Conferees Debate 2008 Bill
House and Senate negotiators worked well into November to hammer out a final Fiscal 2008 defense authorization bill (HR 1585), the major annual legislation that sets or revises defense policy for the US military services and defense agencies.

Members of the conference committee, formed to work out compromises on the details of the bill, had a wide array of pay and benefit gains to choose from in shaping a final version.

The House approved its bill last summer. The Senate on Oct. 1 passed its authorization measure by a vote of 92-to-three. Both offered new benefits for military recipients.

The Senate matched the House in endorsing a 3.5 percent military pay raise, starting in January 2008, and in rejecting Bush Administration plans to raise Tricare fees and deductibles for retirees under age 65.

Both the House and Senate versions of the bill would require pharmaceutical manufacturers to provide federal pricing discounts to medicine dispensed through the Tricare retail pharmacy network. The discounts already are provided for medicines dispensed on base or by military mail order. The Senate language would require the discounts for Tricare retail outlets. The House bill merely would allow DOD to exclude drugs from the Tricare retail formulary if discounts aren’t provided.

Senate Embraces New Benefits
The Senate debate in September engendered a wave of new amendments aimed at helping reserve component personnel, military retirees, disabled veterans, and surviving spouses.

The Senate amendments would:

- Lift the ban on concurrent receipt for IU (independent unemployability) veterans. Current law blocks most veterans from receiving both disability compensation and full retired pay, including disabled retirees deemed “unemployable” by the VA. These veterans were excluded when Congress lifted the ban on concurrent receipt for all other veterans receiving disability compensation at the 100 percent rate. The Senate would restore lost retired pay for unemployable vets back to Jan. 1, 2005.

- End SBP-DIC offset. The law requires a dollar-for-dollar reduction in military Survivor Benefit Plan payments when widows accept tax-free VA Dependency and Indemnity Compensation. DIC is paid to surviving spouses if their service members die while on active duty or if their retiree spouses die of service-related conditions. About 61,000 widows would see their incomes rise if the Senate provision is enacted. The House voted only to take a first step toward eliminating the offset by paying up to $40 a month survivor indemnity allowance starting in October 2008.

- Accelerate SBP paid-up rule. An amendment in the bill would accelerate the effective date of the SBP paid-up rule by a year to Oct. 1, 2007. Under current law, retirees who have paid SBP premiums for at least 30 years and are age 70 no longer will have to pay premiums after Oct. 1, 2008. About 172,000 participants would benefit from an earlier effective date.

- Enhance GI Bill for reservists. Members of the National Guard or Reserve could use GI Bill education benefits earned through mobilization for up to 10 years after separating from the Selected Reserve under an amendment approved by the Senate. Currently, reserve component members must stay in drill status to use their GI Bill benefits. The House bill merely would transfer oversight for the Reserve Montgomery GI Bill from DOD to the Department of Veterans Affairs as a first step toward raising Reserve GI bill benefits.

- Raise reserve drill points. Drilling Reserve and Guard personnel earn a maximum of 90 points a year toward retired pay calculations. Given demands on current members, the Senate adopted an initiative to raise the annual ceiling on points to 130. The House bill is silent on the issue.

- Early reserve retirement. Reserve
component members retire at age 60. The start date for retirement would be set three months earlier than age 60 for every 90 days a Reservist or National Guard member has been recalled to active duty since 9/11. This improves on an earlier amendment that would have allowed a lowering of retirement age only for personnel mobilized after the defense bill is signed.

The Senate earlier voted other personnel changes not found in the House version of the bill. For example, eligibility for Combat-Related Special Compensation (CRSC) would be expanded to Chapter 61 retirees—those forced by disabilities to leave short of 20 years. The Senate would allow any Chapter 61 retiree with combat-related disabilities to receive both disability pay and a CRSC based on years served. The House voted only to expand CRSC eligibility to Chapter 61 retirees who served at least 15 years and have combat-related disabilities rated 60 percent or higher.

### Wounded Warrior Initiatives

Complicating the task of House-Senate conferees this year is a swell of legislative initiatives for wounded warriors plus recommendations from two separate commissions focused on disability compensation reform. But by early November, Senate leaders were set to ignore most of the commission recommendations, even those endorsed in October by the White House, until 2008.

The Senate's defense bill includes the Dignified Treatment of Wounded Warriors Act, with provisions targeted at weaknesses in care management of injured members returning from Iraq and Afghanistan. The bill would:

- End inconsistent ratings by DOD and VA for the same disabilities.
- Direct that DOD establish a board to review and, where appropriate, correct disability determinations of 20 percent or less for members separated as medically unfit since 9/11.
- Eliminate a requirement that DOD disability severance pay be deducted from VA compensation for disabilities incurred in a combat zone or combat-related operations.
- Ensure a near seamless transition from military care to VA care by requiring the department Secretaries to develop a comprehensive policy on the care and management of transitioning patients.
- Extend the period of eligibility for VA health care for combat vets of current and future wars from two years to five after discharge or release.
- Increase minimum disability severance pay to one year of basic pay for those separated for disabilities incurred in a combat zone or combat-related operations, and six months’ basic pay for all others.

The House last March passed its Wounded Warrior Assistance Act (HR 1538) in response to the poor treatment of outpatients at Walter Reed Army Medical Center. Those initiatives are focused on giving wounded service members and their families a stronger team of advisors and advocates to guide them through care, recovery, and disability evaluation.

### Bush Endorses Dole-Shalala Plan

In mid-October, President Bush endorsed a new four-part payment scheme for reforming veterans’ disability compensation, the same plan unveiled last summer by the President’s Commission on Care for America’s Returning Wounded Warriors, also known as the Dole-Shalala Commission.

By November, however, Sen. Daniel K. Akaka (D-Hawaii), chairman of the Senate Veterans’ Affairs Committee, signaled that the plan has major flaws, and it arrived too late for Congress to review and act on it before 2008. Akaka said he personally opposed Bush’s call that the pay enhancements only apply to veterans injured since October 2001 when US forces invaded Afghanistan.

Former Sen. Robert Dole, one of the architects of the plan, conceded it was getting “push back” from veterans’ service organizations. But that shouldn’t deter Congress from giving the current force a better disability package.

“If they’d do a little better than we did, that’s OK,” Dole told the Akaka’s committee Oct. 17. “These are grandsons and sons of Vietnam veterans and World War II veterans.” Improving their benefits, he said, “shows we’re making progress” and honoring their sacrifice.

The plan would totally restructure how disability compensation levels are set and reduce the military’s role to conducting a thorough physical and determining if an ill or injured service member is unfit for duty.

Those found unfit would be retired with a lifetime annuity based on final rank and time in service. Annuities would be set at 2.5 percent of basic pay multiplied by years served. The VA then would award a disability rating based on any service-related injury or ailment found. In addition to the military
annuity, veterans would get from the VA transition money to help adjust to civilian life. This would be followed by a monthly payment for loss in earnings capacity, the same rationale for current disability pay, and a new quality-of-life payment to compensate for limits on day-to-day activities resulting from the disabilities.

Akaka suggested that whatever changes to VA compensation Congress decides to make should be based on the recommendations of the Veterans’ Disability Benefits Commission (VDBC), which released its report Oct. 3 after more than two years of study. By contrast, the Dole-Shalala commission studied the issue only for three months.

“Many significant proposals from the Veterans’ Disability Benefits Commission were not contemplated by the Dole-Shalala commission and warrant review” before Congress acts on how Dole-Shalala and the White House seek to reform disability benefits, Akaka wrote in a commentary for the Washington Post Nov 2. He said he is “greatly concerned” that the White House’s plan “would exclude veterans from earlier generations.”

Veteran Commission Reports

Highlights of the VDBC report include a call to increase veterans’ disability compensation immediately and to make all disabled veterans eligible for concurrent receipt.

VDBC made a total of 113 recommendations.

“In the main,” said retired Army Lt. Gen. James T. Scott, “the recommendations are all favorable to veterans of the present and the future.”

Republicans voted in 2004 to establish the VDBC as a trade-off for agreeing to lift the ban on concurrent receipt for seriously disabled military retirees. The hope was that Scott, a former infantry officer and Army ranger, and the other 12 commissioners, would find reasons to tighten VA disability benefits. Instead, the VDBC found many reasons to expand disability benefits to make them more effective in aiding injured and ailing veterans and to be more responsive to financial challenges that service disabilities create.

Panel’s Priorities

The commission said most of its recommendations should be implemented over five years. Included among a list of 14 “priority” recommendations were these:

- Concurrent receipt. Congress should eliminate the ban on concurrent receipt for all disabled military retirees and for all service members who have been separated due to service-connected disabilities. If lifting the ban can’t occur immediately, the first groups targeted should be veterans with fewer than 20 years of service and disability ratings of 50 percent or higher and veterans disabled as a result of combat.
- End SBP-DIC offset. Congress should end the dollar-for-dollar offset in military Survivor Benefit Plan payments that occurs when widows also become eligible for VA Dependency and Indemnity Compensation. DIC is payable if a member dies on active duty or if a retiree dies as a result of service-related conditions. If Congress adopts this recommendation—and the Senate has—61,000 widows would see SBP fully restored effective back to Oct. 1, 2007.
- Raise VA compensation. Congress should increase VA disability compensation by as much as 25 percent for the most seriously disabled veterans as an interim step to recognize the impact of their disabilities on quality of life. Current compensation levels are set only to make up for lost earnings. VA payments should take into account reduced quality of life from severe disabilities not only on veterans but their families. VA Special Monthly Compensation (SMC) does take some account of diminished quality of life in these higher payments for veterans with lost limbs and bodily functions. Congress should consider increasing SMC so it better addresses the more profound impact on quality of life for veterans being wounded today.
- Update rating schedule. The VA should begin immediately to update its 60-year-old disability rating schedule, starting with ratings for post-traumatic stress disorder, other mental disorders, and traumatic brain injury. The commission believes compensation levels for veterans with these types of conditions are set too low because of the antiquated rating schedule. Once these ratings are changed, the VA should continue its rating schedule review so that within five years, the entire schedule is revised.
- Holistic approach. VA should establish a “holistic approach” to awarding ratings for post-traumatic stress disorder, combining compensation with treatment and vocational assessment. Re-evaluation should occur every two to three years to gauge treatment effectiveness and encourage wellness. VA statistics show that once veterans begin receiving compensation for PTSD, relatively few ever see their conditions improve in a way that would eliminate or reduce that compensation.
- Monitor Unemployment. Veterans who can’t work due to service-related conditions that are only 60 to 90 percent disabling still can be deemed unemployable and quality for VA compensation at the 100 percent level. The VDBC said the IU or program should be better managed, made more consistent, and be based on the effect of disabilities on a person’s education and employment history. The VA should conduct periodic and comprehensive evaluations of IU recipients. If any of them are found able to work, their IU compensation should be reduced only gradually.
- Replace IU rating. Recognizing that IU status is a way to accommodate individuals with multiple lesser ratings who are unable to work, the commission said the VA, in revising its rating schedule, should find a way to properly compensate these individuals without a special IU rating.