MEMORANDUM: Executive Officers Representatives, Member-Associations

DATE: April 5, 2017

SUBJECT: Federal Budget 2017 – Analysis

Further to my memorandum of March 22, 2017, I would confirm that I have had an opportunity to participate in three separate briefings over the last two weeks organized by the Minister of Veterans Affairs and/or the Deputy Minister in order to obtain a comprehensive analysis of the Federal Budget.

For those who have not received a copy of the Federal Budget document I am attaching the chapter which specifically deals with veterans (pages 173 to 179) for your convenience.

As a preliminary observation, the Budget announcement with respect to veterans focusses largely on transitional issues, “wellness” and rehabilitation programs and contains little substance insofar as the longstanding concerns of the veterans' community on financial compensation and improved benefits under the New Veterans Charter.

Indeed, as confirmed by the Minister and the Deputy Minister, many of the recommendations emanating from NCVA and other veteran stakeholders have been deliberately pushed down the line for further review and evaluation.
As per usual, the budgetary document contains a number of statements of good intentions and countless platitudes as to the Government’s “care, support and respect” for Canadian veterans and their families.

To be fair to the Minister and the Budget, the document does advance and expand the following transitional, wellness and rehabilitation programs which will potentially prove to be beneficial to many veterans and their families:

- The enhancement of career transition services;
- The establishment of a new veterans’ education and training benefit;
- A new caregiver recognition benefit;
- The recognition of the need to address the ongoing concerns as to the transition for “closing the seam” between DND and VAC for releasing CAF members;
- The expansion of funding and access to the Military Family Resource Centres for medically released veterans’ families; and
- The creation of a centre of excellence on Post Traumatic Stress Disorder and related mental health conditions.

In the presentations made by the Minister and the Deputy through the course of the briefings I have attended, they both emphasized the fact that Budget 2016 led to the investment of $5.6 billion over six years to provide more funds to veterans with injuries or illnesses incurred during military service. They mentioned in particular that, in Budget 2016 (in direct response to longstanding recommendations made by NCVA, the Veterans Ombudsman’s Office, the Standing Committee on Veterans Affairs and other veteran stakeholder groups):

- VAC raised income replacement under the Earnings Loss Benefit to 90% of pre-release salary for veterans who require rehabilitation or cannot return to work (made effective October 1, 2016);
- VAC expanded access to higher grades of the Permanent Impairment Allowance to better support veterans who have had their career options limited by a service related illness or injury (to be effective April 1, 2017); and
- VAC increased compensation for pain and suffering by increasing the disability award to a maximum of $360,000.00 in 2017 to be retroactive to 2006 the point in time of the enactment of the NVC (to be effective April 1, 2017).

It is noteworthy that the Minister and Deputy appeared to draw on this history so as to rationalize the fact that Budget 2017 is extremely thin on financial compensation provisions and instead dwells on wellness and rehabilitation concerns.

In this context, it is revealing that the budget document actually defined “what success will look like” as a consequence of the budget announcements:
• “More veterans getting the skills, training and education they need for civilian employment.
• “Better support for families of ill and injured veterans including caregivers.
• “Partnerships with third-party organizations to lead and pilot innovative projects for veterans.
• “Better knowledge of how to prevent, assess and treat mental health issues.”

Unfortunately, as I have expressed to the Minister and the Deputy, the Budget fails to tackle the “elephant in the room” in that it does not address the fundamental question of the financial disparity which clearly exists between Pension Act and New Veterans Charter compensation for disabled veterans. In addition, it is readily apparent that VAC is “kicking the can down the road” insofar as issues impacting on the financial compensation for disabled veterans and more particularly in establishing a form of lifetime pension as an option to the lump sum payment as delineated by the Mandate Letter. In fact, the Minister and the Deputy have both reaffirmed that this subject will be under review with a decision to be made ostensibly later this year.

The Budget document provides as follows in this regard:

“… Specifically, the Government will move forward with its plan to fulfill its commitment to re-establish lifelong pensions as an option for injured veterans. This will provide an option for injured veterans to receive their Disability Award through a monthly payment for life, rather than in a one-time payment. This change to the Disability Award is something that the veterans’ community has long advocated for and the Government remains committed to delivering. The Government has made considerable progress in its work to develop the pension for life option and will announce further details this year.

“Moving forward, the Government will continue to work with the veterans’ community to examine the best way to streamline and simplify the system of financial support programs currently offered to veterans.”

It is to be noted that, during the course of discussions leading up to the Budget and, indeed, in the briefings following the announcement, there was considerable concern that the Government was simply going to establish an option wherein the lump sum payment (Disability Award) would be apportioned over the life of the veteran or for a specific term for the purposes of creating a “lifetime pension” as ostensibly required under the Mandate Letter. NCVA and other veteran stakeholders have significantly criticized this proposition as being totally inadequate and not providing the lifetime financial security which was envisaged by the veterans’ community in this context. In fact, it is fair to say that the reasonable expectation of veteran stakeholders was that some form of benefit stream would be established which would address the financial disparity between the benefits received under the Pension Act and the NVC for individually disabled veterans.
It has been my consistent recommendation to the Minister and the Department that VAC should pivot from this lump sum payment evaluation for delivering the so-called lifetime pension option and instead look to the major conclusions of the NCVA Legislative Report and Policy Advisory Group Chapter One which propose that the combination of the best provisions of the Pension Act and the best provisions of the NVC would produce this form of lifetime pension in a much more realistic manner in order to ensure the financial security for those veterans who need this form of monetary support through their lifetime. In this context, it remains my strong suggestion that, rather than utilizing the term “lifetime pension” as an option to the lump sum payment, VAC should use the term “lifetime financial security” and move away from attempting to convert the lump sum payment into a form of lifetime pension.

It is further to be noted, from the perspective of the Ministerial Policy Advisory Group which I co-chair, that we feel in general terms that the Budget does not respond in a meaningful manner to the PAG recommendations (Chapter One) as endorsed at NCVA’s Annual General Meeting in November 2016. Our key recommendation in this context which would effectively produce a form of lifetime financial security was submitted to the Minister last Fall and presented to the Veterans Summit in Ottawa in October 2016.

The PAG report concludes:

“The enhancement of the Earnings Loss Benefit/Career Impact Allowance as a single stream of income for life, the addition of Exceptional Incapacity Allowance, Attendance Allowance and a new monthly family benefit for life will ensure all veterans receive the care and support they deserve when they need it and through their lifetime.”

It was the judgement of the Ministerial Policy Advisory Group that this proposal effectively bridged the best parts of the Pension Act and the NVC and represented a good first step to addressing the self-evident disparity between the NVC and the PA insofar as compensation was concerned, and further provided a form of “lifelong pension” for those veterans who qualified for the benefits proposed in our model. Given the ostensibly wide acceptance in the veterans’ community of this phase of the Policy Advisory Group’s report, it is somewhat difficult to rationalize the failure of the Government to adopt this particular recommendation as a priority step to NCVA reform at this time.

It should be stated, however, that with reference to the bigger picture the overall Budget is quite light as to financial commitments to all Government departments in the immediate fiscal period – many political commentators have surmised that the Federal Government has adopted a “wait and see” attitude as to Government expenditures in the short term until the American Congress and the Trump administration have revealed their budgetary plans which will undoubtedly have a potentially significant impact on the Canadian economy.
I must say that I retain a certain degree of optimism with regard to the potential for progress with respect to our legislative initiatives. Indeed, in our briefings and meetings with the Minister and the Deputy together with their respective officials, it was underlined that the recommendations of NCVA and the Ministerial Policy Advisory Group remain “front and centre” and are seriously being considered as part and parcel of the ongoing evaluation in regard to providing lifetime financial security for disabled veterans and their families – time will tell as to the reality of this commitment.

**Career Impact Allowance**

With reference to the improvements to be made to the newly defined Career Impact Allowance, Budget 2016 in response to the Mandate Letter indicated VAC’s intention to expand access to higher grades of the then Permanent Impairment Allowance to better support veterans who have had their career options limited by a service related illness or injury. It will be recalled that access to PIA had been extremely limited under the administration of the NVC. As a matter of background, the Veterans Ombudsman’s Office determined that only 50% of seriously disabled veterans qualified for PIA and of those who do qualify over 90% obtained only the lowest grade of grade 3.

Unfortunately, it became self-evident following the bringing down of Budget 2016 that the newly conceived CIA under the amended legislation was ill-defined both as to eligibility and grade level criteria. In effect, the CIA/PIA was arbitrarily structured so as to provide specific grade level amounts to seriously disabled veterans under the Charter – in reality, these monetary figures have no real bearing as to any projected loss of career earnings suffered by an injured CAF member with reference to his or her military career. As indicated in our NCVA Legislative Report, it is widely recognized that the PIA provisions reflected a “blunt instrument” as opposed to a “precise tool” in evaluating the financial impact that an injury may have on an injured veteran when related to his or her projected military career.

It was NCVA’s position in concert with the Policy Advisory Group that it was essential that VAC “think outside the box” in this regard so that the concept of CIA contemplates future loss of income for a disabled veteran on the basis of the following fundamental question – “what would the disabled veteran have earned in his or her projected military career if the veteran had not been injured?”

Once this benchmark was established, it was the position of the Policy Advisory Group as endorsed by the longstanding view of NCVA that a form of CIA be developed as to the probable earnings loss of the disabled veteran over his or her career as delineated in various reports emanating from the Veterans Ombudsman’s office over recent years and as proposed by the New Veterans Charter Advisory Group in 2009. The evaluation of the Veterans Ombudsman demonstrates the relative predictability of the elevation of a CAF member through his or her military career in recognizing the specific ranks the member would have achieved had the member not been injured. (For an extensive discussion on this subject refer to pages 7 through 9 of the NCVA Legislative Report of 2016.)
In conclusion on this point, the PAG recommendations with reference to the new CIA included the following:

- With reference to the short-term, in order to reflect the Budget 2016 proposed changes, we had asked VAC to establish a simple methodology to determine the eligibility for “loss of career progression” and to liberalize the access to CIA.
- In regard to the long-term for Budget 2017, we proposed VAC consolidate ELB and CIA to provide a single stream of income including a “projected career earnings” approach and make the CIA portion non-taxable (to parallel the Pension Act benefit).
- We also recommended that access to the new CIA benefit should be available throughout the lifetime of the veteran providing a financial safety net that includes application to both pre- and post-release income scenarios.
- Our newly proposed CIA would continue for life and eliminate the need for the RISB which is clearly inadequate.

It is extremely noteworthy that all of these recommendations, in my judgement, are key PAG proposals as it is self-evident that widening the scope of the CIA will expedite the “closing of the seam” between the NVC and the PA and potentially apply to all disabled veterans who qualify for this benefit.

In this context, it is interesting to note that following Budget 2017 VAC will be announcing the creation of the Regulations and Policy Guidelines for the Career Impact Allowance which will be effective April 1, 2017. These provisions were not disclosed to the veterans’ community and more particularly our Policy Advisory Group so we have had no opportunity to comment or critique the proposals.

It is implicit in our discussions with departmental officials that the grade levels will indeed be more generous under the newly revised CIA but that the access for eligibility to qualify for the CIA benefit will be essentially unchanged.

It remains our position that these recent developments should be no more than a short-term stop gap measure to implement the proposed changes to the PIA/CIA emanating from Budget 2016. Optimally, we will continue to pursue the long-term solution through the course of this year so as to compel VAC to implement the PAG recommendation which provides a more realistic standard of compensation as to the loss of probable career earnings suffered by a disabled veteran. Once again, it is to be emphasized that this particular step would go a long way to addressing the self-evident financial disparity between the NVC and the Pension Act vis-à-vis disabled veterans and their need for lifetime financial security.

I would now like to address specific provisions of the Federal Budget which establish new benefits or administrative improvements for veterans and their families:
1. **New Veterans Education and Training Benefit**

It is the opinion of the Minister and the Deputy that this is a landmark proposal which substantially enhances the Education and Training Benefit for all eligible veterans. Deputy Walt Natynczyk suggested that it was based on the United States G.I. Bill in relation to extending educational benefits beyond disabled veterans so as to include all released veterans who qualify under this new program.

The benefit will be available for ten years going forward following the release of the veteran and will be retroactive to April 1, 2006.

It will begin in April 1, 2018 for all veterans honourably released on or after April 1, 2006 – veterans with six years of eligible service will be entitled to up to $40,000.00 of benefits, while veterans with twelve years of eligible service will be entitled to up to $80,000.00 of benefits. The Minister/Deputy emphasized that the benefit would provide more money for veterans to go to college, university or technical school after they complete their service.

There is little question that this newly expanded educational benefit will be potentially beneficial to a much larger segment of the veterans’ community. My one caveat is that the “devil is often in the details” and questions of eligibility criteria will have to be examined closely, and in addition it will be necessary to determine whether the rather restrictive policy in the past for educational programs will be addressed and that more liberal access in general will be achieved by this initiative.

It will also be important to understand whether a released veteran wishing to take advantage of the educational benefit will be covered through some form of income replacement program to address the potential diminishment in income receipt for the maximum four-year period, i.e. will the SISIP LTD program or the VAC ELB program accompany this educational benefit particularly for disabled veterans who might qualify through this REHAB/Education Program?

Deputy Natynczyk also indicated in conclusion that, for those veterans who find education is not their solution, there would be further monies available under this program for career development courses in the neighbourhood of $5,000.00 per veteran.

2. **Benefit Enhancing Career Transition Services**

The Budget announces that this measure would equip veterans, CAF members, survivors, veterans’ spouses and common-law partners with the tools they need to successfully navigate transition to the civilian workforce. The services offered would be expanded to include coaching and job placement assistance, all of which would be provided through a national contractor starting in April 2018.

The Ministry and Deputy both felt that this was a breakthrough to assist the entire family given the expansion of the career transition service to survivors, veterans’ spouses, and
common-law partners (note example contained at page 176 of the Budget document of how a veteran would benefit from this new program).

3. Caregiver Recognition Benefit

This benefit will clearly replace the existing Family Caregiver Relief Benefit and would provide a slightly more generous non-taxable $1,000.00 a month benefit payable directly to caregivers to better recognize and honour their vital role. I, of course, raised obvious questions as to why the quantum of the Attendance Allowance or Attendant Care Benefit was not utilized as opposed to the rather meagre $12,000.00 a year. You will recall that we had proposed, through the NCVA legislative platform and the Ministerial Policy Advisory Group, that the amount of the Attendance Allowance Program or the Attendant Care Benefit would be more realistic so as to address, for example, the potential loss of employment income suffered by a caregiver spouse in attending to the veteran.

In addition, I have particularly raised with ministerial officials the concern that there should be more flexibility attached to this new Caregiver Recognition Benefit as clearly “one size does not fit all.” It is not without significance in this area that the grading levels available under the Attendance Allowance provisions of the Pension Act give the department a certain degree of discretion and flexibility as to the attendance needs of individual veterans. In my experience, there are numerous examples where substantial distinctions exist as to the need for attendance encountered by seriously disabled veterans.

It is also revealing that there is no mention of the Pension Act family compensation available to disabled veterans in this portion of the Budget dealing with caregiver recognition, i.e. under the PA a disabled veteran pensioner with a spouse is compensated a further 25% and for each child 12½% et al. This inclusion of this Pension Act benefit for families was a strong recommendation of the Ministerial Policy Advisory Group in order to recognize this beneficial provision of the Pension Act in the New Veterans Charter to better balance the overall compensation paid under the two statutory regimes.

Other budgetary provisions of note are as follows:

(a) The elimination of the Vocational Rehab time limits for veteran survivors and spouses;
   • This provision recognizes that survivors and spouses need more flexibility to use the support centre available to them.
   • When the limit will be eliminated as of April 1, 2018, these individuals are able to apply to the REHAB and VOC assistance program whenever they are prepared to return to work.
   • In my judgement, this is a useful amendment so as to create flexibility for survivors who often require significant time to make such decisions.
(b) The expansion of access to Military Family Resource Centres for medically released veterans’ families is largely supported across the veterans’ community given the valuable impact that MFRCs have for transitional veterans and their families;

(c) Creation of a centre of excellence for PTSD and related mental health conditions is once again fulfilling one of the Mandate Letter commitments given to the Minister by the Prime Minister;

(d) I would reaffirm that there was considerable discussion in the budgetary document as to the need to improve the transition between DND and VAC for medically released CAF members. This particular section of the Budget unfortunately contained a fair amount of bureaucratic bafflegab and did not provide substantive content as to the specific proposals that both departments were intending to follow to close the proverbial seam in this regard. (See page 175 of the Budgetary Report.)

It is to be noted that in our NCVA Legislative Agenda, we proposed the following with regard to this entire question of transition:

- NCVA takes the position that, as part and parcel of the DND and VAC “early intervention” protocols, no disabled CAF member should be medically released until proper rehabilitation, re-establishment and financial benefit programs are implemented and completed to ensure such disabled veteran is capable of satisfactorily returning to civilian life.

- In conformity with the Policy Advisory Group recommendation, NCVA proposes that VAC eliminate SISIP LTD/VOC-REHAB and place SISIP LTD and VOC-REHAB under VAC for all service attributable and non-service attributable medical releases – one program/one service delivery model.

NB: I can advise that longstanding negotiations continue between DND, VAC and SISIP to attain an objective where VAC becomes the sole provider of income replacement and rehabilitation programs for medically released CAF members. I must confess this negotiation has been ongoing for at least the last decade and one can only hope that this urgently needed reform is implemented sooner rather than later.

- NCVA also continues to propose that VAC permit a minimal threshold of earned income to encourage work and remove this disincentive to returning to civilian employment.

**Conclusion**

In summary, it is interesting in an overall evaluation of the Federal Budget that the Minister felt that given the fiscal environment the Government was currently
experiencing he had provided a reasonably good package for the purposes of the Budget, underlining the Educational Benefit, Caregiver Benefit, and wellness focus which he hoped would be well received and recognized by the veterans’ community. In this regard, the Deputy Minister also underlined that seven further Mandate Letter commitments had been satisfied in whole or part by the budgetary announcements building on the 2016 Budget commitments.

In addition, the Minister underlined the fact that $5.6 billion were committed in 2016 and a further $623 million committed to the 2017 budget. Further, in this context, the Minister emphasized that veterans were at least prioritized in a time when the overall Federal Budget did not expand Government spending to any great extent.

Notwithstanding these attempts by the Minister and the Deputy to paint a positive picture, in my respectful judgement, a more realistic assessment suggests that the Federal Budget was disappointing in that major legislative reform to the New Veterans Charter and related veterans’ legislation was basically put on hold. Moreover, significant recommendations from NCVA and the Ministerial Policy Advisory Group were not meaningfully addressed but rather pushed forward into the future for further evaluation.

It will clearly be NCVA’s ongoing responsibility to ensure that relentless pressure is maintained on VAC and the Government to implement the requisite statutory/regulatory reforms to the NVC. In my opinion, it is essential that we require, in the spirit of a “Living Charter,” that the Government fulfill its commitments to the veterans’ community by finally remedying the shortcomings and inequities that have been readily identified in the NVC for many years so as to ensure lifetime financial security for veterans and their families.

Yours truly,

Brian N. Forbes, B.Comm., LL.B.
Chairman

BNF/sc

Attach.