

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

On The Legislative Priorities of
The American Legion

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INTRODUCTION

The American Legion's National Commander, David K. Rehbein 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 90th National Convention in Phoenix, Arizona, delegates adopted 242 organizational resolutions, with 212 having legislative intent. These mandates create the legislative portfolio of The American Legion for the remainder of the 110th Congress as well as the upcoming 111th Congress.

As the summer of 2008 turns to fall, America is poised at a critical point in history. In just over two months, voters will usher in a new administration and a new Congress. There is no incumbent, not even an incumbent vice president, running for the nation's highest office.

America's leadership will change after the general election of 2008. But what cannot change is The American Legion's obligation to ensure that the brave men and women who have worn the uniform of this nation are not forgotten. The war on terrorism – Operations Iraqi Freedom (OIF) and Enduring Freedom (OEF) – has already generated nearly one million discharged veterans, all of whom are guaranteed access to health care through the Department of Veterans Affairs (VA) for the first five years after their return home. Hundreds of thousands of OIF and OEF veterans are now using their VA healthcare benefits, increasing the workload of a healthcare system that was overburdened before the war began. It is a sacred and time honored obligation of The American Legion to make sure these veterans have the services they need and timely access to the care they have earned and deserve.

By working together, The American Legion and the members of both the House and Senate Veterans Affairs Committees have made considerable progress in recent years to meet that obligation. We have fought for better funding for the VA health-care system, and received it. We have argued for greater attention to mental health services, including Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury care, which have become known as the "signature wounds" of the wars we are fighting today. We have offered up American Legion services across the nation, to care for those who come home severely wounded, through our Heroes to Hometowns program, and through our corps of expert service officers. We have worked with Congress, the White House, states and local communities – at every level – to ensure that our government, particularly VA, has what it needs to provide quality health care, disability compensation, rehabilitation and transitional programs to all eligible veterans. We have made progress. But we are not there yet.

The backlog of VA benefits claims remains a source of continuous frustration nationwide. And while new attention has been given to mental health care for returning veterans, VA providers themselves say they cannot keep up with it all. In some communities, it's a crisis. Funds have been budgeted for new VA medical facilities that have been in blueprints far too long. VA must undertake a new future, with a new generation of war veterans with unique needs entering the system, while at the same time honoring the service of – and caring for – those of past wars and conflicts.

The American Legion applauds the 110th Congress for recommending FY 2008 funding allocations for many VA accounts that meet or exceed funding targets proposed by The American Legion in testimony presented earlier this year. We are also thankful for the hard work of both chambers in passing a comprehensive and effective GI Bill that more accurately reflects the sacrifices of America's servicemembers - Active Duty, Guard and Reserve.

The process of providing adequate and compassionate services to our veterans is, as we all know, continuous. We must stay on top of the changes in health care, in technology, and foremost, among the veterans we serve. With that in mind and on behalf of The American Legion, I offer the following budget recommendations for the Department of Veterans Affairs for FY 2010:

BUDGET PROPOSALS FOR SELECTED DISCRETIONARY PROGRAMS

FOR DEPARTMENT OF VETERANS AFFAIRS FOR FISCAL YEAR 2009

Program	FY 2008	HR 6599	Appropriations Committee S 3301	The American Legion's FY 2010 Recommendations
Medical Services +	\$29.1 billion	\$30.9 billion	\$35.6 billion (see + note.)	\$42.8 billion <i>(includes medical and prosthetics research)</i>
Medical Administration +	\$3.5 billion	\$4.4 billion	(see + note.)	
Medical Facilities	\$4.1 billion	\$5 billion	\$5 billion	
Medical Care Total	\$36.7 billion	\$40.3 billion	\$40.6 billion	
Medical Care Recovery Fund	(\$2.4 billion)	(\$2.5 billion)	(\$2.5 billion)	*
Medical and Prosthetic Research	\$480 million	\$500 million	\$527 million	\$532 million
Major Construction	\$1.1 billion	\$923 million	\$1.2 billion	\$1.8 billion
Minor Construction	\$630 million	\$991 million	\$729 million	\$1.5 billion
State Veterans Homes Grants	\$165 million	\$165 million	\$250 million	\$275 million
State Veterans Cemetery Grants	\$40 million	\$45 million	\$42 million	\$49 million
National Cemetery Administration	\$195 million	\$240 million	\$230 million	\$249 million
Information Technology	\$2 billion	\$2.5 billion	\$2.5 billion	\$2.7 billion
General Operating Expenses	\$1.6 billion	\$1.8 billion	\$1.8 billion	\$2.8 billion

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

+Medical Services and Medical Administration accounts – VA's FY 2009 budget request proposed merging the Medical Services account and the Medical Administration account. The Senate concurred with this recommendation for consolidation. The House renamed the Medical Administration account the "Medical Support and Compliance", but maintained it as a separate account.

VETERAN'S HEALTH CARE

A SYSTEM WORTH SAVING

In 2002, The American Legion initiated the “I Am Not A Number” campaign to ascertain 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 actual accounts of veterans’ experiences highlighted a trend within VA; veterans reported the quality of care was exceptional, but criticized the difficulty of access to treatment.

During that time, then National Commander Ronald Conley conducted site visits to 60 VA Medical Centers nationwide and compiled a report highlighting the issues affecting VA, which was a result of years of inadequate funding. This report, titled, “A System Worth Saving,” covered issues from Medical Care Collection Fund (MCCF) targets; wait times; budgetary shortfalls; and staffing levels.

By 2004, The American Legion had conducted a full cycle of site visits to VA Medical Centers (VAMC) throughout VA’s 21 Veterans Integrated Service Networks (VISN). In 2005, The American Legion conducted site visits to selected VAMC’s, with attention on the progression of the Capital Asset Realignment for Enhanced Services (CARES). Due to the initial lack of headway from the CARES initiative, The American Legion was prompted to conduct site visits with additional focus on various medical areas within the VA Medical Center system to ascertain the level of progression. The focus included Polytrauma Centers and Vet Centers, and Nursing Home Care Units/Community Living Centers (NHCU/CLC) in 2006 and 2007. Although emphasis was placed on the aforementioned areas, The American Legion continued to focus on the overall progress of VA Medical Centers.

Since 2002, these comprehensive reports, created from the compilation of site visit reports, have been 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 sixth “A System Worth Saving” report. The American Legion’s 2008 “A 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 Nursing Home Care Units/Community Living Centers (NHCUs/CLCs) located within the VA Medical Center System. Of the total 134 Nursing Home Care Units/Community Living Centers, approximately 49 were selected. The reports highlighted key issues in determining quality care, staffing levels, funding, physical plant, as well as obstacles and challenges to providing quality care.

Although it has been six years since the initial visits, The American Legion continues to have concerns of the effects of current 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, it is forever our responsibility as advocates to work together to ensure VA is indeed capable of treating all eligible veterans.

BUDGET REFORM FOR VETERANS’ HEALTH CARE

The annual discretionary appropriations in Fiscal Year (FY) 2007 and FY 2008 represented a dramatic improvement over years of consistent budgetary shortfalls, but these funding levels were achieved only through dynamic leadership in both chambers. However, even these two outstanding appropriations did not follow the normal appropriations process – one was achieved through a year-long continuing resolution with significant markups for VA medical care and the second required the President to declare a need for emergency appropriations for VA medical care.

As the current generation of young Americans sequentially answer the nation’s call to arms, and deploying and returning from around the world, their more complex issues warrant the demand for additional support and accommodations, to include assured funding, clinical providers, nurses, and space. Many have survived combat wounds that were fatal to service members in past conflicts; this is due to modern technology in the combat zones and hot spots around the world.

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. Therefore, today's veterans deserve the respect of a grateful nation upon their return home. Generations of wartime veterans of the past were unconditionally welcomed at VA medical facilities until the 1980s.

The American Legion believes the absence of appropriate urgent changes in Federal health care funding will continue to add to the strife that has plagued the VA, as well as the veterans it serves. New veterans may soon discover their battles are not over; that is, if the aforementioned doesn't come to past. Instead, the nation's newest heroes will inevitably fight for the life of the VA health care system, as veterans in the 20th century fought for care they were eligible to receive.

With the influx of those returning from Iraq and Afghanistan, the demand for various clinical providers, nurses, space, and structural peripherals are mounting. As each fiscal year comes, assured funding is essential to proactively meet various challenges faced at VA medical facilities. The American Legion believes the time for serious reform of the Federal appropriations for veterans' health care that would provide timely, predictable, and sufficient appropriations for VA medical care. We hereby urge Congress to 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.

The American Legion believes the solution to the Veterans Health Administration's (VHA's) recurring fiscal difficulties will only be achieved through meaningful reform of the Federal appropriations process as recommended by the President's Task Force to Improve Health Care Delivery for our Nation's Veterans (in 2003). This Task Force clearly identified the consistent mismatch between VA health care funding and the growing demand for health care services.

The American Legion and eight other major veterans' and military service organizations have joined forces to urge Congress to provide annual Federal appropriations that are timely, predictable, and sufficient. These three components are critical for effective long- and short-range decision making by VA management. The Partnership for Veterans Health Care Budget Reform has supported legislation that would make VA health care funding mandatory rather than discretionary. Under this concept, VA health care funding would be formula-based, much like other mandatory benefits like Medicare, Social Security, and VA compensation and pension.

This concept has met a great deal of resistance by many lawmakers on Capitol Hill; so The American Legion and its colleagues now recommends an alternative to mandatory funding – advanced appropriations. The American Legion believes this change would assure timeliness and predictability. Under advanced appropriations, VA medical care discretionary appropriations would be approved prior to the start of the next fiscal year. Should The American Legion have concern about the sufficiency of the advanced appropriations, it would have an opportunity to address any shortfalls while testifying for the remainder of the VA appropriations for that fiscal year.

The American Legion recommends reform of the Federal appropriation process with regard to VA health care that would guarantee timely, predictable, and sufficient annual appropriations.

MEDICAL CARE COLLECTIONS FUND

The Balanced Budget Act of 1997, Public Law (PL) 105-33, established the VA Medical Care Collections Fund (MCCF), requiring 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. Funds collected may only be used to provide VA medical care and services, as well as 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. Previously, these collection goals have far exceeded VA's ability to collect accounts receivable.

Since FY 2004, VHA's total collections increased from \$1.7 billion to \$2.2 billion; a 29.4 percent increase. The third-party component of VA's collections also increased from \$960,000 to \$1.26 million; a 31.3 percent increase.

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 continue to raise the issue of VHA's ability to capture insurance data in a timely and correct manner. In addition, they continue to express concerns of VHA's ability to maximize its third-party collections.

According to a 2008 GAO report, VA lacks policies and procedures and a full range of standardized reports for effective management oversight of VA-wide third-party billing and collection operations. Further, although VA management has undertaken several initiatives to enhance third-party revenue, many of these initiatives are open-ended or will not be implemented for several years. Until these shortcomings are addressed, VA will continue to fall short of its goal to maximize third-party revenue, thereby placing a higher burden on taxpayers. In addition, GAO recommended an improvement of third-party billings; follow-up on unpaid amounts, and management oversight of billing and collections.

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 or as Reservists in the Armed Forces. 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 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 Vet Centers operated from local American Legion posts during their search for permanent locations. 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. In addition, they also provide mental health counseling to those within the veteran's support system, such as spouses and children. Recently, VA announced the addition of 39 Vet Centers, increasing the total to 278. These facilities are mandated for completion by the fall of 2009.

During The American Legion's 2007 site visits to Vet Centers, it was acknowledged their overall challenge included limited staffing, which was a result of occurring and anticipated influx of returning Operations Enduring Freedom/Iraqi Freedom (OEF/OIF) veterans. Services have also expanded to provide bereavement counseling to family members of those who have died while fighting in support of OEF and OIF.

The American Legion continues to acknowledge the success of Vet Centers and the quality services they provide to the nation's veterans and their families. The Vet Centers' distinctive locations, personnel, and overall growing missions continue to stand beyond other programs offered by VA.

Vet Centers also 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 Vet Centers is the provision of 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.

Although Vet Centers have an extensive outreach plan, more outreach is required to reach other groups of veterans who are unaware they are eligible to use Vet Centers or those who may not be familiar with the program in general. According to VA, many veterans learn of Vet Centers by word-of-mouth; reaching veterans residing in rural areas continues to be a challenge.

VA has recently recognized the importance of Vet Centers and the current and potential services they are capable of rendering veterans within their respective communities. The plan to open 39 additional Vet Centers validates their acknowledgement and commitment to ensure veterans receive access to all VA related services. The completion date for the project is the fall of 2009. This plan will also call for more funding to operate and lease space for the new Vet Centers.

As more service members return from theater, the demand for more services will be required. Upon completion of Vet Centers in 2009, The American Legion urges VA to assess the surrounding areas to ensure the amount of Centers is adequate to accommodate these new veterans.

The American Legion believes all Vet Centers should be fully staffed with qualified providers to ensure 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)

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

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

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

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

In a July 2006, VA's Office of Inspector General (OIG) issued a report entitled "Health Status of and Services for Operation Enduring Freedom and Operation Iraqi Freedom Veterans after Traumatic Brain Injury Rehabilitation." The VA's OIG examined VHA's ability to meet the needs of OEF/OIF veterans who suffered from TBI. It reports that 52 patients from around the country – including Montana, Colorado, North Dakota, and Washington – were interviewed at least one year after completing inpatient rehabilitation from a Lead Center (Minneapolis, MN; Palo Alto, CA; Richmond, VA; and Tampa, FL) that included those who lived in rural states.

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

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

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

POLYTRAUMA CENTERS

To date, VHA has designated five VA Medical Centers as Polytrauma Rehabilitation Centers (PRC). These Centers provide specialized care for returning service members and veterans who suffer from multiple and severe injuries. They also provide specialized rehabilitation to help injured service members or veterans 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; San Antonio, TX; and Tampa, FL. Another unique aspect of the Polytrauma Center includes the administration of care for TBI, amputations, blindness and psychosocial/mental health issues in one location.

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

During the "System Worth Saving" site visits to the PRC Centers, many of them had vacancies for highly specialized rehabilitative fields and nursing. The major challenge to filling vacancies included the inability to offer competitive salaries. It is the declaration of The American Legion that VA must be adequately staffed to maintain or enhance services provided to veterans and service members recovering from multiple injuries.

ACCESS TO CARE FOR RURAL VETERANS

Research conducted by VA indicated 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 ongoing 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 proximate access to VA primary care within veterans' communities. Recently, VA scheduled the opening of 44 additional CBOCs in 21 states. The new clinics will be fully activated by 2009, increasing VA's network of independent and community-based clinics to 782. The American Legion believes the clinics are warranted due to the growing population of veterans within rural areas of the nation. More veterans are also migrating to less populated areas with an abundance of automobiles, which are the primary catalysts that transport Improved Explosive Devices (IED's) in Iraq.

While VA has taken the right step with the addition of more CBOCs, The American Legion believes more are warranted. There continues to be great difficulty serving veterans in rural areas, such as Nebraska, Nevada, Utah,

South Dakota, Wyoming, and Montana where veterans face extremely long drives, a shortage of health care providers, and bad weather. VISNs rely heavily upon CBOCs to close the gap.

Many veterans continue to express concerns to The American Legion 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 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 Department of Defense (DOD), National Guard and Reserves Transition Assistance Programs (TAP) and Disabled Transition Assistance Programs (DTAP). However, The American Legion remains concerned that many service members 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 service members 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 in support of GWOT.

The American Legion asserts the importance of improved communication between VA and Reserve and National Guard units to ensure eligible Reservists are aware of all entitled VA benefits. In addition, there must be a concerted, proactive effort on behalf of DOD and VA to ensure every veteran is thoroughly screened and properly handed off from the former to the latter. In a recent GAO site visit to DOD medical facilities, it was discovered that health care providers were unaware a medical record review was required and that medical records were not consistently reviewed by providers conducting the pre-deployment health assessment.

Health assessment mistakes or inconsistencies occurring when veterans are active service members will follow them to civilian life and eventually be overlooked. When those mistakes and inconsistencies become routine, the numbers increase, which will continually give birth to veterans with issues that could have been previously alleviated before entering the civilian community.

The American Legion believes a stern system of checks and balances underlined with current and future plans and policies will ensure ongoing communication and successful transition of the nation's heroes from DOD to VA.

THE AGING OF AMERICA'S VETERANS

VA's Long-Term Care Mission

Public Law (PL) 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 not consistently maintained 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 Capital Assets Realignment for Enhanced Services (CARES) process and continues. The planning for the long-term care mission, one of the major services VA provides to veterans, was not addressed in the initial CARES initiative, which is touted as the most comprehensive analysis of VA's health care infrastructure ever conducted.

The American Legion met with the Office of Geriatrics and Extended Care (GEC) in November 2007 to discuss this rapidly changing and demanding source of unique health care and the newly implemented Cultural Transformation of its 134 Nursing Home Care Units (NHCUs). Initially implemented in 2004, the conversion to the Cultural

Transformation plan seeks to overcome barriers to change; create a peer support network; and link providers with long-term care leaders to establish evidence for best practices and models of care.

In addition, VA has reiterated the Joint Commission on Accreditation of Healthcare Organizations' (JACHO) Standard Ethics, Rights and Responsibility, which states, "Residents have a right to an environment that preserves dignity and contributes to a positive self image." This includes appropriate accommodations for sufficient space with access to personal living space and a home-like atmosphere.

During The American Legion's 2008 site visits, which focused on VA Nursing Home Care Units, Task Force Members and Field Service Representatives discussed VA long-term care, as well as its support systems and all its supports. In this round table and physical tour engagement, The American Legion sought to ascertain that all was being carried out as discussed during the 2004 implementation of the cultural transformation. Challenges which continue to impede full operation include: the three budgets split along with the separation of Information Technologies (IT), Cultural Transformation, and being understaffed.

The American Legion continues to state its support for the publishing and implementation of a Long-Term Care (LTC) strategic plan that addresses the rising long-term care needs of America's veterans. We remain disappointed it has now been over four years since the CARES decision and no plan has been published. We assert VA should take proactive steps to provide the care mandated by Congress. Congress should in turn do its part and provide adequate mandatory 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 LTC 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 LTC requirements of the Millennium Health Care and Benefits Act; we urge your Committees to support adequate funding for VA to meet the LTC 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 (USC), VA is authorized to make payments to states to assist in the construction and maintenance of SVHs. Today, there are 133 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 LTC needs of older veterans, it is essential 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 a moratorium 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 2010.

Medical and Nursing School Affiliations

VHA and its medical school affiliates continue to enjoy a long-standing and exemplary relationship that has endured for virtually 60 years. This relationship continues to thrive and evolve to present day. Currently, there are 129 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 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. 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.

Academic Year (AY) 2007-08 was the first of a multi-year expansion in order to address the recommendations of the Federally Chartered External Advisory Committee on VHA Resident Education. The Advisory Committee was charged with an examination of the philosophy and deployment of VA's residency training positions.

The Committee acknowledged the critical role VA plays in provision of high-quality graduate medical education (GME) and recommended VA increase its proportional support of the national GME enterprise. With 2008 being the second year of expansion, the VA Office of Academic Affiliations has developed three Requests for Proposals (RFPs) which will create about 400 new, permanent resident positions nationwide in AY 2009-2010. In addition to the GME Enhancement initiative, 698 physician resident positions were awarded to 72 facilities in 61 specialty training programs.

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

The American Legion supports adequate funding of other VA research activities, including basic biomedical research and bench-to-bedside projects for FY 2010. 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 \$532 million for Medical and Prosthetics Research in FY 2010

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*, released July 27, 2007, 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.

The "limited or suggestive" evidence finding meets the threshold of a positive association between the exposure of humans to a herbicide agent and the occurrence of a disease in humans, as set forth in title 38, United States Code § 1116, and has been used by VA to add other conditions, including type 2 diabetes, to the list of herbicide presumptive disabilities. Although the Secretary of Veterans Affairs, in violation of specific reporting requirements set forth in § 1116, has yet to publish his official determination regarding this latest IOM report in the Federal Register, The American Legion received a letter from the Secretary on June 26, 2008, informing our organization that AL amyloidosis is the only condition, based on the July 2007 IOM report, that would be added to the list of disabilities presumed to be service-connected due to herbicide exposure. The Secretary specifically stated that he has "determined that the evidence available at this time does not warrant the establishment of a new presumption of service connection based on service in Vietnam for any additional diseases reviewed in the NAS report."

Since, at the time of this writing, the Secretary has not published a notice of his determination in the Federal Register, which will include an explanation of the scientific basis for that determination; The American Legion is unable to comment on the reasoning behind VA's decision not to recognize hypertension as presumptively service-connected to herbicide exposure among Vietnam veterans. Rest assured, we will carefully review the Secretary's determination once it is published in the Federal Register and will take appropriate action, including, but not limited to, seeking a legislative remedy to correct this injustice.

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. Unfortunately, as of this date, additional information has not been provided by DOD.

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 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. Due to their nature, 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.

NOTE: VA also published another negative presumption determination in the Federal Register on July 21, 2008—Joe, you might want to add something about this report.

VA 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 PL105-277 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, Section 1118, title 38, USC, 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 fill in 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 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 Section 1112(c)(2), title 38, USC, 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 the dose reconstruction program should not continue. We urge the enactment of legislation to eliminate this provision in the claim of veterans with a recognized radiogenic disease who was exposed to ionizing radiation during military service.

Mustard Gas Exposure

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

Since the most recent VA outreach effort was announced, The American Legion has been contacted by veterans who contend that the number of participants identified was understated by tens of thousands, and that participation in these clandestine chemical programs extended decades beyond the World War II era. Investigators have not always maintained thorough records of the events; adverse health effects were not always annotated in the service member'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 their current ailments are related to the testing.

It is important DOD commits to investigating these claims as they arise to determine if they have merit. It is also important VA commit 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 these veterans are granted the consideration they deserve.

BLINDED VETERANS

There are currently approximately 38,000 blind veterans enrolled in the VA health care system. Additionally, demographic data suggests that in the United States, there are over 160,000 veterans with low-vision problems and eligible for Blind Rehabilitative services. 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 164 Visual Impairment Service Team (VIST) Coordinators to provide lifetime case management to all legally blind veterans, and all Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) patients and 38 Blind Rehabilitative Outpatient Specialists (BROS) to provide services to patients who are unable to travel to a blind center. The training provided by BROS 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 a BROS teaches to help blind veterans and their families adjust to such a devastating injury, The American Legion urges VA to recruit more specialists.

MEDICAL CONSTRUCTION AND INFRASTRUCTURE SUPPORT

Major Construction

The CARES process identified approximately 100 major construction projects in throughout the VA Medical Center System, the District of Columbia, and Puerto Rico. Construction projects are categorized as major if the estimated cost is over \$10 million. Now that VA has disclosed the plan to deliver health care through 2022, Congress has the sequential responsibility to provide adequate funds. The CARES plan continually calls for 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. However, if timely completion is truly a national priority, The American Legion continues to have concerns due to inadequate funding.

In addition to the cost of the proposed new facilities are many construction issues that have been “placed 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 VA has effectively shepherded the CARES process to its current state by developing the blueprint for the future delivery of VA health care – we hereby continue to urge Congress act equally and adequately fund the implementation of this comprehensive and crucial undertaking.

The American Legion recommends \$1.8 billion for Major Construction in FY 2010.

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. Due to the age of these building, continuous renovations, relocations and expansions are quite common. A slight hesitation in provision of funding leaves a profound impact, as it has in recent years. 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 \$1.5 billion for Minor Construction in FY 2010.

INFORMATION TECHNOLOGY FUNDING

Since the data theft occurrence in May 2006, the VA has implemented a complete overhaul of its Information Technology (IT) division nationwide. Although not quite from its beginning stages, The American Legion is hopeful VA takes the appropriate steps to strengthen its IT security to renew the confidence and trust of veterans who depend on VA for the benefits they have earned.

Within VA Medical Center Nursing Home Care Units, it was discovered there was conflict with IT and each respective VAMC regarding provision of Internet access to veteran residents. VA has acknowledged the Internet would represent a positive tool in the veteran’s rehabilitation. The American Legion believes Internet access should be provided to these veterans without delay, for time is of the essence in the journey to recovery. In addition, veterans should not have to suffer due to VA’s gross negligence in the matter.

The American Legion hopes 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 there should be a complete review of IT security government wide. VA isn’t the only

agency within the government requiring an overhaul of 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.

The American Legion supports the centralization of VA's IT. The quantity of work required to secure information managed by VA is immense. The American Legion urges Congress to maintain close oversight of VA's IT restructuring efforts and fund VA's IT to ensure the most rapid implementation of all proposed security measures.

The American Legion recommends \$2.7 billion for Information Technology.

COMPENSATION AND PENSION

VETERANS BENEFITS ADMINISTRATION

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.

CLAIMS BACKLOG & STAFFING

In FY 2007, more than 2.8 million veterans received disability compensation benefits. Providing quality decisions in a timely manner has been, and will continue to be, one of the VA's most difficult challenges. A majority of the claims processed by the Veterans Benefits Administration's (VBA) 57 regional offices involve multiple issues that are legally and medically complex and time consuming to adjudicate.

As of August 9, 2008, there were 618,314 claims pending in VBA, 394,201 of which are rating cases. There has been a steady increase in VA's pending claim backlog since the end of FY 2004 when there were 321,458 rating cases pending. At the end of FY 2007, there were more than 391,000 rating cases pending in the VBA system, up approximately 14,000 from FY 2006. Of these, more than 100,000 (25.7 percent) were pending for more than 180 days. Including non-rating claims pending, the total compensation and pension claims backlog was more than 627,000, with 26.5 percent of these claims pending more than 180 days.

There were also more than 164,000 appeals pending at VA regional offices, with more than 142,000 requiring some type of further adjudicative action. At the end of FY 2007, the average number of days to complete a claim from date of receipt (182.5 days) was up 5.4 days from FY 2006.

Inadequate staffing levels, inadequate continuing education, and pressure to make quick decisions, resulting in an overall decrease in quality of work, has been a consistent complaint among regional office employees interviewed by The American Legion staff during regional office quality checks. 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 the current staff levels. The current wartime situation provides an excellent opportunity for VA to actively seek out returning veterans from OEF and OIF, especially those with service-connected disabilities, for employment opportunities within VBA. Despite the recent hiring initiatives, regional offices will clearly need more personnel given current and projected future workload demands.

However, VBA must be required to provide better justification for the resources it says are needed to carry out its mission and, in particular, how it intends to improve the level of adjudicator training, job competency, and quality assurance.

PRODUCTION VS. QUALITY

Since 1996, The American Legion, in conjunction with the National Veterans Legal Services Program (NVLSP), has conducted quality review site visits at more than 40 regional offices for the purpose of assessing overall operation. This Quality Review Team visits a regional office for a week and conducts informal interviews with both VA and

veterans service organization (VSO) staff. The Quality Review Team then reviews a random sample of approximately 30-40 recently adjudicated American Legion-represented claims. The Team finds errors in approximately 20-30 percent of cases reviewed.

The most common errors include the following:

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

These errors are a direct reflection of VA's emphasis of quantity over quality of work. This seems to validate The American Legion's concerns that emphasis on production continues to be a driving force in most VA regional offices, often taking priority over such things as training and quality assurance. Clearly, this frequently results in premature adjudications, improper denials of benefits and inconsistent decisions

VETERANS' DISABILITY BENEFITS COMMISSION

In October 2007, after almost 2 ½ years of study, the Veterans' Disability Benefits Commission (VDBC or Commission), released its extensive report, *Honoring the Call to Duty: Veterans' Disability Benefits in the 21st Century*, to the President and Congress. Due to the history surrounding the establishment of the Commission, The American Legion and others in the VSO community feared that it would be used as a tool to restrict veterans' benefits. In fact, key members of Congress and other Federal government officials publicly expressed their desire to use the VDBC as a vehicle to institute radical changes in the VA disability system that would negatively impact and restrict entitlement to benefits for a large number of veterans.

Concerned about the questionable history surrounding the creation of the VDBC and the impact its recommendations would undoubtedly have on VA's disability compensation program, American Legion staff closely monitored the Commission's activities and provided written and oral testimony, as well as other input, on several occasions. From the very beginning, Commission Chairman Terry Scott assured the VSOs and others that the Commission did not have a hidden agenda and its purpose was not to cut or otherwise restrict veterans' benefits. During the course of the Commission's 2½-year study The American Legion's concerns diminished and our skepticism turned to optimism as the release of its final report approached. Our approach, however, is still "trust, but verify."

The American Legion appreciates the Commission's hard work and commitment and we are generally pleased with its recommendations. As the final report contains 113 recommendations, this statement will focus, for the most part, on recommendations that will directly impact the disability compensation system as well as those addressed as high priority in the Executive Summary.

EXECUTIVE SUMMARY PRIORITY RECOMMENDATIONS

Recommendation 4-23 (Chapter 4, Section I.5)

VA should immediately begin to update the current Rating Schedule, beginning with those body systems addressing the evaluation and rating of post-traumatic stress disorder and other mental disorders and of traumatic brain injury. Then proceed through the other body systems until the Rating Schedule has been comprehensively revised. The revision process should be completed within 5 years. VA should create a system for keeping the Rating Schedule up to date, including a published schedule for revising each system.

American Legion Position: Most major body systems in the rating schedule have been updated over the last few years. The American Legion supports the updating of conditions such as traumatic brain injury that have not been recently updated. We wish to also note that the rating schedule is not the major cause of problems with the VA

disability compensation process. VA problems such as inadequate staffing, inadequate funding, ineffective quality assurance, premature adjudications, and inadequate training still plague the VA regional offices. The American Legion wants to emphasize that, in most cases, it would be inappropriate to reduce the value of a disability as long as our troops are in harm's way.

Recommendation 5-28 (Chapter 5, Section III.3)

VA should develop and implement new criteria specific to post-traumatic stress disorder in the VA Schedule for Rating Disabilities. VA should base those criteria on the Diagnostic and Statistical Manual of Mental Disorders and should consider a multidimensional framework for characterizing disability due to post-traumatic stress disorder.

American Legion Position: The rating schedule currently uses one set of rating criteria for all mental disorders. There are unique aspects of PTSD that are not properly evaluated by the current rating criteria and it makes sense to develop rating criteria that address the specific symptoms involved with PTSD.

Recommendation 5-30 (Chapter 5, Section III.3)

VA should establish a holistic approach that couples posttraumatic stress disorder treatment, compensation and vocational assessment. Reevaluation should occur every 2-3 years to gauge treatment effectiveness and encourage wellness.

American Legion Position: While The American Legion supports a holistic approach to the treatment and compensation of post-traumatic stress disorder (PTSD) that encourages wellness, we are concerned that a mandatory reevaluation every 2-3 years could result in undue stress among PTSD service-connected veterans. They may be fearful that the sole purpose of such reevaluation would be to reduce compensation benefits. This perception could undermine the treatment process. We would, therefore, encourage study and review of possible unintended consequences regarding this portion of the Commission's recommendation.

Recommendation 6-14 (Chapter 6, Section IV.2)

Congress should eliminate the ban on concurrent receipt for all military retirees and for all service members who separated from the military due to service-connected disabilities. In the future, priority should be given to veterans who separated or retired from the military under Chapter 61 with:

- fewer than 20 years service and a service-connected disability rating greater than 50 percent, or
- disability as the result of combat.

American Legion Position: The American Legion strongly supports full concurrent receipt and we are pleased with that portion of the recommendation.

Recommendation 7-4 (Chapter 7, Section II.3)

Eligibility for Individual Unemployability should be consistently based on the impact of an individual's service-connected disabilities, in combination with education, employment history, and medical effects of an individual's age or potential employability. VA should implement a periodic and comprehensive evaluation of Individual Unemployability-eligible veterans. Authorize a gradual reduction in compensation for Individual Unemployability recipients who are eligible to return to substantially gainful employment rather than abruptly terminating disability payments at an arbitrary level of earning.

American Legion Position: Although The American Legion supports the provision of this recommendation calling for the gradual reduction in compensation benefits for Individual Unemployability (IU) recipients who are able to return to substantially gainful employment, we strongly oppose the portion of the recommendation that could be interpreted as requiring the consideration of age in determining eligibility to IU. It is inherently unfair to punish an older veteran who would not be able to work at any age because of a service-connected condition while awarding the benefit to a similarly disabled younger veteran. The current rule states (in essence) that the impact of a service-connected condition on a veteran cannot be evaluated to a higher degree because the veteran is old; 38 C.F.R. §

3.341(a). The schedule is based on the average impairment in earning capacity. If the veteran cannot work because of service-connected disability(s) then IU should be awarded. Moreover, we have found that younger veterans have to overcome VA bias when they apply for IU because VA raters think that younger people have a better chance of going back to work. Thus, allowing age to be used as a factor in determining eligibility for IU purposes may end up adversely impacting both older and younger veterans.

Recommendation 7-5 (Chapter 7, Section II.3)

Recognizing that Individual Unemployability is an attempt to accommodate individuals with multiple lesser ratings but who remain unable to work, the Commission recommends that as the VA Schedule for Rating Disabilities is revised, every effort should be made to accommodate such individuals fairly within the basic rating system without the need for an Individual Unemployability rating.

American Legion Position: The American Legion is extremely leery of any recommendation that would encourage the elimination of a specific benefit program on the anticipation of a revised rating schedule which would supposedly eliminate the need for that benefit. The current policy as enunciated by 38 C.F.R. § 3.340 states, “[T]otal disability will be considered to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation.” This policy is fair and consistent with the non-adversarial nature of the VA claims process. Therefore, this policy should not be altered.

38 C.F.R. § 4.16b states:

- (b) It is the established policy of the Department of Veterans Affairs that all veterans who are unable to secure and follow a substantially gainful occupation by reason of service-connected disabilities shall be rated totally disabled.

The bottom line is that veterans who are unable to work due to service-connected disability should be compensated at the 100% level, whether it be based on a scheduler evaluation (either single service-connected disability or a combined scheduler evaluation) or based on Individual Unemployability. This has been a longstanding VA policy and we see no need to change it. See 38 C.F.R. § 3.340.

Recommendation 7-6 (Chapter 7, Section III.2)

Congress should increase the compensation rates up to 25 percent as an interim and baseline future benefit for loss of quality of life, pending development and implementation of quality of life measure in the Rating Schedule. In particular, the measure should take into account the quality of life and other non-work related effects of severe disabilities on veterans and family members.

American Legion Position: The American Legion supports an increase in compensation benefits to adequately account for a service-connected disability’s impact on a veteran’s quality of life. Before any change is made, however, we would like to carefully analyze how this would impact special monthly compensation, which is based in part on loss of quality of life.

Recommendation 7-8 (Chapter 7, Section III.2)

Congress should consider increasing special monthly compensation (SMC), where appropriate, to address the more profound impact on quality of life by disabilities subject to special monthly compensation and review ancillary benefits to determine where additional benefits could improve a disabled veteran’s quality of life.

American Legion Position: The American Legion fully supports increasing special monthly compensation to address profound impacts on quality of life for disabilities subject to SMC as well as reviewing ancillary benefits for the purpose of determining where additional benefits could improve a disabled veteran’s quality of life.

Recommendation 7-12 (Chapter 7, Section V.3)

VA and DoD should realign the disability evaluation process so that the Services determine fitness for duty, and service members who are found unfit are referred to VA for disability rating. All conditions that are identified as part of a single, comprehensive medical examination should be rated and compensated.

American Legion Position: The American Legion has long been concerned with low disability ratings issued by the military's disability evaluation system and we fully support limiting the military's role to determination of fitness while leaving the rating process to VA. However, we do have concerns as to how this extra work for the VA would be funded.

Recommendation 7-13 (Chapter 7, Section VI)

Congress should enact legislation that would bring the ancillary and special purpose benefits to levels originally intended considering cost of living and provide for annual adjustments to keep pace with the cost of living.

American Legion Position: This recommendation is appropriate as ancillary and special purpose benefits, as reflected in the VDBC's report, have not been adjusted to keep pace with cost of living changes resulting in the failure of the benefits to fulfill their intended purposes.

Recommendation 8-2 (Chapter 8, Section III.1B)

Congress should eliminate the Survivor Benefit/Dependency and Indemnity Compensation offset for survivors of retirees and in-service deaths.

American Legion Position: The American Legion fully supports this recommendation.

Recommendation 9-1 (Chapter 9, Section II.6.A.b)

Improve claims cycle time by:

Establishing a simplified and expedited process for well documented claims, using best business practices and maximum feasible use of information technology; and Implementing an expedited process by which the claimant can state the claim information is complete and waive the time period (60 days) allowed for further development.

Congress should mandate and provide appropriate resources to reduce the VA claims backlog by 50% within 2 years.

American Legion Position: While we are fully supportive of initiatives to expedite the claims process and reduce the claims backlog, The American Legion, however, is not supportive of imposing arbitrary deadlines to reduce the claims backlog because experience has shown that such production driven efforts have a tendency to sacrifice quality for quantity, resulting in more errors and, ultimately, an increase in appeals. Additionally, while we support an expedited process to grant benefits, compliance with statutory duties to assist and notify must be fully complied with in claims in which benefits would be denied. An immediate reduction in the backlog could be accomplished by VA management encouraging VA raters to grant benefits when there is sufficient evidence in the record rather than developing the record to support a denial.

Recommendation 10-11 (Chapter 10, Section VII)

VA and DoD should expedite development and implementation of compatible information systems including a detailed project management plan that includes specific milestones and lead agency assignment.

American Legion Position: The American Legion supports this recommendation.

Recommendation 11-1 (Chapter 11)

Congress should establish an oversight group to ensure timely and effective implementation of the Commission's recommendations. This group should be co-chaired by VA and DoD and consist of senior representatives from appropriate departments and agencies. It is further recommended that the Veterans' Affairs Committees hold hearings and require annual reports to measure and assess progress.

American Legion Position: The American Legion has no objections to this recommendation. We do, however, urge that this recommendation be amended to specifically address VSO participation in this oversight process.

OTHER RECOMMENDATIONS

Recommendation 5-1 (Chapter 5, Section I.1)

Congress should change the character-of –discharge standard to require that when an individual is discharged from his or her last period of active service with a bad conduct or dishonorable discharge, it bars all benefits.

American Legion Position: The American Legion strongly opposes this recommendation. The Commission voted twice not to recommend a change to the current 30-year old policy that allows eligibility for VA benefits based on separate honorable periods of service. The VDBC finally decided on this position after a third vote of 8-4. We are disappointed in not only the recommendation, but also the nature in which the Commission arrived at its decision.

As noted in the VDBC's report, it is clear from a review of the legislative history that Congress intended to liberalize the overly strict requirement of discharge under honorable conditions when it enacted the current "under conditions other than dishonorable" standard in 1944. The current standard correctly and fairly acknowledges that those who were discharged for relatively minor offenses should not be barred from receiving veterans' benefits. Congress' intent was also clear when it amended the law in 1977 to allow an individual who was discharged under dishonorable conditions, or conditions otherwise precluding basic eligibility, to receive VA benefits based upon a separate period of service if VA determined that the individual was discharged from the other period of service under conditions other than dishonorable or would have been discharged under conditions other than dishonorable if not for reenlistment.

Endorsing a change in the character of discharge standard where one period of service under other than honorable conditions would negate other periods of service that were under conditions other than dishonorable is both unfair and in direct conflict with the intent of Congress when it enacted the current Character of Discharge standards.

Recommendation 5-2 (Chapter 5, Section I.2.B)

Maintain the present definition of line of duty: that service members are on duty 24 hours a day, 7 days a week.

American Legion Position: The American Legion fully supports this position and we are hopeful that the Commission's recommendation regarding this issue will end further debate calling for a line of duty (LOD) definition that only covers injuries, diseases, or deaths incurred while performing military duties.

The intent of Congress regarding the LOD definition and the equal treatment of all veterans, no matter how, when or where a service related condition was incurred, is clearly expressed in the legislative history and current statutory provisions. Previous recommendations to limit the line of duty definition to only those disabilities that are a direct result of performance of military duties have not been acted on by Congress, despite large potential savings touted by the recommending agencies. The American Legion believes that there are very good reasons previous recommendations to limit or restrict the current LOD definition have not been implemented. First, there is the basic question of fairness. Limiting the line of duty definition to only those disabilities, deaths and illnesses incurred while actually performing one's military duties, despite the fact that an active duty service member is considered, under the Uniform Code of Military Justice (UCMJ), to be on duty 24/7 is inherently unfair and fundamentally wrong. Additionally, the message such a change would send to current service members and prospective members would undoubtedly have a negative impact on both recruitment and retention. Finally, the additional administrative costs and other burdens resulting from a change in the line of duty definition would offset any projected savings.

Recommendation 5-3 (Chapter 4, Section I.2.B)

Benefits should be awarded at the same level according to the severity of the disability, regardless of whether the injury was incurred or disease was contracted during combat or training, wartime or peacetime.

American Legion Position: The American Legion fully supports this recommendation. An injury, disease or death is just as debilitating and traumatic to an individual and his or her family no matter how the condition was incurred or where the veteran was at the time it was incurred. Making a distinction between combat and non-combat disabilities is fundamentally wrong and demeaning to the honorable service of all veterans. Moreover, implementing such a provision would add another level of complexity to an already overburdened and complex adjudication system.

Recommendation 5-4 (Chapter 5, Section I.3.B)

Maintain the current reasonable doubt standard.

American Legion Position: The reasonable doubt standard is the hallmark of VA's non-adversarial disability compensation program and we fully support this recommendation.

Recommendation 5-5 (Chapter 5, Section I.4B)

Age should not be a factor for rating service connection or severity of disability, but may be a factor in setting compensation rates.

American Legion Position: The American Legion does not support the use of age for establishing entitlement to service connection or for determining severity of disability, nor do we support using age as a factor in setting compensation rates. Although we understand the reasoning behind the Commission's recommendation calling for age to be used as a factor in setting service-connected disability compensation rates, The American Legion maintains that compensation rates should be based on the severity of disability and should not be applied differently based on the age of the veteran.

Recommendation 5-6 (Chapter 5, Section I.5B)

Maintain the current standard of an unlimited time limit for filing an original claim for service connection.

American Legion Position: The American Legion fully supports this recommendation. Although we recognize that it is prudent for veterans to file service connection disability claims as soon as possible after separating from service, and we strongly encourage such action whenever possible, that option, for various reasons, is not always feasible. Therefore, if sufficient evidence to establish entitlement to service connection is submitted, the benefit sought should be awarded, regardless of how long after service the claim was filed.

Recommendation 5-7 (Chapter 5, Section I.5B)

DoD should require a mandatory benefits briefing to all separating military personnel, including Reserve and National Guard components, prior to discharge from service.

American Legion Position: The American Legion fully supports this recommendation. It is extremely important that separating members receive sufficient information regarding all VA benefits to which they may be entitled after separation from service.

RECOMMENDATIONS 5-11, 5-12 & 5-14 (CHAPTER 5, SECTION II.1)

Recommendation 5-11

The goal of the presumptive disability decision-making process should be to ensure compensation for veterans whose diseases are caused by military service and this goal must serve as the foundation for the work of the Science Review Board. The committee recommends that the Science Review Board implement its proposed two-step process. [IOM Rec. 4]

Recommendation 5-12

The Science Review Board should use the proposed four-level classification scheme, as follows, in the first step of its evaluation. A standard should be adopted for "causal effect" such that if there is at least as much evidence in favor of the exposure having a causal effect on the severity or frequency of a disease as there is evidence against, then a service-connected presumption will be considered. [IOM Rec. 5]

- **Sufficient:** The evidence is sufficient to conclude that a causal relationship exists.
- **Equipose and Above:** The evidence is sufficient to conclude that a causal relationship is at least as likely as not, but not sufficient to conclude that a causal relationship exists.

- **Below Equipoise:** The evidence is not sufficient to conclude that a causal relationship is at least as likely as not, or is not sufficient to make a scientifically informed judgment.
- **Against:** The evidence suggests the lack of a causal relationship.

Recommendation 5-14

When the causal evidence is at Equipoise and Above, an estimate also should be made of the size of the causal effect among those exposed. [IOM Rec. 7]

American Legion Position: The American Legion does not support these recommendations because the “association” standard currently used in the presumption determination process is consistent with the non-adversarial and liberal nature of the VA disability claims process. Moreover, as is the case of the 1991 Gulf War, there is often a lack of specific or reliable exposure data. Due to improper record keeping, resulting in a lack of reliable exposure data, during Operations Desert Shield/Storm, there is insufficient information to properly determine service member exposure to the numerous environmental and other hazards U.S. troops were exposed to in the Southwest Asia theater of operations during the war. A lack of such data would clearly diminish the value and reliability of a “causation” standard as recommended by the IOM. It should also be noted that despite its recommendation, the Commission stated that it was concerned that “causation rather than association may be too stringent” and encouraged further study of the matter.

Recommendation 7-15 (Chapter 7, Section VIII.2)

Lump sum payments should not be considered to compensate veterans for their disabilities.

American Legion Position: The Commission thoroughly studied this issue and we are hopeful that this recommendation will put an end to future proposals in favor of lump sum payments.

FILIPINO VETERANS’ BENEFITS

The American Legion fully supports the Filipino Veterans Equity Act and has testified in support of this legislation on a number of occasions for several years. The American Legion’s objection rests with how Congress plans to pay for larger bill that contains the Filipino Equity Act provision. In order to meet its PAY GO obligations, Congress plans to repeal the *Hartness v. Nicholson* decision. In fact, some Filipino veterans may very well benefit from the *Hartness v. Nicholson* decision; especially should the Filipino Veterans Equity Act become law.

By repealing this decision, Congress would be denying one group of veterans (elderly, disabled homebound) an earned benefit to give another group of veterans (the Filipino veterans and others) benefits. The American Legion believes it is wrong and sets an unacceptable precedence.

There is nothing that would prevent Congress from next year, repealing the Filipino Equity Act to use that money to pay for some other group of veterans. Such a “rob Peter to pay Paul” scheme clearly dishonors and disrespects all veterans involved. Even worse, it pits veterans against veterans.

In *Hartness v. Nicholson*, a veteran appealed a May 5, 2004, decision of the Board of Veterans’ Appeals that denied housebound (HB) benefits because VA determined that the veteran did not meet either of the two alternative criteria for HB benefits:

- he did not have a single disability rated 100 percent disabling combined with substantial confinement to the home; and
- he did not have entitlement under the alternative basis a 100 percent disability rating with an additional independently ratable 60 percent disability.

The Court of Appeals for Veterans Claims agreed held that a wartime veteran may be awarded housebound benefits if, in addition to being 65 years old, he or she has been rated at least 60 percent disabling or is considered permanently

housebound. Section 1513, Title 38, USC, currently benefits many wartime veterans from the “Greatest Generation” and other veterans from subsequent conflicts.

The American Legion strongly supports the Filipino Veterans Equity Act, but cannot support this proposed PAYGO funding stream. The American Legion believes the sacrifice of these heroes warrants relief. Balancing the books on the backs of the very patriots that protected and defended this nation is unconscionable. Congress must not make a grave mistake in the name of fairness, equality, or even fiscal responsibility.

We urge Congress to do what is right. It has other funding options – not just the repeal of *Hartness v. Nicholson*:

- waive the budget rules, which Congress has already done to fund other bills; or
- pass the Filipino Veterans Equity Act as part of an emergency supplemental appropriations.

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 2008 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

The requested overall budget for 2009 is \$425 million, of which \$181 million and 1,603 full time equivalents (FTE) were requested for Operations and Maintenance, and \$83.4 million for cemetery expansion and improvement. According to NCA’s own estimates in the President’s budget request for FY 2009, which is also warranted by the opening of new national cemeteries, annual interments will increase to 111,000, a 10 percent rise from FY 2007. Interments in FY 2013 are expected to be about 109,000, a 9 percent increase from FY 2007. The total number of graves maintained is also expected to increase during the planning time frame from almost 2.8 million in FY 2007 to over 3.3 million in FY 2013.

NCA has only requested 6 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 has to complete fast-track parcels as part of Phase I construction of the new cemeteries in the following areas: Bakersfield, CA; Birmingham, AL; Columbia-Greenville, SC; Jacksonville, FL; Southeastern PA; and Sarasota County, FL. Full Phase I operations are underway in each cemetery now.

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 \$67,000.

The American Legion recommends that monies for additional employees also be included in the FY 2010 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 the 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. With the addition of six new national cemeteries, of which five are included to be fast tracked between late 2008 and early 2009, and the opening of the sixth in mid-2009, resources will be strained. The American Legion recommends that \$60 million be put toward the National Shrine Commitment in order to fulfill this commitment.

The American Legion recommends \$249 million for the National Cemetery Administration in FY 2010.

State Cemetery Construction Grants Program

VA's State Cemetery Grants Program complements VA's 126 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.

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 \$49 million for the State Cemetery Grants Program in FY 2010.

NATIONAL ECONOMIC COMMISSION

STATE APPROVING AGENCIES

The American Legion is deeply concerned with the timely manner that veterans, especially returning wartime veterans, receive their education benefits. Annually, approximately 300,000 service members (90,000 of them belonging to the National Guard and Reserve) return to the civilian sector and use their earned education benefits from the VA. Any delay in receipt of education benefits or approval of courses taken at institutions of higher learning can adversely affect a veteran's life.

S.22, the Post-9/11 Veterans Education Assistance Act of 2008 is a new benefit providing educational assistance to individuals who served on active duty on or after September 11, 2001. This New GI Bill will be fully implemented by

August 2009. The American Legion strongly supported the enhancements to the Montgomery GI Bill and is grateful that the House and Senate passed this bill. The President in turn signed this vital piece of legislation on June 30, 2008. This New GI Bill is well deserved for the men and women who have protected, sacrificed, and served our country honorably.

The American Legion will continue to believe and support every effort to ensure that the GI Bill 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.

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 State Approving Agencies (SAAs) to track and report data on resources spent on approval activities, such as site visits, catalog review, and outreach in a cost-efficient manner. The American Legion agrees. Additionally, GAO recommended that VA establish outcome-oriented performance measures to assess the effectiveness of SAAs efforts. The American Legion fully agrees. In response, VA Deputy Secretary Mansfield plans to establish a working group with SAAs 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.

Section 301 of PL 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 SAAs funding.

The American Legion strongly recommends SAAs funding at \$19 million to assure current staffing and activities in FY 2010.

VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICE (VR&E)

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

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

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

Vocational counseling also plays a vital role in identifying barriers to employment and matching veterans' transferable job skills with those career opportunities available for fully qualified candidates. Becoming fully qualified becomes the next logical objective toward successful transition. It is our observations from talking to veterans, counselors, Disabled Veteran Outreach Program Specialists (DVOPs) and Local Veteran Employment Representatives (LVERs) that it would be beneficial if VR&E counselors take on an additional duty of finding or assisting in employment of veterans. 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 the 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.

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 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 Section 4102A (b) (3), title 38, U.S.C.

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. The outlook is not completely negative. 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 recommends exploring possible training programs geared specifically for VR&E Counselors through the National Veterans Training Institute (NVTI). Contracting for standardized or specialized training for VR&E employees could very well strengthen and improve overall program performance. NVTI serves as a valuable resource for VETS employment specialists and has contributed to a marked improvement in VETS performance.

Veterans' preference should play a large role in job placement

The Federal government has scores of employment opportunities that educated, well-trained, and motivated veterans can fill given a fair and equitable chance to compete. Working together, all Federal agencies should identify those vocational fields, especially those with high turnover rates, suitable for VR&E applicants. Career fields like information technology, claims adjudications, and debt collection offer employment opportunities and challenges for career-oriented applicants that also create career opportunities outside the Federal government.

There are three ways veterans can be appointed to jobs in the competitive civil service: by competitive appointment through an OPM list of eligibles (or agency equivalent); by noncompetitive appointment under special authorities that provide for conversion to the competitive service; or, by Merit Promotion selection under the Veterans Employment Opportunities Act (VEOA).

Provide military occupational skills and experience translation for civilian employment counseling

The American Legion notes that due to the current demands of the military, greater emphasis on the Reserve component of the Armed Forces created employment hardships for many Reservists. The American Legion supports amending Section 4101(5), title 38, USC, 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 a civilian counterpart. Many occupations in the civilian workforce 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 U.S. House of Veterans' Affairs Subcommittee on Economic Opportunity for the need for accelerated MGIB payments for these courses and other matters.

The American Legion supports efforts to eliminate employment barriers that impede the transfer of military job skills to the civilian labor market, and supports efforts to DOD take appropriate steps to ensure that service members be trained, tested, evaluated and issued any licensure or certification that may be required in the civilian workforce. The American Legion supports efforts to increase the civilian labor market's acceptance of the occupational training provided by the military.

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

The American Legion's position regarding VETS programs is that this is and should remain a national program with Federal oversight and accountability. The American Legion is eager to see this program grow and especially would like to see greater expansion of entrepreneurial based, self-employment opportunity training. The mission of VETS is to promote the economic security of America's veterans. This stated mission is executed by assisting veterans in finding meaningful employment. The American Legion believes that by strengthening American veterans, we in turn strengthen America. Annually, DOD discharges approximately 300,000 service members. Recently separated service personnel will seek immediate employment or increasingly have chosen some form of self-employment. In order for the VETS program to assist these veterans to achieve their goals, it needs to:

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

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

Section 4103A, title 38 USC requires that all DVOP specialists shall be qualified veterans and preference be given to qualified disabled veterans in appointment to DVOP specialist positions. Section 4104(a)(4), title 38 USC 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 also 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 would be required to monitor all career centers that have veterans on staff assigned. PL 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 ASVET has drastically cut funds allocated for this activity and established a policy that only 10 percent of the centers operated under title 38, USC, will be reviewed, and PL 107-288 has removed the job descriptions of the DVOPs and LVERs from Title 38, USC, and given 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.

Veterans returning from Afghanistan, Iraq and other tours of duty are not always coming back to a hero's welcome -- at least from employers. The jobless rate for veterans between ages 18 to 24 was 12 percent in 2007, almost three times the national unemployment rate of 4.6 percent. 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 major 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. 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 they lack marketable, technological skills, especially for those jobs that exist in the Information Age economy. The problem is clearly a lack of adequate funding for veterans who are the only participants in this program. The budget baseline needs to increase to allow VETS to train eligible veterans in all 50 states in FY 2010.

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 into the civilian sector. Annually, for the past 6 years, approximately 300,000 service members, 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 service members, especially the Reserve component. Currently, numerous National Guard and Reserve troops have returned from the war in Iraq and Afghanistan only to encounter difficulties with their Federal and civilian employers at home, and the number of destroyed and bankrupt businesses due to military deployment is still being realized.

In numerous cases brought to the attention of The American Legion by veterans and other sources, many of these returning service members have lost jobs, promotions, businesses, homes, and cars and, in a few cases, become homeless. The American Legion strongly endorses the belief that service members would greatly benefit by having access to the resources and knowledge that the Transitional Assistance Program (TAP) and Disabled Transitional Assistance Program (DTAP) can provide and the TAP/DTAP program needs to update their program to recognize the large number of Guard and Reserve business owners who now require training, information and assistance while they attempt to salvage or recover from a business which they abandoned to serve their country.

Any delay in reintegration into the civilian workforce can adversely affect a veteran's life. Every effort should be made to ensure that veterans are afforded all the opportunities that this great country can offer without delay.

The American Legion strongly supports the Transition Assistance Program and Disabled Transition Assistance Program. Additionally, The American Legion supports that DOD require all separating, active-duty service members, including those from Reserve and National Guard units, be given an opportunity to participate in Transition Assistance Program and Disabled Transition Assistance Program training not more than 180 days prior to their separation or retirement from the Armed Forces.

The DOD Transition Assistance Program (TAP) was designed to help smooth the transition of military personnel (and family members) leaving active duty. TAP is a partnership among DOD, DOL, and VA. The program consists of four components:

1. DOD Preseparation Counseling;
2. DOL Employment Workshops;
3. VA Benefits Briefing; and

4. Disabled Transition Assistance Program (DTAP).

Once a service member has completed the four workshops above, they are eligible for one-on-one counseling and employment assistance training through their service. For demobilizing Guard and Reserve: DOD Preseparation Counseling, DOL Uniformed Services Employment and Reemployment Rights Act (USERRA) Briefing, VA Benefits Briefing, and VA DTAP Briefing are provided on major military installations by the Transition Assistance Offices.

A new website designed to help all veterans was recently launched on June 11, 2007. The “TurboTap” is intended to be a one-stop transition center but not to replace the face-to-face interaction and the assistance that the full programs can provide.

Transition Assistance Program (TAP) Employment Workshops are provided to transitioning servicemembers at most military installations in the United States as well as in eight overseas locations. The two and one-half day employment workshops help servicemembers prepare a plan for obtaining meaningful civilian employment when they leave the military. The workshop focuses on skills assessment, resume writing, job counseling and assistance, interviewing and networking skills, labor market information, and familiarization with America’s workforce investment system.

Studies have shown that service members who participate in TAP employment workshops find their first civilian jobs three weeks earlier than veterans who do not participate in TAP. According to DOL - VETS, it is estimated that about 65 percent of servicemembers leaving active duty do attend a TAP workshop. VETS is vital in ensuring that every TAP participant leaves the session with a draft resume, a practice interview session, and having visited their state job board.

DOL - VETS program is critical in supporting veterans as they transition from the military and into the private sector, assisting veterans to be awarded federal employment using their earned veterans preference, and assisting veterans to achieve substantially gainful employment.

At the end of the Cold War, 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 PL 101-510 that authorized the creation of the TAP 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 decision-making, interview techniques, as well as current occupational and labor market conditions.

VETS provide professional veterans’ employment personnel, DVOPs 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.

On the contrary to the demands placed upon VETS, funding increases for VETS since 9/11 do not reflect the large increase in service members requiring these services due to the Global War on Terror. In support of this fact, the inflation rate from January 2002 to January 2007 is 14.29 percent and yet for State Grants alone, funding has only increased a meek 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 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. The necessity and severity of the situation is now.

The American Legion recommends \$352 million to DOL-VETS for FY 2010.

MILITARY OCCUPATIONAL SPECIALTY TRANSITION (MOST) PROGRAM

The American Legion supports the new legislation, H.R. 6221 that will authorize \$60 million for the next ten years to fund the Service Members' Occupational Conversion and Training Act (SMOCTA). SMOCTA is a training program developed in the early 1990's for those leaving military service with few or no job skills transferable to the civilian market place. SMOCTA has been changed to the Military Occupational Specialty Transition (MOST) program, but the language and intent of the program still applies.

If enacted, MOST would be the only Federal job training program available strictly for veterans and the only Federal job training program specifically designed and available for use by state veterans' employment personnel to assist veterans with barriers to employment.

Veterans eligible for assistance under MOST are 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. MOST is a unique job training program because there is a job waiting for the newly trained veteran upon completion of training so that they can continue to contribute to the economic well being of the nation.

In March 1993, DOD, VA, and DOL signed a Memorandum of Understanding (MOU), which defined their roles and responsibilities in the implementation of SMOCTA and DOD provided funding for SMOCTA. The VA and DOL were responsible for administering the program. Many LVERs and DVOPs publicly praised the effectiveness of this program because it successfully returned veterans to the civilian workforce.

The American Legion recommends reauthorization of SMOCTA (now MOST) and adequate funding for the program.

Employment

DVOPs provide outreach services and intensive employment services to meet the employment needs of eligible veterans, with priority to disabled veterans and special emphasis placed on those veterans most in need. LVERs conduct outreach to local employers to develop employment opportunities for veterans, and facilitate employment, training and placement services to veterans. In particular, many LVERs are the facilitators for the Transition Assistance Program employment workshops.

There are inadequate appropriations to several states because of policies and practices that cause these states to receive fewer positions and/or less funding. This procedure caused a deterioration of the available services provided to veterans in those states, and adversely impacts the level of services provided.

HOMELESSNESS (DOL - VETS)

The American Legion notes that there are approximately 154,000 homeless veterans on the street each night. This number, compounded with 300,000 service members 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 are 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 program focused on assisting homeless veterans to reintegrate into the workforce.

The American Legion recommends \$40 million for this highly successful grant program in FY 2010.

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. We believe that these personnel should be trained within 1 year.

The American Legion recommends \$6 million of funding for NVTI in FY 2010.

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 wages and career potential jobs.

The American Legion recommends funding of \$20 million for VWIP in FY 2010.

EMPLOYMENT RIGHTS AND VETERANS' PREFERENCE

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the 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 service members. VETS administers this law, conducts investigations for USERRA and Veterans' Preference cases, as well as conducts outreach and education, and investigates complaints by service members.

Since September 11, 2001, nearly 600,000 National Guard and Reserve members have been activated for military duty. During this same period, DOL - VETS have provided USERRA assistance to over 410,000 employers and service members.

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 were 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 million for Program Management that encompasses USERRA and VEOA in FY 2010.

The American Legion also supports the strongest Veterans' Preference laws possible at all levels of government. We believe that the evidence compiled in this report will show the current state of enforcing the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Veterans' Preference laws to the nation's veterans.

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 enacted to protect veterans from unfair hiring practices, not just reactionary investigations.

The following paragraphs are the perceived steps taken by the Federal government to protect veterans' employment and it demonstrates reactionary measures to assist veterans that may take months to resolve. Many veterans give up or do not file complaints because they must seek employment elsewhere or face serious financial difficulties.

The Office of Personnel Management (OPM) administers entitlement to Veterans' Preference in employment. DOL, through VETS, provides assistance to all persons having claims under USERRA. DOL is the enforcement authority for USERRA, and it processes all formal complaints of violations of the law. The veteran may then request that the Department of Justice (DOJ) litigate on their behalf but only after a certain period has passed.

The following excerpt is from the DOJ website (www.usdoj.gov):

“If VETS is unsuccessful in resolving the complaint, the claimant may request that VETS refer the complaint to Office of Special Counsel (OSC). If the Special Counsel believes there is merit to the complaint, OSC will initiate an action before the Merit Systems Protection Board (MSPB) and appear on behalf of the claimant.

“The DOJ is responsible for enforcing the provisions of the USERRA against state and local government employers and private employers. If the Department of Justice takes your case, it will serve as your attorney if you work for a private employer or a local government. If you work for a state government, the Department of Justice may bring a lawsuit in the name of the United States.”

The DOJ website continues to state:

“USERRA authorizes the Department of Justice Office of Special Counsel (OSC) to investigate alleged violations of the act by Federal Executive Agencies, and to prosecute meritorious claims before the Merit Systems Protection Board on behalf of the aggrieved person. Under the Veterans Employment Opportunities Act of 1998 (VEOA), in order to seek corrective action, a preference eligible [veteran] is to file a written complaint with the U.S. Department of Labor, Veterans Employment and Training Service (VETS), within 60 days of the alleged violation. If the Secretary is unable to resolve a complaint within 60 days, the Secretary is to provide notification of an unsuccessful effort to resolve the complaint to the complainant.”

The American Legion reiterates its position that protection of veterans' employment rights should be concurrent and continuous oversight must be emplaced to protect veterans from unfair hiring practices, not just reactionary investigations and lawsuits. We further state that the veteran must be protected at the onset of the hiring process, especially because corrective actions to remedy the veteran's plight are not guaranteed.

Finally, we recommend to this Committee that the DOJ provide a detailed description of their veterans' employment activities.

Veterans' Preference Cases	FY 2006	FY 2007
Cases Carried over from previous FY	67	29
Cases Opened	479	427
Total cases	546	456
Cases Closed	517	406
Cases carried to next FY	29	50

FY 2006

In 2006, VETS staff closed 1,377 USERRA complaints, recovering \$2,346,142.04 in lost wages and benefits.

FY 2007

In 2007, VETS staff closed 1,200 USERRA complaints, recovering \$1,886,572.95 in lost wages and benefits.

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 tragic with a reported 40 percent of all businesses owned by veterans 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 (who are members of the Reserve component) are activated. The Congressional Budget Office in a report, "The Effects of Reserve Call-Ups on Civilian Employers," stated that it "expects that as many as 30,000 small businesses and 55,000 self-employed individuals may be more severely affected if their Reservist employee or owner is activated." The American Legion is a strong supporter of the "Hope at Home Act of 2007," which is a bipartisan bill that would not only require the Federal government to close the pay gap between their Reserves and National Guard service member's civilian and military pay but it would also provide tax credits up to \$30,000 for small businesses with service members who are activated.

Additionally, the Office of Veterans' Business Development within the Small Business Administration (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 veterans who are entrepreneurs. The American Legion feels that this pittance is an insult to American military veterans who are small business owners; consequently, this undermines the spirit and intent of PL 106-50 and continues to be a source of embarrassment for this country.

The American Legion strongly supports increased funding of the efforts of the SBA's Office of Veterans' Business Development in its initiatives to provide enhanced outreach and specific community based assistance to veterans and self employed members of the Reserves and National Guard. The American Legion also supports legislation that would permit the Office of Veterans Business Development to enter into contracts, grants, and cooperative agreements to further its outreach goals and develop a nationwide community-based service delivery system specifically for veterans and members of Reserve components of the United States military.

The American Legion recommends \$15 million in FY 2010 to enable to implement a nationwide community-based assistance program to veterans and self employed members of the Reserves and National Guard.

THE NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION

Congress enacted the Veterans Entrepreneurship (TVC) and Small Business Development Act of 1999 (PL 106-50) to assist veterans and service-connected disabled veterans who own small businesses by creating the National Veterans Business Development Corporation. Presently, the objectives of PL 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 duplicate or replicate preexisting services such as those provided by the Small Business Development Centers (SBDC). The American Legion recommends that the resource-training centers that TVC is currently providing funding for be given to the jurisdiction of the SBA's Veterans' 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, TAPs, State Department of Veterans Affairs, Procurement technical Assistance Centers, Military Family Support Centers, and VSOs 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 reintegration of veterans and Reserve component entrepreneurs into the private and public American marketplace.

The American Legion also supports restructuring of the organization by replacing the current Chief Executive Officer position with a congressionally appointed Director from the Senior Executive Service. That move would allow Congress greater oversight of expenditures and an enhanced ability to monitor performance. Restricting the role of the Board of Directors to fund raising, marketing and branding which will serve to increase small business opportunities to veterans along with relieving board members with the challenges of operating such a national outreach initiative, with only the guidance of the Chief Executive Officer.

The American Legion reiterates the SBA'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 service member only to watch their finances deteriorate. Seamless transition in many cases is just a wishful thought; however, if business development training was offered to military members, a small home based business that is feasible could be the answer in guaranteeing a constant source of revenue for the family, in turn making them less dependent on the Federal government.

The American Legion has encouraged Congress to require reasonable "set-asides" of Federal procurements and contract 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. PL 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. It requires the head of each Federal agency to establish agency goals for the participation by small businesses owned and controlled by service-connected disabled veteran, within that agency's procurement contracts.

Agency compliance with PL 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 endorses these 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, disseminate this data to all agencies, Veterans Organizations and post on 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(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 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 urges that the Federal government and DOD utilize its available technology to create, fund and support a veteran procurement-spending database within the DOD that would finally bring veteran owned and service-disabled veteran owned businesses on equal footing with all other small business special interest groups when it comes to Federal procurement opportunities.

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 vendee 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 appropriations from Congress. Congress is not required to appropriate funding for this program; however, because veterans must now 'buy' in to 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 towards 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 compared to a standard, private loan, in some aspects. The current rate for mortgages (July 2008) is 6.5 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 in to the program; however that goes directly against the intention of the law, to provide veterans a resource for obtaining a home.

The American Legion believes that it is unfair for veterans to pay high funding fees of 2 to 3 percent, which can add approximately \$3,000 to \$11,000 for a first time buyer. The VA funding fee was initially enacted to defray the costs of the VA guaranteed home loan program. The current funding fee paid to VA to defray the cost of the home loan has had a negative effect on many veterans who choose not to participate in this highly beneficial program.

Therefore, The American Legion strongly recommends that the VA funding fee on home loans be reduced or eliminated for all veterans whether active duty, Reservist, or National Guard.

Specially Adaptive Housing

The American Legion is pleased to support the VA Secretary's efforts to improve the housing arrangements to better suit disabled veterans' needs, with specific emphasis on severe burn injuries. The American Legion additionally applauds efforts to assist disabled veterans to receive adaptive equipment for automobiles.

The American Legion conveys that specially adaptive housing should also include those veterans suffering from Traumatic Brain Injury (TBI), and other debilitating injuries. We are 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.

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

The American Legion applauds the VA, HUD, and the Senate Appropriations Committee for ensuring PL 110-161, the FY 2008 Consolidated Appropriations Act, included \$75 million for the Department of Housing and Urban Development (HUD) - Veterans Affairs Supported Housing (VASH) program. This funding allowed HUD and VA to make up to 10,000 supportive incremental housing vouchers available to homeless veterans. Looking ahead to FY 2009 funding for veterans permanent housing, HUD has requested another \$75 million for up to 10,000 additional vouchers for the HUD-VASH program. The American Legion urges the Appropriations members to support this amount in new legislation, and to double that amount in FY 2010.

Veterans need a sustained coordinated effort that provides secure housing, nutritious meals, essential physical health care, substance abuse aftercare and mental health counseling, as well as personal development and empowerment. Veterans also need job assessment, training and placement assistance. The American Legion believes all programs to assist homeless veterans must focus on helping veterans reach their highest level of self-management.

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, PL 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 increasing the funding level to \$200 million annually for the Grant and Per Diem Program.

VBA has 20 full-time and 37 part-time homeless veteran outreach coordinators to enhance prompt claims for homeless and at-risk veterans. VBA identified and expedited more than 21,000 claims from homeless veterans since 2003. Approximately 44 percent of compensation claims and 77 percent of pension claims are approved annually.

Health Care for Homeless Veterans (HCHV) sites provide outreach, physical and psychiatric treatment, referrals, and case management to homeless veterans. HCHV staffs assist over 60,000 homeless veterans each year and place homeless veterans into community-based facilities under contract to local VA medical facilities.

Domiciliary Care for Homeless Veterans Program (DCHV) operates 34 sites, with 1,833 dedicated domiciliary beds, providing time limited residential treatment with long-term physical, psychological, and rehabilitative counseling and services including aftercare. This program annually provides residential treatment to nearly 5,200 homeless veterans.

Veterans Industries/Compensated Work Therapy Program (VI/CWT) offers vocational and rehabilitative services, ranging from evaluation and counseling to participation in compensated work and vocational training. Since 1994 over 32,000 veterans have been successfully reintegrated into society as responsible members of the community through this program.

Compensated Work Therapy/Transitional Residence (CWT/TR) program operates in 64 community-based locations (with a total of 469 operational beds), provides residences to disadvantaged, at risk, and homeless veterans, while they participate in the VI/CWT. Nearly 6000 veterans have been housed under this program.

Homelessness impacts every community in the nation. Approximately 200 community-based veterans' service organizations across the country have successfully reached homeless veterans through specialized programs. Veterans who participate in these programs have a higher chance of becoming productive citizens again.

A full continuum of care – housing, employment training and placement, health care, substance abuse treatment, legal aid, and follow-up case management – depends on many organizations working together to provide services and adequate funding. The availability of homeless veteran services, and continued community and government support for them, depends on vigilant advocacy and public education efforts on the local, state and federal levels.

The FY 2007 Department of Veterans Affairs Community Homelessness Assessment, Local Education and Networking Groups (CHALENG) report estimates that approximately 154,000 veterans are homeless at any point in time. Prior reports state that one out of every three homeless men sleeping in doorways, alleys or boxes in our cities and rural communities has put on a uniform and served this country. According to the February 2007 Homeless Assessment Report to Congress (U.S. Department of Housing and Urban Development 2007), veterans represent 19 percent of all homeless people in America.

For FY 2007, The VA Health Care for Homeless Veterans (HCHV) reports that 68,000 homeless veterans are enrolled in their programs. Community-based organizations are attempting to assist the overwhelming remainder of veterans who are homeless.

In addition to the complex set of factors affecting all homelessness (the extreme shortage of affordable housing, livable income, and access to health care), a large number of displaced and at-risk veterans live with lingering effects of Post Traumatic Stress Disorder (PTSD), substance abuse, and a lack of family and social support networks. Many times these veterans have mental health disorders related to their honorable service to their country, are unable to compensate for their condition. They unfortunately deteriorate to unrecognizable individuals compared to their pre-military experience.

Potential homeless veterans of Operation Iraq Freedom and Operation Enduring Freedom (OIF/OEF)

Some OIF/OEF veterans are at high risk of becoming homeless. Combat veterans of OIF/OEF and the Global War on Terror who need help – from mental health programs to housing, employment training and job placement assistance – 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 OIF/OEF era homeless veterans with an average age of 33 years young. 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 veterans' 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.

More women are engaging in combat roles in Iraq where there are no traditional front lines. In the past 10 years, the number of homeless women veteran has tripled. In 2002, the VA began a study of women and PTSD. The study includes subjects whose PTSD resulted from stressors that were both military and non-military in nature. Preliminary research shows that women currently serving have much higher exposure to traumatic experiences, rape and assault prior to joining the military. Other reports show extremely high rates of sexual trauma while women are in the service (20-40 percent). Repeated exposure to traumatic stressors increases the likelihood of PTSD. Researchers also suspect that many women join the military, at least in part, to get away from abusive environments. Like the young veterans, these women may have no safe supportive environment to return to, adding yet more risk of homeless outcomes.

CHALENG sites continue to report increases in the number of homeless veterans with families (i.e., dependent children) being served at their programs. It reports that 98 sites (71 percent of all sites) reported a total of 1,038 homeless veteran families seen. This was a 5 percent increase over the previous year's 989 homeless veteran families. (FY 2007 VA CHALENG report)

Homeless veteran service providers recognize that they will have to accommodate the needs of the changing homeless veteran population, including increasing numbers of women and veterans with dependents. Access to family housing through the distribution of the thousands of new Section 8 vouchers that will be made available through the HUD-VASH program will offer an important new resource allowing VA staff to assist the veteran and her family.

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

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.

