

**ANNUAL REPORT**  
*of the*  
**DISABLED AMERICAN VETERANS**  
**NATIONAL LEGISLATIVE DEPARTMENT**  
*for*  
**2010-2011**  
*by*  
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*for presentation to*  
**THE 90TH NATIONAL CONVENTION**  
*New Orleans, Louisiana*  
*August 6-9, 2011*

NATIONAL COMMANDER WALLACE “WALLY” TYSON AND DISTINGUISHED DELEGATES:

On this occasion of the 90th National Convention of the Disabled American Veterans (DAV), I am pleased to provide a report on the status of the National Legislative Department. This report includes both an outline of current and upcoming steps necessary to attain the legislative goals established by our 1.2 million members and a summary of the legislative activities that occurred during the months since our previous National Convention.

The successes we achieved during the past year to protect veterans benefits from erosion and enhance services required the full commitment and support of DAV’s leadership and the enduring dedication and participation of our membership. Therefore, let me acknowledge the highly effective manner in which National Commander Wally Tyson and the DAV National Line Officers communicated our message to our elected officials and to the American public. Let me especially acknowledge the essential support we receive from DAV’s professional management, National Adjutant Arthur H. Wilson, now retired Washington Headquarters Executive Director Dave Gorman and his successor Barry Jesinoski, National Headquarters Executive Director Marc Burgess, and the professional staffs of the DAV National Service and Legislative Headquarters and National Headquarters. Of course, my own staff of the Legislative Department works diligently to keep abreast of new developments and ensure we respond with appropriate and timely action. Their dedication and hard work ensured the successes DAV has experienced during the last several years. Most of you know them, but just let me mention them by name: Deputy National Legislative Director Joy Ilem, Assistant National Legislative Director Adrian Atizado, Assistant National Legislative Director John Wilson, Assistant National Legislative Director Jeff Hall and Legislative Support Specialists Lisa Bogle, Caren Wooley and Angela Kauffin. In addition, our efforts have been supported by three highly effective advisors, John M. Bradley, Peter Dickinson and Amy Hogan, who have worked tirelessly on our Stand Up for Veterans campaign as well as in health care and benefits policy and legislation.

Certainly, we rely heavily on DAV National Service Officers and DAV and Auxiliary officers and members to keep us informed and coordinate with our Benefits Protection Team Leaders in grassroots lobbying. We also rely on the efforts of the members of our grassroots

program, the DAV Commanders Action Network—DAV CAN. In addition, we use numerous organizational resources to achieve our goals, including the latest innovations in electronic media to carry our message to legislators and the American public. Further, we continue to use the power of the Internet to communicate with public officials, our membership and the public. In today's fast-paced, competitive world, we must take advantage of every tool at our disposal.

## **Hearings**

Since last year's National Convention, the DAV legislative staff has testified at 15 Congressional hearings, covering 52 bills and draft measures, as well as myriad other issues. Below is a summary of all of these hearings.

On September 16, 2010, DAV submitted testimony for the record of the House Veterans' Affairs Subcommittee on Economic Opportunity concerning the Post-9/11 GI Bill.

On September 16, 2010, DAV testified before the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs concerning the effectiveness of the Department of Veterans Affairs (VA) training program for Veterans Benefits Administration (VBA) employees who process disability claims.

On September 29, 2010, DAV testified before the House Veterans' Affairs Subcommittee on Health on 11 bills under consideration by the Committee.

On September 30, 2010, DAV testified before the House Veterans' Affairs Committee concerning the continuing cost of war.

On February 17, 2011, DAV testified before the House Veterans' Affairs Committee to discuss the views of the DAV and *The Independent Budget* concerning the fiscal year (FY) 2012 budget for VA.

On March 1, 2011, National Commander Wallace E. Tyson testified before a joint hearing of the House and Senate Veterans' Affairs Committees to present DAV's legislative agenda for the year.

On March 2, 2011, DAV testified before the Senate Veterans' Affairs Committee to discuss the views of the DAV and *The Independent Budget* concerning the fiscal year 2012 budget for VA.

On March 3, 2011, DAV testified before the House Veterans' Affairs Subcommittee on Economic Opportunity concerning the FY 2012 budget, particularly in regard to the Department of Labor's Veterans Employment and Training Service.

On March 11, 2011, DAV testified before the House Veterans' Affairs Subcommittee on Health on the implementation plan for the Caregiver Assistance Program.

On March 17, 2011, DAV testified before the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs concerning the FY 2012 budget for National Cemeteries, the American Battle Monuments Commission and the Court of Appeals for Veterans Claims.

On March 31, 2011, DAV testified before the House Veterans' Affairs Subcommittee on Economic Opportunity concerning the FY 2012 Budget for the Vocational Rehabilitation and Employment program.

On May 3, 2011, DAV testified before the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs on seven bills under consideration by the Subcommittee.

On May 13, 2011, DAV testified before the House Veterans' Affairs Subcommittee on Health on the Federal Recovery Coordinator Program, and whether it has begun to fulfill its promise.

On June 8, 2011, DAV testified before the Senate Veterans' Affairs Committee on 34 bills under consideration.

On June 13, 2011, DAV testified before the House Veterans' Affairs Subcommittee on Health regarding a recently released Government Accountability Office (GAO) report (GAO-11-530)—*Actions Needed to Prevent Sexual Assaults and Other Safety Incidents* to the Committee on the issue of the prevention of sexual assaults and other related safety incidents occurring in Department of Veterans Affairs (VA) health care facilities.

### **Enacted Legislation**

#### **Veterans Benefits Act of 2010, Public Law 111-275** **Enacted on October 13, 2010**

This law, originally H.R. 3219, is a comprehensive bill, with a number of important provisions to disabled veterans and their families, including:

- Automobile Grant, which now is also provided to veterans with severe burn injuries, has been increased from \$11,000.00 to \$18,900.00 and will be indexed to the Consumer Price Index to allow for annual adjustment;
- Enhancement of disability compensation for severely disabled veterans who have difficulty using prostheses; (criteria change more favorable to amputees – prior language “so near the [joint of the affected limb(s)]” preventing use of prosthesis is changed to “with factors” preventing use of prosthesis. Example, painful neuroma.)
- Aid and Attendance benefits for veterans suffering from Traumatic Brain Injury (TBI); (This means veterans with service-connected TBI may not meet the eligibility criteria for Special Monthly Compensation “R-2” [or special aid and attendance], so this change allows them to receive the additional compensation at the maximum level.

- Supplemental Service-Disabled Veterans' Insurance (SDVI or "RH") has been increased from \$20,000.00 to \$30,000.00 for totally disabled veterans;
- Veterans Mortgage Life Insurance (VMLI) for disabled veterans has been increased from \$90,000.00 to \$150,000.00 effective October 1, 2011, and beginning in 2012 it will be increased to \$200,000.00;
- Increase in the number of veterans who can participate in VA's independent living services and assistance program from 2,600 to 2,700;
- Increase in the amount of burial/funeral expense benefits from \$300.00 to \$700.00, and increases the amount of plot or internment allowance from \$300.00 to \$700.00; both will be indexed to the Consumer Price Index to allow for annual adjustment.

**Post 9/11 Veterans Educational Assistance Act of 2010, Public Law 111-377**  
**Enacted on January 4, 2011**

This bill expands and improves the Post 9/11 GI Bill that went into effect last year and it simplifies and improves benefits in a fiscally responsible way. Specifically, the Act enables veterans to use their benefit for vocational and on-the-job training, expands eligibility for the benefit to National Guardsmen who are activated for domestic assistance, provides active duty troops with additional assistance to purchase books, and provides severely injured veterans and their caregivers with additional time to use their benefits. Section 205 allows veterans with service-connected disabilities that participate in a program of vocational rehabilitation under chapter 31 of title 38, United States Code, who are also entitled to Post-9/11 GI Bill education benefits, to choose whether to receive the monthly housing stipend payable under the Post-9/11 GI Bill or a monthly subsistence allowance.

**Mid-Term Elections – Changes in Key Committees**

During the mid-term elections of 2010, control of the United States House of Representatives transferred from the Democrats to the Republicans. Almost 100 new members were elected to the House, many of them occupying elected positions for the very first time. The House Veterans' Affairs Committee was particularly affected by the election. Only 12 of its previous 29 members were reelected. Representative Jeff Miller (R-FL), a long-time member of the House Veterans' Affairs Committee, was named Chairman of the Committee for the 112th Congress. Representative Bob Filner (D-CA) serves as Ranking Democratic Member. We confront an unusual circumstance in that all Subcommittee Chairmen on the House Veterans' Affairs Committee for this Congress are freshman members. This situation presents a challenge for our legislative staff because we have to educate these new members of Congress about the DAV—who we are and what we do—and our issues and priorities. Also, many new Members of Congress had no understanding of or experience with VA, what it does, and what it means to disabled veterans, or of the Committee's long-term support and protection of benefits granted to veterans by previous Congresses. The overwhelming focus on the Federal deficit and debt situations has made our role ever more critical to ensure no erosion of VA benefits occurs in the haste of Congress to address the Federal financial and monetary situation.

Although political control of the Senate did not change as a result of the 2010 election, leadership of the Veterans' Committee did change. Former Chairman Akaka remains a member

of the Committee on Veterans' Affairs, but Senator Patty Murray (D-WA) was named Chairman for the 112<sup>th</sup> Congress. Senator Richard Burr (R-NC) will continue as Ranking Republican Member. We look forward to working with them and all the members of the Committees to bring about beneficial legislation for disabled veterans, their families and survivors. We are especially grateful to Senator Akaka and his staff for their exemplary and enlightened leadership in shepherding through to final passage a variety of helpful legislation for America's disabled veterans and their families. I am positive we will continue to see such leadership by Chairman Murray and her professional staff.

### **Department of Veterans Affairs Fiscal Year 2012 Budget**

The Administration's budget request for fiscal year (FY) 2012 included some modest funding increases for VA health care and benefits programs, but DAV has been concerned about whether this budget would sufficiently meet the needs of sick and disabled veterans who rely on VA. The results of a recent Government Accountability Office (GAO) report (see below) on VA's budget formulation process do not increase our confidence that VA is allowed by the Office of Management and Budget (OMB) to forecast its real, proven needs for resources, especially in health care.

**Medical Care:** The Administration's requested \$53.9 billion, which assumed collections in the amount of \$3.1 billion in place of direct appropriations. Alternatively *The Independent Budget* (IB) recommended \$55 billion for these accounts, an increase of \$3.5 billion above the proposed FY 2011 level, and \$1.1 billion higher than the Administration's request.

**Medical and Prosthetic Research:** The Administration's request of \$509 million would be a reduction of \$72 million from current research funding levels. The IB recommended \$620 million to cover documented inflation, to continue current research projects, to allow VA to better understand and develop treatments for the unique injuries and diseases of the veteran population.

**Benefits Processing:** The \$2 billion budget request for the activities of the Veterans Benefits Administration would be \$130 million less than the FY 2011 funded level. This reduction would take place during a time of great transition in VA's efforts to reform the benefits processing system – DAV's highest legislative priority.

**Major Construction:** The \$590 million Administration budget request for Major Construction would be \$604 million less than the \$1.194 billion Congress is considering for FY 2011. This is the single largest drop in funding for all VA accounts, more than 50 percent. This reversal was deeply concerning to DAV and all those who rely on VA for safe, contemporary facilities for delivery of our health care.

For Medical Care, the Administration requested approval of a "Contingency Fund" in the amount of \$953 million, based upon VA's uncertainty about whether the national economic situation will increase veterans' use and reliance on the VA health care system. As proposed, these funds would only be made available if VA requested their use, and received approval from OMB. Any amount not spent by the end of FY 2012 would be returned to the Treasury.

In addition, VA requested authority to carry over \$1.1 billion in FY 2011 Medical Care funds to be used for future spending in FY 2012 (\$500 million) and FY 2013 (\$600 million). VA testified it intends to reduce FY 2011 spending through the use of unspecified “efficiencies” this year.

Finally, the FY 2012 budget proposal includes a request for \$55.8 billion in advance appropriations for VA health care accounts in FY 2013, which assumes \$3.3 billion in collections. This would be an increase of \$1.9 billion over the Administration’s FY 2012 request in the same account.

On June 14, 2011, after consideration of a series of floor amendments most of which were rejected, the full House of Representatives overwhelmingly voted to approve the funding levels as recommended by the Appropriations Committee. On June 30, Senate appropriators advanced their version of the appropriations bill, which closely matches the House-passed bill. However, the Senate bill provides \$581 million for VA medical and prosthetic research, \$72 million more than the Administration’s request and the House-passed measure.

At the time of this report, the full Senate had not acted on this funding bill but was expected to do so after the August recess. We expect the House and Senate will hold a conference on this appropriations measure later this summer or fall. We will keep you updated on VA’s budget as events warrant.

### **Government Accountability Office Report on Advance Appropriations**

On June 14, 2011, GAO released its report on the VA budget, which was required by Public Law 111-81, the advance appropriations law. The GAO report confirms several of our concerns about gimmicks in this budget, including:

- \$1.1 billion carryover from this year (FY 2011);
- \$2.5 billion in “operational improvements;” and
- the so-called “contingency fund.”

The GAO report also uncovered another \$2.5 billion that the Office of Management and Budget cut from the VA for FY 2012 and FY 2013 for needed equipment and maintenance. DAV will request that both House and Senate Veterans’ Affairs and Appropriations Committees conduct oversight hearings to ensure that we have an honest and transparent VA budget process in keeping with Congressional intent in passing Public Law 111-81.

### **Key Legislative Initiatives**

Since the early days of the 112th Congress, my staff and I have held dozens of meetings with new and returning members of the House and Senate, to educate them about DAV and our legislative priorities.

In February 2011, the IB for FY 2012 was released. The four coauthoring organizations of the IB, AMVETS, DAV, Paralyzed Veterans of America, and Veterans of Foreign Wars of the United States, have worked in collaboration for 25 years to honor veterans and their service to our nation. Throughout the year, each organization works collaboratively to identify and address legislative and policy issues that affect the organizations' memberships, the broader veterans' community, the work of the Veterans Benefits Administration and that of the VA health care system, always with an eye to protecting and enhancing the federal benefits veterans have earned and deserve. The IB also presents our carefully developed estimates of funding needed to ensure that VA, the Department of Labor and the Federal Court of Appeals for Veterans Claims are properly funded to ensure protection and enhancement of veterans' benefits and services.

On March 2, 2011 House Minority Leader Nancy Pelosi held her quarterly veterans' roundtable in which the DAV participated.

On May 25, 2011, the House Republican leadership held a roundtable on veterans' issues, in which the DAV participated.

On June 15, 2011, DAV was present with House Minority Leader Nancy Pelosi and her leadership, along with other veterans service organizations, at a roundtable discussion on veterans' issues.

These roundtables are extremely important because they provide DAV with an informal forum in which to present our issues to congressional leadership. I firmly believe that DAV's successful Stand Up for Veterans campaign was a success because of our ability to sit down with leadership, discuss the issues and, along with other members of the veteran/military/family community, convince the leadership of the importance of passing our initiatives.

### **Reforming the Veterans Benefits Claims Processing System**

Although the number of claims processed by the Veterans Benefits Administration (VBA) has grown to more than a million cases per year – the highest number ever – the volume of new and reopened claims filed continues to grow at an even faster pace. As a result, there were 832,674 claims for disability compensation and pensions awaiting action at VBA on June 30, 2011. This is an increase of over 68,000 claims since only the beginning of this year, and an increase of more than 350,000 since January 2010, a staggering 73 percent increase in pending workload in only 18 months. More significant, the number of claims pending longer than VA's target of 125 days rose from about 300,000 to nearly a half million over the past six months, representing a 60 percent increase since the beginning of this year. In total, more than 58 percent of all VA claims awaiting decisions at VBA have been pending longer than 125 days.

Even worse, the errors found in VA's rating decisions are growing (17 percent in 2010, and 23 percent in 2011 as measured by VBA and VA's Inspector General). As a consequence, today there are far too many disabled veterans making claims for veterans benefits, particularly disability compensation, who are waiting far too long and facing entrenched bureaucratic obstacles, and who ultimately will receive decisions that are far too often wrong.

Over the past two years, VA Secretary Shinseki has focused VBA on “breaking the back of the backlog.” However, we should all remember that the backlog is not the core problem but is only a symptom. As shown here, the true and overarching problems at VBA are quality and accuracy. If the VBA focuses simply on reducing the backlog number, it will not sufficiently address the basic issues nor prevent the backlog from growing once again. To achieve real and lasting success, VBA must focus on creating a modern, paperless benefits claims-processing system designed to “decide each claim right the first time.”

To their credit, VA Secretary Shinseki and the VBA senior leadership have openly acknowledged the problems at VBA and reached out to DAV and other VSOs to engage us in their work in developing reforms. Over the past two years, VBA has implemented a multi-pronged transformation strategy to modernize its infrastructure and business processes.

One of the major problems in the current claims processing system is VBA’s outdated information technology system. As a remedy, a new electronic Veterans Benefits Management System (VBMS) is being developed. The new approach would allow claims to be processed in a paperless environment using rules-based decision support. Currently, VBA is field testing the VBMS in VA regional offices in Providence, Rhode Island and Salt Lake City, Utah, with full national deployment scheduled for 2012. VBA is also modernizing the methods and technologies it uses to interact with veterans as part of the Veterans Relationship Management system, which includes the “e-Benefits” program.

VBA has also been conducting dozens of pilot tests of new business process improvements to reduce waiting times, increase production, and – hopefully – increase quality and accuracy. The newest and most important initiative is the Integration Laboratory VBA has established at the Indianapolis Regional Office. This new “I-Lab” is bringing together some of the best practices learned from these many pilots and synthesizing them to develop a more effective and efficient method of processing claims. VBA’s new approach is to create different tracks for different types of claims, primarily based upon a complexity variable. Claims that have the fewest and easiest issues to be decided will be handled differently than those that present many and complicated issues. For example, one component of this new approach is the Fully Developed Claim (FDC) approach, already rolled out nationally. The FDC program allows veterans who file their claims complete with all of the outside evidence needed to rate the claims to undergo an expedited process that can cut weeks and even months off processing times. Another major initiative VBA has undertaken is the development of dozens of Disability Benefits Questionnaires (DBQs). These DBQs are intended to make it easier for veterans to present medical evidence in a standard format, particularly private medical evidence, in support of their claims.

While DAV has supported many of these pilots and applauded VBA’s willingness to experiment, we continue to be concerned that given the impetus to reduce the backlog, VBA may ultimately favor IT and process reforms that increase speed and production, rather than those that enhance quality and accuracy. We continue to believe and assert to VA that quality and accuracy are the essential cornerstones for reforming the claims processing system.

To truly reform the veterans' benefits claims processing system, we must keep VBA and Congress focused on building up a new system for the future, not just knocking down today's "backlog." Together with our VSO colleagues, DAV has been working to ensure that VBA has the proper resources, tools and oversight to reach this goal. In particular, we have urged Congress to:

- Shift VBA's approach so that their primary goal is "deciding claims right the first time," not just "reducing the backlog";
- Provide aggressive oversight of VBA's myriad pilots to ensure that best practices are adopted and integrated into a new claims process focused on improving quality and accuracy;
- Ensure that the new Veterans Benefits Management System (VBMS) is provided sufficient time and resources to develop into a comprehensive, paperless, and rules-based platform for processing veterans' claims for benefits;
- Ensure that VBA's employee performance standards and work credit system create adequate incentives to increase quality and accuracy, not only speed or production; and,
- Ensure that VBA provides sufficient training to employees and tests all employees, including coaches and managers, on the skills, competencies, and knowledge required to do their jobs.

Over the next year, DAV will finalize a comprehensive set of specific legislative recommendations for Congress and work with our VSO colleagues and the Veterans Affairs Committees in the House and Senate to enact them into law. We have already begun to assemble a broad coalition in Washington to support this legislative action but we will once again need to rely on the powerful grassroots advocacy of DAV members nationwide. While there are no quick or easy ways to fix the claims processing system, we remain optimistic that working together we can make significant progress toward a system in which disabled veterans claims are done right the first time.

### **DAV 2011 Mid-Winter Conference**

On February 27 through March 2, 2011, the DAV held its annual Mid-Winter Conference. The focal point of the conference was National Commander Wally Tyson's presentation to a joint session of the House and Senate Veterans' Affairs Committees to present DAV's legislative agenda for 2011. During the conference, DAV's national service and legislative staffs presented key information on a variety of subjects of our concern to hundreds of members from across the country. DAV members in attendance used that week to visit their elected representatives on Capitol Hill, to present DAV's most important national legislative issues as well as their own issues of concern from their states and local congressional districts. This Mid-Winter conference experience is grassroots lobbying at its finest and most effective, and provides me and my staff the energy and ideas to conduct our work in Washington, D.C. throughout the year. I congratulate and thank all our members who attended this year's highly successful DAV Mid-Winter Conference and encourage your attendance at next year's Mid-Winter Conference.

## Conclusion

In the upcoming year, we will deal with VA-related benefits and health issues from a position of strength and a devotion to purpose. DAV will continue to lead the way in helping solve the complex problems that have plagued the VA benefits claims process to ensure that all disabled veterans receive the full range of benefits they have earned through their service, and will do so in a timely manner. We will also work to ensure that the provisions in Public Law 111-163, the Caregiver and Veterans Omnibus Health Services Act of 2010, are implemented faithfully as we and Congress intended in pushing this legislation through to final passage, and that the provisions are expanded to include veteran caregivers of all generations. This legislation was written to forge a new paradigm of long-term care support services for severely wounded service members—and to acknowledge and fully support the sacrifice and vital role played by family caregivers of all generations of disabled veterans.

In the year ahead, undoubtedly a number of new issues will arise and we will face challenges to maintain the benefits disabled veterans have earned through their service to America. DAV stands ready to face these issues and challenges head-on with the unwavering support and strength of our membership. We need your strength and dedication to help us achieve these important goals. We need you to Stand Up for Veterans. If we don't, then who will?

Finally, I would be remiss if I didn't say more about the retirement of Dave Gorman who, for more than 20 years, has been a dear friend, co-worker, mentor, boss and role model to me. His dedicated service to the DAV and disabled veterans, their families and survivors for more than 40 years is inspiring. The respect he garnered from DAV staff and members, from the past several Administrations, numerous Secretaries of Veterans Affairs and Members of Congress and their staff is extraordinary. As the official voice of the Disabled American Veterans before the Administration and Congress, Dave was responsible for the great achievements in veterans' benefits and services accomplished by DAV in the past 16 years. All disabled veterans and family members owe him a debt of gratitude. Dave will be sorely missed, but I take great comfort in the fact that his replacement, Barry Jesinoski, has a long devoted history with the DAV, has a great mentor in National Adjutant Art Wilson, the total support of the dedicated staff at DAV National Service and Legislative Headquarters and the drive and commitment to ensure that Dave's legacy lives on and that DAV remains the premier veterans service organization.

In closing, I want to thank all DAV and DAVA members for their contributions during this extremely successful past year, a truly historic year for DAV and its membership. I call upon you to continue engaging with us, Congress and the Administration in fulfilling our organizational mission of building better lives for America's disabled veterans and their families.