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LEGISLATIVE BULLETIN

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The “Fiscal Cliff” is Looming, but is it a Threat?

At this writing, Congress and the Administration have been unable to achieve an acceptable debt reduction plan as the deadline to do so draws closer. Absent agreement, a number of federal laws expire or take effect on January 1, 2013, which will cause some disruption to federal and state governments, raise taxes significantly on every taxpayer, and portend economic “disaster,” according to numerous observers. “Sequestration,” or mandatory and automatic spending cuts, will result in large reductions across the government in thousands of federal programs, federal contracts, and will cut the federal and civilian workforces.

It is widely believed that all veterans programs are spared by law from sequestration. Nevertheless, on December 5, 2012, Chairman Jeff Miller of the House Veterans’ Affairs Committee wrote to VA Secretary Shinseki seeking another reassurance that, indeed, all of VA’s accounts are protected from the effects of sequestration, including “administrative expenses accounts,” in case the fiscal cliff is not averted. We await the Secretary’s response.

Pending Legislation

The House and Senate have a compromise agreement on the National Defense Authorization Act for Fiscal Year 2013 (NDAA). While the NDAA is primarily a Department of Defense (DOD) policy bill, it contains several provisions of interest to DAV’s legislative goals.

As detailed below, the agreement proposes to enhance areas such as translating military experience and training towards education, certification and employment; Vet Center program, programs and authorities to prevent and respond to sexual assault in the military, and suicide prevention programs. It also addresses issues with TRICARE, Combat-Related Special Compensation (CRSC), Survivor’s Benefit Plan (SBP).

Even if the House and Senate pass the compromise version of the NDAA, it faces the threat of a veto. Senior advisors to the President would recommend a veto on a number of provisions, one of which is the rejection of the Administration’s proposal to increase TRICARE fees.

Employment:

- Expands DOD pilot program on civilian credentialing for military occupational specialty skills.
- Authorizes VA to require the consideration of military training and experience when granting State certifications and licenses for nonemergency medical professionals, emergency medical professionals, and commercial driver's licenses.
- Requires DOD to submit a report on Department efforts to standardize educational transcripts issued to separating members of the armed forces.

Combat-Related Special Compensation:

- Clarifies that the maximum award under the combat-related special compensation (CRSC) statute may not, when combined with the amount of retired pay payable to a retiree after mandatory reductions are taken relative to VA disability compensation, cause the total of such combined payments to exceed the amount of retired pay the member would have been entitled to based solely on years of service.

TRICARE:

- Expresses the sense of Congress that career members of the uniformed services and those who are medically retired, and their families, endure unique and extraordinary demands and make extraordinary sacrifices and that access to quality health care services is an earned benefit during retirement in acknowledgement of their contributions of service and sacrifice.
- Rejects Administration proposal to increase some TRICARE fees and establish new TRICARE fees. It establishes cost-sharing rates under the TRICARE pharmacy benefits program for fiscal year 2013 in statute, and in fiscal years 2014 through 2022 limits any annual increases in pharmacy copayments to increases in retiree cost of living adjustments.
- Requires a report by DOD on the future availability of TRICARE Prime.
- Requires DOD to conduct a five-year pilot program to refill prescription maintenance medications for TRICARE for Life beneficiaries through TRICARE's national mail-order pharmacy program.
- Authorizes DOD to place select over-the-counter drugs on the uniform formulary, to make such drugs available to eligible beneficiaries, and to establish a copayment for these drugs.

Mental Health and TBI:

- Modifies the requirements concerning mental health assessments for members of the armed forces deploying in support of a contingency operation.
- Authorizes DOD to carry out a pilot program with community partners to enhance Departmental efforts in research, treatment, education, and outreach on mental health, substance use disorders, and traumatic brain injury in Guard and reserve members, their families, and their caregivers.
- Requires DOD to report on a plan to improve the coordination and integration of DOD programs that address psychological health and traumatic brain injury.

- Improves access to mental health care for service members, veterans, and their families at Vet Centers, other facilities, the Readjustment Counseling Program, and peer support counseling programs.

Seamless Transition:

- Requires DOD and VA to enter into a memorandum of understanding to provide for improved information sharing between the two agencies for service members deployed overseas.
- Authorizes the Chief of the National Guard Bureau to establish a program to provide Transition Assistance Advisors in each state to serve as points of contact to assist eligible members of the reserve components in accessing certain benefits and health care.
- Requires service Secretaries to report on performance data on the “Warriors in Transition” programs.
- Authorizes licensed clinical social workers and psychiatric advance practice registered nurses to conduct pre-separation medical exams for post-traumatic stress disorder.

Sexual Assault and Prevention:

- Authorizes retention of victims of sexual assault on active duty, or recall to active duty, to complete a line of duty determination.
- Requires the retention of certain records pertaining to a restricted report of a sexual assault for 50 years at the request of the service member filing the report.
- Requires regulations establishing special victim capabilities for the investigation, prosecution and victim support in connection with sexual assault.
- Enhances training and education for sexual assault and prevention.
- Modifies annual reporting requirements on sexual assault in the military.
- Requires DOD to develop a policy to require a general or flag officer to review the circumstances of, and grounds for, the proposed involuntary separation of any service member who makes an unrestricted report of sexual assault, and to concur in any such separation.
- Requires DOD to develop a comprehensive policy to prevent and respond to sexual harassment in the armed forces.
- Requires additional elements be included in DOD’s comprehensive sexual assault and prevention policy.

Suicide Prevention:

- Requires DOD to establish a position with responsibility for oversight of all suicide prevention and resilience programs of the Department and each of the services.
- Requires DOD to develop a comprehensive policy on the prevention of suicide among service members.
- Codifies the Suicide Prevention and Community Health and Response Program for National Guard and reserve component members, and requires DOD to provide suicide prevention and response training at Yellow Ribbon events.

Survivor Benefit Plan:

- Clarifies that military retirees who have elected to participate in the Survivor Benefit Plan (SBP) and who subsequently elect to waive their military retired pay in favor of a survivor annuity under the Federal Employees Retirement System do not have to continue paying premiums under SBP.

As reported previously, numerous bills we support linger in both chambers of Congress. We do not, however, at this late juncture expect the 112th Congress to enact any further bills affecting veterans or VA. Many bills are being prepared for reintroduction in the 113th Congress.

113th Congress

Chairman Jeff Miller will continue as Chairman of the VA Committee next year, and we expect to continue our strong relationship with him in his duties as our Chairman and leader. Given the departure of Representative and former Chairman Bob Filner from the House, the Democratic Caucus selected Representative Michael Michaud of Maine as the new Ranking Member of the Committee. Representative Michaud has been a champion of DAV issues during his years of faithful service on the Committee, and we have the highest regard for his bipartisan and empathetic approach to veterans issues, in the finest traditions of the House of Representatives. DAV is fortunate that Representative Michaud has accepted this important leadership position. We believe he and Chairman Miller will become an excellent team to serve the best interests of veterans.

Chairman Miller announced the VA Committee's Republican Membership on December 13, 2012, as follows:

Mark Amodei, NV
Dan Benishek, MI
Gus Bilirakis, FL
Mike Coffman, CO
Paul Cook, CA*
Jeff Denham, CA
Bill Flores, TX
Tim Huelskamp, KS
Doug Lamborn, CO
Jeff Miller, FL, Chairman
Phil Roe, TN
Jon Runyan, NJ
Jackie Walorski, IN*
Brad Wenstrup, OH*

* Denotes incoming Member

Democrats will be given a total of 11 appointments to the Committee. Mike Michaud of Maine will be the Ranking Minority Member, but other Democratic Members have not been named as of this date.

Chairman Patty Murray of the Senate Veterans' Affairs Committee has been chosen by her colleagues to assume the Chair of the Senate Budget Committee in January. Chairman Murray has been a magnificent leader on the Veterans' Affairs Committee, leading on a number of key proposals that are now law. She will be missed but in her new capacity DAV is confident Sen. Murray will protect the gains in VA that she shepherded into place in her tenure on the Veterans Committee.

The Senate has announced the Democratic members of the Committee, as follows:

Mark Begich, AK
Richard Blumenthal, CT
Sherrod Brown, OH
Mazie Hirono, HI*
Patty Murray, WA
Jay Rockefeller, WV
Bernie Sanders, VT, Chairman

*Denotes incoming Member

Republicans have not announced their Veterans' Affairs Committee members as of this writing.

Also, Senator Jim Webb of Virginia, a distinguished Vietnam combat veteran and life member of DAV, is retiring from the Senate this year. Senator Webb, elected in 2006, was the original sponsor of the Post-9/11 GI education bill, and he fought tirelessly to get that key bill enacted. He also strongly supported equality of benefits for disabled veterans in Chapter 31 education, training and rehabilitation benefits programs. We will miss Senator Webb's good counsel and leadership.

New Members of Congress

In the November elections, 80 new individuals were elected to the House and Senate combined. A few Senators were elevated from the House to the Upper Chamber, but most new Members in both bodies are true freshmen. My staff will be working hard to meet with these Members to introduce them to DAV, educate them on our key issues, advise them on legislation they should sponsor and cosponsor, and otherwise orient them to our expectations. However, this is a slow process, and our initial focus is on new members of the Veterans' Affairs Committees. Therefore, I strongly recommend you become more familiar with your new and continuing Representatives and Senators. When they schedule appearances in your communities, or provide availabilities in their local offices, please meet with them to help DAV with that educational process. This work is extremely important as we face a new year and a new Congress with all its competing challenges. For information on our key issues for the new Congress, go to: <http://dav.org/voters/LegislativeCorrespondence.aspx>, or to review our entire legislative program, go to: <http://dav.org/voters/Resolutions.aspx>.

Hearings

All DAV testimony can be read in full on our website, at: <http://www.dav.org/voters/Testimony.aspx>.

On September 14, 2012, DAV testified before the House Veterans' Affairs Subcommittee on Health, on VA Contract and purchased care programs.

On December 4, 2012, DAV testified before the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs, on transitioning paper records to digital within VA and DOD.

Enacted Legislation

Cost-of-Living Adjustment Approved by the President

On November 27, 2012, the President approved legislation to grant a cost-of-living adjustment (COLA) in VA compensation payments to wounded, injured and ill veterans, their dependents and survivors, effective January 1, 2013.

The COLA will be 1.7%, rounded down to the nearest whole dollar. As you know, we strongly support realistic COLA payments that keep pace with inflation, but we disagree with the rounding-down policy because it is a tax on disabled veterans and their survivors, those who can least afford more taxes.

DAV 2013 Mid-Winter Conference

We are looking forward to an exciting and rewarding Mid-Winter Conference, February 24-27, 2013, at the Crystal Gateway Marriott in Arlington, Virginia. A variety of seminars will be held during the Conference to educate DAV members about our vital mission and issues important to all of us. This is an opportunity for DAV members to actively participate in the democratic process both within DAV and between DAV and national political leaders. DAV National Commander Larry Polzin will deliver our legislative program to a joint session of the House and Senate Veterans' Affairs Committees, scheduled for Tuesday, February 26, 2013, at 2:00 p.m. in the Cannon House Office Building, Room 345. We hope to see you in Washington for this important event.

DAV encourages you to make appointments with your elected officials during your time in Washington. If you are unable to attend, we encourage you to schedule visits with your elected officials in their local offices in your district. Talking points will be made available about a week prior to the start of Mid-Winter Conference. For more information on the Mid-Winter Conference, go to: <http://www.dav.org/news/UpcomingEvents.aspx>. Please support DAV and your fellow disabled veterans, and all veterans, by attending the Mid-Winter Conference.

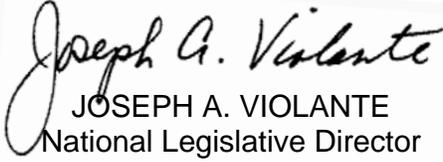
Conclusion

To ensure the successful enactment of the legislation that we support, our DAV and Auxiliary members must become active members of DAV's grassroots Commander's Action Network (CAN). All of us must do our part to let our elected officials know about our support for legislation that helps to empower ill and injured veterans to lead high-quality lives with respect and dignity. Early in 2013 DAV plans to expand DAV CAN to include all of our members who have provided DAV their email addresses in the past. In stimulating this

activity, we hope to dramatically increase participation in DAV CAN by grassroots members, to help press DAV's case to Congress on issues important to DAV and to you.

Please make a pledge to redouble your efforts to communicate our issues to your elected officials through DAV CAN and in your own personal efforts at home. Your efforts and actions are a key to our success as an organization of advocacy. To join DAV CAN now, please click here: <http://www.dav.org/voters/JoinCAN.aspx>.

Thank you for again for your continuing support for DAV's programs of service to America's injured and wounded heroes. My entire staff wishes happy holidays and a meaningful and rewarding New Year to you and your families.



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