2015 Congressional Statement of VFW National Commander John W. Stroud's

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STATEMENT OF

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COMMANDER-IN-CHIEF
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE
JOINT HEARING OF

THE COMMITTEES ON VETERANS AFFAIRS
UNITED STATES SENATE AND UNITED STATES HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

Chairmen Isakson and Miller, Ranking Members Blumenthal and Brown, Members of the Senate and House Veterans Affairs Committees, it is my honor to represent nearly 1.9 million members of the Veterans of Foreign Wars of the United States and our Auxiliaries. It is also my duty to advocate on behalf of our nation's veterans, million military service members, and all of their families.

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First and foremost, the VFW exists to serve veterans, service members and their families. We exist to serve them at home and to give them a voice in Washington—in the White House, on Capitol Hill, inside the VA, the Pentagon, and within every other federal, state and local entity that has a program created to serve or support them. We are the collective voice they are prohibited from having while in uniform, and may not know about once they become veterans, but we represent them all nonetheless—all 21 million veterans, 2.3 million servicemen and women in the active, Guard and Reserve forces, and their 50 to 75 million immediate family members.

Messers. Chairmen and fellow members, while major troop withdraws have occurred in Iraq and Afghanistan, America is still at war, with tens of thousands of troops stationed in harm's way in the Middle East, along the Korean DMZ, in Europe, and elsewhere. They provide a warfighting capability that is feared by our enemies and a humanitarian assistance capability that is the world's go-to emergency responder of first choice. They represent a highly successful 42-year-old All-Volunteer Force that no one on September 10, 2001, could have imagined doing what they have done for going on 14 years now. We must remind you, it's a long road home for service members and veterans.

The medical care and services don't end when the shooting is over; in fact, it will be another 40 years before there is a peak in health care services for the veterans from these most current conflicts.

The VFW wants to thank your committees for your understanding and commitment to ensure that the road home is as smooth as possible. Your leadership and bipartisanship has proven to the Nation that veterans are a priority. Without your intense oversight, veterans would still be waiting on hidden wait lists. Oversight wasn't enough, your committees and staff then worked tirelessly to pass a compromised bill that is setting a new course of accountability and access, through emergency legislation that ensures veterans can be seen quickly, either by VA doctors or through non-VA care.

Along the way you also passed advance appropriations to ensure monthly disability and pension checks continue should if Congress shut down the government again. Already in this new Congress, your committees and Congress passed the Clay Hunt SAV Act, to help turn the tide on veteran suicide. Achieving any one of these successes would be recognized as a banner year, so passing three major pieces of legislation within one year, through two separate congressional calendars must be recognized. Thank you!

BUDGET, VACAA FUNDING and LEGISLATIVE PRIORITIES

Budget: The VFW has continually warned Congress that sequestration will have devastating effects on veterans programs and DOD's readiness and quality-of-life programs. There is no guarantee that VA will be exempt moving forward, and if not removed, DOD will be hit especially hard. Commanders will not have the resources necessary to train for and

quickly respond to current and emerging threats. Left unchecked, DOD will have to reduce its quality-of-life programs, this is unacceptable! Furthermore, other agencies, like the Department of Labor, will be forced to reduce funding for the programs they provide directly to veterans. Congress must end sequestration!

Each year, in partnership with the Independent Budget (IB), the VFW produces budget recommendations for each of VA's major funding accounts. While the adjusted request by VA comes close to reflecting the IB request for the Veterans Health Administration (VHA), three accounts fall short. First, Medical Facilities is nearly $800 million below our request. VA's non-recurring maintenance is included in this account and it continues to be under funded, preventing VA from ensuring existing facilities can be maintained in safe and efficient conditions.

VA's Construction accounts fall about $1.1 billion short of the IB request. VA has 45 major construction projects that are partially funded and hundreds of minor construction projects that need funding. VA must submit a plan that will set a course for closing these major and minor construction gaps. VA must show how it intends to repurpose or dispose of unutilized and underutilized property, as well as reassure the veterans' communities that access to the full spectrum of care and services will continue to be provided near their homes.

Below is the IB side-by-side budget request for FY2016 and Advance Appropriations for FY2017:

	FY 2015 Appropriation	**FY 2016 Admin**	**FY 2016 IB**	**FY 2017 Adv Approp**	**FY 2017 IB Adv Approp**
Veterans Health Administration (VHA)					
Medical Services	45,224,716	47,603,202	51,593,505	51,673,000	54,183,411
Medical Support and Compliance	5,879,700	6,144,000	5,972,489	6,524,000	6,241,506
Medical Facilities	4,739,000	4,915,000	5,703,763	5,074,000	5,926,353
Subtotal Medical Care, Discretionary	**55,843,416**	**58,662,202**	**63,269,757**	**63,271,000**	**66,351,270**
Medical Care Collections	*3,065,000*	*3,248,000*		*3,299,954*	
Total, Medical	***58,908,416***	***61,910,202***	***63,269,757***	***66,570,954***	***66,351,270***

Care Budget Authority			
(including Collections)			
Medical and Prosthetic Research	588,922	621,813	619,000
Request above the Advance Appropriation request		1,300,000	
Total, Veterans Health Administration	**59,497,338**	**63,832,015**	**63,888,757**
General Operating Expenses (GOE)			
Veterans Benefits Administration	2,534,254	2,697,734	2,796,650
General Administration	321,591	346,659	330,436
Board of Veterans Appeals	99,294	107,884	117,853
Total, General Operating Expenses (GOE)	**2,955,139**	**3,044,393**	**3,244,939**
Departmental Admin and Misc. Programs			
Information Technology	3,903,344	4,133,363	3,974,781
National Cemetery Administration	256,800	266,220	260,970
Office of	126,411	126,766	128,412

Inspector General			
Total, Dept. Admin. and Misc. Programs	**4,286,555**	**4,526,349**	**4,364,163**
Construction Programs			
Construction, Major	561,800	1,143,800	1,930,000
Construction, Minor	495,200	406,200	575,000
Grants for State Extended Care Facilities	90,000	80,000	200,000
Grants for State Vets Cemeteries	46,000	45,000	48,000
Total, Construction Programs	**1,193,000**	**1,675,000**	**2,753,000**
Other Discretionary	162,372	166,090	165,132
Total, Discretionary Budget Authority	***68,094,404***	***71,943,847***	***74,415,991***

VACAA Funding: For years, the VFW has warned Congress that VA needs the appropriate resources to maintain its workforce and continue to provide timely and high-quality care and benefits to an increasing number of enrolled veterans. Last year it became very apparent that VA was managing to a budget instead of managing to the health care needs of veterans. In August, 2014, Congress agreed and passed the Veterans Access, Choice and Accountability Act of 2014 (VACAA), which provided an additional $17 billion to VA to immediately improve access for veterans who were waiting for medical appointments and to improve VA's own internal capacity. Continued underfunding will only exacerbate VA access issues and put the lives of countless veterans at risk.

The VFW acknowledges and sincerely appreciates Congress' efforts to address the budget shortfalls by passing VACAA. This Act has afforded VA the ability to make much needed progress in addressing its health care access issues, and the VFW will work tirelessly to

ensure VA is a good steward of those resources. However, Congress should not allow itself to believe that this one-time infusion of funding will solve all of VA's capacity issues. Nor should VA prematurely determine that not all VACCA funds will or can be spent where congressionally mandated. It is too early in the implementation of the Choice provision for VA to fully understand the resources it needs. VFW believes, however, that for VA to meet the ever-changing needs of veterans, some flexibility must be provided to allow the transfer of funds from one account to another. There is a compromise to be found where VA can justify and move funds based on facts and trends, and where Congress can fence funding for certain programs to ensure their legislative intent is carried out. The VFW encourages Congress and VA to work together to find a reasonable solution both side can agree to.

Legislative Priorities: With every annual budget proposal VA provides a list of legislative priorities meant to provide new or extend existing authorities. Many make sense, like extending contracts for the doctors who are providing medical disability evaluations or removing the need to submit a formal claim by a surviving spouse so they can receive survive benefits in a timely manner. Others the VFW adamantly opposes.

This year the VA has several proposals that the VFW believes will place veterans at a disadvantage when filing an appeal on their disability rating decision. It is unreasonable to put veterans at a disadvantage just so VA can process claims and appeals faster. Included in these proposals is an idea to reduce the amount of time a veteran has to file a notice of disagreement from 365 days to only 60 days. A year provides veterans the time to consult with representation, to understand their claim, to identify what may be missing or misinterpreted by VA, and to submit their notice of disagreement. Sixty days does not. VA also wants to limit its duty to assist; closing the veteran's record at the time of the rating decision, thereby preventing them from including additional evidence during the appeals process; as well as lowering the standard for VA's "reasons and bases," leaving the explanation of the decision weaker and harder for veterans to understand.

These are just an example of VA's legislative proposals the VFW believes would do harm to veterans. We look forward to working with your committees to ensure any proposals to expedite the claims process are thoroughly vetted.

VA MEDICAL CARE

With 150 medical centers, 820 community-based outpatient clinics (CBOC) and a total of over 1,700 points of care, the nation's largest integrated health care system is tasked with providing timely and high-quality health care to more than 6.6 million of the 9.2 million enrolled veterans, their families, and survivors. The VA health care system has faced many challenges in meeting its obligations to the brave men and women who have worn our nation's uniform. This is due to a continuously expanding number of enrolled veterans,

under-resourcing, systemic malfeasances, and a general culture that is resistant to change. While the majority of VFW members report being satisfied with the VA health care they receive, they continue to report unreasonably long-wait times for such care.

In April 2014, whistleblowers at the VA medical center in Phoenix, exposed rampant wrong-doing through which veterans were alleged to have died waiting for care, while VA employees manipulated waiting lists and hid the truth. Since April, similar problems have been exposed at VA medical facilities across the country, forcing the VA secretary and many top health deputies to resign. As the crisis unfolded, the VFW intervened by offering direct assistance to veterans seeking VA care; working with Congress to pass significant VA health care reforms; publishing a detailed report on ways to improve VA care; and working directly with VA to implement reforms.

The VFW convened two veterans' town hall meetings and asked veterans to call our help line, 1-800-VFW-1899, or email us their concerns at vfw@vfw.org. What we heard was both alarming and disgraceful. While some veterans said they were satisfied or acknowledged improvements, 60 percent of the veterans who contacted us reported negative health care experiences – many of whom required immediate intervention. From this feedback, the VFW compiled a report, *"Hurry Up and Wait,"* to identify national trends in VA health care, to develop a comprehensive analysis of the health care situation for today's veterans, and to outline specific policy recommendations to fix the VA health care system and hold its leaders accountable.

The VFW thanks the members of last year's Conference Committee, with special recognition to the Co-Chairmen, Senator Sanders and Congressman Miller, for their leadership in crafting and passing legislation to address many of the issues we highlighted in our report. This critical law has improved access to much needed health care, authorized the Secretary of Veterans Affairs to hold his senior executives accountable for their actions, and enabled VA to increase its capacity to provide timely and high-quality health care at its medical facilities throughout the country. While VACAA was an important step toward improving the health care veterans receive, there is still more more work to be done.

The Veterans Choice Program: The signature provision within VACAA was the establishment of the Veterans Choice Program, through which veterans waiting more than 30 days for care or residing more than 40 miles from a VA medical facility are offered an opportunity to receive health care from non-VA doctors in their communities. The program became operational on November 5, 2014, meaning VA and its partners only had three months to stand up a new veterans' health infrastructure. As a result, the VFW knew there would be issues for veterans who sought to take advantage of this new program. In an effort to mitigate problems and to gauge the pulse of the veterans' community, the VFW not only continued to publicize its national veterans' help line, 1-800-VFW-1899, we also built a new web page where veterans could learn about the program, www.vfw.org/VAWatch, and

commissioned a direct survey where affected veterans could share their experiences. We asked our members throughout the country to provide feedback on their experiences with the Veterans Choice Program and compiled an interim report on what we heard from more than 2,500 veterans, analyzing how the program has performed and made recommendations to improve it.

Prior to the roll-out of the Veterans Choice Program, the VFW was concerned that veterans would not fully understand the stringent criteria through which they would qualify for care – especially veterans who believed that they lived more than 40 miles from a VA medical facility. Our report validated our concerns, especially since VACAA insisted that all veterans who were enrolled in VA health care as of August 1, 2014, receive a Veterans Choice Card, but not all who received cards would be eligible for non-VA care.

The VFW has learned that the eligibility requirements established under VACAA for geographic inaccessibility do not align with the realities of traveling to a VA medical facility. To determine geographic eligibility, VACAA requires VA to use the geodesic, also known as "as the crow flies," distance between a veteran's residence and the nearest VA medical facility. Veterans are accustomed to reporting their driving distance when applying for beneficiary travel benefits – one of VA health care's most popular benefits. Thus, it is illogical to veterans that they can qualify for beneficiary travel of 40 miles, but not qualify for the Veterans Choice Program as a 40-miler. The intent of this provision was to ensure veterans do not travel unreasonably long distances to receive VA health care. However, the geodesic distance a veteran lives from a VA facility does not accurately capture the travel burden that veterans may face. Furthermore, using a metric that veterans feel is misleading only serves to diminish overall patient satisfaction, defeating one of the main goals of the Veterans Choice Program.

This issue has been the subject of the majority of complaints the VFW has received regarding the Veterans Choice Program. The VFW Department of North Carolina reports that several of their veterans were disappointed to learn they would not qualify for the Veterans Choice Program despite being required to travel more than 44 miles to the nearest VA medical facility. In Lakeview, Michigan, the members of VFW Post 3701 are not considered eligible for the Veterans Choice Program, even though each of them is required to travel between 45 to 70 miles to the nearest VA CBOC in Clare, Michigan.

The VFW urges Congress to amend VACAA by changing the Veteran Choice Program's geographic eligibility from geodesic distance to driving distance. In so doing, Congress would truly ensure veterans are not burdened with excessive travel to VA medical facilities. We would like to thank the members of these Committees who have sponsored legislation to address this important issue. The VFW looks forward to working with Congress to ensure this important program serves to restore veterans' trust in the VA health care system, not cause more frustration.

The VFW also learned that many veterans who are eligible for the Choice Program are not being afforded the opportunity to participate. In implementing this important program, VA elected to rely heavily on its local medical facility staff to inform veterans when they become eligible. When veterans cannot receive appointments that are within VA's wait-time standard – 30-days from the time a VA provider deems an appointment clinically necessary, or the clinically indicated date, or if no such date exists, the date a veteran prefers to be seen – they are placed on the Veterans Choice List (VCL), which is then transferred to Veteran Choice Program's contractors Health Net or TriWest. When this occurs, the local VA is required to instruct veterans to contact the Veterans Choice Program call centers to schedule appointments with non-VA providers in their community. Unfortunately, this is not occurring consistently.

The VFW's Initial Veterans Choice Program Report found that only 19 percent of the 1,069 survey participants, who reported they either live more than 40 miles from the nearest VA medical facility or could not be seen by VA within 30 days, were afforded the choice to receive non-VA care. The VFW is concerned that the lack of robust training for local VA medical facility staff is contributing to the disconnect. This is unacceptable.

VA did initiate the Veterans Choice Program Outreach Campaign to contact veterans currently on the 30-day Electronic Wait List or the VCL. As of February 12, 2015, VA has resolved more than 121,000 calls, 43,492 of which were resolved by direct contact with a veteran. Of those calls 23,833 veterans said they did not need an appointment, 7,308 of them had already scheduled an appointment and 11,893 of them were referred to the Veterans Choice Program call center. It is positive to see that more than 70 percent of veterans contacted indicated they were happy with their existing appointment or did not need an appointment. However, nearly 30 percent of the veterans who indicated they were interested in being connected with a Veterans Choice Program call center, may not have known they were eligible to obtain non-VA care.

Initial results from the VFW's second survey indicate that VA is making progress in addressing this issue. As of February 20, 2015, more than 34 percent of the 770 survey participants – who reported they reside more than 40 miles from the nearest VA medical facility or could not be seen within 30 days – were afforded the opportunity to receive non-VA care. The VFW is pleased to see progress, but more can still be done. VA must provide frontline personnel the training they need to ensure all veterans who are eligible for the Veterans Choice Program are afforded the opportunity to participate.

Data from VA's Veterans Choice Program Outreach Campaign does not show how many veterans report being interested in receiving non-VA care or how many veterans choose non-VA care when given the option. The VFW report also found that nearly 92 percent of the 850 survey participants – who either live more than 40 miles from the nearest VA medical facility or could not be seen by VA within 30-days, but were not offered the choice

to receive non-VA care – were interested in non-VA care options. However, only 53 percent of the 198 survey participants, who were given the opportunity to participate, elected to receive non-VA care. This indicates that veterans who were presented with all available options made informed decisions that were best suited for their specific circumstances. The VFW feels that this is critical to increasing patient satisfaction, which was one of the main goals of establishing the Veterans Choice Program.

Fortunately, the Veterans Choice Program is succeeding in offering options to veterans. The problem, however, is that many veterans who are eligible have yet to take advantage of the program. The VFW will continue to work with Congress, VA, the Veterans Choice Program's contractors, and stakeholders to ensure these problems are addressed and veterans are afforded timely access to high-quality care.

Non-VA Care: The VFW strongly believes that VA must remain the guarantor of all care and we support expanding VA's capacity to provide timely and quality direct care to the more than 9 million veterans enrolled in the VA health care system. We also recognize that this will not occur overnight. In the meantime, it is absolutely unacceptable for veterans to suffer. Non-VA care must be used to complement VA care when needed, but not to replace it.

The Veterans Choice Program has been a much needed boost to VA's ability to provide non-VA care. However, this important program is temporary and is not the only authority VA has to provide purchased care. It is important that VA continue to fully utilize its other non-VA care authorities and programs to provide timely care to the veterans it serves. Veterans who are not eligible for the Veterans Choice Program should be afforded the opportunity to obtain care closer to home if VA care is not readily available, especially when veterans have a medical need that can be addressed more quickly through non-VA care. This is a particular concern for veterans who live within 40 miles from a VA medical facility, but such facility does not offer the care veterans need.

For example, a VFW member from Meriden, Connecticut, was asked to travel more than 160 miles – a total of four hours each day – from the West Haven VA Medical Center to the Brooklyn VA Medical Center to receive chemotherapy and radiation treatments. He is not eligible for the Veterans Choice Program because he lives within 40 miles of the West Haven VA Medical Center, which is unable to provide him the treatment he needed. It is unreasonable to expect a cancer patient to travel more than four hours each day for treatment. VA has the authority to provide veterans like him the care they need through non-VA care if their local VA medical facilities are unable to do so. VA must use its no-VA care authority to eliminate barriers to needed health care.

It is equally important that VA begin to plan for the future and prepare for a VA health care system after the Veterans Choice Program has expired. VA must take lessons learned from this important program and apply them to its purchased care model. It must improve

current non-VA care programs, such as the Patient-Centered Community Care program (PC3) to ensure veterans continue to have timely access to high-quality care. One of the Veterans Choice Program's biggest achievements has been the standardization of eligibility for non-VA care. As VA plans for the future health care needs of the veterans it serves, it must ensure eligibility to non-VA care continues to be a standard option. VA needs to expand its capacity where it can and use non-VA care to ensure veterans have timely access to care in areas it is unable to do so.

The VFW does recognize that certain VA specialized care services, such as spinal cord injury, prosthetics, blind rehabilitation services, polytrauma care, and specialized mental health services are unique to VA and must not be hastily outsourced to private sector health care providers. Veterans turn to VA for such care because it cannot be easily replicated in the private sector. The RAND Corporation validated this sentiment in its study *"Ready to Serve,"* which found that only 13 percent of private sector mental health providers are ready to deliver culturally competent, high-quality mental health care to veterans and their families. While the VFW believes that non-VA care should be utilized to reduce access issues, we continue to believe that VA is the best place for veterans to receive their health care.

Women Veterans Health Care: The number of women veterans has grown steadily over the past decade and will continue to grow moving forward. It is estimated that women veterans will make up 11 percent of the total veterans population by the year 2020. This is a significant increase from 2013, when women veterans were less than 8 percent of the veteran population. VA must be ready and able to provide the gender-specific care, which women veterans deserve and earned.

VA has made a concerted effort to address gender specific deficiencies in its programs. One example is the establishment of the women's prosthetic workgroup, which was created to eliminate barriers to prosthetics care for women, explore contracting and procurement actions that provide devices made specifically for women, identify emerging technology for women, and propose ideas for research and development. As a result of its efforts to adjust the prosthetic services it provides women veterans, VA now offers pregnancy related items such as nursing bras, breast pumps, and other maternity items at nearly every VA medical facility.

As VA continues to improve and development prosthetics for women based on the physical effects of war, VA must also focus their research on the psychological and environmental effects war has on women veterans as well. VA must understand any differences in the causes, symptoms and treatment modalities between male and female veterans as they relate to mental health conditions and toxic exposure. Without such research, women veterans may go unnecessarily undiagnosed and untreated for serious conditions. Congress must ensure VA has the resources it needs to conduct such research.

VA must continue to make progress and ensure that access, quality, safety, and patient satisfaction of its health care programs are equal amongst men and women veterans. The VFW urges Congress to demand progress reports from VA, to conduct greater oversight of women veterans programs, gain more insight directly from women veterans themselves, and identify barriers or gaps in VA care and services for women veterans.

Due to the widespread use of improvised explosive devices during the wars in Iraq and Afghanistan, both female and male service members have suffered from spinal cord, reproductive, and urinary tract injuries. Many of these veterans hope to one day start families, but their injuries prevent them from conceiving. When these veterans seek fertility treatment from VA, they're told VA services are very limited. In fact, VA is explicitly precluded from providing certain fertility treatments like In Vitro Fertilization. Congress must correct this inequity and authorize VA to furnish counseling and treatment for severely wounded, ill, or injured veterans who have an infertility conditions incurred or aggregated in the line of duty. The VFW supports Senator Murray's bill, S. 469, the Women Veterans and Families Health Services Act of 2015, which would authorize VA to utilize assisted reproductive technologies, provide veterans non-assisted reproductive technology options like adoption, and authorize VA to provide fertility treatment and services to non-veteran spouses.

The VFW also believes that external barriers to access should be removed to ensure veterans are afforded the opportunity to receive the VA health care and services they need. The VFW has heard from veterans who are unable to keep their VA appointment because they lacked childcare services. We are pleased to see that S. 469 would also require VA to expand its very successful Childcare Pilot Program to every VA medical center. This program has been well received by veterans at all four pilot sites. We have heard anecdotal stories of veterans who say they could not have completed their treatment programs if not for the childcare services offered through VA's Childcare Pilot Program. The VFW urges Congress to expand this important program to every VA medical center.

Mental Health and Suicide: The VFW thanks Senator McCain and Congressman Walz for introducing the Clay Hunt Suicide Prevention for American Veterans (SAV) Act, and the members of these Committees for their hard work in securing its unanimous support and swift passage in the House and Senate. SAV made significant strides by incentivizing psychiatrists to work at VA medical facilities, authorizing VA to collaborate with local non-profit mental health organizations, and expanding VA's successful peer support networks. But that is just the start. Congress must continue to expand DOD awareness programs and increase access to successful programs like peer support and community-based programs, and ensure veterans who are discharged from the military for psychological conditions have access to VA health care.

Suicide among military personnel and veterans presents the most serious challenge to VA, the Department of Defense and the nation. A recent study of Iraq and Afghanistan veterans finds that recently discharged veterans are up to 61 percent more likely to commit suicide compared to the United States general population. The study found that more than 9,300 recently discharged veterans committed suicide between 2001 and 2007.

Equally as troubling is the suicide rate in our armed forces, which steadily increased through 2012. Suicides in the U.S. military surged to 349 that year, meaning there were more suicides among active duty service members than there were combat deaths. In response, DOD aggressively expanded its suicide prevention programs, and the most recent data from the Army indicates that these efforts are having a positive effect. Suicides among active duty soldiers fell from 185 in 2012 to 150 in 2013; a 19-percent drop. The VFW is pleased to learn of this declining trend, but believes that the numbers are still far too high, recognizing that even one military suicide is one too many. We must continue to do everything we can in the coming year to ensure that DOD is providing adequate behavioral health counseling programs, and is actively engaged in reversing the negative stigma associated with seeking help to finally end this horrible epidemic.

Veterans' suicide weighs heavily on our nation, and especially those of us who have served in uniform. When a veteran or service member becomes so hopeless that they decide to take their own life, it is equally as devastating as a life lost in combat. What makes suicide perhaps even more tragic, however, is that it is often preventable when awareness programs and treatment options are readily available.

VA must also address a significant issue with the process for evaluating whether veterans with less than honorable discharges are eligible for VA health care benefits. Eligibility for VA health care is determined by many factors including character of discharge. Under VA regulations, a veteran who meets other eligibility criteria and has a discharge that is other than dishonorable is eligible for VA health care. However, VA's process for determining which veterans are considered to have a dishonorable discharge is flawed, and generally results in veterans who have anything less than an honorable discharge being denied health care eligibility. An Other That Honorable Discharge is not the same as a Dishonorable Discharge. This is a particular concern for veterans who served honorably in combat, but were administratively discharged upon returning home due to relatively small infractions like missing formations or being charged with alcohol related incidences. VA regulations do not consider discharges for minor offenses as dishonorable, if such veteran's service was otherwise honest, faithful and meritorious. Unfortunately, VAs' process for determining health care eligibility is not consistent and often fails to properly account for their entire service.

Without access to VA health care those suffering from service-related mental health injuries are left on their own to deal with their mental health symptoms, making recovery nearly

impossible. The VFW urges Congress to evaluate VA's process for determining health care eligibility for veterans with less than honorable discharges.

A second group of veterans Congress must assist is those who erroneously received administrative discharges for personality disorder (PD) or adjustment disorder (AD), but were actually suffering from Post-traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), or Military Sexual Trauma (MST). These PD or AD diagnoses are considered preexisting conditions by the military and, therefore, disqualify the veteran from certain benefits. On September 3, 2014, then-Secretary of Defense Chuck Hagel issued a memo to require the Board for Corrections of Military Records and the Board for Corrections of Naval Records to apply liberal consideration of Post-Traumatic Stress Disorder (PTSD) when considering discharge upgrades. Secretary Hagel's guidance has a tremendous impact on a Vietnam veteran's ability to upgrade erroneous administrative discharges they received as a result of their mental health conditions before PTSD was considered a debilitating health condition. However, this guidance does not assist current era veterans who apply to Discharge Review Boards (DRBs) to have their discharges upgraded.

Since September 11, 2001, approximately 30,000 veterans have been discharged for PD or AD. A 2008 review by the Government Accountability Office found that rates of service compliance with DOD regulations for diagnosing and discharging service members for those disorders was as low as 40 percent. The VFW suspects that this is because the administrative discharge process for PD and AD is much more expedient for the military unit than the medical evaluation board process required to discharge a service member for a condition acquired while in service. If this is the case, even in only some instances, it is wrong.

Unfavorable discharges cut veterans off from VA education benefits and make them undesirable to employers. This often propels them into a cycle of joblessness, substance abuse, homelessness, and even suicide. When these veterans seek to alter their characterizations of discharge based on matters relating to PTSD, TBI or MST, the military places the burden of proof solely on the veteran to show that an error or inequity occurred.

The VFW urges Congress must amend DOD's discharge review process to correct this inequity. Instead of presuming that discharges were correct and placing the burden of proof solely on the veteran to prove otherwise, DRBs should presume administrative irregularity and place the burden of proof on DOD to show that the discharge was just. DRBs should also be required to review medical evidence provided by VA or civilian providers in determining the extent of the veteran's mental health conditions. The VFW does not want to hinder the military's ability to enforce good order and discipline within its ranks, and does not believe in amnesty for every service member who engages in misconduct. We do, however, believe that those with mental health injuries should be provided an equitable

system of due process.

Traumatic Brain Injuries (TBI): According to DOD's Defense and Veterans Brain Injury Center, more than 300,000 service members have been diagnosed with TBI between 2000 and 2014. Of the nearly 400,000 combat veterans, who have been screened for PTSD and TBI at VA's polytrauma centers, 54,000 have screened positive for possible TBI. In its recent report, "*Gulf War and Health, Volume 9: Long-Term Effects of Blast,"* IOM stressed that identifying biomarkers to diagnose TBI is vitally important to studying the long-term outcomes of exposures to blasts and recommended that VA conduct epidemiologic and mechanistic studies to identify such biomarkers. VA has made a laudable effort to understand the root cause of TBI and identify best practices to treat such causes. A recent study supported by VA's Office of Research and Development has made progress in identifying a possible biomarker for diagnosing TBI. The study utilized technology developed by the New York University Langone Medical Center to successfully assess brain injury among participates by tracking eye movements. VA must continue to research the effects of TBI on cognitive and behavioral functions and develop treatment programs for any and all research that shows promise in bringing improved health and quality of life to effected veterans.

Caregivers: Family caregivers who choose to provide in-home care to veterans who were severely disabled in the line of duty truly epitomize the concept of selfless service. They choose to put their lives and careers on hold, often accepting great emotional and financial burdens. They do so recognizing that their loved ones benefit greatly, both in terms of health outcomes and quality of life, by receiving care in their homes as opposed to institutional settings. The VFW strongly believes that contributions of family caregivers cannot be overstated, and that our nation owes them the support they need and deserve.

For this reason, the VFW strongly supported the Caregivers and Veterans Omnibus Health Services Act of 2010 (Caregivers Act), which provided a monthly stipend, respite care, mental and medical health care, and the necessary training and certifications required for caregivers of severely disabled Post-9/11 veterans. One of the requirements of the Caregiver Act was for VA to submit a report to Congress examining the feasibility of expanding eligibility for comprehensive caregiver benefits to those who care for severely injured veterans of previous eras. That report, issued in September 2013, estimated that between 32,000 and 88,000 Pre-9/11 veterans would become eligible for the program at a total estimated cost of $1.8 to $3.8 billion, per year. VA stated that such an expansion would be operationally feasible, so long as Congress gives them the necessary funding to administer the programs and hire the required additional staff.

The VFW hears from our members often about this issue, and their message is clear: they strongly support expanding full caregiver benefits to veterans of all eras. As an intergenerational veterans service organization that traces its roots to the Spanish-American

War, this is not surprising. Our members are combat veterans from World War II, the wars in Korea and Vietnam, the Gulf War, and various other conflicts, in addition to the wars of the current era that are covered by the Caregiver Act. They rightly see no justifiable reason to exclude otherwise deserving veterans from program eligibility simply based on the era in which they served. Accordingly, we strongly urge Congress to pass legislation to expand the Family Caregiver Program to all eras. We feel that such legislation would correct a great and clear injustice.

Recently, we received correspondence from a caregiver in Wisconsin whose husband was shot 18 times in Vietnam, resulting in the amputation of his left leg above the hip, his left thumb, and severe neuropathy of the left arm from a gunshot wound to the wrist. Due to his extreme physical injuries, she has been assisting him with his activities of daily living for more than 25 years. Another caregiver of a Vietnam veteran from Pennsylvania shared with us that he requires 24/7 care due to his severe PTSD which manifests as psychotic episodes, putting him at risk for suicide. She is a registered nurse who was forced to quit her job in order to care for her loved one. Both of these spouses have chosen to accept the task of serving as caregivers rather than see their family members institutionalized, even though both veterans would qualify for full nursing home benefits. They believe, as we do, that the veterans they care for experience a much greater quality of life by living at home, despite the massive challenges they face. The VFW strongly believes that caregivers should not be forced to choose between placing their family members in institutional care settings and exposing themselves and their families to severe financial hardship. There is a better alternative, and that's to expand the Caregiver Act.

Additionally, the VFW strongly believes that program eligibility must be expanded to include caregivers of veterans who suffer from severe service-related illnesses, which are explicitly left out of the current VA caregiver provision. The Department of Defense provides support to family caregivers of members of the armed forces who are catastrophically disabled through its Special Compensation for Assistance with Activities of Daily Living (SCAADL) program, which includes disability caused by illnesses in its eligibility requirements. Although service-related diseases affect veterans of all eras, we note that this issue is of particular importance to Gulf War veterans who continue to suffer at high rates from horribly debilitating diseases associated with Gulf War Illness. The VFW believes that it is necessary to fully align VA caregiver benefits with the SCAADL program, creating a more seamless transition for the most severely disabled veterans, and ensuring that those who care for them receive the support they need.

Exposures and Other Environmental Hazards

Veterans deserve to know whether their malaises were caused by exposure to toxins during their military service. Congress and VA must devote the proper time and resources in research to make objective and evidence-based determinations regarding the health

conditions associated with toxic exposures. We cannot allow veterans to continue to struggle; it's time that we provide them the care and benefits they deserve.

C-123 Veterans: During the Vietnam War, C-123 aircraft were utilized to spray toxic herbicides throughout Vietnam. After the Vietnam War, those same C-123 aircraft were repurposed and reassigned to Air Force Reserve units throughout the country, where they were used by Air Force reservists for training, military airlifts, and medical and cargo transportation, as well as mosquito abatement spraying. Many of these veterans now suffer from many of the conditions that have been linked to exposure to Agent Orange. However, VA has vehemently opposed any notion that these veterans where exposed to enough Agent Orange during their duties aboard the previously exposed aircraft to cause adverse health effects.

In its recent report, *"Post-Vietnam Dioxin Exposure in Agent Orange Contaminated C-123 Aircraft,"* IOM estimated that up to 2,100 Air Force Reservists worked on C-123 aircraft that had been previously used to spray herbicides during the Vietnam War. After diligently considering relevant evidence, available sample data, and the current body of work on the health effects associated with exposure to Tetrachlorodibenzodioxin (TCDD), the Committee determined that Air Force Reservists who worked on previously exposed C-123 aircraft "were exposed (in the technical sense of the word of having bodily contact with the chemicals) to the components of [Agent Orange] to some extent."

VA has acknowledged that this IOM report contradicts its stance on whether C-123 veterans were exposed to enough TCDD to cause adverse health effects. In response to the IOM report, VA has established a workgroup to review IOM's report and make recommendations. On January 31, 2015, the VFW sent a letter to VA Secretary McDonald urging him to extend Agent Orange presumptive authority to the aircrews of these aircraft. The VFW will not accept any action short of granting C-123 veterans the care and benefits they deserve. This includes amending VA regulations so veterans who served as pilots and aircrews on these contaminated aircraft receive equitable treatment when applying for VA disability compensation.

Korean DMZ: DOD and VA have identified particular units assigned to areas along and near the demilitarized zone in the Republic of Korea from April 1, 1968, and August 31, 1971, that are presumed to have been exposed to toxic herbicides. The VFW strongly believes the qualifying date for presumptive exposure needs to be expanded. Such dates exclude many veterans whose duties along the Korean DMZ exposed them to Agent Orange, and who now suffer from diseases and illnesses that have been directly linked to the chemical defoliant.

In fact, the dates acknowledged by VA contradict those established by Congress. In Public Law 108-183, the Veterans Benefits Act of 2003, Congress expanded VA's Spina Bifida Program to the biological children of veterans who served near the Korean DMZ between September 1, 1967, and August 31, 1971. The Committees on Veterans' Affairs of the Senate

and House of Representatives used evidence obtained by Committee staff and information provided by DOD to establish presumptive dates from the earliest possible use of toxic herbicides near the Korean DMZ to a date that accounts for the half-life of such toxins. However, when VA elected to align its compensation regulations regarding presumptive herbicide exposure for veterans who served in or near the Korean DMZ, it ignored the Veterans Benefits Act of 2003 and refused to extend compensation benefits to veterans who served near the Korean DMZ before April 1, 1968. VA must correct this inequity and align its presumptive date's with Congressional intent.

The VFW also believes that the end date recognized by VA and DOD and established by Congress does not accurately account for the half-life of Agent Orange in the soil of sprayed areas. DOD asserts that use of Agent Orange near the Korean DMZ ceased in 1969. When Congress and VA set presumption dates for Korean DMZ veterans, they expanded the end date beyond 1969 to account for residual exposure. Although the half-life of 2,3,7,8 TCDD – a human carcinogen found in Agent Orange – may be between one year and three years on soil surfaces, studies conducted by the Environmental Protection Agency and the United States Department of Agriculture have determined that TCDD is resistant to biodegradation and can remain in soil interiors for up to 12 years. A similar study conducted by the Canadian company Hatfield Consultants Ltd., in collaboration with the government of Vietnam, found a "hot spot" of TCDD contamination at a former U.S. Special Forces base in the Aluoi Valley in 1997. The soil found in this abandoned base continued to exceed Canadian health standards more than 30 years after initial spraying of Agent Orange in the area.

Last year, the Board of Veterans' Appeals (BVA) relied on a similar study to establish a medical nexus between a veteran's type II diabetes and his exposure to herbicides during his service along the Korean DMZ between February 1976 and March 1977. BVA granted the veteran service-connection because his duties along the Korean DMZ required him to excavate soil from the barrier fence and guard posts. Although BVA decisions do not set a precedent, VA must properly consider studies on the half-life of TCDD when making service-connection decisions at the regional office level. VA must ensure its regional offices are aware that the half-life of TCDD in soil interiors could result in veterans who served along the Korean DMZ after August 31, 1971, being exposed to toxic herbicides if their duties required them to excavate soil that was previously sprayed with Agent Orange.

Fort McClellan: From 1943 to its closure in 1999, Fort McClellan, Alabama, was home to thousands of soldiers in the Women's Army Corps, the Army's Military Police Corps, and the Army's Chemical Corps. It was forced to close in 1999 due to investigations by the Alabama Department of Public Health, the Alabama Department of Environmental Management, the Agency for Toxic Substances and Disease Registry, and the EPA, which discovered evidence of Polychlorinated Biphenyl (PCB) contamination in Fort McClellan's neighboring town, Anniston.

The VFW has heard from several veterans, who suffer from deteriorating health conditions that are consistent with exposure to PCBs, that they are unable to obtain the care and benefits they need because their service at Fort McClellan is not considered presumptive exposure to toxic substances. Despite continued pressure by Congress and veterans service organizations, the Army and VA have failed to establish a health registry to conduct comprehensive studies on the effects of toxic exposure at Fort McClellan, which would be necessary in order to justify the extension of any presumptive service connection or health care benefits to veterans who may be suffering from such exposure.

The VFW appreciates Congressman Tonko's leadership and advocacy regarding the Fort McClellan Health Registry Act. Through his work, we have discovered the true rational for the Army's hesitance – the budgetary burden that would come with identifying these veterans. Cost should never be a factor when considering benefits that veterans deserve. Their sacrifice to our country outweighs any cost. These veterans have waited long enough. It is time for Congress, VA, and DOD to establish the Fort McClellan Health Registry.

Descendants of Exposed Veterans: The VFW also recognizes the need for more research on the health effects of toxic exposures on the descendants of individuals who were exposed to such substances during their military service. In its report *Veterans and Agent Orange: 2012 Update,* IOM stated that "the amount of research providing reliable information on the consequences of paternal exposure is extremely sparse not only for [Agent Orange] but also for the full array of environmental agents that may pose threats to the health of future generations." The existing body of research on this topic has established an association between certain birth defects and exposure to Agent Orange.

However, exposure to toxic substances is not limited to Agent Orange. VA has the responsibility to research whether the descendants of veterans who have been exposed to other toxic substances, such as the approximately 650,000 veterans and family members who were exposed to contaminated water in Camp Lejeune, are at risk of developing adverse health conditions. The VFW urges VA to conduct and furnish extensive research on the adverse health outcomes associated with toxic exposures and their effects on the descendants. VA needs to be more forward thinking about what sort of exposures need research, rather than waiting for problems to reach critical mass. Current era veterans should not have to wait decades for care, like with Agent Orange. The VFW thanks Senators Moran and Blumenthal, and Congressmen Benishek and Honda for introducing the Toxic Exposure Research Act of 2015, which would establish an advisory board to assist VA in determining the association between adverse health conditions and exposure to toxic substances. It would also establish a national center for research to study the health effects of toxic exposures on the descendants of individuals who were exposed to such substances during their military service. The VFW strongly urges passage of this important legislation.

Burn Pits: The use of open air burn pits in combat zones has caused invisible, but grave

health complications for many service members, past and present. Particulate matter, polycyclic aromatic hydrocarbons, volatile organic compounds and dioxins – the destructive compound found in Agent Orange – and other harmful materials are all present in burn pits, creating clouds of hazardous chemical compounds that are unavoidable to those in close proximity.

On December 8, 2014, VA and DOD held a Joint Airborne Hazards Symposium to report on the status of recent and current airborne exposure studies. During this event, the VFW learned that epidemiologic studies sponsored by VA and DOD have been unable find a direct cause and effect relationship between exposure to burn pits in Iraq and Afghanistan and abnormal pulmonary conditions prevalent among Iraq and Afghanistan veterans. The VFW is concerned about the impact of sampling error on the results of these studies. Specifically, several VA and DOD-sponsored epidemiologic studies compare the difference in pulmonary health conditions between veterans who deployed to Iraq and Afghanistan and those who did not deploy. However, such studies do not control for the realities of deploying to combat zones. Often, the deployed veteran's sample included veterans who were deployed, but whose duties did not require them to work in or near burn pits. Studies comparing the two cohorts must focus on veterans whose duties in or near burn pits exposed them to harmful airborne hazards.

Current VA and DOD-sponsored epidemiologic studies also lack specific location and event data to properly control for veterans who were directly exposed to hazardous chemical compounds created by burn pits. The Defense Health Board's study, *"Pre- and Post-Deployment Evaluation of Military Personnel for Pulmonary Disease Related to Environmental Dust Exposure,"* found that "Epidemiologic studies are compromised by the lack of access to classified individual deployment location data." In order to properly evaluate the health effects of burn pit exposure, VA and DOD must conduct event and location specific research.

Gulf War Illness: The more than 200,000 Persian Gulf War veterans who suffer from conditions that cannot be explained by medical or psychiatric diagnoses, such as chronic widespread pain, cognitive difficulties, unexplained fatigue, and gastrointestinal problems, have been waiting far too long for the benefits and care they need. These veterans deserve to know whether their military service caused their negative health conditions. Congress, DOD and VA must make a concerted effort to study the root causes of Gulf War Illness and develop effective treatments to address such causes. The VFW strongly believes that studies on Gulf War Illness must be independent and free of any biases by DOD and VA.

Capital Infrastructure

The vastness of VA's capital infrastructure is rarely fully seen or understood. VA currently manages nearly 6,000 buildings and almost 34,000 acres of land with a replacement value of approximately $45 billion. There are four cornerstones to VA capital infrastructure:

major construction, minor construction, non-recurring maintenance (NRM), and leasing. Each year, VA presents an analysis of the current and future gaps in access, utilization and safety. The current number of gaps is more than 4,000, and VA estimates that to close all gaps will cost between $56 and $69 billion.

As VA works to close these gaps, they and Congress must make it a priority to maintain what we have, finish what has been started, and chart a long-term plan to effectively close future gaps.

To maintain what they have, VA must ask for and Congress must appropriate $1.35 billion dollars annually as an NRM baseline so facilities can be maintained for their projected lifecycle. Unfortunately, VA had historically requested far less than the baseline, so there is growing backlog of NRM projects that cannot be ignored. The *Veterans Access, Choice, and Accountability Act of 2014* (VACAA) provides $759.2 million for FY 2015 and $532.6 million for FY 2016 for NRM projects. This funding should be viewed as a supplement to, and not a part of the $1.35 billion baseline. Once these funds are expended, Congress will still need to provide funds in future years above the baseline to reduce the backlog of NRM projects.

Minor construction projects generally extend facilities' lifecycle by enhancing the use of existing facilities by improving parking, updating emergency rooms, and adding privacy to patient rooms among other improvements. VACAA also provided supplementary funds for minor construction projects. For FY 2015, an additional $383.2 million, and for FY 2016, $128 million, has been obligated to reduce the number of minor construction project. Again, this funding is a supplement, not offsets, for future construction appropriations. Congress will still need to appropriate approximately $750 million annually for minor construction projects until the backlog is reduced.

Finishing partially funded major projects must also be a priority. VA currently has more than 50 major construction projects that have appropriations obligated to them. VA must present their plan on how to complete these projects. It is unacceptable that projects that first saw funding in FY 2007 are not completed. It will take an estimated $10 billion for them to be fully funded. VA must work to get them back on track and completed. VA will need to invest approximately $2 billion annually to complete all partially funded projects within the next five years – a reasonable goal.

Leases are the last cornerstone to maintaining high-quality health care delivery system. By no fault of their own, VA now has a backlog of lease contracts that need to be awarded and built. Under the current process, it will take two years to complete these projects, on top of the two years that it has taken Congress to authorize them. Congress must find a way to quickly authorize funding for future leases and grant VA the authority to bid these contracts independently from the current Government Services Administration model of leasing.

VA's Strategic Capital Investment Planning program clearly identifies the current and projected 10-year gaps in delivery of health care. What is missing is a long-term strategy to effectively close these gaps in the most veteran-centric and cost effective way. This must include a strategic plan for removing unutilized or underutilized space so VA can invest the funds used to maintain these building into facilities that can provide direct care for veterans. Facilities will need to be replaced, improved and reduced over the years, and the method used to decide when and how to move forward with these projects must be comprehensive. VA can no longer afford to build a new facility and within three years have a need to expand the facility because VA didn't properly forecast the need. Nor should VA feel compelled to maintain a specialty that is so underutilized that it becomes cost prohibitive.

The Veterans Health Administration (VHA) of the future must be more flexible than it is today. VA must leverage public-private partnerships, not just with universities, but with community partners, and not just for space, but for services. VA must build what it needs, share what it can, and buy what it must, to effectively provide quality health care for generations to come.

ACCOUNTABILITY

The Veterans Access, Choice, and Accountability Act of 2014 (VACAA) gave the Secretary of Veterans Affairs unprecedented authority to hold VA's Senior Executive Staff accountable for neglecting their duties to veterans. This law is a good first step to ensure bad VA employees do not disrupt the great work of the overwhelming vast majority of good employees. While the focus of the law has been on whether VA should target individual Vetearns Health Administration (VHA) administrators, it is equaly important to hold Veterans Benefits Administration (VBA) leaders accountable.

Over the past year, most oversight resources have been focused on access to health care. However, VBA needs Congress' critical eye as well. The VA's Office of Inspector General (VAOIG) found cases in Houston and Los Angeles where employees manipulated data to meet VBA's claims processing timeliness goal. In both instances, the VAOIG concluded that the employees misunderstood management's instructions. However, both cases are good examples of how VA employees are feeling extreme pressure and will do whatever it takes to meet VBA's extremely difficult to achieve goals.

More alarmingly, VAOIG found that VBA methodically removed all claims where VA awarded a provisional rating from their inventory despite needing to do more work on the claim. The result of this particular action taken by VBA could very well mean that some veterans may never receive accurate or final rating decisions if VA's operating practices are not scrutinized. This attempt by VBA's leadership to distort VBA's actual workload of pending claims creates a cultural where taking shortcuts or outright lying is encouraged, much like we saw last year with the VHA crisis in care and confidence. Congress must continue to scrutinize VA data to ensure veteans are receiving timely access to both benefits

and health care.

Chairman Miller recently introduced three bills that provide the Secretary increased authority to enforce accountability. The VFW believes it is important for Congress to pass H.R. 280, a bill that authorizes the Secretary of Veterans Affairs to recoup bonuses and awards paid to employees of the Department of Veterans Affairs; H.R. 473, which amends title 38, United States Code, to improve the accountability of employees of the Department of Veterans Affairs; and H.R. 571, the Veterans Affairs Retaliation Prevention Act of 2015. All three bills will work to hold employees accountable for their actions, rebuild veterans' confidence in VA, provide clear authorities to the Secretary, and allow good employees to have a work environment that is void of lies and intimidation.

Ensuring programs and health care are readily available for veterans is a direct responsibility of every member of Congress. The VFW will also hold members of Congress accountable if they choose not to support VA programs and funding, especially those who voted to send troops to war over the past decade.

Veterans Benefits Administration

Workload and backlog: An all-out push by the Veterans Benefits Administration (VBA) over the past year reduced the disability compensation and pension workload by nearly 134,844 claims.

The data is clear, however, that this reduction came at the expense of often more difficult work, such as appeals and original disability claims with 8 issues or more. Appeals increased by nearly 21,300 during this period while disability claims with 8 or more issues increased by nearly 5,000. In addition, claims for dependents continued to skyrocket by over 28,000 claims in spite of new rules based decision making tools and the use of a contractor. Dependency claims are up a whopping 220,000 from 40,000 just a few years ago.

With the creation of the Secretary's twin goals of no claim older than 125 days and quality at a 98 percent level, VBA has focused with military style precision on reducing the disability claims workload, while other claims and appeals have been summarily ignored. Seventy-six percent of dependency claims are over 125 days old while appeals average over 3 years before the Board of Veterans Appeals makes its first decision.

To accomplish its goals, VBA tried to redefine its "workload" and "backlog" as only disability claims, and then diverted nearly all its people to working only those cases. This is totally unacceptable.

Quality of Claims Processing: It is not just the process and workload that VBA is trying to redefine. Traditionally, VA measured quality by determining whether any decision made

in a claim was in error. It wasn't that long ago that error rates for some regional offices approached 30 percent. Today, with the use of rules based decision making tools, error rates have improved. Fiscal year 2014 ended with an average 9 percent error rate in ratings. The worst office remains Baltimore with a 19 percent error rate.

VBA isn't satisfied with its self-assessed improvement in quality. It seeks to redefine quality by giving a thumbs-up, thumbs-down by issue. Under this schema, if a claim has 5 issues and only one is wrong, than the decision isn't wrong, it's 80 percent right. Using this methodology, VBA asserts that issue based quality in 2014 was 96 percent correct (4 percent in error).

The VFW isn't complaining about the improvements in quality; what we think is wrong is that VBA is attempting to redefine how quality is measured, and in doing so, makes it look better than it is. VBA should be celebrating the real quality advances it has made, largely through the use of rules based decision making software. What is disappointing is that VBA attempts to lay claim to better numbers than it deserves. In a sense, VA is attempting to Gerrymander its way to quality claims processing without actually doing the job right.

The VFW conducts random reviews of VA rating decisions when performing staff visits to VFW offices. These reviews reveal error rates 7-10 points higher than what VA finds in its own quality reviews for those offices. What this suggests is that for whatever reason, VA quality reviews are not as rigorous as needed to identify all errors in the decisions it makes.

The VFW believes that the VBA quality assurance program should be reviewed by an independent team of quality experts to ensure that the methodology for sampling decisions, as well as the actual review of ratings, is sufficient to identify all the errors present in those cases.

Inadequate Notice of Decisions: VBA has always struggled to provide adequate reasons and bases for its decisions to claimants. With the advent of the veteran's court in 1988, the adequacy of the reasons and bases provided in BVA decisions came under increased scrutiny. A host of decisions by both the Court of Appeals for Veterans Claims and the Court of Appeals for the Federal Circuit, helped define for the BVA what constituted adequate reasons and bases. In the two decades that followed the creation of the Court, the Compensation Service tried to conform to those decisions, requiring additional detail in its rating decisions. Notice letters to claimants became longer and ever more confusing. Finally, VBA shortened, at least somewhat, the notice letters and began attaching copies of the rating narrative to them so that claimants could have the reasoning used by the raters to justify their decisions.

This practice came to an end several years ago when VBA created the Simplified Notification Letter. This letter, and its progeny, was designed to work in tandem with a substantially changed rating decision. Under this schema, many rating decisions would be significantly

shortened and codes would be included at the end of the rating as shorthand for notice letter writers. These codes told the notice letter writers which generic paragraphs to include in the notice, greatly reducing the time it takes to produce a decision notice letter.

While some changes were made to allow raters the option to supply their own reasons and bases for their decisions, as a practical matter, raters very quickly adopted the abbreviated code system to speed up their ability to complete ratings.

While the notice of rating decisions has evolved with the creation of VBMS, the fact remains that most notices of rating decisions supply a decision (e.g., your claim for service connection has been denied) and a generic justification without analysis or explanation (e.g., the evidence does not show that your condition was incurred or aggravated while on active duty).

The VFW is working with VA to design a letter format that will provide efficiency within VA while providing veterans with a clear explanation of their rating decision.

The VFW makes the following recommendations to improve notice of decision letters so that claimants have the information they need to understand what was decided, what evidence was used, how it was weighed, and what the reasons and bases are for each decision:

- Provide a better summary of evidence considered in deciding each claim. While the summary need not be as extensive as required of the BVA, it should be substantive enough to allow a claimant to identify the specific evidence used in each decision.
- Provide analysis of the evidence as well as reasons and bases for each decision. Again, it need not be as extensive as what is required of the BVA, but it should be sufficient for claimants to identify the specific evidence used in each decision, why certain evidence was weighed differently or considered more significant than other evidence, and why a grant of the benefit sought under the law could not be made.

VBA should return to the practice of attaching the rating narrative to each notice letter. This will enable the claimant to review the actual decision without the filter imposed under current procedures.

Appeals: VA reports that 10 to 11 percent of all VBA decisions are appealed each year.[1] VA also says that it made over 1.3 million decisions in compensation and pension disability claims in FY 2014, which is over 150,000 more decisions than ever before.[2] At a 10 percent

appeal rate, VBA would expect to receive approximately 130,000 Notice of Disagreements (NODs) based on those decisions, roughly 13,000 more than in the previous year.

Every one of these NODs require a Statement of the Case (SOC). However, once claimants receive the SOC, only about 50 percent, for whatever reason, submit a substantive appeal. Roughly half of all claimants do not continue their appeals. In FY 2013, it took VA 295 days to issue a SOC.

It is therefore in the best interest of VA to process SOCs as quickly as possible. Even though some claimants have more than 60 days in which to submit a Substantive Appeal (Form 9), the average time it takes a claimant to decide to continue the appeal with the submission of the Form 9 is 40 days. The faster VBA processes SOCs the less time claimants have to submit additional evidence (which must be considered before issuing a SOC). Therefore, it is in the best interests of VBA to issue SOCs as quickly as it can. Why doesn't it do so?

It is our opinion that the appeals function in VA regional offices is still critically understaffed. The data shows that it took VBA 295 days, on average, to issue a SOC, and another 725 days from receipt of the Form 9 to certification to the BVA. That means that the average appeal spent an average of 2.8 years in regional offices before the BVA received it. Nearly all of that time was spent waiting for an employee to take the next step.

Despite substantial VBA staffing increases over the past five years, it is evident that this increased workforce has been focused on increasing decisions in disability claims. VBA has neglected large segments of other work in order to give the illusion that it is making progress on reducing its "workload" (self-defined as disability compensation and pension claims) and its "backlog" (again, only disability compensation and pension claims). The data clearly shows that other pending work, such as dependency claims and appeals, have skyrocketed in the last three years.

VA must properly staff the appeals teams within Regional Offices, and once staffing levels are sufficient, VBA must release SOCs within 30 days of receipt of an NOD not accompanied by evidence.

The Board of Veterans Appeals is likewise understaffed for the amount of work in the pipeline. While budget exigencies are real, it is nonetheless essential that BVA be staffed to meet not just existing workload but known work which is pending in Regional Offices. When VBA finally turns its attention to the nearly 300,000 appeals pending in its Regional Offices, BVA will be flooded with work it is not currently staffed to handle. There will come a time when both VBA and Board of Veterans Appeals will no longer have the work to support present and increased staffing; however, that point of time is in the future. It is the obligation of this Congress to address the staffing needs of VA today.

Fully Developed Appeals Initiative: Over the past six months representatives from

Disabled American Veterans, Paralyzed Veterans of America, Vietnam Veterans of America, AMVETS, the American Legion, and the VFW met frequently to explore ideas for improving appeals processing in the Department of Veterans Affairs. Along the way our organizations have meet with the four corners committee staff.

The reason for these discussions is clear: appeals today approach 300,000, a substantial increase in the past four years. It is not unusual for appellants to wait several years for a decision from the Board of Veterans Appeals (BVA). The average time to process appeals in both Regional Offices and the BVA have increased along with the backlogs. VA is under intense pressure from Congress, the media, VSOs and the public to improve this aspect of its operation. Unlike claims processing, however, efficiencies which could expedite appeals processing without restricting or removing rights from appellants are difficult to find.

The Big 6 VSOs and legislation proposed by Congressman O'Rourke, co-sponsored by both Chairman Miller and Ranking Member Brown, have identified several ideas which could eliminate or mitigate some processing bottlenecks. No idea by itself is a silver bullet capable of allowing VA to turn the corner and process more appeals than are filed each year. However, collectively, these ideas could provide claimants and appellants some relief from the bureaucratic lethargy which effects today's appeals process. The most promising of these ideas has been dubbed the Fully Developed Appeals (FDA) initiative, which is still under development. However, as it is currently envisioned, once VA makes a decision in a claim for benefits, the claimant would be presented with the opportunity to waive a Statement of the Case, Decision Review Officer review, a hearing before a BVA panel and other developmental and review opportunities currently extant in the VA appeals process. The claimant, at the Notice of Disagreement stage, would have a one-time opportunity to submit additional evidence and argument. In exchange for this waiver, the appeal would bypass all Regional Office activity and move directly to the BVA.

At the BVA, a Veteran Law Judge (VLJ) and staff would review the file, determine if all records held by the Federal government were of record, ensure that no VA examination or medical opinion is required, and if those hurdles are overcome, make a decision based on the record.

Under this initiative, claimants with no additional evidence to submit would receive a merits review by the BVA in a matter of months following their submission of a Notice of Disagreement rather than the 2.5 years it normally takes to receive a decision. VBA has reduced appeals workload in Regional Offices, which would, in theory, allow it to concentrate more resources on remaining appeals going through the traditional process, allowing those cases to move ahead more quickly. This has the potential to be a win-win for claimants and VA.

The idea is that a significant number of appellants would decide that there is no additional evidence to be submitted in their case, allowing them to seek an expedited review and

decision by a legally trained VLJ. The number of appellants who would elect an expedited appeal process is impossible to predict. The Fully Developed Claims program, on which this initiative is loosely modeled, was originally expected to be used by 10-15 percent of claimants. However, active encouragement from VA, VFW and others has seen 40 percent or more claims filed as FDCs.

Because of the significant relief provided VA Regional Office staff, it is not at all unlikely that VA would push appellants to use a FDA program every bit as much as it encourages claimants to file FDCs.

While the VFW has worked long and hard with other VSOs and representatives from VBA, BVA and the General Counsel to resolve many issues, one primary impediment remains to implementing a FDA pilot: Veterans and other claimants must have sufficient information to understand what VA decided, what specific evidence was used, how it was weighed and the reasons (not conclusions) for the decision. Specifically, the VFW is working closely with VA to improve the content of the decision letter, because without adequate notice, there can be no knowledgeable waiver.

Any FDA pilot authorized by either Congress or implemented administratively by VA must require adequate notice, as described above, be provided to claimants so due process rights are not violated.

Since adequate notice is necessary to allow claimants to understand decisions made by VA, we support legislation which would require the BVA to perform a pre-decision analysis of the notice provided the claimant on the issues under appeal, and grant BVA the authority to remand the decision back to the Regional Office of jurisdiction for correction and reissuance of the notice. As part of this recommendation, a claimant issued a revised notice must have the option to submit additional evidence before the appeal is returned to the BVA.

Private Medical Evidence: VBA has taken significant action in recent years to streamline the process for applying for benefits. Some of these changes are good for veterans and some of them are bad. One of the promising practices is to maximize the use of private medical evidence. Undersecretary Hickey took a positive step forward when she eliminated work credit for VA Rating Specialists who request superfluous compensation medical exams. She has also expanded the use of Disability Benefits Questionnaires which give private physicians the tools they need to conduct rating examinations for veterans in a format that aids rating specialists.

We urge Congress to amend Title 38 to provide that, when a claimant submits private medical evidence, including any private medical opinion, that is competent, credible, probative, and otherwise adequate for rating purposes, the Secretary shall not request a VA medical examination. This legislative change would require adjudicators to verify that private medical evidence was inadequate for rating purposes before ordering unnecessary

examinations.

ECONOMIC OPPORTUNITY

Congress deserves recognition for its continued efforts to reduce veteran unemployment. As a result, we have watched the unemployment rate for Iraq and Afghanistan-era veterans drop from well over 12 percent five years ago to slightly below 7 percent at the end of 2014. It should be noted, however, that the national unemployment has also showed a downward trend during that time, meaning current-era veterans still suffer from unemployment at a higher rate than non-veterans. Simply put, unemployment among post-9/11-era veterans remains unacceptably high. Although future troop levels are uncertain, our military has all but left Iraq, and only a residual force remains in Afghanistan. With the Department of Defense already beginning to draw down its active duty force due to budgetary pressures, the number of new veterans entering the job market will only continue to grow. This means that we must remain ever vigilant in ensuring our veterans have the tools necessary to succeed in the civilian economy after military service.

Historically, veterans have performed better than their non-veteran peers in the civilian job market. So why does the newest generation of veterans continue to struggle finding employment'

The VFW believes that improving skills transferability, skills acquisition, accessibility to higher education, and paths to entrepreneurship, as well as bridging the civilian-military divide will allow our nation to ensure that veterans have the opportunities to contribute to the civilian economy long after military service.

Over the past few years, the VFW has worked closely with the House and Senate Veterans Affairs Committees, as well as other committees in Congress, to commission new programs and improve existing programs to better serve veterans in the workforce. Whether through veteran hiring tax credits, small business incentives, public-private hiring partnerships, robust education benefits, or modernized transitional resources, we have opportunities to better prepare our newest veterans for what lies ahead.

We must also always consider the needs of those who came before. Though young veterans are more likely to be unemployed, older veterans are the largest cohort of unemployed veterans. Over the years, industries have evolved and jobs have gone away. This is why initiatives like veteran priority services at American Jobs Centers remain so critical. Our nation must have a national strategy to address overall veteran unemployment. Below you will find recommendations on how to make this happen.

Transition Assistance Program (TAP): Over the past few years, the work of your committees has produced a significant evolution in the way the military prepares transitioning service members for civilian life. These positive changes include mandatory

TAP for all service members, the creation of the Off-Base Transition Training (OBTT) pilot program, and a complete redesign of a TAP curriculum.

To increase transitioning service members' awareness of these programs and assist in submitting disability claims, the VFW stationed professional Benefits Delivery at Discharge (BDD) staff permanently on more 16 major military installations, and we plan to expand to additional installations in the near future. Each VFW staff member's mission is to provide separating service members free assistance in reviewing their military health records and filing claims for VA disability benefits prior to separation. At each of these installations, we rely on our military hosts for significant logistical and administrative support, to include integration into TAP to ensure that service members know the scope of services VSOs can provide to them.

Still, more can be done to ensure veterans have the relevant information they need upon separation from service and beyond. The VFW believes that the three areas requiring the most emphasis are:

- striking the proper balance in contract facilitation of new TAP;
- ensuring access to relevant tracked curricula;
- and improving the post-service availability of TAP resources.

Each agency responsible for delivering a component of TAP has hired a cadre of contractors whose sole responsibility is to teach the curriculum. In the past, this was not the case. For example, past iterations of the Department of Labor employment workshop were facilitated by Disabled Veteran Outreach Specialists (DVOPs) or Local Employment Representatives (LVERs) from nearby state workforce agencies.

When the Department of Labor (DOL) sought to replace DVOPs and LVERs with contract TAP instructors, the goal was to ensure that DVOPs and LVERs would no longer have to dedicate an inordinate amount of time to teaching, and could instead focus on developing employment opportunities for veterans in the community. The VFW agrees with this shift to contract employees whose primary function is to provide information to service members, freeing up local resources to focus on local veteran employment. In speaking with service members, however, we find that missing the direct connection to DVOPs and LVERs, who work every day in veteran employment, proves problematic in helping them understand the scope of services and benefits available to them in the community. To close this gap, the VFW believes that DOL must offer contract staff the flexibility to integrate local resources like DVOPs and LVERs back into employment workshops.

Another primary concern for the VFW is the lack of involvement of accredited Veterans Service Organizations in the new TAP process. A critical element in the transition process is ensuring that when service members leave the military they have timely access to their benefits. This includes VA service-connected disability compensation, which not only helps veterans make up for lost earning potential as a result of injuries and illnesses incurred on active duty, but also serves as a gateway to other benefits and services like VA health care, Vocational Rehabilitation, adaptive housing, or intensive job placement services.

In anticipation of the reduction in force following the draw downs in Iraq and Afghanistan, DOD has wisely ramped up TAP efforts, to include hiring more staff, and requiring more classroom space to facilitate training. In doing so, we believe that every effort must also be made to ensure there is adequate space for VSOs to deliver their respective support services as well. Former Secretary of Defense Chuck Hagel recognized these concerns in his December 23, 2014, memo to installation commanders, which outlines the law requiring commanders to provide access and space for VSOs and MSOs so they can hold face-to-face meetings with transitioning service members seeking VA- accredited representation. The VFW believes that adherence to this memo is critical to ensure transitioning service members have unhindered access to the unique services VSOs provide. This is particularly important with the recent confirmation of the new Secretary of Defense.

The VFW also believes that the contract to deliver the VA Benefits I and II briefings is also too rigid to accommodate local resources. VA Undersecretary of Benefits Allison Hickey issued guidance to the contract staff, allotting up to five minutes of briefing time during which VSO representatives can introduce themselves to service members and share their contact information. We encourage VA and Congress to review the contract and recommend offering flexibility for facilitators to not only reintegrate local resources, like VFW BDD staff, but also adapt the curriculum to suit the needs of their audience.

Another persistent issue with the delivery of TAP to transitioning service members is ensuring consistent access to the newly-established track curricula, as well as consistent delivery of timely and relevant training. The Accessing Higher Education track, for instance, is a quality preparation course to help college-bound veterans learn about their options. It offers transitioning service members the tools necessary to compare academic programs and make an informed educational decision. However, the Career Technical Training track, which was developed independent of the Accessing Higher Education track, also contains some critical information about career readiness, accreditation and academic structure that the VFW believes would be beneficial to a college-bound veteran. Ideally, these two modules would better serve as compliments to one another.

The VFW would support ensuring that transitioning service members have access to the full suite of transitional training, should they so choose. However, the VFW also recognizes the operational limitations in mandating such participation across the military, and the fact that

many line unit commanders still struggle to see the value in allowing their service members to fully participate.

DOD recently took a major step by allowing transitioning service members to audit the modules through the secure Joint Knowledge Online (JKO) portal. The fundamental problem remains, however, that transitioning service members have no reasonable way to anticipate the specific challenges they will face after leaving the military. This means that some will miss critical information or not fully understand the scope of benefits and services available or how to access them. For this reason, online resources must be seen as a supplement to in-person TAP, not a replacement.

The VFW believes that a simple solution would be for DOD to fully implement its information-sharing agreement with DOL to ensure that state workforce development agencies would have consistent access to the names of veterans leaving the military and relocating to their areas. When armed with this information, employment counselors could reach out directly to recently-transitioned veterans and speak to them face-to-face to ensure that they fully understand what is available to them locally.

Unfortunately, the proposed information sharing agreement was delayed, and only started as a pilot in January. DOL first informed the VFW that it was working to codify the agreement in 2012. It is now 2015. At this point, the VFW believes it is unacceptable that DOD and DOL have yet to fully implement this concept.

Another simple solution to ensure veterans have access to the information in TAP at the time and place that they need it is to continue to bolster the post-service availability of TAP. Two years ago, the Department of Labor worked with its contract TAP facilitators in West Virginia, Georgia and Washington to facilitate 23 workshops as part of the Off-Base Transition Training (OBTT) pilot program, as mandated by the *Dignified Burial and Other Veterans' Benefits Improvement Act of 2012*. By facilitating large-scale, community-based TAP classes, OBTT serves veterans who otherwise would not have had access to the material, or who could only have received comparable information by meeting one-on-one with employment counselors at an American Jobs Center. Moreover, the program was very cost-effective, costing only $52,052 to administer the entire pilot.

Unfortunately, the OBTT pilot expired in January 2015, and DOL will not have information on employment outcomes for participants for another year. The VFW believes that OBTT should be a permanent program, but until we have final data on the OBTT pilot, Congress must pass an extension of the pilot, offering training to more veterans who need it.

Veterans can now also access all new TAP modules via a public-facing web site offered by DOL. The VFW believes this is a game-changer for veterans. However, to improve the site, the VFW recommends allowing veterans to navigate directly to the modules they need, and offering links to participant guides. DOL should also track and report on traffic to the

public-facing site to better understand how many veterans or family members navigate to the site and which resources generate the most traffic. The VFW believes that this information would be useful in identifying trends in the veterans' community or potential shortcomings in the TAP curriculum.

Vocational Rehabilitation and Employment (VR&E): VR&E must be viewed as a cornerstone of VA services. Service members who have been wounded or injured, or have fallen ill desire to return to civilian life as a productive member of society. VR&E is the bridge to get them there.

VA must conduct a comprehensive work measurement study to ensure appropriate staffing levels are found, that VR&E counselors have the wide array of skills and competency levels to fully assist veterans, and extend the tracking of success rates further into employment to ensure full reintegration.

Recent figures indicate that the workload for VR&E counselors often exceeds the VA standard of one counselor to every 125 veterans. First, VA must hire enough counselors to meet this standard and then evaluate if 125:1 is truly an effective ratio. VR&E must focus on building careers for veterans – not just placement into jobs – to do this, counselors must be able to invest the time necessary to achieve a higher standard of success. The VFW also believes that VA must track veterans' success rate after being placed into a career to the end of the probationary period from the current 60-day threshold that is currently in place.

Currently, veterans who are only using VR&E for employment services do not receive a monthly living stipend while seeking employment, but veterans using VR&E more comprehensively receive living stipends for up to two months beyond the completion of their rehabilitation plan. The VFW believes these incentives should be realigned to more fairly assist veterans regardless of the services they are receiving.

Lastly, the VFW strongly supports Vocational Rehabilitation for Life now more than ever. The VFW has long believed that any time restrictions on utilizing such an important program prevents independence and an enhanced quality of life for veterans. Recent economic conditions have demonstrated exactly why our disabled veterans must always have access to this critical program. Industries evolve and some jobs go away. The VFW believes that America has an obligation to ensure that service-disabled veterans can secure meaningful careers regardless of how long they have been out of the military. Eliminating the current 12-year delimiting date and offering Vocational Rehabilitation for Life will ensure VA can uphold this obligation.

Licensing and Credentialing: When we recruit American men and women to serve in the military, we promise them highly technical skills and experience that employers will value. With this in mind, it seems incomprehensible that our veterans continue to struggle to find comparable civilian careers after leaving the military.

Thankfully, Congress and many states have taken steps over the past few years to improve the situation. In federally-licensed fields like aviation, military credentials easily transfer into federal licenses, and in fields like transportation and health care, the states are starting to fill in the gaps. More than 27 states recognize military training and experience when considering veterans for certain professional licenses.

A recent Department of Defense pilot program on civilian licensing and credentialing has also succeeded in better training military professionals to civilian standards. However, the Pentagon acknowledges that this pilot program needs to be expanded to include other fields, like information technology (IT), and it needs a sustainability plan. The VFW will continue to work at the state level to advance the acceptance of military training and experience. The VFW encourages Congress to look at any and all options to expand civilian licensing and credentialing programs for service members while in uniform, as we work at the state level to advance the recognition of military training and experience in lieu of civilian recertification. At a time when DOD spends nearly $2 billion each year to finance veteran unemployment benefits, exposing service members to relevant credentialing opportunities while in uniform creates better trained military professionals, and allows these highly trained professionals to more easily find jobs after leaving the military.

Veterans Small Business: The VFW also recognizes that veterans are more likely to pursue business-ownership than their civilian counterparts. After World War II, 49 percent of all small businesses in the United States were owned by veterans. We must continue to cultivate this entrepreneurial spirit. We applaud the Small Business Administration for its work to improve entrepreneurial resources for our veterans, but more can be done to help veterans access capital to get a business off the ground.

The federal government has an obligation to do business with veteran-owned small businesses (VOSBs), service-disabled veteran-owned small businesses (SDVOSBs) and contractors who employ veterans. Unfortunately, many agencies still fail to meet the 3 percent acquisitions threshold to contract with SDVOSBs, and tools are not in place to enforce veteran-hiring mandates for contractors.

Many communities around the country lack sufficient entrepreneurial support for veterans. The VFW advocates for effective outreach to all potential veteran business owners so that they may seek opportunities in establishing and developing businesses. In order to receive the adequate knowledge to pursue their goals in business and entrepreneurship, the VFW encourages Congress to pass legislation to sustain and expand Veterans Business Outreach Centers to provide financial, management and marketing advice, as well as training and counseling to potential veteran entrepreneurs.

USERRA: Members of the Guard, Reserve and the veterans' community have employment and discrimination protections through the Uniformed Servicemembers Employment and Reemployment Rights Act (USERRA), but enforcement is difficult and the federal

government continues to be one of the worst offenders.

For the past few years, the VFW has continued to point out that many service members, veterans and their employers fail to understand their most basic rights and responsibilities under USERRA, which causes many service members to unknowingly waive those rights by signing binding, pre-dispute arbitration agreements upon employment. To change this, Congress must first create a USERRA exemption for such agreements. We must also better educate veterans on their rights, and equip both service members and employers to understand USERRA.

Finally, the VFW has long supported veterans' hiring preferences within the federal workforce. At a time of federal hiring freezes and budget constraints, the VFW believes that Congress must ensure the federal government serves as a model employer of veterans, working proactively to recruit, hire and retain the best possible veteran recruits.

Education: In 2008, Congress passed the Post-9/11 GI Bill offering unprecedented educational opportunities for our most recent veterans. However, history shows that as a conflict ends, Congress tends to scale back education benefits. As a result, the VFW's top priority is to preserve this benefit at all costs, and to continue to strengthen it going forward.

For years the VFW was critical of strict in-state residency requirements at public schools that disqualified some veterans from in-state tuition because of past military service. Accordingly, we applaud Congress for granting reasonable in-state tuition protections to recently separated veterans with the passage of the VACAA late last summer.

Still, the VFW is concerned that not all states will fully comply with the new law by the July 1, 2015 deadline. Late last year, Undersecretary Hickey issued a letter to the Governors of all 50 states, asking them to detail their compliance plans and respond by November 28, 2014. To date, many states have still not responded, and only one, Texas, has fully complied with the new law. Recognizing many states were fiercely opposed to the change, we ask Congress to conduct robust oversight well in advance of the implementation deadline. The consequence for failing to comply would be program disapproval for entire states, massively disrupting all veterans who attend school there. For this reason, it is critically important to ensure that no states drag their feet on this, and that all are taking the necessary steps to implement the law on time. We hope that your committees will consider holding hearings to verify that progress is being made towards timely implementation.

The VFW, also applauds Congress for granting eligibility to surviving spouses for the Gunnery Sgt. John David Fry Scholarship as part of the VACAA. As a nation, we have an obligation to provide our surviving spouses with the tools necessary to rebuild their lives after suffering such a tragic loss. Still, a significant loophole remains for surviving family members. Currently, Fry-eligible dependents are excluded from enhanced tuition reimbursement available through the Yellow Ribbon Program, meaning they may incur

significant unforeseen out-of-pocket costs for higher education. The VFW believes survivor GI Bill benefits should be comparable to veterans' benefits. A simple legislative fix will provide Fry Scholarship recipients with the same benefits as other Chapter 33-eligible beneficiaries, and the VFW encourages Congress to quickly pass legislation to close this loophole.

Finally, the VFW continues to call on Congress to review the modern role of the State Approving Agencies (SAAs) through which VA assesses academic programs for GI Bill eligibility. The VFW believes that SAAs must still play a critical role in ensuring the academic success of student veterans, but we also believe they are in need of modernization.

As a result of the *Post-9/11 Veterans Educational Assistance Improvements Act of 2010*, SAAs lost the ability to inspect and approve non-college degree (NCD) programs at not-for-profit institutions of higher learning which became "deemed approved." This led not-for-profit schools to develop NCD programs of questionable value. In the subsequent years, VA's Office of Economic Opportunity issued guidance allowing the SAAs to once again inspect NCD programs, however, SAAs still lack the statutory authority to properly approve NCD programs at non-profit schools – meaning some programs continue to operate under the "deemed approved" umbrella, unless SAAs learn about them and inspect them for validity. The VFW supports extending the statutory authority to the SAAs to inspect these kinds of programs to validate their quality.

One recently discovered problem is that public institutions of higher learning have started to commission flight training programs or free electives specifically targeting veterans for enrollment. According to the SAAs, the reason schools are adding these programs is because of the uncapped reimbursement offered by VA for flight programs at public institutions through the Post-9/11 GI Bill. VA has corroborated this report, acknowledging that several flight programs at public intuitions have been suspended for GI Bill eligibility for violating the long-standing 85/15 headcount rule, through which no more than 85 percent of students enrolled in an academic program can be receiving VA education benefits. The fact that these programs have sprouted up in the few years since the Post-9/11 GI Bill was signed into law is an indication that SAAs must have greater authority to inspect and approve flight programs at public institutions. Additionally, the VFW recommends a tuition and fees cap for flight programs commensurate with the cap for private institutions of higher learning already established for the Post-9/11 GI Bill.

Finally, the VFW has serious concerns over current statutory requirements on how VA and the SAAs must conduct compliance surveys every year. Under current law, VA must conduct compliance surveys annually on all facilities reporting at least 300 enrolled GI Bill recipients. The VFW believes that this is an impossible mission, which will cause some schools to go years without a compliance survey, as VA and the SAAs struggle to satisfy the requirement to survey schools with large veteran populations. Such a requirement can

hinder both VA's and the SAAs' response to at-risk programs that may enroll far fewer veterans, while wasting significant time and resources inspecting perennial top performers who happen to have large student veteran populations.

The VFW believes that the statutory requirements should change to ensure that VA can conduct compliance surveys on all institutions at least once every three years. VA and the SAAs should also be given flexibility in determining priorities in conducting annual compliance surveys. In the past, this kind of collaboration may have been a difficult task, but thanks to the GI Bill Complaint System commissioned by this Committee through the *Improving Transparency in Education for Veterans Act of 2012*, the VFW is confident that VA and the SAAs now have access to a clearinghouse of information through which they can identify trends that would lead to risk-based program reviews.

OTHER BENEFITS

Survivor Benefit Plan-Dependency and Indemnity Compensation: The VFW calls on Congress to repeal the Survivor's Benefit Plan (SBP)/ Dependency and Indemnity Compensation (DIC) offset that currently adversely affects 59,000 surviving military spouses.

SBP is a purchased insurance that pays a percentage of military retiree pay to a surviving spouse, whereas DIC is a modest indemnity compensation of $1,215 per month that is paide to surviving spouses whose loved one died from a service-connected condition. The amount of SBP paid to the survivor, however, is offset dollar-for-dollar by any DIC payment received.

Congress recognized the offset as unfair and created a Special Survivor Indemnity Allowance (SSIA) to reduce some of the offset. SSIA is a graduated payment that will be raised yearly up to $310 through FY 2017. However, SSIA is only a temporary fix in that it is only authorized through FY 2016. Congress must pass legislation that will implement full repeal of this unthinkable offset.

Concurrent Receipt: The VFW continues to supports legislation which calls for full concurrent receipt of military retirement pay and VA disability compensation without offset, and regardless of the rating percentage. Current law allows military retirees with 20 or more years of service and disability ratings of 50 percent or higher to receive both their military retirement pay and their VA disability compensation without offset. Now it is time to include those service-connected disabled military retirees with VA ratings of 40 percent and below, and Chapter 61 retirees, who were medically retired with less than 20 years. No other federal employees are penalized for retiring and having a work or service-connected disability.

The VFW calls on Congress to pass legislation to allow all military retirees to receive their

retirement pay and VA disability without offset.

VA Adaptive Grants: VA adapted-housing grants currently given to eligible veterans are provided on a one-time basis. This becomes problematic when the veteran sells his or her home. Upon purchase of a new home, the veteran is responsible for the full cost to modifying the home to meet his or her disability. Veterans should not be forced to choose between surrendering their independence by moving into an inaccessible home or stay in a home simply because they cannot afford the cost to modify a new home. The VFW believes Congress should establish a supplemental housing grant that covers the cost of new-home adaptations for eligible veterans who have already used their initial grant.

VA Insurance Programs: The Service Disabled Veterans Insurance (SDVI) program has not been updated to reflect changes in life expectancy since the program started in 1951. Since that time, reductions in commercial mortality rates reflect an improved life expectancy as shown in updated mortality tables. The use of outdated tables results in rates and premiums that are no longer competitive with private industry, and therefore, no longer provide the intended benefit for eligible veterans. Congress should pass legislation that authorizes VA to revise and update its premium schedule for SDVI based on current mortality tables.

The VFW also encourages Congress to pass legislation that will exempt the cash value of VA life insurance policies and all dividends and proceeds from being considered as income when determining eligibility for other government programs, like a veterans' entitlement to health care under Medicaid.

DOD RETIREMENT AND QUALITY OF LIFE

Although the following issues fall under the purview of the Armed Services Committees, the VFW must take the time to express our concerns with issues concerning military retirees and service member quality of life.

Commission: The release of the much-publicized Military Compensation and Retirement Modernization Commission report—along with the fiscal year 2016 budget requests for the Departments of Veterans Affairs and Defense—begins a conversation that the VFW welcomes and wants to contribute to.

First and foremost, preserving the integrity and viability of the All-Volunteer Force is paramount, as is properly caring for America's wounded, ill and injured service members and veterans. The VFW is disappointed that the Commission did not recommend merging the Army, Navy and Air Force medical communities into one joint military medical command. Such an action would force military medicine into finally creating one truly interoperable electronic health record, which in turn, would be a giant leap forward to solving the seamless transition issues your committees have debated for more than a

decade.

The military savings and future retirement plan recommendations are worth further study, as well as the idea to merge the three military Tricare programs into one. Key to all this is how will these changes positively or negatively impact the wallets of military families—and military retirees, who donated decades of their youth in defense of our nation on a simple promise that they and their spouse would be taken care of by a grateful nation.

The VFW looks forward to continuing this most important conversation with Congress and the American people about what it means to properly take care of veterans, service members and their families, but all is for naught as long as sequestration remains the law of the land. The VFW looks to the 114th Congress to end it or replace it so that American can concentrate on the future—and not the rearview mirror.

POW/MIA FULL ACCOUNTING ISSUE

I would also be remiss if I didn't comment on how important the POW/MIA mission is to the VFW and our nation's veterans, service members and families everywhere. This is the most sacred of missions. It honor's a soldier's pledge to never leave a fallen comrade on the battlefield, which is a promise that spans all generations.

The VFW supports the new Joint POW/MIA Accounting Agency, which merged the policy and research capabilities of the former Defense POW/Missing Personnel Office with the operational capability of the former Joint POW/MIA Accounting Command.

We urge full mission funding for the new organization and all the support agencies involved. We will seek your support to increase the necessary resources to expand recovery operations into North Korea if and when it becomes safe to do so. Congress in the 2010 defense authorization act mandated that the accounting community begin making at least 200 identifications a year by 2015. That requirement is almost double the 107 identified last year. Recovering fallen Americans from long-ago battlefields is demanding and often dangerous work for investigation and recovery teams, but fulfills a service member's promise to never leave a fellow service member behind, which is one mission I know we can all agree.

In closing, I want to again thank you for the opportunity to represent America's largest war organization today. I look forward to your questions.

[1]https:http://veterans.house.gov/witness-testimony/ms-laura-eskenazi-executive-in-charge-and-vice-chairman-board-of-veterans%E2%80%99-appeals

[2]http:http://www.va.gov/opa/pressrel/pressrelease.cfm?id=2645

[3]Dependency claims increased from 90,125 on January 9, 2012 to 261,319 on January 10, 2015; this is a 190 percent increase. Over the same period, appeals in VACOLS increased

from 253,672 to 288.290, a 9.7 percent increase. Monday Morning Workload Report, http:http://benefits.va.gov/REPORTS/detailed_claims_data.asp.