



# Advocate



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## House Passes Advance Appropriations for Veterans Health Care in Veterans Funding Bill

*Enactment of veterans' funding bill will amount to a 58% increase in the past 2.5 years*

House Veterans' Affairs Committee Chairman Bob Filner (D-CA) released the following statement upon the recent House passage of H.R. 3082, the Military Construction and Veterans Affairs spending bill:

"Today, the House of Representatives passed H.R. 3028, a bill to fund the Department of Veterans Affairs for Fiscal Year 2010. The bill provides \$108.9 billion, the same as the President's request and \$14.5 billion above 2009, for veterans medical care, claims processors, and facility improvements. This is the third budget in a row that exceeds the request of the Independent Budget, which is formulated by a coalition of veterans' organizations!

"Unlike any veterans funding bill before it, this legislation provides funding for medical-related accounts for the next fiscal year one year in advance. Responding to 19 late budgets over the course of the last 22 years, this bill delivers adequate and timely funding for veterans' health care and offers a historic new approach to caring for our veterans.

"To be sure, great strides have been made to increase VA health care funding under the leadership of the New Democratic Congress - \$17.7 billion provided over the

last two years. Regardless of efforts to provide sufficient resources, veterans' funding continues to get caught up in the political wrangling of the federal budget process. H.R. 3028 provides \$48.2 billion in advance appropriations for Fiscal Year 2011 for three medical accounts: medical services, medical support and compliance, and medical facilities. This is an eight percent increase over Fiscal Year 2010 and will allow VA officials to plan spending levels for the coming year, meet the continuing wave of new patients, and maintain operations at VA facilities.

"As Chairman of the House Committee on Veterans' Affairs, I am committed to assisting the VA in its goal of becoming a model 21st Century organization. I want to thank Chairman Edwards for crafting bipartisan legislation and Chairman Obey for his leadership, as well as their Republican counterparts. The House of Representatives joins the Obama Administration's commitment to improving health care for all veterans, increasing access to mental health services, addressing and preventing homelessness among veterans, and honoring the veterans of previous generations. President Obama has proven that veterans are a top priority by requesting a record veterans' budget, and the New Direction Congress has answered." 🇺🇸



### REPORT from the HILL by Chuck Partridge Government Relations

In late June the House of Representatives passed the National Defense Authorization Act (NDAA) for fiscal year 2010, HR 2647, by a vote of 399-22.

The bill includes a 3.4 percent pay raise for military personnel, which is higher than the Administration requested. It includes a one-half percent bump over the nation's private sector Employment Cost Index (ECI).

AMS does not believe military service can be compared to civilian wages; however, the experts say that this year's pay raise brings military pay to within 2.4 percent of private sector pay.

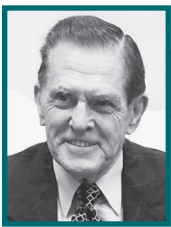
Other provisions of the House version of the NDAA would:

- Authorize an increase in active duty personnel of up to 30,000 for the Army. The increase will be limited to the amount of funding that the Army can budget for. The authority to increase military personnel strength levels will force tough choices to be made.
- Provide a monthly compensation allowance for catastrophically

injured service members for assistance in tasks of daily living.

- Require DOD to review the standards used to calculate the monthly rates for the basic allowance for housing.
- In order to alleviate the shortage of mental health professionals, direct DOD to provide health professional scholarships for degrees related to mental health. In addition, the bill calls for establishment of a DOD school of nursing.
- End the offset of military disability retired pay for service members retiring under the provisions of

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## PRESIDENT'S COLUMN

**Douglas Russell**

The past few weeks have been very important to AMS members, and to all military retirees, veterans, active duty personnel and reserve component members. Congress has been busy finalizing the bills that pertain to military personnel and veterans and we have a lot to report to you. In fact, we delayed publication of this issue of the *Advocate* in order to make sure we could get you the most up-to-date information. As this is written, both houses of Congress have completed work on the National Defense Authorization Act for FY2010. Now, they must have a conference committee to iron out the differences between the two, of which there are many. If they have been able to complete that work and send a final bill to President Obama by the time we publish our next issue, we'll report to you on what they finally decided.

They still are on working on the defense appropriations act for next year, and it will be well into the fall before they complete their work. They are also in the process of finalizing the veterans bill for next fiscal year.

The work of Congress can be very confusing and I thought it might help you to have a short explanation of how the defense bills are handled. First of all, legislation for DOD is different than for most other departments of the federal government. DOD has both an authorization bill, called the National Defense Authorization Act, and a separate funding bill, referred to as the defense appropriations bill. The authorization act gives authority to add or change DOD programs, while the appropriations bill funds the programs of DOD. It is the NDAA that both houses of Congress have completed work on for next fiscal year, while they are still working to complete the appropriations bill for next year. If there are differences between the House and Senate versions of the authorization act, they have what is referred to as a conference committee to work out the differences and come up with a final bill that is then sent back to both houses for a final vote. Sometimes provisions that are in one version of the bill are tossed out in conference committee, while at other times a provision in only one version is agreed to by the other chamber and is included in the final legislation. On the other hand, provisions not in either version can sometimes end up in the final bill. However, that is rare. These same things hold true for the appropriations measures.

If Congress puts a measure in the authorization act, but it is not funded in the appropriations bill, then it does not take place if it requires government funding. For instance, although eliminating the SBP-DIC offset is included in the Senate version of the NDAA, no funding was provided and

we are very concerned that it will not survive when all is said and done because there will be no money appropriated to pay the survivors.

On the other hand, if a measure does not require funding, then inclusion in the NDAA is sufficient for it to become law.

As I said, this can become very confusing for those who don't follow the workings of Congress closely. Hopefully, I've helped you understand things just a little bit better. Regardless, we will keep you informed on the issues that affect you in each issue of the *Advocate*.

\* \* \* \*

Recently I had the opportunity to attend the 2009 *Noncommissioned Officer of the Year, and Soldier of the Year Ceremony* of the U.S. Army Intelligence and Security Command (INSCOM) at Ft. Belvoir, Virginia. MG David B. Lacquement is the Commanding General of INSCOM and CSM Joseph J. Paul is the Command Sergeant Major.

It was my great pleasure to present awards from AMS to SPC Maegan Unthank of the 743<sup>rd</sup> MI Bn, 704<sup>th</sup> MI Bde, America's Region One Soldier of the Year; and to SGT Cole Joines of the 732<sup>nd</sup> MI Bn, 500<sup>th</sup> MI Bde, the Pacific NCO of the Year. I am always so impressed by the men and women serving in our Armed Forces today and it is such special opportunity for me to recognize them for their excellence. It is comforting to know the security of our nation is in the hands of such capable and dedicated individuals. 🇺🇸

*Douglas Russell*



# Report from the Hill

*continued from page 1*

Chapter 61 of the US Code who also draw VA disability compensation. This provision was called for in the President's budget. The Armed Services Committee did not include it in its bill, but, it was proposed in an amendment offered by Rep Ike Skelton (D-MO), Chairman of the House Armed Services Committee. It would apply initially on 1 January 2010 to disabled retirees with a VA disability rating of 90 and 100% including those rated 100% due to unemployment. It would be phased in over five years for the remainder of Chapter 61 disabled retirees with less than 20 years service as follows:

- VA rating of 70-80% disability-1 Jan 2011
- VA rating of 50-60% disability-1 Jan 2012
- VA rating of 30-40% disability-1 Jan 2013
- VA rating below 30%disability-1 Jan 2014

The provision is not fully funded after the first year. However that can be done in subsequent budgets.

The Senate finally passed its version of the FY2010 National Defense Authorization Act in late July, about a week and one-half later than was expected. Passage was held up because there were over 300 amendments offered by various Senators and each had to be dealt with in some way. Two of the most contentious were funding of the F-22 fighter and adding a hate crimes amendment. The issue of funding for more F-22's had drawn a veto threat from President Obama and in the end Senators voted not to add funds. This is one area of difference with the House version of the NDAA that will have to be worked out in conference committee. Once they got that and the hate crimes issue out of the way Senators were able to move more quickly toward completion. We are very pleased with some of what is in the Senate version, and very disappointed with other things.

First of all, we are happy the Senate voted to end the SBP-DIC offset, something which AMS has supported for a very long time. However, the battle still is not over. The House version of the NDAA did NOT contain a similar provision. In addition, the Senate did not set aside money to pay full SBP to the surviving spouses, which the Congressional Budget Office estimates will cost \$6.6 billion over the next 10 years. This means that the provision may die in conference, something which has happened several times in the past.

AMS strongly supports elimination of the SBP-DIC offset and we will work to keep it in the final NDAA, regardless of the odds against it.

Another provision supported by AMS is an amendment that ensures the votes of Americans overseas, both military and civilians, will be counted in upcoming elections. This has frequently not been the case in the past but that should change if this language is in the final bill. The amendment

requires that states send ballots to overseas voters at least 45 days prior to an election and then give a 10-day grace period for the ballots to be received after the election as long as they are postmarked in time.

One of our biggest disappointments and surprises was the failure of the Senate to include expansion of concurrent receipt to Chapter 61 retirees (medically retired) with less than 20 years of service, and to TERA retirees. Thankfully, the issue is not dead because, as mentioned above, the House did support giving them concurrent receipt. Unfortunately, neither chamber passed a provision to give concurrent receipt to retirees with 20 years or more of service and less than 50 percent disability, so there is virtually no chance of that happening this year.

There were a number of provisions that came out of the Senate Armed Services Committee when they sent the NDAA to the entire Senate for consideration. As we go to press, we have not had a chance to review the entire Senate NDAA to see if these remained as part of the final bill. However, below are some of the key provisions the Committee had included:

- Authorized a 3.4% military pay raise which matches the House proposal. It is highly probable this is contained in the final bill.
- Directed the Government Accountability Office (GAO) to conduct a comprehensive study comparing military pay and benefits, including the value of military health care and the retirement benefit, with comparable private-sector pay and benefits, and to report the results to Congress by 1 April 2010. AMS rejects the idea that military service can be compared to civilian work. These comparisons never consider the full range of differences.
- Increases the maximum amount of Supplemental Subsistence Allowance from \$500 to \$1100 per month and directs the Secretary of Defense to submit a plan to Congress to ensure that service members and their families are not dependent on food stamps.
- Authorizes \$27.9 billion for the Defense Health Program and requires DOD to initiate a process for the reform and improvement of the TRICARE health care system. There has been increasing criticism by DOD leaders, some members of Congress and the usual bean counters because of the cost to DOD of the military health system. It appears that these critics have forgotten that there is a war on and that delivering first class care to wounded and recovering service members which our nation put in harm's way is expensive. AMS is concerned that reforms will be aimed at increasing the cost of health care for retirees rather than asking the nation as a whole to bear the cost and we will monitor this very closely as we go forward.
- Extended eligibility for TRICARE Standard to Gray-area reserve component retirees. These are reserve and National Guard members who have completed suffi-

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## House Committee Approves FY2010 Appropriations Bill

The House Appropriations Committee approved the FY2010 Defense Appropriations bill in late July, spending \$636.3 billion next fiscal year. Included in its provisions was \$30 billion for the Defense Health Program, which is \$2 billion more than requested by the Administration.

This is great news because if that funding for health care is in the final version of the appropriations bill that is sent to the President it means there will be no attempt to raise TRICARE fees next year. However, we remain very concerned that raising fees and co-pays will still be on the agenda in the next year or two, and AMS will remain on guard to warn you of any such proposals and to fight to stop them if they ever are put forward by either DOD or in Congress.

Another provision in the House bill is elimination of a provision that would have delayed retiree COLAs in 2013. We were very opposed to that provision and although we are delighted it has been done away with, AMS is very concerned about the precedent it may have set. We will fight to stop any similar attempts in the future.

Finally, a 3.4 percent pay raise for active duty personnel was included in the measure, which is 0.5 percent more than requested by the Administration. 🇺🇸

## Rules for Rendering Hand Salute of U.S. Flag

### *New Law Allows Retirees and Vets to Salute Flag*

Traditionally, members of the nation's veterans service organizations have rendered the hand-salute during the national anthem and at events involving the national flag only while wearing their organization's official head-gear.

The National Defense Authorization Act of 2008 contained an amendment to allow un-uniformed service-members, military retirees, and veterans to render a hand salute during the hoisting, lowering, or passing of the U.S. flag.



A later amendment further authorized hand-salutes during the national anthem by veterans and out-of-uniform military personnel. This was included in the Defense Authorization Act of 2009, which President Bush signed on Oct. 14, 2008. 🇺🇸

## Representative Wilson Introduces Bill to Protect Military Health Care

The subject of health care and Congressional attempts to write a new health care bill has received extensive media coverage for the past several weeks. The President has been pushing Congress to pass such a bill, but his desire to have a bill completed prior to the August Congressional recess did not materialize. Nonetheless, the leaders of Congress appear to be determined to pass such a bill sometime before the end of this year.

Because the intent is to overhaul the health care system in the U.S., AMS and other military groups have been concerned about what is going to happen to military health care. In response to these concerns, Rep. Joe Wilson of South Carolina has introduced a bill that would protect TRICARE from being brought into any new civilian health care program.

According to Wilson, "The purpose of this amendment is to shield the men and women of our armed forces from onerous mandates and possible coverage deterioration as a result of this bill's complex new health care governing scheme. Specifically, I believe we must exempt TRICARE from the "pay or play" employer mandate and other benefit mandates that would place an additional burden on this

program that serves military personnel and their families.

"Currently, TRICARE provides world class health care to 9.4 million beneficiaries who currently serve or have served this nation. The number of individuals who choose to enroll in TRICARE continues to rise because TRICARE is a low cost, comprehensive health plan that is portable and available in some form world-wide.

"I believe TRICARE is one part of our health care system that's working. I believe that our military personnel and their families do like what they have, and that's why this amendment is needed to ensure that they can keep it.

"Unfortunately, this legislation's broad definition of "employment-based health plan" appears to include TRICARE, which means its complex new system of mandates and penalties would apply to the Department of Defense.

"In order to correct what may have been an unintentional error, my amendment simply clarifies that TRICARE is not subject to H.R. 3200's new mandate and penalty scheme or any other elements of the legislation. It's about allowing our brave soldiers, sailors, airmen and Marines to keep what they have." 🇺🇸

# Report from the Hill

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cient service for reserve retirement but have not yet reached age 60, the age when they can currently start drawing retired pay. Gray-area retirees who elect to use TRICARE Standard will pay the full cost of the benefit.

- Exempted certain disabled TRICARE beneficiaries under age 65 from the requirement to enroll retroactively in Medicare Part B in order to maintain TRICARE coverage.
- Required DOD to submit a plan to increase the number of uniformed and civilian mental health personnel. The large number of traumatic brain injury casualties in Afghanistan and Iraq make this provision an essential and urgently needed requirement in the health care area.
- Required GAO to report to Congress by 31 March 2010, on the implementation of the prohibition against employers offering financial incentives to TRICARE eligible employees to use TRICARE in lieu of their employer's health care plan.

AMS opposes improper financial incentives. However, current law goes far beyond that and prohibits legitimate use of employer compensation programs by TRICARE-eligible employees to pay TRICARE expenses on a pre-tax basis. As currently implemented employees who use TRICARE cannot take advantage of tax savings that other employees enjoy. This is blatant discrimination against the nation's retired warriors. We will be watching this study closely.

Now the battle will be fought in conference when designated members of both houses meet to iron out their differences. The conference committee has a lot of work to do because in addition to the concurrent receipt issue, there are over 1,000 differences between the two versions.

Although fiscal year 2010 begins October 1, it is anyone's guess as to whether they will be able to work through all the differences by then. Whatever the case, we will update you in the next issue of the *Advocate*. In the meantime, AMS will be lobbying hard to keep the provisions we so strongly support.

## Comment

There are several excellent provisions in the two versions of the Defense Authorization Bills. There are concerns as well.

Although there was no imposition of increases in TRICARE fees, key leaders of the Armed Services Committees continue to discuss it and continue to say that military health care costs are unsustainable. Further, in previous years Armed Services Committee members made it clear that there would be no increases. This year there was no clear statement to this effect. While few experts expect to see more fees imposed this year, as we stated above, there is a requirement to examine the Military Health System and TRICARE. This could lead to imposition of additional fees and future increases.

AMS President, Douglas Russell, stated: "With the nation fighting two wars, of course health care costs are rising. However, that is the cost of war and the nation should pay for it, not saddle the cost on those who are fighting and have fought the wars."

With billions being spent on stimulus packages, there is no greater stimulus than a strong national defense. In addition, there are many actions DOD can take to provide health care more efficiently. These steps should be taken before looking to the beneficiaries to increase their contribution.

The first step, and we congratulate Congress for directing it, is to increase the number of health care professionals in the services and ending the conversion of health care spaces from military to civilian or contract. The next cost saving measure is to invite military families, including retirees, back into the Military Treatment Facilities (MTFs). This alone saves 24 to 40 per cent per patient treated. As one military health system insider said, "These actions can save billions of dollars, while saddling retirees and their families with fees will save only millions."

## Survivor Benefit Plan (SBP) Lawsuit

Prior to a change in the law in 2003, surviving spouses of military retired veterans lost their right to Dependency and Indemnity Compensation (DIC) if they remarried. The prospect of losing DIC, particularly late in life, was a disincentive to remarriage and in 2003, Congress reinstated DIC for surviving spouses who remarried after age 57.

Recognizing that reinstatement could trigger a corresponding reduction in benefits to survivors who were also eligible for Survivor Benefits Payments, Congress acted to ensure that it was not giving with one hand and taking away with the other so they included a provision that prohibits the offset of SBP based on receipt of DIC for this particular group of surviving spouses.

Despite this provision of the law, DOD applied the SBP offset and three surviving spouses who were affected sued in the US Court of Federal Claims.

The court ruled in favor these three widows and the Government appealed to the US Court of Appeals for the Federal Circuit. The case was heard by a three judge panel of the Appeals Court on 4 June 2009 and the court's decision is expected shortly.

The survivors and their attorneys are confident that the court will find in their favor. If it does, the Government can accept the verdict or ask that the full court rehear the case. If that falls, they can accept it or petition the Supreme Court.

If the survivors ultimately win, the Department of Defense will be in the position of offsetting SBP by the amount of the DIC payment for most surviving spouses and not applying the offset for those who have remarried. This does not make sense and AMS and other associations will add this to our case to finally end the offset completely. We will keep you advised. 🇺🇸

## Veterans Committee Approves Bipartisan Legislation

The Committee on Veterans' Affairs recently approved an amendment by Ranking Member Steve Buyer to include all civilian World War II groups designated as veterans in a benefit the House approved earlier this year for WWII Merchant Mariners.

Buyer's amendment to a draft bill would provide a \$1,000 a month benefit to all WWII civilian groups that were given veterans' status under the G.I. Bill Improvement Act of 1997. A previously passed House bill provides a similar benefit only to WWII Merchant Mariners.

The committee also approved the following bills and reported them favorably to the full House for consideration.

H.R. 1293 would provide significant increases in the amounts payable under VA's Home Improvement and Structural Alteration (HISA) program. HISA provides home adaptation grants to veterans who require in-home medical care. The current maximum amount is \$4,100 for service-connected veterans

and \$1,200 for non-service connected veterans. Service-connected disabled veterans can receive a HISA grant in addition to other VA home adaptations grants.

Draft legislation, which included H.R. 2379, the Veterans Group Life Insurance Improvement Act of 2009, also introduced by Buyer, would allow veterans to purchase additional amounts of Veterans Group Life Insurance (VGLI).

Currently, the amount of VGLI coverage cannot be changed. Because the level of coverage must be made within the first year of discharge, and because most separating servicemembers are young and single, many select levels that become insufficient as they age and have families.

The bill would allow veterans to purchase up to \$400,000 of VGLI coverage in \$25,000 increments, every five years, until the age of 60. The cost of such increases would be offset by premiums, so there would be no direct cost to taxpayers.

H.R. 2770, which was introduced by Ranking Member Buyer and Chairman Filner, would modernize and clarify the laws governing VA Nonprofit Research Corporations (NPC).

"NPC's were first authorized in 1988 and provide valuable support for VA-approved research and education that benefit our nation's veterans," said Buyer. "However, it has been more than twenty years since we have updated the laws governing their operation and this legislation would update existing law to improve the operation of non-profit research organizations to better meet the needs of the VA."

H.R. 3155 would improve and increase services to support family caregivers, by expanding outreach, education, respite care, travel benefits, and mental health counseling. The bill would also recognize the unique needs of severely wounded OEF/OIF warriors by providing a stipend to certain family caregivers, and it would extend CHAMPVA eligibility to those without health insurance. 🇺🇸

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## Women Veterans Testify That VA Must Improve Outreach And Expand Programs For Fast-Growing Female Population

### *Akaka pushes for support of Committee-backed veterans' health bill*

Senator Daniel K. Akaka (D-HI), Chairman of the Veterans' Affairs Committee, held an oversight hearing to outline gaps in VA care for women veterans and highlight strategies to bridge those gaps. Akaka gathered a panel of women veterans and representatives from the Department of Veterans Affairs (VA) and the Government Accountability Office to share their personal experiences and views on the VA system. The witness testimony illustrated the gap between the Department's wide array of services for women veterans and the actual experiences of many women veterans.

"VA plans many valuable programs and services for women veterans. However, our witnesses demonstrated that VA must do more than just set mandates. The Department must ensure that women veterans know about the services available to them and are given assistance to receive them", said Akaka.



The **Veterans Health Care Reauthorization Act (S. 252)**, Chairman Akaka's omnibus veterans' health care bill that was unanimously approved by the Committee earlier this summer, includes provisions to help VA understand why outreach to women veterans is falling short by identifying

the barriers women veterans face when seeking care from VA. S.252 would also authorize VA to:

- Implement a program to educate, train, and certify professionals to provide MST-related mental health care;
- Establish a pilot program to provide child care for veterans who require intensive care and are primary caretakers;
- Report to Congress whether there is at least one full-time women veterans' program manager at each VA Medical Center; and
- Provide care for the newborns of eligible women veterans. 🇺🇸

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