

**STATEMENT OF  
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OF THE  
DISABLED AMERICAN VETERANS  
ON BEHALF OF THE INDEPENDENT BUDGET  
SUBMITTED TO THE  
APPROPRIATIONS SUBCOMMITTEE ON  
MILITARY CONSTRUCTION AND VETERANS' AFFAIRS  
UNITED STATES SENATE  
APRIL 2, 2012**

Chairman Culberson, Ranking Member Bishop and Members of the Subcommittee:

On behalf of the Disabled American Veterans (DAV) and our 1.2 million members, all of whom are wartime disabled veterans, I am pleased to present recommendations of *The Independent Budget* for the fiscal year (FY) 2013 budget related to veterans benefits, judicial review and the Veterans Benefits Administration (VBA). *The Independent Budget* is jointly produced each year by DAV, AMVETS, Paralyzed Veterans of America and Veterans of Foreign Wars. While there are dozens of recommendations in this year's *Independent Budget* related to VBA's benefit programs and claims processing reform, I will only highlight some of the most critical ones in my statement, and refer you to the full text of the *Independent Budget* available online.

Mr. Chairman, we are now in the third year of VBA's latest effort to transform its outdated, inefficient, and inadequate claims processing system into a modern, automated, rules-based, and paperless system. VBA has struggled for decades to provide timely and accurate decisions on claims for veterans benefits, especially veterans disability compensation, and there have been numerous prior reform attempts that began with great promise, only to fall far short of success. Over the next year we will begin to see whether their strategies to transform the people, processes and technologies will finally result in a cultural shift away from focusing on speed and production to a business culture of quality and accuracy, which is the only way to truly get the backlog under control. To meet this challenge, and assure that veterans benefits are fully funded, we offer the following resource recommendations.

**Adequate Staffing for the Veterans Benefits Administration**

In order to sustain the transformation efforts underway at VBA, *The Independent Budget* for FY 2013 generally recommends maintaining current staffing levels in the VBA, with only modest increases for the Vocational Rehabilitation and Employment Service and the Board of Veterans' Appeals. Due to substantial support from Congress, VBA's Compensation Service experienced significant staffing increases between fiscal years 2008 and 2010, which supported an increase in the number of claims processed each of those years. Unfortunately, however, an even larger increase in new and reopened claims volume contributed to a rising backlog. Historically, it takes approximately two years for a new Veterans Service Representative (VSR)

to acquire sufficient knowledge and experience to be able to work independently with both speed and accuracy. It takes an additional period of at least two years of training to become a Rating Veterans Service Representative (RVSR) with the skills to accurately complete most rating claims. As such, the full productive capacities of the employees hired in recent years are only now becoming evident.

This year, VBA will roll out a new operating model for processing claims for disability compensation, which will change the roles and functions of thousands of VSRs and RVSRs at Regional Offices across the country. VBA is also planning to launch new IT systems, including the Veterans Benefits Management System (VBMS) and expand the functionality of their e-Benefits system. Together these transformations are expected to have a significant effect on the productive capability of VBA's workforce. While these changes are being fully implemented, and the effect on workforce requirements analyzed, the *Independent Budget* veterans service organizations (IBVSOs) do not recommend an increase in staffing for VBA's Compensation Service for FY 2013. However, we do recommend that VBA initiate a scientific study to determine the workforce necessary to effectively manage its future workload in a manner that consistently produces *timely* and *accurate* rating decisions.

However, should there be a decline in personnel dedicated to producing rating decisions, an increase in claims or the backlog, or should any of the long-awaited VBA information technology initiatives fail to produce the projected reductions in processing times for claims, Congress must be prepared to act swiftly to intervene with the additional staffing resources.

### **Staffing Increase for Vocational Rehabilitation and Employment Service**

In 2009 the Government Accountability Office (GAO) conducted a study to assess VR&E's ability to meet its core mission functions. GAO found that 54 percent of VBA's 57 regional offices reported they had fewer counselors than needed, 40 percent said they have fewer employment coordinators than needed and 90 percent reported that their caseloads have become more complex since veterans began returning from Afghanistan and Iraq.

VBA's current caseload target is one counselor for every 125 veterans served; however, feedback received by the IBVSOs from counselors in the field suggested an actual workload as high as one to 145. Based on comparisons with state vocational rehabilitation programs and discussions with VR&E personnel, even the 1:125 ratios may be too high to effectively manage VR&E's workload, particularly in providing service to seriously disabled veterans.

Mr. Chairman, we are pleased to note the Vocational Rehabilitation and Employment Service (VR&E) budget proposal for FY 2013 does request funding for approximately 150 new counselors; however, these individuals are designated for expansion of the Integrated Disability Evaluation System and the VetSuccess on Campus program. While the IBVSOs fully support both of these increases and programs, we cannot be certain what impact, if any, these additional out-based counselors will have on the VR&E's current caseload ratio of approximately 1:145.

Therefore, based upon the feedback from the field and VBA's projections of future workload, in order for VR&E to meet its caseload target of one counselor for every 125 veterans

served, the IBVSOs are recommending an increase in funding for VR&E to accommodate approximately 195 additional full-time employees for the VR&E Service for FY 2013.

### **Staffing Increase for the Board of Veterans' Appeals**

*The Independent Budget* also recommends a funding increase at the Board of Veterans' Appeals sufficient to support an authorized workforce of at least 585 full-time employee equivalents (FTEE) for FY 2013. Based on historical trends, the number of new appeals to the Board averages approximately five percent of all claims received, and thus as the number of claims processed by VBA is expected to rise significantly, so too will the Board's workload rise commensurately. With the number of claims processed at VBA having risen to over well over one million, and projected to rise even higher in the coming years, it is virtually certain that the Board's workload will also begin to rise ever faster.

The Board is currently authorized to have 544 FTEE; however, its budget in FY 2011 could only support 532 FTEE. For FY 2013, the new budget proposal calls for a further reduction down to 527 FTEE. However the expected workload projections by the Board indicate that the authorized level for FY 2013 should be closer to 585 FTEE. The IBVSOs are concerned that unless additional resources are provided to the Board, its ability to produce timely and accurate decisions will be constrained by an inadequate budget, and either the backlog will rise or accuracy will fall. Neither of these outcomes is acceptable. At a minimum, Congress should increase funding to the Board in order to sustain 585 FTEE in FY 2013.

### **Dedicated Courthouse for the Court of Appeals for Veterans Claims**

Mr. Chairman, I would also like to highlight a recommendation in this year's *Independent Budget* concerning the United States Court of Appeals for Veterans Claims. During the 24 years since the Court was formed in accordance with legislation enacted in 1988, it has been housed in commercial office buildings, making it the only Article I court that does not have its own courthouse. The IBVSOs believe that the Veterans Court should be accorded at least the same degree of respect enjoyed by other appellate courts of the United States. Congress previously acted on this in fiscal year 2008 by allocating \$7 million for preliminary work on site acquisition, site evaluation, preplanning for construction, architectural work, and associated studies and evaluations for the construction of the courthouse. It is time for Congress to provide the funding necessary to construct a permanent courthouse in a location of honor and dignity befitting the Veterans Court and the veterans it serves.

## **VETERANS BENEFITS RECOMMENDATIONS**

The Veterans Benefits Administration provides an array of benefits to our nation's veterans, including disability compensation, dependency and indemnity compensation, pensions, vocational rehabilitation, education benefits, home loans, and life insurance. Unfortunately, the failure to regularly adjust benefit rates or to tie them to realistic annual cost-of-living adjustments (COLAs), can threaten the effectiveness of these other benefits. For example, the annual COLAs do not take into account the rising cost of some basic necessities, such as food and energy. In

addition to prudent increases in a number of specific benefits programs to meet today's rising costs of living, *The Independent Budget* includes a number of recommendations designed to make several existing benefits more equitable for all veterans, particularly disabled veterans.

### **Eliminate Remaining Concurrent Receipt Penalties**

Today, many veterans retired from the armed forces based on longevity of service must forfeit a portion of their retired pay, earned through faithful performance of military service, before they can receive VA compensation for service-connected disabilities. Most nondisabled military retirees pursue second careers after serving in order to supplement their income, thereby justly enjoying a full reward for completion of a military career with the added reward of full civilian employment income. In contrast, military retirees with service-connected disabilities do not enjoy the same full earning potential. In order to place all disabled longevity military retirees on equal footing with nondisabled military retirees, there should be no offset between full military retired pay and VA disability compensation. Congress has previously removed this offset for veterans with service-connected disabilities rated 50 percent or greater, and should now enact legislation to repeal the inequitable requirement that veterans' military longevity retired pay be offset by an amount equal to their disability compensation if rated less than 50 percent.

### **Repeal the DIC - SBP Offset**

The current requirement that the amount of an annuity under the Survivor Benefit Plan (SBP) be reduced on account of and by an amount equal to dependency and indemnity compensation (DIC) for survivors of disabled veterans is inequitable and should be repealed. A veteran disabled in military service is compensated for the effects of service-connected disability. When a veteran dies of service-connected causes, or following a substantial period of total disability from service-connected causes, eligible survivors or dependents receive DIC from VA. This benefit indemnifies survivors, in part, for the losses associated with the veteran's death from service-connected causes or after a period of time when the veteran was unable, because of total disability, to accumulate an estate for inheritance by survivors.

Survivors of military retirees have no entitlement to any portion of the veteran's military retirement pay after his or her death, unlike many retirement plans in the private sector, however they may participate in the survivor benefit plan (SBP), which makes deductions from their spouse's military retirement pay to purchase a survivors' annuity. Upon the military retiree's death, the annuity is paid monthly to eligible beneficiaries under the plan. If the veteran's death was a result of military service or after the requisite period of total service-connected disability, the SBP annuity is reduced by an amount equal to the DIC payment. This offset is inequitable because there is no duplication of benefits since payments under the SBP and DIC programs are made for different purposes. Under the SBP, coverage is purchased by a veteran and paid to his or her surviving beneficiary at the time of the veteran's death. On the other hand, DIC is a special indemnity compensation paid to the survivor of a service member who dies while serving in the military, or a veteran who dies from service-connected disabilities. Surviving spouses of federal civilian retirees who are veterans are eligible for DIC without losing any of their purchased federal civilian survivor benefits. Congress should fully repeal the offset between dependency and indemnity compensation and the Survivor Benefit Plan.

## **Adaptive Housing and Automobile Grants**

Service-connected disabled veterans who have impairments or loss of use of at least one of their hands, feet or eyes may be eligible for several grants to adapt their housing or automobiles, including the Specially Adapted Housing Grant and the Automobile and Special Adaptive Equipment Grants. However when veterans who have already received these grants are forced to move to a new home, or stay temporarily in someone else's home, or need to replace an outdated automobile, they are restricted in accessing the full benefits of this program. To remedy this, Congress should establish a supplementary housing grant that covers the cost of new home adaptations for eligible veterans who have used their initial, once in-a-lifetime grant on specially adapted homes they no longer own and occupy. A separate grant should be provided for special adaptations to homes owned by family members in which veterans temporarily reside. VA should also be authorized to provide a supplementary auto grant to eligible veterans in an amount equaling the difference between their previously used one-time entitlement and the increased amount of the grant.

## **Compensation for Quality of Life and Noneconomic Loss**

Mr. Chairman, a number of recent studies and commissions have all agreed that VA's disability compensation program does not do enough and should be revised to compensate for the loss of quality of life and other non-economic losses that result from permanent disabilities suffered while serving in the armed forces. In 2007, the Institute of Medicine (IOM) recommended that the current VA disability compensation system be expanded to include compensation for noneconomic loss and loss of quality of life. The congressionally-mandated Veterans Disability Benefits Commission (VDBC), established by the National Defense Authorization Act of 2004 (Public Law 108-136), in 2007 also recommended that the, "... veterans disability compensation program should compensate for three consequences of service-connected injuries and diseases: work disability, loss of ability to engage in usual life activities other than work, and loss of quality of life." That same year, the President's Commission on Care for America's Returning Wounded Warriors, chaired by former Senator Bob Dole and former Health and Human Services Secretary Donna Shalala, also agreed that both noneconomic loss and quality of life should be factors in compensation to disabled veterans.

*The Independent Budget* concurs with all these recommendations and calls on Congress to finally address this deficiency by amending title 38, United States Code, to clarify that disability compensation, in addition to providing compensation to service-connected disabled veterans for their average loss of earnings capacity, must also include compensation for their noneconomic loss and for loss of their quality of life. The Canadian Veterans' Affairs disability compensation program and the Australian Department of Veterans' Affairs disability compensation program already do just that. It is now time for our Congress and VA to determine the most practical and equitable manner in which to provide compensation for noneconomic loss and loss of quality of life and then move expeditiously to implement this updated disability compensation program.

Mr. Chairman, that concludes my statement and I would be happy to answer any questions you or other members of the Committee may have.