of this conflict compared to Gulf War I, the reality is that employment opportunities are not being broadcast. Federal agencies as well as subcontractors are required by law to notify OPM of job opportunities, but more often than not these vacancies are never made available to the public. The VETS program investigates these claims and corrects unlawful practices.

The American Legion recommends funding of $61,000,000 for Program Management that encompasses USERRA and VEOA.

The American Legion also supports the strongest Veterans' Preference laws possible at all levels of government. The American Legion is deeply concerned with the protection of the veteran and the prevention of illegal and egregious hiring practices. Currently, veterans are filing claims after the non-compliance employment event occurred and therefore may become financially disadvantaged. Concurrent measures and continuous oversight must be put into place to protect veterans from unfair hiring practices, instead of merely conducting reactionary investigations.

VETERAN AND SERVICE DISABLED VETERAN OWNED BUSINESSES

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 severe 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 titled, "*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."

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, that it undermines the spirit and intent of Public Law 106-50, and it continues to be a source of embarrassment for this country.

The American Legion strongly supports increased funding of the Small Business Administration's Office of Veterans' Business Development to provide enhanced outreach and community based assistance to veterans and self employed members of the Reserves and National Guard.

Additionally, The American Legion supports allowing the Office of Veterans' Business Development to enter into contracts, grants, and cooperative agreements to further its outreach goals. The Office of Veterans' Business Development must be authorized to develop a nationwide community-based service delivery system specifically for veteran and members of Reserve components of the United States military.

The American Legion recommends that funding for the SBA Office of Veterans' Business Development be increased to $2,000,000.

The National Veterans Business Development Corporation

Congress enacted the Veterans Entrepreneurship (TVC) and Small Business Development Act of 1999 (Public Law 106-50) to assist veteran and service-connected disabled veteran owned businesses by creating the National Veterans Business Development Corporation. Presently, the objectives of Public Law 106-50, as originally envisioned, are not being met at the present time due to the scope of the mission, staffing and funding requirements. The American Legion believes that with limited funding and staffing, TVC should not try to replicate preexisting services such as those provided by the Small Business Development Centers (SBDC).

The American Legion recommends that the resource-training centers TVC is currently providing funding for be given to the jurisdiction of the SBA veteran's development office.

The SBA's Veterans' Development Office is presently funding five such centers around the country and should be given the additional three. In addition, the SBA office should take on the responsibility of partnering with military and VA hospitals, TAP, State Department of Veterans Affairs Offices, Procurement Technical Assistance Centers, Military Family Support Centers, and veterans' service organizations to provide employment and entrepreneurship programs along with the addition of funding and necessary senior staff to oversee the implementation and development of such a program. TVC would operate more effectively acting as a liaison with existing associations of small business owners and, by working with SBA programs, ensure the involvement of private and successful military alumni from the business community to help support SBA's successful integration, and reintegration, of veteran and reserve component entrepreneurs into the private and public American marketplace.

The American Legion supports restructuring the National Veterans Business Development Corporation by changing the current chief executive officer position to a congressionally appointed director from the Senior Executive Service. This change would allow Congress greater oversight of expenditures and an enhanced ability to monitor performance. Finally, it will Restrict the role of the Board of Directors to fund raising, marketing and branding will serve to increase small business opportunities to veterans.

The American Legion reiterates that the Small Business Administration's Office of Veterans' Business Development should be the lead agency to ensure that veterans returning from Iraq and Afghanistan are provided with Entrepreneurial Development Assistance. Comprehensive training should be handled by the SBA and augmented by TVC's on-line training. Resource Training Centers should include DOD and VA faculties.

Currently, many military families are suffering financial hardship while their loved ones are recuperating in military hospitals around the country. Many spouses leave their jobs to be with that disabled servicemember which results in financial ruin. Business development training is one key to a seamless transition for servicemembers. If business development training was offered to military members while still at a treatment facility, a small home based business is feasible. A business could be the answer in guaranteeing a constant source of revenue for the family, in turn making them less dependent on Federal government compensation payments.

The Veterans Federal Procurement Opportunity

The American Legion has encouraged Congress to require reasonable "set-asides" of Federal procurements and contracts for businesses owned and operated by veterans. The American Legion supported legislation in the past that sought to add service-connected disabled veterans to the list of specified small business categories receiving 3 percent set-asides. Public Law 106-50, "The Veteran Entrepreneurship and Small Business Development Act of 1999," included veteran small businesses within Federal contracting and subcontracting goals for small business owners and within goals for the participation of small businesses in Federal procurement contracts.

Agency compliance with Public Law 106-50 has been minimal with only two agencies self-reporting that they have met their goals (The Department of Veterans Affairs and the Small Business Administration). In 2004, President Bush issued Executive Order 13360 to strengthen opportunities in Federal contracting for service-disabled veteran-owned businesses.

Recommendations

1. **Incorporate Executive Order 13360 into SBA Regulations and Standard Operating Procedures**

   The American Legion agrees with the recommendations given from the "SBA Advisory Committee on Veterans Business Affairs" FY 2006 SBA report

   - "The SBA needs to reemphasize implementation of Executive Order 13360 and establish it as a Federal procurement priority across the entire Federal sector. Federal agencies need to be held accountable, by the SBA, for their implementing Executive Order 13360 and their progress toward the 3 percent goal. The SBA needs to establish a means to monitor agencies progress and where appropriate, establish a vehicle to report or otherwise identify those that are not in compliance, and pursue ongoing follow-up."
   - "To achieve the SDVOSB procurement goal contained in Executive Order 13360, the SBA must identify all agencies affected by the Executive Order under the directive of Congress. Then the SBA should assist these agencies to develop a demonstrable, measured strategic plan and establish realistic reporting criteria. Once the information is received, SBA should disseminate this data to all agencies, Veterans Service Organizations and post its findings on the SBA website as a bellwether of program progress."

2. **Change to Sole Source Contracting Methods**

   To provide parity among special emphasis procurement programs, the SBA should take immediate, appropriate steps to promulgate regulations to revise 13 CFR 125.20. The proposed revision would eliminate existing restrictions on the award of sole source contracts to SDVOSB such as the "Rule of Two." The change should mirror 13 CFR 124.508 part c which applies to 8(a) Program participants and states"….In order to be eligible to receive a sole source 8(a) contract, a firm must be a current participant on the date of the award… "Accordingly, adopting this language would eliminate all restrictions on sole source awards to SDVOSBs.

3. **Develop a User Friendly Veteran Procurement Database**

   The American Legion also supports that the Federal government and the DOD utilize its available technology to create, fund and support a veteran procurement-spending database within DOD in order to finally bring veteran owned and service disabled veteran owned businesses on equal footing with all other small business special interest groups as regards Federal procurement opportunities.

VETERANS MEMORIALS

NATIONAL CEMETERY ADMINISTRATION

The mission of The National Cemetery Administration (NCA) 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.

The American Legion recognizes NCA's excellent record in providing timely and dignified burials to all veterans who opt to be buried in a National Cemetery. Equally noteworthy is NCA's fine record in providing memorial headstones, markers and Presidential Memorial Certificates (PMC) to all who request such benefits. We also recognize the hard work that is required to restore and maintain National Cemeteries as national shrines and applaud NCA for its commitment and success toward that endeavor.

The American Legion looks forward to evaluation results and recommendations that VA is currently conducting, and which is expected to be available by the end of the 2007 calendar year. The evaluation will cover program outcomes and policies including the "75-mile service area/170,000 veteran population" threshold that currently serves as the benchmark for establishing a new national cemetery. The American Legion is pleased that driving (commuting) times will also be considered in this evaluation. Inner-city traffic can significantly increase travel times to distant cemeteries. Driving time needs to be factored in when trying to determine if the veteran population is being served effectively.

National Cemetery Expansion

NCA requested $167 million and 1,582 FTEs for Operations and Maintenance in FY 2008. This would provide a net increase of $7.3 million in budget authority and 9 FTEs over the FY 2007 Continuing Resolution. According to NCA's own estimates in the President's budget request for FY 2008, annual interments will increase from 97,000 in FY 2006 to an estimated peak of 115,000 in FY 2009. Interments in FY 2012 are expected to be about 111,000, a 14 percent increase from FY 2006. The total number of graves maintained is also expected to increase during the planning time frame from almost 2.8 million in FY 2006 to over 3.2 million in FY 2012.

NCA has only requested 13 additional FTEs to maintain its current 125 cemeteries and 30 FTEs to prepare for the activation of interment operations of six new national cemeteries as directed by the National Cemetery Expansion Act of 2003, Public Law 108-109. NCA plans to complete fast-track parcels as part of Phase I construction of the new cemeteries in the following areas: Bakersfield, California; Birmingham, Alabama; Columbia-Greenville, South Carolina; Jacksonville, Florida; Southeastern Pennsylvania; and Sarasota County, Florida. Since it takes approximately 20 to 30 FTEs to run a national cemetery (depending on the size and workload); and whereas it takes 8 to 10 FTEs to run a newly opened cemetery (cemeteries are opened to interments long before completion of the full site) it seems reasonable to believe that at least 50 new employees would be needed to operate the 6 new cemeteries that NCA plans to bring online in FY 2008. It is likely that they will need the full 20 to 30 by FY 2009. The average employee salary with benefits is $63,709. The American Legion recommends that money for an additional 120-150 employees be included in the FY 2009 budget.

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. Adequate funding is key to maintaining this very important commitment. The American Legion supported NCA's goal of completing the National Shrine Commitment within five years. VA assessed burial sections, roadways, buildings, and historic structures and

identified 928 potential improvement projects at an estimated cost of $280 million. October 2007 marks the end of the 5-year plan and still much work needs to be done. With the addition of six new cemeteries and the addition of six more that are fast tracked to come online this year, resources will be strained. The American Legion recommends that $52 million be put toward the National Shrine Commitment in order to fulfill this commitment.

The American Legion recommends $228 million for the National Cemetery Administration in FY 2009.

STATE CEMETERY CONSTRUCTION GRANTS PROGRAM

VA's State Cemetery Grants Program complements VA's 125 national cemeteries across the country. The program helps states establish, expand or improve state veterans cemeteries. To date, the VA program has helped establish 66 veterans' cemeteries in 35 states, Saipan and Guam, which provided more than 22,000 burials in FY 2006. Since the program began in 1980, VA has awarded 156 grants totaling nearly $286 million.

NCA received $32 million for the current fiscal year to be used to establish six new cemeteries (Abilene, TX; Des Moines, IA; Glennville, GA; Fort Stanton, NM; Missoula, MT; and Williamstown, KY) and to expand four others (Cheltenham, MD; Crownsville, MD; Jacksonville, NC; and Kona Coast, HI). Determining an "average cost" to build a new state cemetery or to expand an existing one is very difficult. Many factors influence cost, such as location, size and the availability of public utilities. Two new state cemeteries planned for obligation in FY 2007 are Abilene, Texas ($7.1 million) and Des Moines, Iowa ($7.5 million). The American Legion believes States will increasingly use the State Cemetery Grants Program to fill the needs of veteran populations that are still not well served by the "75-mile service area / 170,000 veteran population" threshold that currently serves as the benchmark for establishing a new national cemetery. New state cemeteries, and expansions and improvements of existing cemeteries are therefore likely to increase. With increasing costs, especially the high costs of land in urban areas, and increased demand, The American Legion suggests that the amount of money for the State Cemetery Grants Program be substantially increased.

The American Legion recommends $45 million for the State Cemetery Grants Program in FY 2009.

SUMMARY

The American Legion appreciates the strong relationship we have developed with both Committees. 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 servicemembers who are returning home.

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 and every aspect of these programs touches veterans from every generation. Together we can ensure that these programs remain productive, viable options for the men and women who have chosen to answer the nation's call to arms.

The American Legion

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