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THE AMERICAN LEGION

FISCAL YEAR 2012

COMMANDER'S TESTIMONY

for the Department of Veterans' Affairs, by Jimmie L. Foster, National Commander

INTRODUCTION

MESSRS. CHAIRMEN AND MEMBERS OF THE COMMITTEES:

As the Commander of The American Legion and representing 2.5 million members and their families I thank you for the opportunity to comment on issues under the jurisdiction of your Committees and areas of interest and concern for veterans. The American Legion continues to commend and thank the members of both Committees for the leadership and support they have demonstrated on behalf of America's veterans.

During our recent National Convention held in Milwaukee, Wisconsin our membership spoke loudly and with one voice concerning issues common to all citizens of the United States, but even more vital for the wellbeing of our nation's veterans. Those issues include the need for additional employment opportunities; increased access to health care; enhanced educational opportunities; the elimination of homelessness among veterans; and the impact of aging on our population.

In this testimony, I have attempted to identify and prioritize specific issues such as the need for improved gender specific health care options for women veterans; increased emphasis and oversight on veterans preference hiring by the Federal Government; a renewed emphasis on "quality over quantity" in adjudicating veteran claims; and the need to recognize additional training and educational venues which more closely reflect the needs of the new generation of veterans. Additionally, I have attempted to have this document deliver important information and recommendations that will assist in the development of new, and support for existing legislation for the benefit of our nation's heroes.

Finally, in this document I have submitted recommendations for budgetary considerations for important discretionary programs to include medical care and research to include Traumatic Brain Injury (TBI), Post Traumatic Stress (PTS) and Prosthetic Research. Additionally The American Legion feels that additional dollars and closer oversight should be committed to enhance VA's efforts for improving Information Technology capabilities. In particular, it is important to verify coordination with the Department of Defense to insure a seamless transition from service member to veteran. Accomplishing Virtual Lifetime Electronic Records (VLER) for Active Duty as well as Guard and Reserve personnel will insure accuracy and timeless in applying the proper entitlements to a veteran.

Once again I wish to thank you for the opportunity to present this Testimony highlighting our issues and concerns for the future and in particular the advanced appropriations process for the FY 2012 Budget.

Sincerely,

Jimmie L. Foster
National Commander
The American Legion

THE AMERICAN LEGION'S LEGISLATIVE AND OVERSIGHT PRIORITY ITEMS

AT THE END OF WORLD WAR II the United States had the foresight to develop "The Serviceman's Readjustment Act of 1944," which provided college or vocational education for returning veterans as well as one year of unemployment compensation. It also provided many different types of loans for returning veterans to buy homes and start businesses. It is commonly recognized that this demonstration of support for returning veterans paid great dividends to the US economy and helped to fuel the economic, industrial, and societal growth of the 1950's and 60's. The American Legion as a long time advocate was instrumental in the original GI Bill. We continue to identify and advocate for enhanced support for today's returning veterans. We are concerned that current educational entitlements under the existing systems do not fully address today's needs. Further, The American Legion feels that there must be increased emphasis on employment opportunities for veterans, and a priority to eliminate the national disgrace of homeless veterans living on our city streets.

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The national resource of veterans so skillfully utilized to build the greatest economy in the world following WWII is being squandered. The American Legion feels that more must be done to utilize the skill sets inherent in all veterans to benefit not only the individual but the nation.


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FULL EMPLOYMENT FOR VETERANS

NO MISSION IS MORE IMPORTANT at this time in our history – given the nation's involvement in two wars and the uncertain economic situation – than enabling America's veterans to have a seamless transition from military service to the civilian workforce. It is vital that veterans have ample resources and opportunities to live a high quality of life once they transition from the military. We urge Congress to support and fund veterans' programs that provide education, training, employment and small business opportunities that well-deserved veterans need in order to succeed.

Service members who are currently returning to civilian life are from combat arms and professions with skill sets that employers do not realize are readily transferable to the civilian labor market. These individuals display significant skills in areas of leadership, strategic planning, risk assessment and management. These skills are ones that employers would find beneficial to accomplishing their goals. Congress should emphasize these qualities to both the public and private sectors by providing a clear voice that hiring veterans is good for business and the nation. The total number of unemployed veterans from Iraq and Afghanistan is approximately 215,000. The American Legion understands that, with an overall unemployment rate at 11.5 percent for Iraq and Afghanistan veterans, there is an immense need to ensure that veterans are getting trained and are afforded ample opportunities to succeed in this unstable job market.

The American Legion believes that by supporting American veterans in their reintegration into civilian life, we in turn strengthen America. Annually, DOD discharges approximately 160,000 service members. Recently separated service members will seek immediate employment or, increasingly, have chosen some form of self-employment. In order for the Department of Labor's, Veterans' Employment and Training Service (DOL-VETS) program to assist these veterans to achieve their goals, it needs to:

- Revamp the Transition Assistance Program (TAP), so veterans can be better informed on education, employment, and business opportunities as they transition into the civilian workforce;
- Expand their 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 provide qualifying training for required licenses, certificates or other credentials at the local, state, or national levels;
- Eliminate barriers to recently separated service members and assist in the transition from military service to the civilian labor market;
- Sponsor Hiring Fairs: similar to a Career Fair, but with the addition of pre-qualifying veterans such that they can participate in interviews with the possibility of being hired at the event;
- Strive to be a proactive agent between the business and veterans communities to pro-

vide greater employment opportunities for veterans; and,

- Increase training opportunities, support, and options for veterans who seek self-employment and entrepreneurial careers.

VOCATIONAL REHABILATION & EMPLOYMENT (VR&E) SERVICE

Administration of VR&E and its programs is a responsibility of the Veterans Benefits Administration (VBA). Providing effective employment programs through VR&E must become a priority. Until recently, VR&E's primary focus has been providing veterans with skills training, rather than providing assistance in obtaining meaningful employment. Clearly, any employability plan that doesn't achieve the ultimate objective -- a job where the veteran succeeds despite his or her disabilities -- is falling short of actually helping those veterans seeking assistance in transitioning into the civilian workforce and of VR&E's mission. Eligible veterans who are enrolled into the education and training programs receive a monthly allowance to offset living costs associated with attending training while not working. Yet, those veterans enrolled in VR&E for direct employment assistance do not receive a monthly living stipend. However, they attend workshops to learn how to write resumes, work on interview skills and attend Job Fairs, all of which take time – 372 days on average, according to VA data; 54 days to enroll, 118 days to develop a rehabilitation plan and 200 days to find a job after the plan has been executed. Anyone who has started a new career knows looking for a job can be a full-time job in itself. Not providing a living stipend for veterans seeking direct employment services through VR&E could lead those veterans to a different track and they may miss out on meaningful employment. The American Legion strongly urges Congress and VA leadership to approve a living stipend to all who are enrolled in VR&E regardless of whether their rehabilitation plan calls for training or direct employment.

A problem hindering the effectiveness of the VR&E program, as cited in reports by the Government Accountability Office (GAO), is exceptionally high workloads for the limited number of staff. This hinders the staff's ability to effectively assist individual veterans with identifying employment opportunities. A recent GAO report noted that 54 percent of all 57 regional offices stated they have fewer counselors than they need and 40 percent said they have fewer employment coordinators than they need. As in the past, achieving ample staffing in VR&E is a major concern, especially with recent numbers stating that each VA counselor maintains a case load of 145 veterans. With 145 cases to manage, counselors simply do not have the time it takes to teach veterans how to apply to Federal jobs or to build the community connections to help veterans find jobs.

Without sufficient staffing, the success of VR&E programs becomes extremely challenging, particularly due to the returning veterans from Iraq and Afghanistan and their more complex cases. Hiring more staff to meet the demands of these veterans is simply a must. The American Legion completely supports fully staffing VR&E with more vocational rehabilitation counselors and employment coordinators to lower case loads so these counselors/coordinators can provide more individualized attention to veterans throughout training and assist them in finding suitable employment.

The success of the VR&E program will significantly be measured by these veterans' ability to obtain gainful employment and achieve a high quality of life. To meet America's obligation to these service-connected veterans, VA leadership must continue to focus on marked improvements in case management, vocational counseling, and most importantly, job placement.

THE STIGMA EXPERIENCED BY RETURNING VETERANS

Veterans returning from Afghanistan, Iraq and other tours of duty are not always coming back to a hero's welcome from employers. The large number of Reserve and National Guard personnel deploying in support of combat operations are placing a burden on the civilian employers. The Uniformed Services Employment and Reemployment Rights Act (USERRA) is intended to insure mobilized Guard and Reserve personnel are returned to a comparable position of employment and are not discriminated against due to their military service. However, in reality employers can and do use other means to either not hire individuals with a reserve obligation or to terminate employees rather than deal with the addition cost of following the USERRA rules. DOL-VETS has already seen an increase in the number of cases being filed and can only expect that number to increase.

The American Legion believes that military experience is essential to understanding the unique needs of the veteran. Therefore all (LVERs,) as well as all (DVOPs), should be veterans and should be trained to address the needs of veterans who desire entrepreneurial support. The Ameri-

can Legion also believes that all employees of the Veterans Employment and Training Services should be eligible veterans including Veteran Program Specialists.

The American Legion supports legislation to restore language to Chapter 41, title 38, USC, that requires that half time DVOP/LVER positions be assigned only after approval of the VETS program, and that the Secretary of Labor is required to monitor all career centers that have veterans on staff. PL 107-288 eliminated the requirement DOL-VETS review all workforce centers annually and this has minimized Federal oversight of the programs. Additionally, The American Legion seeks legislation that will transfer all DVOPs and LVERs from the State Agencies to DOL-VETS for supervision and oversight in order to ensure that the individuals employed to serve veterans are not used for other programs.

The jobless rate for veterans between ages 18 to 24 was 21.1 percent in 2009; which is 2.0 percent higher than non veterans. Numerous national publications have reported veterans are having a more difficult time finding jobs due to reasons real or perceived by the employer, physical and mental disabilities, multiple deployments and challenges with translating military skills in civilian workforce language. The employment market is tougher for young veterans. This is a major reason why funding the VETS program is so critical.

VETERANS' PREFERENCE

In November 2009, President Obama established the Veterans Employment Initiative through the *Executive Order on the Employment of Veteran in the Federal Government*. This government initiative in theory enhances the recruitment of and promotes employment opportunities for veterans within the executive branch of the Federal government. It also seeks to align the skills and career aspirations of veterans with the staffing needs of Federal agencies. The Office of Personnel Management (OPM) has issued a government-wide strategic plan that will focus on creating infrastructure and programs for the successful recruitment and employment of veterans within agencies. The Departments of Defense (DOD), Labor (DOL), VA, and Homeland Security (DHS) as well as other agencies are partnering with OPM on the development of the strategic plan and its implementation.

In reality, only 25 percent of Federal employees are veterans. Recent research by The American Legion has shown that the Department of Veterans Affairs itself has done a poor job in hiring veterans. For example in the Veterans Benefits Administration, Regional offices, where claims are processed and adjudicated, the number of veterans serving veterans range from 27% to 79%. These results are mirrored in the Veterans Healthcare Administration. Only in the National Cemeteries Administration is there a consistent 75% veteran hiring percentage. It is hard to believe that the availability of qualified veterans is that varied. These critical positions should be filled by veterans who have a better understanding of what veterans need. The American Legion believes and has testified on several occasions that VA as well as all Federal agencies should be held accountable for meeting hiring goals and insuring veteran's preference is maintained.

It was reported in a May 2010 Washington Post article, President Obama instructed Federal agencies to overhaul the process now used for hiring government workers. David T. Ellwood, Dean of Harvard University's Kennedy School of Government was quoted as describing the hiring practices as: "19th century hiring system" in which applications disappear into a "black hole". He mentions that the process could take from nine months to a year. Veterans who are seeking employment within the Federal system should not have to endure this painstaking process and should not be overlooked because they are a veteran.

The American Legion supports this new Federal Hiring Initiative ensuring veterans receive the maximum opportunity to continue their service to this nation by working for the Federal government. It makes sense for the government to take aggressive steps to retain transitioning military service personnel within the Federal government. These agencies would benefit from the skill-sets of veterans and transitioning service members.

Furthermore, a grateful nation created veterans' preference to ensure fair treatment for those citizens who served this country in the Armed Forces. Veterans' preference should play a large role in employing veterans and their spouses. Federal agencies need to make sure that their Human Resource personnel are properly trained to effectively implement veterans' preference. 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, for transitioning veterans who are trying to continue their service within the Federal government.

ELIMINATING HOMELESSNESS AMONG VETERANS

SECRETARY SHINSEKI, IN NOVEMBER OF 2009 MADE A COMMITMENT to eliminate veteran homelessness by 2015. To achieve this goal, VA has developed a Five-Year Plan to assist every homeless veteran willing to accept services retain or acquire: safe housing; needed treatment services; opportunities to retain or return to employment; and benefits assistance. VA stated that they will continue to partner with the community, national and local service providers, and other state and federal agencies to provide comprehensive care to homeless veterans and veterans at-risk for homelessness. The American Legion supports the VA's Five-Year Plan that will provide supportive services and physical and mental care to homeless veterans. However, The American Legion believes that more must be done for homeless veterans with families and for women homeless veterans.

The Homeless Veterans Reintegration Program (HVRP) within the Department of Labor's Veterans Employment and Training Services (DOL-VETS) is the only nationwide program focused on assisting homeless veterans to reintegrate into the workforce.

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 complexity of issues affecting all homeless veterans (the extreme shortage of affordable housing, livable income, and access to health care), as well as the fact that a large number of displaced and at-risk veterans live with lingering effects of Post Traumatic Stress (PTS), substance abuse, and a lack of family and social support networks mandates that VA must, in order to meet its commitment, have additional resources allocated.

The Homeless Veterans Reintegration Program (HVRP) within the Department of Labor's Veterans Employment and Training Services (DOL-VETS) is the only nationwide program focused on assisting homeless veterans to reintegrate into the workforce. This program is a highly successful grant program that needs to be fully funded at $50 million. Currently, HVRP is funded at $41 million.

The increasing number of 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 add to the challenges of the nation's community-based homeless veterans' service organizations, which

are already stressed by the need for assistance by post-Vietnam Era veterans and strained budgets.

The FY 2009 Department of Veterans Affairs Community Homelessness Assessment, Local Education and Networking Groups (CHALENG) report estimates that approximately 107,000 veterans are homeless at any point in time. According to the National Coalition for Homeless Veterans, veterans represent 23 percent of all homeless people in America. The American Legion feels that reports of 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 should shame the nation into action.

HOMELESS WOMEN VETERANS AND VETERANS WITH CHILDREN

If the plight of homeless male veterans is shocking, the fact of homeless women veterans and children should be considered a social crime. Women veterans and women veterans with young children continue to seek help. Access to gender-appropriate care including housing for women veterans and families for these veterans is essential.

In the past 10 years, the number of homeless women veterans has tripled. The plight of returning women veterans is particularly troubling as 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 Post Traumatic Stress (PTS). These women may have no safe support environment to return to, which increases the risk of the veteran becoming homeless.

Equally shocking is 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 140 sites (100 percent of all sites) reported a total of 2,368 homeless veteran families seen. This was an 85 percent increase over the previous year's 1,282 homeless veteran families. (FY 2009 VA CHALENG report)

Equally shocking is CHALENG sites continue to report increases in the number of homeless veterans with families (i.e., dependent children) being served at their programs.

Access to family housing through the distribution of the thousands of new Section 8 vouchers will be made available through the Department of Housing and Urban Development's, VA Supportive Housing (HUD-VASH) Program. This joint venture between HUD and VA, will offer an important new resource allowing VA staff to assist the veteran and her family. Consequently, The American Legion supports funding for more vouchers so homeless veterans can re-establish their lives and productivity through supportive services in safe and affordable housing.

AN EXAMPLE OF THE FRUSTRATION WITH DEALING WITH THE "SYSTEM" A STORY OF A HOMELESS VETERAN WITH FAMILY IN WASHINGTON, D.C.

The American Legion is not immune to bureaucratic delays in its attempt to assist veterans.

On August 2, 2010, such a veteran walked into the lobby of The American Legion National Headquarters and told the front desk that he and his family were homeless and needed assistance.

Over the next week, The American Legion staff turned to every family homeless shelter in the District of Columbia and every non-profit organization that might have the capability to help the veteran and his family. Every inquiry led us to the Virginia Williams Family Resource Center (VWFRC), which, after three attempts, the veteran was processed and was given a "Priority One" status for emergency shelter. At issue was the fact that the veteran had a wife and children. Even at this point in the process, in most cases shelters are not prepared to receive families. By the end of the first week, the family had completely depleted their finances and the shelters still had no room.

The American Legion continued to advocate on the veteran's behalf by finding non-profits to pay for food and a hotel room for the veteran. We called the VA Medical Center but were told by the homeless coordinator that they too refer veterans with families to VWFRC. The American Legion reached out to a member of the Administration's Homeless Veteran's Task Force. He too secured a couple nights at a hotel for the family while both he and The American Legion continued to work on the family's behalf. The American Legion asked its local Posts to assist. They pitch in and they paid for three nights of hotel and three days of food for the family. The family has been promised a HUD-VASH voucher; however it was unknown how long the interview and bureaucratic process will take. In the meantime, the family received a cash grant from The American Legion's Temporary Financial Assistance fund and was using that to feed and house the family. The grant was enough for five days of hotel and food. However, depending on the HUD-VASH voucher, it was a very real possibility that the family would be back to living in its car at the end of five days.

The veteran and his family were homeless for more than three weeks. On day 27, they found permanent housing with their HUD-VASH voucher. However, during the three weeks they were homeless they did not receive emergency funds, food or shelter from the District, VA or any governmental agency. There simply is not enough shelter and not enough coordination among the VA, non profits and other stakeholders to ensure these families have shelter when they need it most.

The American Legion supports the creation of a fund/grant within the VA that would assist homeless veterans with security deposits and other essential needs/expenses that occur when moving into housing. The American Legion has also recognized a need for housing specialists to assist those homeless veterans who receive a HUD-VASH voucher with finding housing as well as being a liaison between the housing authorities and property owners.

The American Legion applauds Congress for passing the VA appropriations bill, which contains $4.2 billion for homeless veterans, including $151 million for HUD-VASH, $218 million for the VA.

TRAINING AND EDUCATIONAL OPPORTUNITIES FOR VETERANS

VETERANS NEED PROPER TRAINING AND TOOLS to begin new careers after they leave military service. The Veterans Workforce Investment Program (VWIP) has received $9.6 million in funding, which allows the program to operate in only 15 states. There are thousands of veterans available for work, but they lack marketable, technological skills, especially for jobs that exist in the Information Age economy. The problem is clearly a lack of adequate funding. Veterans are the only participants in this program. The budget baseline needs to be increased to allow VETS to train eligible veterans in all 50 states in FY 2011.

In addition, The American Legion supports the new legislation, introduced in the House of Representatives that would authorize $10 million per year through FY 2016 to fund a program modeled after the highly successful Service Members' Occupational Conversion and Training Act (SMOCTA).

If enacted, the MTP 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.

SMOCTA was originally established to respond to the needs of veterans who had been hurt by the downsizing of the military in the 1990s by providing job training and employment to eligible veterans. Veterans eligible for assistance under SMOCTA were those with a primary or secondary military occupational specialty that DOD determined were not readily transferable to the civilian workforce or for those veterans with a service-connected disability rating of 30 percent or higher. SMOCTA was a unique job-training program because there was a job for the veteran upon completion of training. Many LVERs and DVOPs publicly praised the effectiveness of SMOCTA because it successfully returned veterans to the civilian workforce.

The Military Transition Program (MTP) builds upon the success of SMOCTA and would help veterans who are not currently eligible for training or education benefits are unemployed or underemployed, and whose military training does not readily transfer to the civilian workforce. MTP would help businesses defray the costs of providing veterans with the on-the-job training by providing up to 50 percent of a veteran's wages during training. The Congressional Budget Office estimates this program could provide 3,000 veterans a year with the skills they need to compete in this challenging economic environment.

If enacted, the MTP 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.

Today, with a tough economy and the high demands this nation places on veterans, the rationale for reestablishing a modernized version of an effective job placement and on-the-job training program is stronger than ever.

PROFFESSIONAL CERTIFICATION, AND LICENSING AS AN ENHANCEMENT TO EMPLOYMENT OPPORTUNITIES

With the passage and implementation of the Post 9/11 GI Bill, veterans are now able to attend school at no cost and additionally receive a housing allowance, and annual books stipend. These benefits are for those who have served since September 11, 2001, and will allow those individuals to gain an education and solid employment path. There are still disparities existing in the current Post 9/11 GI Bill. Veterans choose different career paths and with that they must decide on alternate educational paths. Veterans who would like to continue their career paths by attending vocational schools, apprenticeship program, on-the-job training and possible flight training must use the Montgomery GI Bill benefits. They will receive in-state tuition, not the housing allowance nor the books stipend but instead will receive a small financial payout to help them through this education process. Returning veterans and their families desire to become productive members of the work force in the shortest amount of time. Life situations may preclude the ability to dedicate four years to receiving a degree that does not guarantee employment. The American Legion is aware of and supports pending legislation in both houses, which address meaningful enhancements to the Post 9/11 GI Bill and would give veterans a more robust educational benefit.

There are still disparities existing in the current Post 9/11 GI Bill.

DOD provides vocational training for military personnel and establishes, measures and evaluates performance standards that may meet or exceed the civilian license or certification criteria. Upon separation, however, service members, certified as proficient in their military occupational career, are not licensed or certified to perform the comparable job in the civilian workforce. This situation creates an artificial barrier to employment..

The American Legion supports efforts to eliminate employment barriers that impede the transfer of military job skills to the civilian labor market.

The American Legion supports efforts to eliminate employment barriers that impede the transfer of military job skills to the civilian labor market. We also support efforts that require 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 prior to separation. The American Legion supports efforts to increase the civilian labor market's acceptance of the occupational training provided by the military.

VETERAN ACCESS TO THE VA HEALTH CARE SYSTEM

TODAY'S VETERAN POPULATION is not the population of past generations. A greater percentage of women veterans, minorities, single veterans with children and an overall higher mobility veteran population make providing access to the VA Health care system a monumental endeavor. Improving VA's outreach to veterans to insure maximum utilization of entitlements earned is second only to the quality of service provided as a concern of The American Legion.

The Department of Veterans Affairs (VA) is the largest integrated health care system in the country. Of the 25 million veterans in the United States, approximately eight million veterans are enrolled in VA. In Fiscal Year (FY) 2009 there were 5,626,800 veterans that received care. With a budget in FY 2009 of more than $100 billion and 270,000 full time employees, VA's mission is to "care for him who shall have borne the battle, and his widow and his orphan." In order to accomplish this mission the Veterans Health Administration (VHA) has 153 VA Medical Centers (VAMCs), 768 Community Based Outpatient Clinics (CBOCs), 232 Vet Centers, 134 VA Community Living Centers, 133 State Veterans Nursing Homes and 50 Residential Rehabilitation Centers designed to serve veterans.

The 2010 "System Worth Saving" report found several problematic areas.

In order to support outreach efforts and to insure quality of the VA Health care system, The American Legion developed the "System Worth Saving" Program in 2003 to report on the quality and timeliness of VA health care. Each year, The System Worth Saving Task Force visits between 30-60 VA Medical Facilities and the reports are compiled into a publication for distribution to the White House, Members of Congress, VA and our members. The purpose of the program is to provide an "Annual State of VA Medical Center's Readiness" and obtain feedback from veterans on their level of care.

The 2010 "System Worth Saving" report found several problematic areas including: VA's Budget, Traumatic Brain Injury (TBI), Post Traumatic Stress (PTS), Suicide Prevention, Quality of Care, Women Veterans, Seamless Transition, Rural Health Care, and VHA Construction. As the veterans of the war in Iraq return home, VA needs to ensure it is prepared to meet the increased demands for access and treatment. Without adequate funding and oversight from Congress, these problems identified cannot be improved and returning veterans will continue to encounter barriers in accessing and receiving the quality care earned.

QUALITY OF CARE AT VHA MEDICAL CENTER FACILITIES, "THE BEST CARE ANYWHERE"

In 2010, The American Legion conducted 32 System Worth Saving Program site visits to VA Medical Centers to assess the timeliness and quality of VA health care nationwide and obtain veterans' feedback on the quality of care provided by the VA. As mentioned earlier, the VA Health care system is the largest of any Health care system in the country. As with any large organization private or government run, there are successes and challenges. We found that overall veterans while citing issues and concerns are generally satisfied with the VA Health care system. The American Legion did find issues with accountability, training, personnel hiring practices, and shortages in critical specialties which have not been properly examined by VA's Central Office. A summary of our quality findings and concerns are:

In the spring of 2010, the VA Medical Center in St. Louis sent letters to 1,812 veterans that were exposed and may have been contaminated with Hepatitis B, C and HIV because of improperly cleaned dental equipment. The American Legion testified at the Congressional "Veterans At Risk" field hearing in St. Louis to state concerns of lack of oversight by VA's Central Office to ensure proper procedures were being followed by the 153 VA Medical Centers nationwide. Additionally, in the fall of 2009, VA sent letters to over 2,000 veterans who were exposed to Hepatitis B, C and HIV that had colonoscopies at the Miami VA Medical Center. The American Legion remains concerned with VA's lack of national policies and procedures to ensure VA Medical Center employees consistently have proper cleaning protocols at all of the 153 VA Medical Centers.

Another concern noted by The American Legion this year was VHA's veteran's preference or lack thereof for hiring veterans by the VA Medical Centers. The topic of veteran's preference and hiring practices will be addressed later in this testimony, but the current low percentage of veterans working at VHA is not defendable on any level. During the 32 System Worth Saving site visits this year, The American Legion found approximately 25 percent of full-time employee equivalents (FTEE) at the VA Medical Centers were veterans. The American Legion believes that the issue is the lack of oversight by Central Office in insuring that facilities follow directives and policies on hiring. It appears that each administrator is able to decide if veterans are to be hired or not. In other words each VA Medical Center director is able to use individual prejudice in developing hiring practices. In contrast, the National Cemetery Administration (NCA) reported over a 70 percent hiring rate of veterans at each National and State Cemetery. The American Legion remains concerned about the variance of hiring preference for veterans at each facility. There is not a national program in place to ensure veterans are given priority when it comes to positions within VHA. The American Legion recommends that standardized criterion and recruitment programs in place be enforced. We also recommend a minimum of 70 percent of veterans out here also veterans as employees at each of the 153 VA Medical Centers.

VA continues to have a turnover and shortage of personnel at most facilities.

The need for Central Office oversight of training and procedures extends to facilities and events such as the VA Medical Center in Philadelphia, PA where veterans were improperly implanted with radiation seeds for treatment of prostate cancer. The hospital in 2003 began contracting services with a local fee basis provider for brachytherapy treatment. In 97 procedures, radioactive seeds were misplaced which resulted in the Medical Center being fined. The American Legion visited Philadelphia during the 2010 System Worth Saving program and received assurances from the facility that the facility had "strengthened the contracting, oversight and standardized guidelines to provide optimum care." The American Legion also testified on May 27, 2010 at a congressional hearing in support of the "Veterans Health and Radiation Safety Act." The American Legion stated in the testimony that VA continues to have a turnover and shortage of personnel at most facilities and recommended that VA renew its emphasis on standardized procedures, quality review, individualized training and documentation of that training. If a problem occurs at one VA facility, it is imperative that incident be used as a training tool to teach all of the other 153 VA Medical facilities to prevent any future occurrences.

During the 2010 System Worth Saving site visits, it was noted that progress is being made to change VA health care from a male centric to a gender neutral option. However, there continues to be a lack of dedicated space in

many facilities for a women's clinic. Only two of the 32 VA Medical Centers visited had a stand-alone Women's Clinic but all the facilities had a clinical space where women veterans could receive gender specific care. The American Legion continues to be concerned about the lack of privacy, confidentiality and placement of the exam tables for women procedures which deter women veterans from seeking treatment at the VA. At the DC VA Medical Center, the Women Veterans Coordinator hosted a "Women Veterans" night at the VA Medical Center to encourage women veterans to be treated at the VA. The American Legion recommends VA conduct additional outreach, such as these Women Veterans nights, to encourage women veterans to receive treatment and understand what specialized gender specific services women veterans can receive at VA. Additionally, as the number of women veterans continues to grow, Congress must authorize the additional funding needed for Women Veterans programs at all VA Medical Centers to build stand-alone clinics and hire additional clinical staff.

TRAUMATIC BRAIN INJURY, POST TRAUMATIC STRESS AND VETERAN SUICIDE

Traumatic Brain Injury (TBI) has been referred to as the "signature wound" of Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) conflicts. More combat veterans are surviving blast injuries than in previous conflicts due to body armor and improved battlefield treatment. However, survivors of blast attacks sustain injuries, including but not limited to: TBI, hearing loss, blindness, amputations, PTS, nerve damage, lung injury and musculo-skeletal damage that requires extensive rehabilitation and mental health therapy to enable them to live autonomously. The effects of these injuries may endure for a lifetime.

The Defense and Veterans Brain Injury Center (DVBIC) was founded in 1991 to develop and provide advanced Traumatic Brain Injury (TBI)-specific evaluation, treatment and follow-up care for military personnel, their beneficiaries, and veterans with mild to severe TBIs. In cooperation with Armed Force Health Surveillance Center, statistical information on TBIs is updated quarterly. The information was obtained through service member and veterans' electronic medical records and International Classification Diseases (ICD)-9 codes. The total number of service members diagnosed with demonstrating, severe, moderate, mild and/or classifiable TBI from the DVBIC as of May 20, 2010 from 2000 to 2009 were 178,876.

The American Legion believes that while VA is keeping track of TBI screens, diagnoses, and treatment of many veterans and treatment that many veterans have fallen through the cracks.

In January 2009, VA reported a total of 270,022 OEF/OIF veterans were screened within VA with 53,953 veterans requiring further evaluation. Of these veterans, 15,486 had a confirmed TBI. The American Legion believes that while VA is keeping track of TBI screens, diagnoses and treatment that of many veterans have fallen through the cracks and have not been screened if they do not enroll within VA. The American Legion believes it is important that DoD and VA establish a centralized database to monitor the total number of service members who were screened, diagnosed and received treatment for TBI between both agencies. Without a bilateral medical record, this problem will continue to impede screening, diagnosis and treatment efforts.

In 2009, VA established directives for TBI screening, clinical reminders and a new symptom and diagnostic code for TBI. By having symptom codes, this will improve the medical transition from DoD into VA health care and further assist in the collection of statistical data between VA and DoD. In 2008, Congress directed VA to establish a TBI Registry. VHA's Office of Patient Care Services reported in 2010 that VA is contracted with National Institute of Disability and Rehabilitation Research (NIDRR) to develop the TBI registry to improve TBI statistics, research, demographic data, and screening and treatment methodologies.

Currently, most existing research on brain injury focuses on injuries sustained from automobile accidents. The American Legion believes that more research is needed on combat-related traumatic brain injuries, where service members may experience more than one blast episode. TBI can cause various neurological outcomes and diseases and increases the veteran's risk for Alzheimer's disease, Parkinson's disease. Both DoD and VA have acknowledged the lack of research on brain injuries and the

difficulties of diagnosing PTS and TBI because of the co-morbidity of symptoms between the two. As a result, in 2009 VA began the MIND Study (Markers for the Identification, Norming and Differentiation of TBI and PTS) to develop evidence based diagnostic criteria and distinguish between TBI and PTS.

The American Legion recommends:

1. DoD and VA continue to improve upon validated research on combat-related brain injuries and TBI.
2. The American Legion also recommends DoD and VA standardize TBI prevention, screening, diagnosis and treatment programs.
3. Congress direct DoD and VA to establish a centralized office and Information Technology (IT) database to monitor the total number of service members who screened, diagnosed and received treatment for TBI between both agencies.
4. The American Legion recommends VA establish TBI as a subject area of an Annual Mental Health Report which includes all funding, research, treatment, best practices and challenges within VA to accurately report its workload data and additional resources needed.
5. The American Legion commends the taskforce on the prevention of suicide by members of the Armed Forces and stands ready to assist with implementation of the recommendations.

Post Traumatic Stress (PTS) can develop, if stress from a traumatic or life-threatening event persists or worsens. Formerly known as Post Traumatic Stress Disorder, DoD and VA changed the name to PTS to combat the stigma and encourage service members and veterans to receive treatment. Without proper and timely treatment, PTS can become chronic and permanent. Since the war in Iraq and Afghanistan began, close to two million veterans have served and are eligible for care at VA. VA estimates 20 percent of military service members returning from Iraq and Afghanistan have TBI and 50 percent have PTS.

As the number of service members returning continues to increase, The American Legion believes that VA cannot meet the demand for services. Currently, VA has 3,000 psychologists and is working to increase that number up to 10,000. The American Legion's System Worth Saving site visit has noted for the last several years the challenges in recruitment and retention of specialty care providers. VA's budget will need to have increases in recruitment packages and incentives in order to keep competitive against the private sector and attract specialty care providers.

VA must also improve in its outreach to returning veterans.

Additionally, even though The American Legion is concerned with VA's existing challenges, we are further concerned that VA must also improve in its outreach to returning veterans. Despite VA's efforts to outreach returning service members, challenges and gaps still remain which must be addressed. VA hired additional Global War on Terror (GWOT) Specialists at all Readjustment (Vet) Centers to outreach to military, reserve, guard and returning veteran events. In addition, VA attends Yellow Ribbon programs, Demobilization briefings and has established OEF/OIF Welcome Home Celebrations at all 153 VA Medical Center Facilities to improve outreach to returning veterans.

Challenges to outreach include the fact that service members and veterans are reluctant to receive treatment due to confidentiality concerns. The fear of information leaking to employers or potential employers and jeopardizing their ability to work is a real concern. Further, the stigma attached to a service member or veteran receiving care for PTS or TBI or in some cases even being a veteran, due to the almost daily discussions in newspapers and electronic media, is difficult to overcome.

Guard and Reserve units are not mandated to attend Transition Assistance Program (TAP) briefings and these service members are falling through the cracks in the community and are not aware of VA benefits and services available to assist. In many cases Guard and Reserve personnel who deploy do not do so with their "home unit." At the end of the deployment they walk out the front gate of the demobilization station with nothing more than a few brochures and must navigate the system alone.

The American Legion recommends that Congress mandate that all demobilizing Guard and Reserve units, as well as individual service members, attend TAP briefings and receive the same level of briefings of services as given to their active duty counterparts.

The American Legion partnered with Real Warriors Campaign to help raise awareness of the need for veterans returning home to receive the care for their injuries.

The American Legion believes TBI, PTS and suicide are potentially interrelated. If a veteran experiences a TBI from an IED explosion, there is a probable chance or causation that they could develop PTS from this devastating experience. PTS, if left untreated, can lead to substance abuse, depression and regrettably suicide. The tragic and ultimate result of failing to take care of our nation's heroes' mental health illnesses: suicide.

The Centers for Disease Control and Prevention estimates 30,000-32,000 U.S. deaths from suicide occur per year among the population. VA's Office of Patient Care and Mental Health Services reported in April 2010 that approximately 20 percent of national suicides are veterans. In a recent Associated Press (AP) article, it was cited that there have been more suicides than service members killed in Afghanistan.

VA has taken steps to mitigate the increasing numbers of suicides recently. VA created the National Suicide Prevention Hotline, 1-800-273-TALK (8255) by collaborating with the National Suicide Prevention Lifeline where veterans are assisted by a dedicated call center at Canandaigua VA Medical Center in New York. VA reported in 2010 a total of 245,665 calls, 128,302 of which were identified as veterans. Of these veterans, 7,720 were rescues.

The American Legion has been at the forefront of helping to prevent military and veteran suicides in the community. The American Legion approved Resolution 51, *The American Legion Develop a Suicide Prevention and Outreach Referral Program*, at the 2009 National Convention. The American Legion's Veterans Affairs and Rehabilitation (VA&R) Commission members and volunteers subsequently developed American Legion state, district and post training programs to provide referrals for veterans in distress with VA's National Suicide Prevention Hotline. The American Legion currently has over 60 posts with active Suicide Prevention and Referral Programs.

VA also hired Local Suicide Prevention Coordinators at all of the 153 VA Medical Centers nationwide in an effort to provide local and immediate assistance during a crisis, compile local data for the national database and train hospital and local community on how to provide assistance. One of primary responsibilities of the Local Suicide Prevention Coordinators is to track and monitor veterans who are placed on high risk of suicide (HRS). A safety plan for that individual veteran is created to ensure they are not allowed to fall through the cracks.

In 2009, VA instituted an online chat center for veterans to further reach those veterans who utilize online communications. The total number of "Veterans Chat" contacts reported since September 2009 was 3,859 with 1471 mentioning suicide. VA has also had targeted outreach campaigns which included billboards, signage on buses and Public Service Announcements (PSAs) with Actor Gary Sinise to encourage veterans to contact VA for assistance.

The American Legion recommends Congress allocate separate Mental Health funding for VA's Recruitment and Retention incentives to recruit additional behavioral health specialists. Secondly, The American Legion recommends establishing a Suicide Prevention Coordinator at each military installation and that DoD and VA share best practices in research, screening and treatment protocols on suicides between agencies. Thirdly, The American Legion recommends VA take the lead in developing a joint database with the DoD, the National Center for Health Statistics and the Centers for Disease Control and Prevention to track national suicide trends and statistics of military and veteran suicides.

WOMEN VETERAN HEALTH CARE ISSUES INCLUDING MILITARY SEXUAL TRAUMA (MST)

The women veteran population is the fastest growing segment of eligible VA health care users and they have unique needs and experiences. As stated by VA, the number of female veterans is projected to increase from 7.7 percent in 2008 to 10 percent in 2018 and to 14.3 percent in 2033. Within the next 15 years, females are expected to represent one in every seven enrollees in VA health care versus one in every 16 today. Within the VA health care system there is currently a high enrollment and utilization rate by OIF and OEF women veterans. Since women veterans are sometimes the family's sole care givers, services and benefits designed to promote independent living for combat-injured veterans will need to consider other needs, such as child care during rehabilitation. The American Legion urges the VA Secretary to make every effort to address all the issues that may deter female veterans from seeking care through VHA.

The American Legion believes that it is imperative that our female veterans receive equal recognition for their selfless service.

For the first time in our nation's history women are acknowledged to be directly involved in ground combat and are sustaining the same type of injuries as their male counterparts. However, there are instances where female veterans are denied their disability claims for injuries that they incur as a result of combat exposure. This can be attributed to the Department of Defense's policy that women are barred from combat. Nonetheless, the reality is our female service members are in fact fighting alongside male service members in the same capacity and sometimes higher. The American Legion believes that it is imperative that our female veterans receive equal recognition for their selfless service without having to struggle through bureaucratic hurdles.

In addition to their physical injuries, women veterans also encounter psychological wounds such as Post Traumatic Stress (PTS) and Military Sexual Trauma (MST). According to a report by *A Society for Women's Health Research*, there are unique issues facing female active military personnel, veterans, and other women returning from combat. They are affected by a number of trauma-related conditions, including, but not limited to, PTS, traumatic grief, unexplained somatic symptoms, depression, sleep disturbances, increased use of tobacco and alcohol, and increased family violence and conflict.

On March 25, 2005 the Veterans Health Administration directive 2005-015 mandated that all enrolled veterans be universally screened for MST. In addition, the directive mandated that all VA medical facilities designate a MST coordinator to oversee MST screening and treatment and standardized training materials for MST. In addition, the VA provides treatment and counseling to all veterans that are suffering from MST and any mental and physical conditions related to MST. This service is afforded to all veterans free of charge. It is not necessary to have reported the incident while in the military or be service connected for this condition in order to receive this treatment and counseling. The American Legion applauds this effort in response to this prevalent issue.

Unfortunately, there are still significant barriers in addressing this matter; veterans who suffer from MST face complications when they file a claim for disability compensation through the Veterans Benefits Administration (VBA). The veterans are left with the burden to prove that they are eligible to receive compensation even though they have a diagnosis of Military Sexual Trauma from the Veterans Health Administration. The American Legion has implemented a mandatory bi-annual training of our Department Service Officers to educate them on how to handle women veterans' issues and all MST claim cases whether male or female in a sensitive manner. In addition, The American Legion submitted testimony for the record to the United States House of Representative on May 20th, 2010 on *"Healing the Wounds: Evaluating Military Sexual Trauma Issues"*. We are trying to do our part to assist veterans in the handling of these difficult benefits claim cases and with the issue, in general. However it is incumbent on all of us, DOD, VA and the veterans' advocacy community, to make sustained efforts to deal with this growing problem or it will continue to fester. The American Legion fully supports pending House legislation, the Women Veterans Access to Care Act. This bill seeks to improve health care for women veterans and provide recommendations on how the Department of Veterans Affairs (VA) can improve the delivery of sensitive and quality care to our women veterans. The American Legion especially supports the recommendation to conduct the long overdue study on health care for women veterans. This study should also address their unique needs, such as continuous care, childcare, reproductive health, and Military Sexual Trauma (MST).

Since females facing combat conditions are a relatively new phenomenon, little is known about the challenging issues facing the female service member and women veterans with combat-related diagnosis. In essence, The American Legion believes that any future women veterans' research conducted by the Department of Veteran Affairs (VA) will need to take into consideration the physical and psychological effects of combat on these women veterans.

LONG-TERM CARE

As the VA health care shift from an inpatient to an outpatient system, VA must ensure the needs of our aging veteran population are being met. In 2010, the National Center for Veterans Analysis and Statistics reported that of the 23,067,000 veterans in the United States, 39.9 percent are

veterans 65 years of age or older. While The American Legion applauds VA for adapting to the new challenges of bringing needed medical services to the increasingly rural and remote veterans' community through Community Based Outpatient Clinics, VA must ensure it has the requisite staffing, capacity, funding and strategic plan to provide for the institutionalized and long-term care needs of veterans. The American Legion recommends an increased emphasis by Congress on this important issue.

The Millennium Health Care and Benefits Act enacted in November 1999 mandated that VA keep their annual bed capacity at their 1998 level of 13,391 beds. However, since 1998, The American Legion has noticed that VA has not met its mandate from Congress and each year there has been a continued decline in the number of authorized bed levels. During one of the 2010 System Worth Saving site visits, a VA employee stated that "long-term care never receives the funding, priority and attention that is needed."

The Government Accountability Office (GAO) reported in 2009 that "VA's long-term care strategic planning, determining future workload is a multi-step process requiring estimating the number of veterans who will need long-term care, the number of those veterans seeking care through the VA and the number of veterans VA will serve, which is expected to increase by 167 percent between FY 2007 and 2013. Furthermore, the report indicated that "VA provided unrealistic cost assumptions and workloads in its FY 2009 budget submission." The American Legion urges VA to develop a Long Term Care Strategic Plan and that VA accurately report its planning workload projections and budget submissions in future fiscal years to account for the 167 percent increase.

The American Legion recommends:

1. Congress provide designated funding for Long-Term Care Services (i.e. staffing, capacity, and program development).
2. Congress direct VA to establish a Future of VA Long-Term Care Federal Advisory Committee and Long Term Care Strategic Plan.
3. Congress provide funding and oversight to ensure VA restores its nursing home capacity to the 1998 level 13,391 beds.

STATE VETERANS HOMES AND STATE EXTENDED CARE FACILITY CONSTRUCTION GRANTS PROGRAM

One of the long-term care programs utilized by VA are State Veterans Homes. Currently there are 131 State Veterans Homes in 50 states and in Puerto Rico with 24,302 beds. VA pays a stipend or per diem to State Veterans Homes for the care of eligible wartime veterans as directed by 38 U.S.C. Section 1741 and 38 C.F.R. Section 51.40(a). Currently the basic per diem cost VA pays is $77.53 per day. VA's per diem and portion of care under this law cannot exceed 50 percent of the full cost of care. Currently, the per diem is between 30-33 percent and the balance of the funds for the veterans care comes through state appropriations or from the veteran's income. If Medicare or Medicaid does not provide additional reimbursement costs, the veteran is responsible for their own cost share.

The American Legion testified on March 3, 2010 on legislation, to Support Amending Chapter 17 of title 38, U.S.C. to allow for increased flexibility in payments for State Veterans Homes. Public Law (PL) 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, authorized VA to pay State Veterans Homes to provide nursing home care to veterans with service-connected disabilities. In 2009, VA began implementing Title 38 U.S.C. Section 1745 which required VA to be-

gin paying States higher rates to State Veterans Homes for veterans with service-connected disabilities rated 70 percent of higher and those requiring care for a SC disability. The program, commonly known as the "70% Disabled Veterans Program" is applicable to any veteran with service connected disability. Rather than VA paying the basic per diem cost of $77.53 rate per day, under this new program, VA pays a flat rate of $253 per day and State Veterans Homes cannot be reimbursed by Medicare, Medicaid and consequently the veteran is charged for their cost of care.

The original intent of the program was to amend PL 106-117, the Veterans Millennium Health Care and Benefits Act of 1999, to permit State Veterans Homes to provide the same no-cost care to veterans as provided under the VA's Veterans Health Administration's Community Nursing Home Provider Agreements. Regrettably, the final VA regulation actually resulted in significantly lower payments and failed to cover the actual cost of nursing home care because of calculations of "the daily cost of care" cannot include outlier costs (i.e. chemotherapy, dialysis, medications, x-rays). The American Legion supported the original intent of legislation of the "70% Disabled Veterans Program" which expanded eligibility for veteran with a VA disability rating equal to or greater than 10 percent; however, the reimbursed costs of care must reflect the full continuum of care.

Under the provisions of title 38, United States Code (U.S.C.), VA is authorized to make payments to states to assist in the construction and maintenance of State Veterans Homes. The American Legion supports annual increases in the State Extended Care Facility Construction Grants program to ensure the funding keeps pace with the backlog of renovations and modernization projects.

The American Legion recommends:

1. Congress treat the full needs of veterans within State Veterans Homes by increasing VA's Per Diem Rate, and not rely on state budgets to offset costs of eligible veterans.
2. Congress increase VA per diem payments to a rate of 50 percent of the national average cost of providing care in a State Veterans Home to more closely align to the Medicaid/Medicare rate.
3. Congress direct VA to provide veterans with a 70 percent or greater service connection for the full cost of care in State Veterans Homes.
4. Increase State Extended Care Facility Construction Grants to $300 million for FY 2012.

VA BUDGET ISSUES TO INCLUDE THE AMERICAN LEGION RECOMMENDED ALTERNATIVE REVENUE STREAMS TO SUPPLEMENT VA'S BUDGET

The American Legion was pleased to see the President enact Public Law (P.L.) 111-81, the "Veterans Health Care Budget Reform and Transparency Act" in 2009 requiring VA to submit the request for advance appropriations with its President's budget submission each year. However, problems continue to exist in VA itself in allocating the funds from VA Central Office through the Veteran Integrated Service Networks (VISNs) and to the local facilities. This delay in funding creates challenges for the local VA Medical Center Facility to plan its budget to increase patient care services, hiring and to begin facility construction projects.

VA's 2010 Budget was $114 million. In FY 2011, the budget increased to $125 million. VA's 2011 budget provides approximately $5.2 billion for mental health programs which is 8.5 percent or $410 million increase over VA's FY 2010 budget authorization. Given the complexity and increasing numbers of returning veterans afflicted with Traumatic Brain Injury (TBI) and Post Traumatic Stress (PTS), The American Legion remains concerned that Congress has not proportionally increased the budget. Additionally, we recommend increased oversight of VA's Mental Health program. In 2010, GAO released a report, "Reporting of Spending and Workload for Mental Health Services Could Be Improved." This report recommended VA report in a separate annual report it's spending and workload data. Furthermore, the report indicated that without accurate data, Congress cannot provide the necessary oversight and increases for Mental Health services need to reflect the rising number of mental health services. The American Legion supports accountability, oversight and budgetary increases to keep pace with the demand for mental health services. Without substantial increases and oversight into VA's Mental Health funding, veterans with TBI and PTS will go untreated and our re-

turning veterans will not receive the care needed to recover from their injuries and illnesses.

The American Legion recommends Congress direct VA to establish a separate Mental Health Annual Report with specific budget authorization and how these funds are utilized from Central Office, VISN and VA Medical Center levels. The Mental Health Annual Report would identify funding and outcome results within research, screening and treatment in the following subject areas: Mental Health Overview, TBI, PTS, Substance Abuse and Depression. The American Legion further recommends that the report include all funding, research, treatment, best practices and challenges within VA to accurately report its workload data and additional resources needed.

THIRD PARTY BILLING

The Department of Veterans Affairs (VA) has the authority to bill health insurance companies for health care provided to non-service connected veterans who have private health insurance as well as service-connected veterans treated for non-service connected conditions. VA can also collect copayments from non-service connected veterans based on income. If a veteran has a 50 percent or greater service connection, he/she is not responsible for paying a copayment for either medical visits or prescriptions. However, the veteran's third party insurance may be billed if the care is not related to a service connected condition.

In 2009, The American Legion National Headquarters received several veterans' complaints through calls and e-mail correspondence that VA was incorrectly billing them for their service-connected illnesses and injuries. The American Legion's Veterans Affairs and Rehabilitation (VA&R) Division began collecting documented cases of veterans whose third-party insurances were improperly billed by VA for their service-connected medical conditions. To date, we continue to receive cases that we share with the CBO Office for review and to issue refunds, as appropriate.

The American Legion testified in a hearing on "Identifying the Causes of Inappropriate Billing Practices by VA," in October 2009. In November, the National VA&R Division partnered with VA's Chief Business Office (CBO) to investigate documented cases of improper billing. In some instances, veterans' third-party insurances were found to be improperly billed and the CBO office worked with the local VA Medical Center facility to issue refunds. The National VA&R Division continues to receive cases from veterans and works with VA's Chief Business Office to ensure VA is correctly billing their third party insurances. If a billing error occurs, the CBO will issue refunds to the veteran's third party insurance.

The American Legion believes that any veteran should be authorized to utilize the VA for their health care in a system designed to meet their needs. If VA cannot open enrollment for Priority Group 8 due to cost, then The American Legion supports allowing Priority Group 8 veterans to bring their third-party insurance to supplement VA's annual appropriations. The American Legion recommends full reinstatement of Priority Group 8 veterans to be authorized to utilize VA for their health care.

MEDICARE REIMBURSEMENT

Under the terms of the 1997 Balanced Budget Act, the Department of Veterans Affairs (VA)'s Veterans Heath Administration (VHA) was given the authority to bill, collect, and retain third-party reimbursements for outpatient medications, nursing home and hospital care. VHA also can bill, collect, and retain payments made by veterans for the treatment of nonservice-connected medical conditions.

Under current law, VHA cannot bill Medicare for third-party reimbursements for the treatment of nonservice-connected medical conditions of enrolled Medicare-eligible veterans, even if the health care is routinely covered under Medicare. Veterans pay into Medicare their entire working lives. Veterans are then penalized by being forced to choose between receiving medical care at a VA hospital or using Medicare at a non-VA hospital. On July 28, 2009, Chairman Bob Filner introduced H.R. 3365, The Medicare VA Reimbursement Act of 2009. We hope your colleagues can support this important legislation.

The American Legion recommends Medicare reimbursements be authorized by Congress to supplement VA's annual budget.

VHA is the largest Federal Integrated Health Care Delivery System. Eligibility for enrollment in VHA is based on honorable military service and limited by ex-

isting annual appropriations. Currently, there are about 25 million veterans eight million of whom are enrolled in VHA. Access to care is determined on a priority basis. The American Legion recommends Medicare reimbursements be authorized by Congress to supplement VA's annual budget. The American Legion continues to receive correspondence weekly from all across the country from veterans who are dissatisfied that they cannot use their Medicare benefits at the VA.

The American Legion recommends Congress authorize the Office of Management and Budget (OMB) to conduct a feasibility study of cost savings for VA and Medicare if VA was authorized to bill the Centers for Medicare and Medicaid Services.

CHANGING DEMOGRAPHICS AND A MOBILE VETERAN POPULATION PLACES INCREASED DEMAND ON VHA FOR IMPROVED RURAL HEALTH CARE

VA must ensure it is prepared to meet the increased demand for returning Iraq and Afghanistan veterans that are already living and migrating to rural America. The American Legion believes that veterans should not be penalized or forced to travel long distances to access quality health care because of where they choose to live.

As VA health care has had a major shift from inpatient to outpatient medical care, VA continues to increase its number of Community Based Outpatient Clinics (CBOCs) so that necessary medical services are located closer to veterans' communities. VHA's Office of Rural Health has released a Rural Health Strategic Plan for 2010-2014 with the following goals: improve research studies and analyses, improve education and training, improve collaboration of service options, recruiting and retaining medical professionals and improving rural access and quality of care.

Of the 23.4 million veterans in the United States, approximately eight million are enrolled in the VA Health care system. Of the eight million enrolled, nearly three million live in rural areas. VA also reported in the Rural Health Strategic Plan for 2010-2014 that one-third (31.9 percent) of enrolled veterans that served in OEF/OIF live in rural communities. In VA's FY 2009 Performance and Accountability Report, VA's Telehealth program provides care for over 230,000 patients in their homes through programs at 144 VA Medical Centers and 450 CBOCs. While the Telehealth program is one program to address care in the home, The American Legion also urges VA to expand its' contracted care into the community through initiatives such as Project Healthcare Effectiveness through Resource Optimization (HERO). Project HERO was established in 2007, at the direction of Congress, to closely manage health care services purchased in the community by VA.

The American Legion testified on Project HERO on February 3, 2010 and recommended that VA expand access to the other Veteran Integrated Service Networks (VISNs) with extensive rural health populations. Furthermore, The American Legion sought to ensure these contracted "caregivers" met the same levels of quality of care, certification and standards found within VA.

During The American Legion's 2010 National Convention, VA reported that the benefits of Project HERO included: "quality of care delivered, medical documentation was returned to VA, appointment timeliness and patient satisfaction." However, some of the negative results reported included: "the value added fee structure is not the optimum way to pay for services and the contract structure is difficult to manage when new VA patient needs arise." The VA's pilot study on Project HERO ends this year and The American Legion is closely monitoring VA's future plans for Purchased Care to ensure veterans receive timely and quality healthcare in rural health locations.

The American Legion recommends Congress provide additional funding for VA's Rural Health Care Initiatives to expand its network of Telehealth staffing, budget and IT capabilities to provide medical services to rural veterans that cannot access care at a VA Medical Center or CBOC. The American Legion also recommends additional contracted care in rural communities where VA resources are not available.

On August 23rd, 2010, the Secretary of the Department of Health and Human Services announced that the Department approved $32 million in funding to support rural health priorities. The funding will go towards several programs: the Medicare Rural Hospital Flexibility Program; Rural Health Workforce Development Program; Telehealth Network Grant Program; Telehealth Resources Center Grant Program; Flex Rural Veterans Health Access Program; Frontier Community Health Integration Demonstration Program and Rural Training Track Technical Assistance Demonstration Program. The Secretary noted that this is a reflection of one of President Obama's priorities to provide the best health care possible to rural

Americans and to build healthier rural populations and communities. The American Legion applauds this effort and urges Congress to assure that similar provisions are made through VA for our nation's veterans throughout the rural and highly rural areas.

SEAMLESS TRANSITION, LIFETIME VIRTUAL ELECTRONIC RECORDS (LVER)

The American Legion adopted a resolution in 2007 urging VA and DoD to establish a compatible computer system to improve the bilateral exchange of medical records between both departments. To date, a bilateral system has not been established and a new initiative, Lifetime Virtual Electronic Records (LVER) has been created which will track a service member's first day of enlistment or commission to his or her final day of rest. The American Legion remains concerned because for everyday that goes by without a bilateral record exchange, another service member or veteran loses their records, is not given continuity of care or a seamless transition from DoD into VA.

Additional oversight to insure a fully functional and coordinated system involving DoD and VHA is needed.

We believe that additional oversight to insure a fully functional and coordinated system involving DoD and VHA is needed. Now is the time to insure that both Departments work together in a timely fashion to execute a system that will enable veterans to track all health care provided from the first day of enlistment. This will give the added benefit of enabling the Veterans Benefit Administration (VBA) to more quickly process claims for service connection which will in turn reduce the claims backlog and assist veterans in a more timely manner

The American Legion has consistently advocated for a bilateral medical record exchange between DoD and VA. The architecture of DoD's Armed Forces Health Longitudinal Technology Application (ALTHA) and VA's Veterans Health Information Systems and Technology Architecture (VISTA) Information Technology (IT) systems are compatible. DoD and VA have contracted the joint health record to the Department of Health and Human Services (HHS) and The American Legion is concerned that there are no Veteran Service Organizations represented on the Committee.

The American Legion recommends additional funding and staff to finalize a bilateral medical record between DoD and VA. The American Legion also recommends Congress directing the federal joint health record to have VSO representation on the committee.

VHA CONSTRUCTION

In 2009, the VA Office of Construction and Facilities Management reported that VA has real property of more than 5,400 owned buildings, 1,300 leases, 33,000 acres of land and approximately 159 million gross feet that is owned or leased. In addition, VA reported that the average age of VA facilities is over 56 years.

The American Legion has seen firsthand that there are many structural deficiencies throughout the VA health care system during our annual System Worth Saving site visits. Many VA Medical Centers during site visits have informed us that they are not able to dedicate funds for Major or Minor Construction due to the demand for those monies for medical care. Facilities have also reported several critical problems with their physical plant such as not meeting seismic criteria, upgrading electrical systems, space utilization, aging infrastructures, insufficient parking and land-locked facilities. The American Legion was pleased to see that VA used $1 billion of the Recovery Act funds recently for major and minor construction projects.

The American Legion was very concerned about the Capital Asset for Realignment of Enhanced Services (CARES) process and VA's prioritization of the construction projects without local stakeholder and veterans' input. Now that CARES process ended, The American Legion seeks to ensure VA's major construction projects leverages community and veteran service organization stakeholder participation. While CARES did provide a strategic direction and prioritization for VA's Capital Infrastructure plans, The American Legion is concerned about the future blueprint and how it will prioritize Major and Minor Construction projects. As VA's physical plant is antiquated and structural and safety concerns will continue to rise, The American Legion recommends Congress increase their level of funding for VA's Major and Minor Construction accounts.

COMPENSATION AND PENSION ISSUES AND CHALLENGES

MUCH HAS BEEN SAID ABOUT THE "CLAIMS BACKLOG: "PRESUMPTIVES" for Agent Orange and Post Traumatic Stress (PTS), and "Waiting for veterans to die."The reality is that VBA as with VHA has its issues in training, and priorities. However, The American Legion feels that with more oversight from Central Office over activities at Regional Offices in emphasizing "quality over quantity," VBA will be able to deliver the service to veterans they deserve. VA has a statutory responsibility to ensure the welfare of the nation's veterans, their families, and survivors. The American Legion feels that providing quality decisions in a timely manner has been, and will continue to be, one of VA's most difficult challenges.

CLAIMS BACKLOG

At the end of FY 2008, more than 2.9 million veterans received disability compensation benefits. 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.

At the end of FY 2008, there were more than 382,000 rating cases pending in the VBA system, down approximately 9,000 from FY2007. Of these, more than 82,000 (21.8 percent) were pending for more than 180 days. Including non-rating claims pending, the total compensation and pension claims backlog was more than 616,000, with 20.3 percent of these claims pending more that 180 days. There were also more than 181,000 appeals pending at VA regional offices, with more than 159,000 requiring some type of further adjudicative action. At the end of FY 2008, the average number of days to complete a claim from date of receipt (178.9 days) was down 3.6 days from FY 2007.

As of August 1, 2009, there were more than 739,000 claims pending in VBA, 413,048 of which were rating claims. There were also more than 194,000 appeals pending, with more than 173,000 requiring further adjudicative action. All three categories represent increases, some significant, since the end of FY 2008. VBA's position is that only claims pending more than 125 days to be its "backlog." Even when using this standard there were more than 144,000 rating claims pending at the end of June 2009 (35.6 percent of its entire pending case inventory). The American Legion does not agree with this position. We feel that the day a claim is entered and until it is correctly dispositioned (this may in fact not be in favor of the veteran) it is in the backlog. For this reason, The American Legion recognizes the 1,000,000+ claim backlog number.

THE AMERICAN LEGION PROPOSED SOLUTIONS

As VA's total claims backlog exceeds one million, the number of bills and other potential initiatives introduced to address this very serious dilemma have also increased significantly. While The American Legion supports the concept of "out of the box thinking" and new ways of doing business, we do not support anything that would compromise the basic integrity of the disability claims adjudication system or cause more problems in the end (initially reduce the backlog but end up with a bunch of new claims, reversals, appeals, etc. down the road). Temporary fixes or solutions that would end up causing more harm than good in the end must be avoided at all costs.

While there is no means of controlling the number of service-members who are injured or develop lifelong conditions in service to this country, measures must be taken to ensure that when they do seek the benefits to which they are entitled, they do not face needless and frustrating delays. Some solutions to this growing problem can be fixed administratively by VA, while others will require legislative action to help facilitate a reduction in the backlog. Overall, the strategy is clear.

The primary focus must be on completing the claims correctly.

As The American Legion has stated many times in previous testimony, the primary focus must be on completing the claims correctly. Claims done right the first time will not needlessly clog the system with unnecessary appeals that end up bouncing around in the system for years.

To this end, VA, internally, can do several things to improve their quality. To begin, the VA must opt for a system of counting work that is accountable to errors. No longer should the same work credit be given whether a claim is handled properly or improperly. When there is no incentive to stress quality of work, then speed becomes the focus and crucial details are often overlooked. The American Legion has long supported a system of counting work credit that credits claims only when they have been finally adjudicated. In such a system, the incentive would shift to properly executing the claims at every step of the way to minimize the time the claims would languish in the system.

VA must also work to reduce needless overdevelopment in claims. Often veterans are scheduled for examinations when the medical information needed to grant the claim is already in the file. Internal changes to the manner in which the VA confirms evidence should be closely examined. In addition to the current pilot program being conducted to expedite the treatment of fully developed claims, as mandated by P L 110-389 VA should, in general, place greater emphasis on conducting triage. This is to identify and expedite claims that are substantially complete (very little or no development needs to be completed in order to rate the claim) at the time they are submitted. Then Compensation and Pension (C&P) exams should be ordered as soon as possible in cases where the only development that is needed in order to rate the claim is an exam. Although there are mandatory notification requirements under the Veterans Claims Assistance Act (VCAA) VA can streamline its waiver process in those cases where the claim is substantially complete and or veterans do not have any additional evidence to submit. This would allow VA to proceed with the adjudication process in a timely manner without having to wait for the expiration of the time period for a veteran to submit additional evidence or otherwise respond to the VCAA letter.

As an example, VA has already moved to improve the efficiency in confirming the "in-country" status of naval veterans by relaxing restrictions to include, for presumption of herbicide exposure purposes, those Navy veterans whose ships docked in Vietnam. Such recognition will avoid needless delays in processing these claims by not requiring the veteran to prove he actually went ashore while his ship was docked. While The American Legion continues to urge Congress to restore the presumption of exposure to Agent Orange/herbicides to Navy veterans who served in the territorial waters of Vietnam, we also recognize that this is a helpful step from VA in the right direction, and a step taken through the process of working constructively with the veterans' service organizations.

In a legislative sense, there are other solutions presently being considered which could improve the process. The expansion of the provisions of Section 1154(b), title 38 USC, to include all veterans who served in a combat zone is an important recognition of the exigencies of modern warfare. It can no longer be denied that the face of modern warfare recognizes no clear lines of battle. The original provisions of this section were intended to recognize

the difficulties of record keeping in the rigors of combat. Now, combat is clearly omnipresent on the non-linear battlefield, and a modern interpretation of this statute seems needed. This change would simplify the confirmation of incidents consistent with the rigors and experiences of combat, and would go a long way towards reducing unnecessary delays and red tape faced by our combat veterans.

Proper understanding of the intricacies of a veteran's claim often requires an understanding of the operation of the military system. There is a large subsection of veterans currently unemployed who could be targeted as prime candidates for enhancing VA's workforce. Already conversant with military forms and procedures, the insights a veteran employee offers VA in their claims workforce cannot be underestimated. VA Regional Offices vary widely on compliance with veterans' hiring practices. By undertaking a concerted effort to find and train available veteran workers, VA could serve the veterans' community on two fronts, by reducing veteran unemployment and enhancing the military's understanding of their claims workforce with veterans who have already shown their dedication to their fellow veterans by the very nature of their service.

Once employed, VA must maintain and retain their effective workforce. Better incentives should be developed to ensure the best and the brightest are staying with VA to serve veterans throughout the 21st Century workforce. Employees should be rewarded based on their accuracy and ability to process claims properly while maintaining the integrity of the system. With better incentives, retention will be improved and the overall caliber of VA employees will be strengthened.

Additional legislation currently pending addresses one of the chief problems with the Appeals Management Center. As of now, there is little effective means of capturing the common errors made on a local level and to report them back to the Regional Offices for correction. While it is important to maintain a center dedicated to facilitating the appeals process, the information about common errors is useless if these mistakes cannot be captured, catalogued, and returned to the Regional Offices-and indeed disseminated amongst all Regional Offices when a problem is determined to be widespread-so that corrective measures can be implemented. The American Legion supports legislation which would ensure that these common errors are captured, catalogued, reported and utilized for training purposes to improve overall operation of the VA. The American Legion also supports legislation which would allow the Board of Veterans' Appeals (BVA) to consider new evidence without waiver of regional office review in instances where the BVA can grant the appeal. Such legislation would cut down on needless delays in the adjudication process by eliminating remands in instances where evidence was submitted to the BVA without waiver but the evidence is sufficient for BVA to grant the appeal.

VETERANS DISABILITIES DUE TO ENVIRONMENTAL EXPOSURES

AGENT ORANGE AND TACTICAL HERBICIDES

The American Legion believes that major epidemiological studies of Vietnam veterans who were exposed to the herbicide Agent Orange are long overdue. In the early 1980s, Congress held hearings on the need for such epidemiological studies. When VA was unable to accomplish the task, 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. 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.

PRESUMPTIVE SERVICE CONNECTION FOR EXPOSURE

The American Legion strongly supports the extension of presumption of exposure to Agent Orange for veterans who served on naval vessels located in the territorial waters of Vietnam (known as Blue Water Navy veterans) but did not set foot on land in Vietnam.

The IOM, in Update 2008, specifically stated that the evidence it reviewed makes the current definition of Vietnam service, for the purpose of presumption of exposure to Agent Orange, limited to those who actually set foot on land in Vietnam "seem inappropriate." Citing an Australian study on the fate of the contaminant TCDD when sea water is distilled to produce drinking water, the IOM committee stated that it was convinced that such a process would produce a feasible route of exposure for Blue Water veterans, "which might have been supplemented by drift from herbicide spraying." (*See* IOM, Veterans and Agent Orange, Update 2008, p. 564; July 24, 2009) The IOM also noted that a 1990 Centers for Disease Control and Prevention study found that non-Hodgkin's lymphoma, a classic Agent Orange cancer, was more prevalent and significant among Blue Water Navy veterans.

The IOM subsequently recommended that, given all of the available evidence, Blue Water Navy veterans should not be excluded from the group of Vietnam-era veterans presumed to have been exposed to Agent Orange/herbicides.

The IOM subsequently recommended that, given all of the available evidence, Blue Water Navy veterans should not be excluded from the group of Vietnam-era veterans presumed to have been exposed to Agent Orange/herbicides. The American Legion submits that not only does this latest IOM report fully support the extension of presumption of Agent Orange exposure to Blue Water Navy veterans, it provides scientific justification to the legislation currently pending in Congress that seeks to correct this grave injustice faced by Blue Water Navy veterans. The American Legion at its 2010 National Convention approved Resolution 88 identifying service in the Republic of Vietnam includes "those who served in the territorial waters offshore."

EXPOSURE IN AREAS OTHER THAN THE REPUBLIC OF VIETNAM

The American Legion is also 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 her-

bicide 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 both the 2006 and 2008 IOM reports and strongly urges VA to make a timely decision on its recommendations and provide timely notification of the decision to add or not add to the presumptive list.

The ongoing and lengthy process witnessed during the addition of the three new presumptive conditions associated with Agent Orange, ischemic heart disease, Parkinson's disease, and b-cell leukemias such as "hairy cell leukemia" has illustrated the need for better coordination between VA, the veterans' community and Congress. There is an excellent system already in place by law to provide for the addition of new presumptive conditions. The science evaluation performed by the IOM has been proven to be sound and thorough. Where VA evaluates this information and chooses to add new presumptive conditions, the process should not reflect endless months of delays and debate, but should move forward swiftly.

The science evaluation performed by the IOM has been proven to be sound and thorough. Where VA evaluates this information and chooses to add new presumptive conditions, the process should not reflect endless months of delays and debate, but should move forward swiftly.

In order to facilitate a better understanding of this process, more clarity and transparency may be required. Why, for example, does VA determine one portion of an IOM report to be valid for finding of a presumption of service connection, yet disregard other portions of the IOM findings, such as the analysis of the Australian Naval Study which recognized the link between Blue Water Naval Service and the exposure to Agent Orange? When questions are raised as to why VA has determined that the IOM findings suggest a connection, there should be clear guidance as to what standard is being objectively used, so that no questions as to the integrity of the process can arise.

The process, when supported by sound science, should not consist of a yearlong cycle of bickering. The law clearly states a period of deadlines for the publication of new regulations. These regulations must be adhered to, and the criteria by which the Department of Veterans' Affairs determines the necessity to add a new presumptive condition must be clear, so that future delays to veterans can be avoided.

The American Legion has long fought for the veterans of Vietnam to be justly treated for the after effects of their exposure to Agent Orange. Congress and VA must discover a way to more efficiently execute the process of the addition of new presumptive conditions, so that years of long delays no longer plague veterans in their quest for benefits.

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 affected 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.

The Research Advisory Committee on Gulf War Veterans' Illnesses released their most recent report November 2008. In the report, the committee concluded that Gulf War Illness is a physical condition. The report indicates that Gulf War Illness is a serious condition that affects at least one fourth of the 697,000 U.S. veterans who served in the 1990-1991 Gulf War. The panel also determined that Gulf War Illness fundamentally differs from trauma and stress-related syndromes described after other wars. Studies have indicated that Gulf War veterans have a lower rate of Post-Traumatic Stress (PTS) than veterans of other wars. Upon review of extensive scientific evidence, the committee determined that two neurotoxin exposures are

causally associated with Gulf War Illness: a drug given to service members to protect them from nerve gas known as pyridostigmine bromide (PB) pills and pesticides used during deployment.

The American Legion strongly supports this report and urges the VA Secretary to act quickly on the committee's recommendations. In addition, VA must continue to fund research projects consistent with the recommendations of the RACGWI.

VA must continue to fund research projects consistent with the recommendations of the 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.

Although 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. Unfortunately, the denial rate for Gulf War undiagnosed illness claims is approximately 75 percent. 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.

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'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 idea of the amounts of herbicides to which service members 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 VA Secretary determined that presumption is not warranted.

VA needs to clearly define what type of information is required to determine possible health effects, for example,any clarification of guidance or mandate for the research.

VA needs to clearly define what type of information is required to determine possible health effects, for example,any clarification of 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, United States Code mandates how the VA Secretary should respond to the recommendations made in the IOM reports. The VA 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. Persian Gulf War and Health, Volume 2 was released in 2003, four years ago. 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. The VA must identify 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 request 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." Additionally to obtain clarification from the IOM committee concerning missing 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.

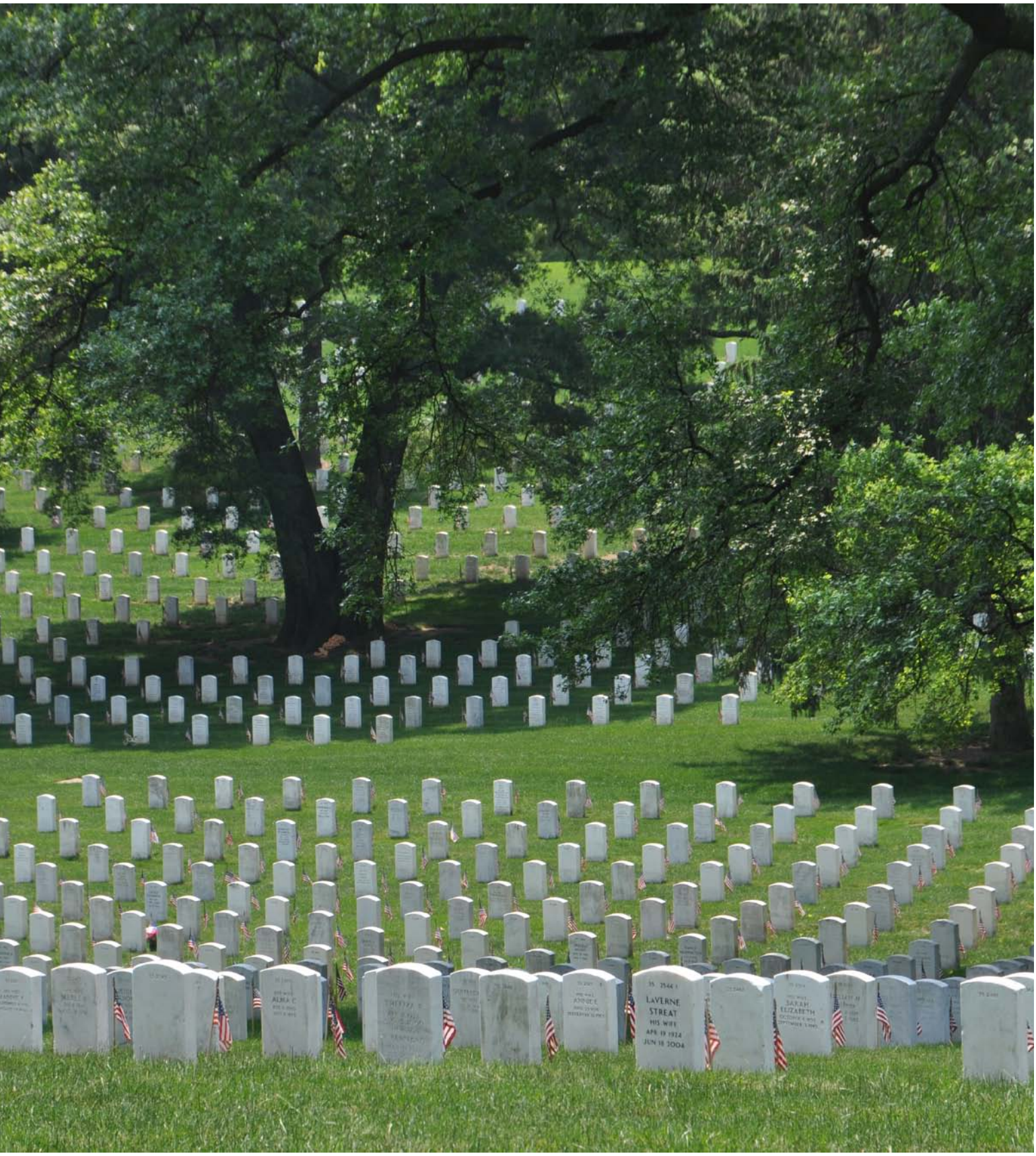
VBA OVERSIGHT IN SUPPORT OF VETERAN'S PREFERENCE IN HIRING AND REGIONAL OFFICE TRAINING AND PERSONNEL POLICIES

As is the case with VHA The American Legion conducts a "Quality Audit Program" at VBA Regional Offices across the nation to evaluate the quality of decisions and identify issues impacting veterans and the accurate adjudication of their claims. During these visits we have identified concerning issues such as training and hiring practices.

As was found with VHA, Veteran hiring practices, directed by Central Office to be prioritized for veterans, show a lack of consistency nationally. There are dramatic differences in percentage of veterans hired from 26% to 79% depending on Regional Office. The American Legion feels that there is not that dramatic a difference between qualified veterans in a particular area. Rather we feel it is the autonomy given to the director and his interest in hiring veterans. A lack of oversight by Central Office allows this to perpetuate.

Additionally the emphasis on "breaking the back of the backlog," which The American Legion believes fosters a quantity over quality environment has negatively impacted the amount and type of training given to Regional Office employees. Again through Quality Audit visits, comments from VA employees concerning the issue of taking time from the target quota attainment for training is problematic to the individual. Also the complaints that the training is not effective, is redundant, and not targeted for a particular experience levels are common.

The American Legion feels that there should be additional emphasis on quality training, and time should be allocated which does not negatively impact a participating individual's quota.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ETERNAL VIGILANCE

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 NCA 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 (PMCs) 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. Fortunately, this NCA is consistently ranked as one of the highest examples of service to their clientele of any organization in America, and this praise is a testament to the commitment they display towards fulfilling their mission.

The American Legion is supportive of and appreciates the ongoing stated goal of NCA to ensure that burial in a National or State Cemetery is a realistic option by locating cemeteries within 75 miles of 90 percent of all veterans.

Further The American Legion applauds the National Cemetery Administration for its support of living veterans and their families in that they alone among all VA entities have met and exceeded the recommended 75% veteran hiring goal.

ARLINGTON NATIONAL CEMETERY

The recent shameful events at Arlington National Cemetery include the improper handling of remains; loss of accountability of cremated remains; unmarked gravesites; unintended double burial of remains; and the failure to notify next-of-kin of the trans-internment of remains; and are disgraceful consequences of a long-term failure in leadership and a fundamental breakdown in the chain of command. These reprehensible actions have been shown to have affected the families of over 6,000 service members.

The American Legion has previous testified in reaction to the U.S. Army Inspector General Agency's Report of Investigation (SAIG-IN ROI 10-004) which was released on June 10, 2010, and must reiterate our concerns stated in that testimony.

Arlington National Cemetery should set the very standard on which all other such cemeteries are to be compared and not the opposite. The Department of Veterans Affairs, through the National Cemetery Administration, is responsible for maintaining 131 National Cemeteries, as well as 33 soldier's lots and monument sites nationwide; and to date, the National Cemetery Administration has

established a long-standing record of vast experience throughout its extensive cemetery operations and continuously maintains these operations without little indication of malfeasance or immoral actions near the severity of these transgressions.

The American Legion urges Congress to place the responsibility of managing, operating, and maintaining every aspect required to properly administer all operations and delivery of services involving Arlington National Cemetery directly with the Department of Veterans Affairs through the National Cemetery Administration. However, the responsibilities of The Military District of Washington and its subordinate unit the 3rd U.S. Infantry, traditionally known as "The Old Guard", which include: conducting military ceremonies at Arlington National Cemetery, manning the 24-hour vigil at the Tomb of the Unknowns, and being the provider of military funeral escorts at Arlington, should not change in any way, shape or form, as a result of any reorganization associated with Arlington National Cemetery.

The American Legion urges Congress to take this action now, so that Arlington National Cemetery can once again retain its deserved status as the crown jewel of this nation's network of veterans' cemeteries, and properly provide the respect and honor earned by every service member, man or woman, interred therein.

NATIONAL CEMETERY EXPANSION

The requested overall budget for 2011 is $242 million. Interments in FY 2013 are expected to be about 109,000, a 6 percent increase from FY 2008. The total number of graves maintained is also expected to increase during the planning time frame from almost 2.9 million in FY 2008 to over 3.3 million in FY 2013.

Since it takes approximately 20 to 30 Full Time Employees (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 and that monies for additional employees also be included in the FY 2012 budget.

BURIAL BENEFIT INCREASE

As with any other aspect of an economy, rising costs affect funeral expenses, yet VA has long lagged behind the curve in providing an adequate benefit to families to cope with these rising funeral costs. In 2001 the plot allowance was increased for the first time in more than 28 years, to $300 from $150, which covers approximately 6 percent of funeral costs for a non-service related death, and to $2,000 for a death related to service. These numbers are far below what could be construed as an equitable benefit. The original benefit was scaled to represent 22% of these expenses, so clearly this has fallen well behind. The time has long since passed for Congress to approve an increase to these funds, commensurate with an equitable contribution in line with the present economy. Furthermore, a mechanism must be put in place for more frequent adjustments to these amounts so they will not be allowed to lag behind as they have done in the past. The American Legion believes that waiting another 28 years for another adjustment does not do justice to the families of these service members.

The American Legion recommends that the burial allowances for families of service-members be increased to amounts more commensurate with the present economy. In addition, we further recommend that a mechanism for regular review and adjustment be put in place to address this in perpetuity.

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, between late 2008 and mid 2009, resources have been strained. The American Legion recommends that $60 million be put toward the National Shrine Commitment in order to fulfill this commitment in FY 2012.

STATE CEMETERY CONSTRUCTION GRANTS PROGRAM

VA's State Cemetery Grants Program complements VA's 130 national cemeteries across the country. The program helps states establish, expand or improve state veterans' cemeteries. To date, this VA program has helped establish 73 veterans' cemeteries in 38 states, Saipan and Guam, which provided more than 25,000 burials in FY 2008. Since the program began in 1980, VA has awarded 174 grants totaling nearly $340 million.

NCA received $32 million for the 2008 fiscal year to be used for this program to establish new State cemeteries as well as improve existing ones. 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 NCA has requested $42 million for the 2010 Fiscal Year to continue the work of this worthy program.

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 $60 million for the State Cemetery Grants Program in FY 2012.

VA Discretionary Programs	P.L. 111-117 FY 2010 VA Funding	S. 3615 FY 2011 VA Appropriations *	H.R. 5822 FY 2011 VA Appropriations	American Legion's FY 2012 VA Budget Request
Medical Services	$34.7 billion	$37.1 billion	$37.1 billion	$38.1 billion
Medical Support & Compliance	$4.9 billion	$5.3 billion	$5.3 billion	$5.3 billion
Medical Facilities	$4.8 billion	$5.7 billion	$5.7 billion	$6.2 billion
Total Medical Care	*$44 billion*	*$48.1 billion*	*$48.1 billion*	*$49.6 billion*
Medical Care Collections Funds	[$2.9 billion]	[$3.4 billion]	[$3.4 billion]	----------
Medical/Prosthetic Research	$581 million	$590 million	$590 million	$600 million
National Cemetery Administration	$250 million	$251 million	$259 million	$260 million
General Operating Expenses	$2.1 billion	$2.6 billion	$2.6 billion	$2.6 billion
Information Technology	$3.3 billion	$3.1 billion	$3.2 billion	$3.5 billion
Major Construction	$1.2 billion	$1.2 billion	$1.2 billion	$1.2 billion
Minor Construction	$703 million	$486 million	$508 million	$800 million
State Veterans' Homes Construction Grants	$100 million	$85 million	$85 million	$100 million
State Veterans' Cemeteries Construction Grants	$46 million	$46 million	$46 million	$60 million

* With minor exceptions, both Senate and House proposals agree with the administration's VA budget proposal.

THE AMERICAN LEGION

VETERANS AFFAIRS & REHABILITATION

1608 K Street NW
Washington, DC 20006
202-861-2700
www.legion.org

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