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FLAG AMENDMENT

March 2014
H.R. 2841, the Guard and Reserve Equal Access to Health Act

National Security Resolution No. 29 mandated, in part, that The American Legion urge Congress and the Department of Defense to support and fund quality of life features including “requiring the Services perform mandatory physical examinations, without waivers, for all separating and retiring service members within 90 days of separation from service”.

On July 25, 2013, Representative Nick Rahall (WV) introduced H.R. 2841, the Guard and Reserve Equal Access to Health Act, to amend title 10, United States Code, to ensure that the Secretary of Defense affords each member of a reserve component of the Armed Forces with the opportunity for a physical examination before the member separates from the Armed Forces. Specifically, the bill directs the Secretary of the military department concerned to provide a physical examination to each member of a reserve component who: (1) will not otherwise receive one through that department, and (2) elects to receive such examination. Further, it requires the Secretary to: (1) provide such examination during the 90-day period before such member’s scheduled date of separation, and (2) provide such member with a record of the examination. Currently, the bill has thirty-five co-sponsors, and is assigned to the House Armed Service Committee.

The Reserves and National Guard became operational forces, instead of strategic, on August 2, 1990 when Operation Desert Shield began after the invasion of Kuwait by Iraq. This operation twenty-three years ago, and the mobilizations that followed, especially those after 9/11, mean that more than a generation of reserve component service members have faced the same duties, hardships, and sacrifices as those in the active components. Over the past twelve years, more than 700,000 reserve component service members have completed over 1.2 million deployments to the wars in Afghanistan and Iraq; they performed the full spectrum of combat duties and were subject to the same battlefield hazards and demands as their active component counterparts.

However, while active component service members must undergo a separation physical examination (it may be waived if an examination had been undergone within the last year of service, but service members retiring from active service are required to have an examination), this same right to an end-of-service physical examination is not mandated for reserve component service members. This policy of unfair treatment must be corrected. A reserve component service member must have an initial physical examination to show they are fit for duty. Thus, it is only right that when they return to civilian life they undergo an end-of-service physical examination to have an assessment of their health condition, determine if any existing medical condition arose during their time of service, and have the documentation of the state of their health provided to them at the end of their military career.
The passage of this bill is also important because many reserve component service members discover, after they leave military service, that they may have health conditions that occurred, or were aggravated, during their time of military service. However, their claims for service-connected disability compensation are denied by the Department of Veterans Affairs (VA) because of the lack of medical documentation from their time of service. An end-of-service physical examination would help many of these reserve component service members obtain their earned benefits. According to a published VA May 2012 report, VA is denying disability benefit compensation claims for Reserve Component Global War on Terrorism (GWOT) veterans at four times the rate of active duty GWOT veterans. Anecdotal evidence of VA appeals indicates these denials of service-connected disability compensation claims of reserve component service members contributes to the ever-growing and outrageous VA claims backlog as well.

This bill is important for many reasons. It is a Military Quality of Life Standards matter and the current double standard of health care end-of-service physical examinations between active and reserve component service members must end. Reserve component service members face the same risks and make the same sacrifices as those on active duty. They should have the right to an end-of-service physical examination that documents the state of their health at the end of their military career and have the medical documentation, if needed, for their VA earned benefits.

Since this Legion initiative has been introduced, the bill has been supported by the Veterans of Foreign Wars, the National Guard Association of the United States, the Association of the United States Navy, and the Reserve Officers Association.

The American Legion supports passage of **H.R. 2841**.
TRICARE

TRICARE provides low-cost world-class medical care for service members, military retirees, and their families. To protect this benefit The American Legion passed three resolutions. Resolution No. 24 specifically opposes TRICARE fee increases by mandating The American Legion to strongly oppose hikes in premiums, deductibles, and enrollment fees and, furthermore, to urge Congress to reject any proposed increases. Resolution 29 supports Military Quality of Life Standards, including TRICARE benefits. And Resolution No. 59, which mandates The American Legion ensure that any earned military benefits in force at the time of initial enlistment cannot be reduced in value, and that benefit is to remain in force throughout the entire military career and retirement of a service member.

In past years, President Obama has asked Congress to increase TRICARE costs and alter TRICARE benefits. Although The American Legion has successfully stopped many of these proposals on Capitol Hill, some have been passed into law. In 2013, a provision in the National Defense Authorization Act (NDAA) said “It is the sense of Congress that—(1) members of the uniformed services and their families endure unique and extraordinary demands and make extraordinary sacrifices over the course of 20 to 30 years of service in protecting freedom for all Americans, as do those who have been medically retired due to the hardships of military service; and (2) access to quality health care services is an earned benefit during retirement in acknowledgment of their contributions of service and sacrifice.” [emphasis added.] Then the NDAA went on to raise co-pay costs for TRICARE prescription drugs and tie future increases to the annual military retiree COLA.

For years The American Legion has lobbied Capitol Hill to keep benefits for military service members and retirees politically off-limits. We succeeded as Congress resisted cutting benefits while the military was fighting two wars. Today, however, the growing public alarm over the federal debt, federal budget pressures, and a weak economy have eroded Congress’ resistance to the idea of shifting more and more military health care costs onto the backs of military beneficiaries. The American Legion expects, in the near future, continued budget submissions proposing significant increases in TRICARE enrollment fees, deductibles, and pharmacy co-payments for retired beneficiaries not yet eligible for Medicare and new enrollment fees and other costs for the TRICARE for Life program for retirees over the age of 65. The President justifies these budget proposals by the Department of Defense (DOD) as necessary to constrain the growth of health care spending as an increasing proportion of the defense budget in the next decade. But, due to continued lobbying pressure by The American Legion, Congress has passed legislation each year to prohibit most of those proposed fee increases.

In his fiscal year (FY) 2015 budget request to Congress on March 4, President Obama has, once again, proposed many TRICARE changes. In the FY 2015 DOD budget the President seeks to overhaul the current TRICARE system by creating a new “Consolidated” system that eliminates the three current programs (Prime, Extra, and
Standard) and replaces them with a single system that includes additional fees and premiums. The DOD’s proposed TRICARE overhaul includes the following key elements that are of interest to the Legion:

- **No Change for Active Duty** – No change for active duty service members. They would maintain priority access to health care without any cost sharing and would still require authorization for civilian care.

- **New Cost Shares** – New cost shares will depend on beneficiary category (excluding active duty) and care venue, and are designed to “minimize overutilization” of costly care venues, such as emergency rooms. Cost shares would be the lowest in Medical Treatment Facilities (MTF), higher in network providers, and highest in out-of-network facilities. The new cost shares for in-network care will range from $0 for a clinical preventive care visit to $75 for a trip to the emergency room.

- **New Enrollment Fee** – Military retirees (not medically retired), their families, and survivors of retirees (except survivors of those who died on active duty) would pay an annual participation fee ($286 individual/$572 family) or “forfeit coverage” for the plan year.

- **Open Season Enrollment** – Under a new open season enrollment period (similar to most health plans), participants must enroll for a 1-year period of coverage or lose the opportunity.

- **New Catastrophic Caps** – Catastrophic caps would increase slightly but remain “sufficiently low” to protect beneficiaries from financial hardship. The participation fee would no longer count towards the cap. The new cap for a family will be $3,000 per person or $5,000 for the family.

- **Fee Waivers for Medically Retired and Survivors** – Medically retired service members and their families and survivors of those who died on active duty would be treated the same as Active Duty Family Members with no participation and lower cost shares.

- **Increased Co-pays for Pharmaceuticals** (excludes active duty service members) — Designed to increase the use of mail order to refill maintenance medications. The co-pays for brand name medications will cost $26 in 2015 and increase annually, reaching $45 by 2024. Generic medications will increase to $14 by 2024.

The President’s DOD FY 2015 proposal also includes:

**Enrollment Fees for TRICARE for Life (TFL)** – For the first time, implements an “annual fee” for TFL coverage, but will ‘grandfather’ TFL beneficiaries in the program prior to enactment. The TFL enrollment fees will be phased in over a 4-year period and will be based on a percentage of the beneficiary’s military gross retired pay up to an annual fee ceiling with indexing to military retiree COLA after FY 2018. TFL fees will increase each fiscal year, capping at $818 for general and admiral retirees in 2019.

The American Legion stands strongly against those proposals that further degrade the TRICARE benefits for our nation’s active duty and reserve component service.
members, military retirees, and their families. The American Legion strongly opposes any further increases in TRICARE fees, including prescription drug fees, co-pays, and other increases that reduce the financial benefit of these health care plans. We are also strongly opposed to the new proposed implementation of enrollment fees to retired service members for their TRICARE For Life coverage as, in order to qualify for TRICARE for Life, they must already be enrolled in the Medicare B program; and this program is already subject to periodic increases in premiums to beneficiaries, thus these military retirees and their families are already subject to further increased health care costs. This nation must not dilute the promises made in its contract with those who serve, and have served, in our nation’s defense.

Lastly, there is another reason The American Legion believes Congress should not consider these budget requests this year. The National Defense Authorization Act for Fiscal Year 2013 directed the establishment of a Military Compensation and Retirement Modernization Commission to review the compensation and retirement systems and make recommendations to modernize the systems in order to:

- Ensure the long-term viability of the All-Volunteer Force
- Enable the quality of life for Service members and their families that fosters successful recruitment, retention and military careers
- Modernize and achieve fiscal sustainability for the compensation and retirement systems for the 21st century

This Commission is conducting a comprehensive review of all the military compensation and retirement systems to ensure the right mix of pay and benefits to maintain the All-Volunteer Force. The Commission Report is due February 2015. At that time Congress can study the report and take action on recommendations. If Congress is allowed to amend military benefit programs now, and in a piece-meal fashion, the nation will lose the costly and important in-depth work provided by the Commission; and its report will simply be added to an ever growing pile of military compensation studies and reports that will never be properly considered for action.

The recently enacted change to the military retirement cost-of-living adjustment (COLA) formula and its subsequent partial repeal a few weeks later has shined a spotlight on Congress that it is foolhardy to approach the military benefits system in such a piece-meal manner and without proper debate. If changes to military benefits are appropriate, then it is critical the nation conduct this debate openly in public and not behind closed doors where The American Legion is not allowed to voice the concerns of its members.

The American Legion believes that due to the complexity of the military benefits and retirement system, Congress must not consider further changes in this area until the Military Compensation and Retirement Modernization Commission completes its work.
ENSURE STABILITY OF VA FUNDING

On October 22, 2009 President Obama signed “The Veterans Health Care Budget Reform and Transparency Act” into law. On the day that veterans won the battle for Advance Appropriations for Department of Veterans Affairs (VA) funding, the President noted:

"In short, this is common-sense reform. It promotes accountability at the VA. It ensures oversight by Congress. It is fiscally responsible by not adding a dime to the deficit. And it ensures that Veterans’ health care will no longer be held hostage to the annual budget battles in Washington."

In a White House blog on that day, Tammy Duckworth noted the importance of the bill toward the critical tasks of logistics and planning. Duckworth noted the critical need for intensive groundwork in advance as the key to the success of future operations.

Advance planning helps all aspects of VA operations, but in 2009, while the bill was able to provide advance logistical planning for 86 percent of the overall VA discretionary budget, some crucial areas fell in that uncovered 14 percent. Information Technology (IT) – without which VA hospitals struggle to implement new equipment and VA claims workers struggle to use the new Veterans Benefits Management System (VBMS) for paperless processing of claims – is left out. The budget of the Veterans Benefits Administration (VBA), responsible for turning the tide against the backlog, is left out. Construction accounts, necessary for long range planning to ensure healthcare delivery to veterans, are left out.

It is vital that 100 percent of VA’s discretionary budget enjoy the long range planning logistical benefits of Advance Appropriation. President Obama’s words are as true today as they were when he gladly signed this bill for the medical accounts. It does not add one dime to the deficit, it ensures oversight by Congress, it promotes accountability. Advance Appropriation helps take veterans programs out of the budget uncertainty and gives the leadership of VA a stable platform for plan for the future.

The Putting Veterans Funding First Act of 2013 (HR 813, S. 932) would extend advanced appropriations to the entire VA budget and critical areas such as IT, research, construction, and the Veterans Benefits Administration (VBA) responsible for ending the backlog would enjoy the same protections of the medical accounts. Best of all, the CBO score for this bill is zero. This bill, which would stabilize and protect veterans’ funding in the midst of the turbulent fiscal wars on Capitol Hill, adds no cost to the budget.

During the government shutdown, the fact that this country came within days of defaulting on disability payments to veterans wounded in combat was a national embarrassment. The best part of Advance Appropriations is that protection against such embarrassments is considered a side benefit to the many other advantages it offers. It’s not just a good idea because it keeps both parties from using veterans like a
political football, it’s a good idea because it promotes long term planning, accountability, stability, and progress in VA **regardless** of whatever budget battles do or do not occur in the rest of government.

When politicians promise not to balance the budget on the backs of veterans, ask them to put their money where their mouth is and extend Advanced Appropriations to the entire VA budget. Urge your member of Congress to authorize Advance Appropriations to ALL VA accounts\(^1\).

\(^1\) Resolution 77: “Advance Appropriations for All of the Department of Veterans Affairs’ Discretionary Accounts” - AUG 2013
PROTECT VETERANS BENEFITS AND HEALTH CARE

Protecting VA from the effects of Sequestration is not enough – in the budget battles of Congress, eternal vigilance is required to ensure vital programs are not getting short shrift.

It is easy to think that by standing strong in protecting the Department of Veterans Affairs (VA) from the arbitrary and devastating cuts of sequestration that enough is being done to protect veterans’ programs. Unfortunately, nothing could be further from the truth. Protecting VA from sequestration does not protect VA from ordinary, run-of-the-mill budget cuts, and several programs have recently been in jeopardy. The American Legion must fight to ensure VA funding does not get short shrift.

The overall budget has steadily increased over the past decade. From a budget of $62.3 billion in 2004 to the 2013 funding of $140.3 billion. It would be easy to think that with a budget that has more than doubled in the past ten years, VA was in a good position in terms of operating funds. However, over the past decade, the claims backlog has soared, over 2.5 million veterans served in Iraq and Afghanistan and are entitled to five years of VA medical care after discharge, aging veteran populations of previous wars also sought healthcare through VA as other options became limited during a down economy, and problems with homelessness and unemployment plagued the national population of veterans and required substantial VA resources to combat. These problems will not go away as the country draws down from war status in Iraq and soon Afghanistan.

Over the next decade, over a million service members will be cut from the rolls of active duty rosters and join the veterans’ community. They will need resources from VA. The already overloaded disability claims system will continue to integrate a fully paperless electronic claims system with the Veterans Benefits Management System (VBMS). Massive changes to Information Technology (IT) infrastructure costs money, and VA will need the resources to keep from falling behind and causing future backlogs.

For the past several years, The American Legion has been critical of VA’s Construction budgets for Major and Minor Construction. The Strategic Capital Investment Planning (SCIP) process is VA’s internal long range planning tool, but if VA continues to budget the way they have for the past two years, their ten year SCIP plan will take over sixty years to implement. Construction spending must increase to ensure the SCIP needs are being met. The American Legion urges Congress to ensure appropriations are increased annually to address VA Construction deficiencies and gaps identified by SCIP.

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2 Resolution 93: “Strategic Capital Investment Program (SCIP)” – AUG 2012
Facilities are in further dire straits because of recent changes in how the Congressional Budget Office (CBO) “scores” the spending liabilities of leases, used commonly for Community Based Outpatient Clinics (CBOCs) which form a major component of how VA delivers care to veterans, particularly in rural areas.

Over the last 20 years, VA has utilized its medical leasing authority at 38 USC 8103 & 8104, in conjunction with the General Services Administration Acquisition Regulation (GSAR) and Federal Acquisition Regulation (FAR) to lease nearly 600 CBOCs. The wisdom and need for these centers is not in question or dispute.

The average facility goes through a comprehensive competitive procurement process, whereby VA stipulates its unique needs in solicitations, offering contractors the chance to submit competitive proposals in an attempt to receive the lease award to provide underlying medical space so VA can serve veterans in a convenient, accessible manner, with expertise that VA is required to provide. And, VA’s major leases are negotiated based on fair market appraisals, where VA is not tied to lessor’s underlying debt/loan obligations. Simply put, the VA enters into a leasing contract for these properties at competitive rates, similar to any other equal commercial property. The advantage to VA in the case of these leases is that they get to have a facility which is custom tailored to our veterans’ needs, in space that VA can vacate at the end of the lease term, and the lessors can then repurpose the space for other desired non-VA uses.

Commercial property leasing is common in the United States, and long-term leases are an industry standard. Some of the reasons that leasing property might make more sense that owning property include:

- **Flexibility** – As population demographics change, the lessee has the freedom to relocate to an area where they can best meet the needs of their client/customer/patients.
- **Cost** – Leasing a facility minimizes the financial burden placed on the organization, and the cost of occupancy can be stretched over the course of 10, 15, or even as much as 20 years.
- **Risk** – Construction cost overruns are more than common in the construction industry – in fact, they are almost a guarantee. Lease contracts help insulate the lessee from unexpected costs, due for example, to unforeseen issues, poor planning, loss-leader bidding, or underbidding. Underbidding is a common problem in the competitive construction process, as bidders seek to win large contracts by underbidding their competition, and then attempt to recover some of those lost revenues by adding on charges later that weren’t specifically named in the original bid, but are essential to the successful completion of the project. In the industry, these are referred to as modifications, or “mods” for short.

In 2005, CBO published an Economic and Budget Issue Brief titled “Third-party Financing of Federal Projects”. It is this brief that CBO now uses as the basis for their opinion to score VA’s future CBOCs upfront, by claiming that the total expenditure of a
long-term lease be charged against the federal budget in the first year of the contract -- as if the federal government were to purchase the property and the supporting land outright. In addition, CBO states that a subsequent lease of 20 years (if VA remains in that same leased space) would not be scored fully upfront, but would instead be scored only for the years worth of financial commitment the government would need to draw from the treasury, year-by-year -- stretching the impact over the life of the lease, instead of in the first year as in the case of a new lease. According to CBO, “We would treat renewal of the lease after the construction note is paid off as a straight lease. There would be no direct spending”\(^3\).

According to the report, “if agencies do not initially record the full cost of governmental activities, the budget understates the size of the federal government and its obligations at the time when those obligations are made”\(^4\). From a pragmatic business perspective, The American Legion fails to see the difference between an initial lease, and a subsequent lease of equal time, and what logic dictates that the impact to the federal budget be considered differently in each scenario.

The 2005 CBO brief assumes that long term leases that are built-to-suit sufficiently satisfy the financed debt that the contractor invested in the project, and therefore the contract should be viewed as being more costly to taxpayers. “In many instances of third-party financing, a project is created as a stand-alone entity, sustained by the cash flows generated by its assets”\(^5\). Based on our understanding of the brief, CBO disagrees with this business model, and leaves us, the reader, with the impression that the contractor, financier, and landlord are all somehow unjustly enriched, and that the government will ultimately pay more for these types of contracts than they would have, had they either purchased the property outright, or leased an existing property through a commercial leasing agent. Based on The American Legion’s evaluation of this program, we find no evidence to support this claim.

CBO further warns that the government could be liable for the total cost of a lease, even in the case of an early termination. In the 20 year history of the CBO/C leasing program, The American Legion understands that there has only been one case where a major lease was prematurely terminated, and that the government did not suffer total-cost liability as a result of that early termination.

The American Legion recognizes that the Congressional Budget Office is in place to provide policy cost estimates through assumptions and methodologies, and that the opinion of the analyst is not politically motivated. We also recognize that the recommendations of CBO are provided to Congress for inclusion in the overall evaluation process, and are specifically not intended as binding recommendations. As such, The American Legion calls on Congress to consider the government’s cost to own, operate, and maintain facilities after their economic life has outlived its competitive

\(^{3}\) Email between CBO and TAL dated June 11, 2013 at 3:59PM  
\(^{4}\) Congressional Budget Office report, Economic and Budget Issue brief, Third-party Financing of Federal Projects June 1, 2005  
\(^{5}\) ibid
usefulness. Healthcare treatment has advanced more in the past 20 years than any other time in our history, and it will advance at the same rate, or faster, over the next 20 years. The American Legion is concerned that VA will be saddled with an inventory of antiquated facilities, leaving veterans with substandard care, reduced access to quality care facilities, and outdated technology. The lease model provides VA with an exit strategy for inefficient facilities. If they own the properties, the exit strategy is less clear and possibly more expensive.

While The American Legion accepts that the analyst’s opinion is not politically motivated, we question whether the opinion, in this case, is based on sound and reasonable business best practices. As an example, CBO states, “Third-party transactions are generally structured in such a way as to try to justify recording investment costs in the federal budget over the life of a project instead of in full when the investment is made – as would be the case with normal appropriations. Treating investment costs as an annual operating expense may make it easier to get projects funded by eliminating the need for substantial up-front appropriations. However, such budgetary treatment is at odds with established principles of federal budgeting, which require agencies to record the costs of government investments when they are made.” Accounting for obligations is different than accounting for investments. The leases discussed here are not burdens placed on the federal treasury in a single year, rather a series of investments committed to over the course of a long term contract. The American Legion disagrees with CBO’s opinion that first term leases place a disproportionate obligation on the budget in the first year, as opposed to subsequent leases, and is able to find no statistical or empirical data to support this CBO claim.

At the time the CBO report was written, VA’s CBOC lease program was still fairly new. CBO used only anecdotal data to support their assumptions, which in-turn supported their conclusions. After 20 years of facility leasing, The American Legion can find no accusations of overspending based on the CBOC facilities leasing program, nor has CBO offered any evidence that the CBOC leasing program has cost the American taxpayer a dime more than should have been spent.

The American Legion firmly believes that the opposite is true; that the CBOC leasing program is less expensive than purchasing, and as an added advantage, VA’s budget is not overextended -- which allows them the freedom to open 10 to 20 times the amount of clinics to serve veterans than they would be able to, if they had made the decision to purchase the same facilities.

If Congress does not marginalize the opinion of the Congressional Budget Office in the case of CBO scoring these leases, then the cost of serving our disabled veterans in the affected communities will be exponentially increased – because each veteran will then be relegated to contract services – which the American Legion believes to be far less cost

The American Legion firmly believes that the opposite is true; that the CBOC leasing program is less expensive than purchasing, and as an added advantage, VA’s budget is not overextended.
effective than leasing and operating VA’s own facility. The American Legion also joins with the rest of the Veteran Service Organization community when we recognize that the best place for veterans to receive VA covered health care is at the VA.

The American Legion thanks the House for passing **H.R. 3521: The Department of Veterans Affairs Major Medical Facility Lease Authorization Act of 2013** to address the CBOC issue. Now, it’s time to call upon the Senate to either pass Senator Landrieu’s **S. 1740** companion bill, or Senator Sanders’ omnibus **S. 1982** which includes the measure. It’s time to finish the job for these veterans and ensure they aren’t locked out of medical facilities.

When politicians promise not to balance the budget on the backs of veterans, ask them to put their money where their mouth is and ensure VA has the operating funds it needs to care for veterans.

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6 Resolution 24: “Congressional Budget Office Scoring on Department of Veterans Affairs Leasing” - MAY 2013
THE VA DISABILITY CLAIMS BACKLOG

At The American Legion’s Convention in Milwaukee in 2010, Department of Veterans Affairs (VA) Secretary Eric Shinseki put forth the bold statement that “This is the year we will break the back of the backlog” and set forth the goal that by 2015 there would be “no claim waiting more than 125 days and all claims would be adjudicated with 98 percent accuracy.” Nearly four years since that statement, VA is only now starting to turn the tide towards ending the backlog. Amidst the progress however, deep concerns remain about the effects of the measures taken to achieve those numbers.

At the conclusion of 2013, VA pointed to figures showing progress towards their goal. VA claims to have reduced their pending inventory of claims by 22 percent, and to have reduced the number of backlogged claims7 by 36 percent. A major initiative in early 2013 saw VA issue decisions for 99.9 percent of claims pending over two years, and 97 percent of claims pending over one year. During this time, VA also finished the roll out of the Veterans Benefits Management System (VBMS) to all regional offices, ensuring a “paperless” processing system nationwide and claimed to have increased “medical accuracy” of claims to 97 percent.

While these are all promising steps, and The American Legion is pleased to see overall progress towards eliminating the backlog of claims, close scrutiny of the above assertions does not hold consistent with unchecked optimism. American Legion Regional Office Action Review (ROAR) visits find error rates far in excess of the claimed 97 percent accuracy. American Legion service officers report poor decisions from VA on the one and two year old claims that were rushed to completion, and VBMS, while helpful, is still subject to outages, and stymied by the usual struggles of large scale Information Technology (IT) roll outs.

Certainly, a chunk of VA’s progress in reducing backlog numbers is directly attributable to the Fully Developed Claims (FDC) program. The American Legion took a leading role in spearheading acceptance of this program and examining its utility for the White House. In short, with the help of an experienced service officer, a veteran submits all of the information needed to decide the claim up front. In turn, VA has reduced development time, and instead of seeing delays of 350-400 days to complete a claim, FDC claims are usually completed in 100 days or less. By partnering with veterans to deliver more claims to VA in FDC format, The American Legion is helping to drive down the backlog.

As of March 2014, the VA’s “12 Month Entitlement Accuracy” averaged 90.2 percent. The shift to specific accuracy titles such as “Medical Accuracy” and “Entitlement Accuracy – Issue Based” is new to VA’s method of accounting, first surfacing in 2013.

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7 Backlogged Claims defined as claims pending over 125 days.
American Legion accuracy figures noted on ROAR visits fall far short of these numbers, often reporting errors found on half to two thirds of claims reviewed.

The employees at VA working on claims have been working mandatory overtime hours for part of the year for over three years now. While mandatory overtime may make sense as a short term solution, continued reliance on such measures is usually indicative of problems with staffing levels. Inadequate staffing levels, lack of continuing education, and increased pressure to make quick decisions result in an overall decrease in quality of work. These are among the most common complaints raised by regional office employees interviewed by The American Legion during ROAR visit quality checks. It is an extreme disservice to veterans, not to mention unrealistic, to expect VA to continue to process an ever increasing workload, while maintaining quality and timeliness, with the current staff levels.

Changing the culture starts with incentive. As it currently stands, VA employees receive the same credit for work whether it is done properly or not. This practice makes no sense and The American Legion has frequently stated this in testimony. Because VA does not measure for improperly processed claims, there is little employee incentive to get a veteran’s claim right before that claim passes on to the next desk in the bureaucratic chain. The American Legion believes this can be changed by altering the VA work credit system to ensure incorrect work is counted against a Regional Office.8

This recommendation could potentially be a simple solution to a long standing problem. Most people are familiar with the concept of a checkbook. Positive credit is in the black, negative credit is in the red. When a VA employee finishes a claim step they get positive credit. When the system later finds they did the work in error, a negative credit is applied. It could even be as simple as taking an entire office’s work load credit and offsetting it by the error rate at that office.

A simple change along these lines will drive home the importance of getting the claim done right the first time. Claims done right the first time seldom require the lengthy appeals process that clogs up the system for other deserving veterans and creates delays of months and years before the claim is finally decided.

The logistical fine tuning of such a system may require further work with VA and congressional committees, but The American Legion’s point is clear. VA needs to remember their priority is to provide prompt and accurate decisions for these veterans. A continuing claims backlog is a national embarrassment.

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8 Resolution 118: “Revision of Work Rate Standards for Department of Veterans Affairs Adjudicators” – AUG 2012
WORK OPPORTUNITIES FOR VETERANS IN THE PRIVATE SECTOR

Over the past few years, Congress has introduced legislation for several programs to assist veterans in transitioning from military service to the civilian workforce. Among these are the Work Opportunity Tax Credit (WOTC) and targeted career transition programs; The American Legion supports both initiatives, and seeks to ensure that they become accessible to our veterans.

In 2011, Congress passed into law the VOW to Hire Heroes Act, which included the Work Opportunity Tax Credit for employers who hire veterans. The credit was extended in 2012 through 2013. However, the credit expired on December 31\textsuperscript{st}, 2013 despite the fact that veteran unemployment remains high, especially among Post-9/11 veterans.

Therefore, The American Legion supports the reinstatement of the tax credit to encourage veteran employment, as well as improvements such as the simplification of the application process, and the inclusion of a reporting mechanism, in order to produce data showing the effectiveness of the credit. Simplification of the application process would, The American Legion believes, encourage more widespread usage of the program, resulting in more veterans being hired, and reducing veteran unemployment. A reporting mechanism resulting in data would help to better assess the effectiveness of the program, and would provide lawmakers and veterans organizations a better sense of whether the tax credit is valuable, and whether it should be continued to be offered in the future.

The American Legion also supports the implementation of a pilot program such as the one outlined in S. 1982.

This program, entitled the Program on Provision of Career Transition Services to Young Veterans, authorizes Department of Veteran Affairs to pay a subsistence salary for recently separated veterans to attend 1) Internships; 2) Mentorship/job shadowing; 3) Volunteer opportunities; 4) Professional skills workshop; 5) Skills assessment; 6) Appropriate counseling and career services, within the private sector. The program’s purpose is to provide recently separated veterans with work experience and marketable skills in the civilian sector, so that these entry-level positions can lead to long-term employment and viable career paths.

The cost of $600 million for this pilot program is not free money for corporations or veterans. It is an investment in our returning veterans’ futures and the American economy. This investment has the potential to open thousands – perhaps millions – of job opportunities in corporate America for our returning veterans, and save future taxpayer dollars that would otherwise be spent on Unemployment Compensation for Ex-Servicemembers (UCX), the Workforce Reinvestment Act (WIA), the Veterans Workforce Investment Program (VWIP), and the Homeless Veterans' Reintegration Program (HVRP).

Reference:

Resolution No. 333: Work Opportunity Tax Credit
Resolution No. 70: Support the Development of Veterans On-The –Job-Training Opportunities
**VETERAN-OWNED SMALL BUSINESS**

**Federal Contracting Goals for Veteran-owned Small Businesses:**
Congress has generally broad authority to impose requirements upon the process whereby federal agencies obtain goods and services from the private sector. One of the many ways in which Congress has exercised this authority is by enacting measures intended to promote contracting and subcontracting with “small businesses” by federal agencies.

Public Law 106-50, the *Veterans Entrepreneurship and Small Business Development Act of 1999*, included veteran-owned small businesses within federal contracting and subcontracting goals for small business owners. It required the head of each federal agency to establish goals in the utilization of small businesses owned and controlled by service disabled veterans, within their procurement contracts. Currently a minimum of 3 percent is set as the agency-wide base goal for the utilization of Service Disabled Veteran Owned Small Businesses (SDVOSB).

Unfortunately, agency compliance with PL 106-50 has been uneven. While it is true that in 2013 the federal government as a whole was able to meet the goal of 3 percent for SDVOSB, many agencies continue to fail.

Agency leadership must be held responsible for meeting the 3 percent congressionally mandated goal. The American Legion recommends that a hearing be scheduled to examine the federal agencies that consistently do not meet their federal procurement goals with SDVOSB.

**VA Small Business Verification Program:**
The Department of Veterans Affairs (VA) has dramatically increased its contracting with small businesses owned by veterans, since 2006—from $616 million to $3.6 billion in fiscal year 2011. VA’s success in contracting with veteran-owned small businesses (VOSB), including service-disabled veteran-owned small businesses (SDVOSB), stems from its Veterans First Contracting program, established in response to the *Veterans Benefits, Health Care, and Information Technology Act of 2006*, which allows the VA to set-aside contracts for both service-connected disabled veterans and veteran business owners. It can also sole source contracts to service-connected disabled veterans and veterans.

Since December 2011, veteran business owners wishing to take advantage of these contracting opportunities with the VA must not only be registered in the VA’s Center for Veterans Enterprise (CVE) VetBiz.gov registry, but must now be “verified” as veteran-owned businesses as well. The American Legion endorses the VA’s attempt to ensure every small business verified is in fact eligible to be a SDVOSB; however, glitches in the VA’s system for verifying their qualifications are holding back the program and many veterans have found the verification process to be overly burdensome, lengthy and too
troublesome to undergo. While VA has recently made improvements in the verification process, more needs to be done.

**Recommendations:**
The American Legion supports (1) legislation that would require federal agencies to adhere to the 3 percent minimum in SDVOSB utilization goals as set by the SBA; (2) legislation that will simplify and streamline VA’s verification of SDVOSBs and VOSBs interested in participating in the agency’s Veterans First Contracting Program; (3) legislation that calls for the Department of Veterans Affairs and the Small Business Administration to share responsibilities for the verification of SDVOSBs and VOSBs; and this responsibility should be divided accordingly to each agency’s expertise and record of past performance; and lastly, (4) the implementation of a program comparable to Veterans First Contracting Program within the Department of Defense.

**Reference:**

Resolution No. 321: Support Reasonable Set-Aside of Federal Procurement and Contracts for Business Owned and Operated by Veterans

Resolution No. 108: Support Verification Improvements for Veterans' Businesses within the Department of Veterans Affairs

Resolution No. 73: Support verification improvements for veterans' business within the Department of Veterans Affairs and the Department of Defense
VA Secretary Eric Shinseki has promised to devote resources necessary to end veteran homelessness by 2015. To fully implement that pledge, VA is going to have to work closely with Congress to continue making responsible investments in affordable housing and supportive services programs to help more veterans and their families. There were 57,849 homeless veterans on a single night in January 2013. 60 percent were located in shelters or transitional housing programs, and 40 percent were in unsheltered locations. Just less than 8 percent (4,456) were female.

A full continuum of care — housing, employment training and placement, healthcare, substance abuse treatment, legal aid, and follow-up case management — depends on many organizations working together to provide services and adequate funding. The availability of homeless veteran services, and continued community and government support for them, depends on vigilant advocacy and public education efforts on local, state, and federal levels. The complexity of issues affecting all homeless veterans (the extreme shortage of affordable housing, livable income, and access to healthcare), as well as the fact that a large number of displaced and at-risk veterans live with lingering effects of Post Traumatic Stress Disorder, substance abuse, and a lack of family and social support networks mandates that VA must, in order to meet its commitments, have additional resources allocated.

The American Legion recommends providing funding for a broad range of appropriate and effective interventions, including:

- Congress should appropriate additional funds for the Supportive Services for Veteran Families program (SSVF). SSVF funds have been used effectively by community organizations to prevent many veterans from becoming homeless, and to quickly re-house veterans who need nothing more than short-term rental assistance and limited case management in order to get back on their feet. SSVF funds can also be used to pay for employment services, utility assistance, child care costs, and other housing-related expenses.

- Congress should continue support for VA's Grant and Per Diem (GPD) Program. This critical program provides short-term housing help to homeless veterans, allowing them to get connected with jobs, supportive services, more permanent housing, and ultimately to become self-sufficient. Promising new models for using grant and per diem funds, including allowing veterans to remain in their GPD housing unit once support from the program ends and new programs focused on women veterans, are helping to ensure that GPD continues to meet the ever changing needs of returning veterans and their families.

- Congress should provide 10,000 new HUD-VASH vouchers designed to serve homeless veterans (and in many cases their families) who will need long-term
housing coupled with intensive case management and supportive services. Since 2008, a total of 40,000 vouchers have been awarded – contributing substantially to the major reductions in veterans’ homelessness during this period.

- Congress should increase appropriations for HVRP to $50 million, the program’s authorized level since 2005.

- The American Legion fully supports the Check the Box for Homeless Veterans Act of 2013 (S. 62) introduced in the Senate by Barbara Boxer to amend the Internal Revenue Code to: (1) establish in the Treasury the Homeless Veterans Assistance Fund; and (2) allow individual taxpayers to designate on their tax returns a specified portion (not less than $1) of any overpayment of tax, and to make a contribution of an additional amount, to be paid over to such Fund to provide services to homeless veterans.

- The American Legion fully supports the HAVEN Act (H.R. 3743) introduced in the House by Rep. Al Green (TX) which directs the Secretary of Housing and Urban Development (HUD) to establish a pilot program to award grants to nonprofit organizations that primarily serve veterans or low-income individuals. It requires such grants to be used to rehabilitate and modify the primary residence of disabled or low-income veterans (at a specified limited or no cost to such veterans). The bill limits grant amounts to $1 million per organization. It requires the Secretary to direct the oversight of grant fund use. Finally, it requires a minimum of 50 percent matching funds by participating organizations.

Lastly, The American Legion continues to lead communities by volunteering, fundraising, and advocating for programs and resources to help homeless veterans. In addition, The American Legion directly provides housing for homeless veterans and their families, including facilities in Pennsylvania, North Carolina and Connecticut. One of the goals of The American Legion is to help bring federal agencies, nonprofit organizations, faith-based institutions and other stakeholders to the table to discuss best practices, along with funding opportunities, so homeless veterans and their families can obtain the necessary care and help to properly transition from the streets and shelters into gainful employment and/or independent living.

Over the past few years, progress has been made: Homelessness among veterans has declined each year since 2010. Between 2012 and 2013, veteran homelessness declined by 8 percent (or 4,770). Between 2009 and 2013, homelessness among veterans declined by 24 percent (or 17,760). Still, despite this good news, there still remains work to be done in order to ensure that there is never another homeless veteran.

Reference:

Resolution No. 306: Funding for Homeless Veterans
GI BILL EDUCATION

The Servicemen’s Readjustment Act of 1944, the GI Bill of Rights, was crafted by The American Legion to meet the needs of a massive demobilization of service members post-World War II. Often considered one of the greatest pieces of social legislation ever enacted, the GI Bill continues to evolve with each new generation of wartime veterans because of significant changes in the country’s existing social and economic cultures.

On June 30, 2008, the newest veterans education assistance program (GI Bill) was enacted as the Post 9/11 Veterans Education Assistance Act of 2008. As in 1944, legionnaires sought to provide the necessary readjustment tools for returning World War II veterans to be successful through education; present day legionnaires saw a need for a present day education assistance program that provided enhanced education assistance benefits worthy of such service.

However robust and enlightening this new 21st century piece of legislation was, it was not without unforeseen consequences. Participation in the Post-9/11 GI Bill exceeded the annual participation in all of the other GI Bills since 1984. The large number of participants and the fact that the benefit level is higher than the Montgomery GI Bill-Active Duty (MGIB-AD) have focused attention on several program issues: (1) Quality of programs of education; (2) participant education and employment outcomes; and (3) Benefits of Out-of-State tuition and fees.

Concerns about the quality of the programs of education and institutions at which GI Bill participants use their benefits has been raised as an issue for various reasons. One reason is the belief that the federal government should be accountable for the use of taxpayer funds. Another reason is that supporting attendance at poor quality programs is not consistent with a goal of helping ensure that the nation’s service members have a real opportunity for success in their civilian lives.

Quality of programs have two potential measures of educational quality are the extent to which individuals complete the program and the extent to which they are able to achieve related employment. With the limited data available on participant educational and employment outcomes on benefit usage, program expenditures, and student-veteran outcome measures, will make it harder for reasonable recommendations on administrative and legislative changes in the future.

Lastly, some Post-9/11 GI Bill participants have suggested that the tuition and fees payment amount for out-of-state tuition and fees is inequitable when compared to the payment amounts for in-state tuition and fees and when compared to tuition and fees at private institutions of higher learning (IHL). The potential out-of-pocket costs for individuals attending out-of-state public IHLs are considered by some to be inequitable for these main reasons:
1. Prior to improvements act, many individuals attending lower cost public IHLs out-of-state received a higher tuition and fees payment since the maximum tuition and fees payment was equal to the maximum amount undergraduate in-state tuition and fees charged in the state.

2. Since the Post-9/11 GI Bill was intended to pay a significant portion of each individual’s education, providing a higher tuition and fees payment to some individuals at the same benefit level and program of education does not seem equitable to some participants.

3. The out-of-state debt incurred by the student-veteran can lead to other issues that can place a drain on federal and state resources.

GI Bill benefits are meant to assist with the readjustment of veterans reintegrating back into society. The GI Bill is one piece in placing veterans in as nearly a good position had they not made the sacrifice of serving our nation, and as such, we must ensure that these benefits are used properly, quality of education is just that quality, and outcomes can be measured by policymakers.

Reference:

Resolution No. 27: Veterans GI Bill Education Improvement
DISABLED VETERANS TAX

Background:

The Disabled Veterans’ Tax (also known as concurrent receipt) references the current practice which now still bars certain veterans from receiving both their full military retired pay and their full service-connected disability benefit pay. Prior to the National Defense Authorization Act (NDAA) of 2004, all veterans who received disability compensation from the Department of Veterans Affairs (VA) would have their retired pay reduced by an offset, preventing them from receiving the full retirement pay as earned. With the passage of that act, a phased progression was put in place to work downwards from 100 percent service-disabled veterans to 50 percent service-disabled veterans to allow the more severely disabled veterans to receive both benefits in full. This phase-in provides for the addition of levels of disabilities at a rate of approximately 10 percent per year and will be fully implemented by 2014.

Regardless of the passage of this law, veterans receiving 40 percent or lower rates of disability (VA disability is divided into rates at 10 percent intervals: 0 percent, 10 percent, 20 percent, etc.) must still offset their retired pay with their disability compensation-dollar-for-dollar. The American Legion calls this the ‘disabled veterans’ tax’ and we oppose this ‘tax’ on veterans.

Furthermore, those service members medically retired without 20 years of service (Chapter 61 retirees) have never been included in relief from this offset, as the phased offset was intended for 20 year military retirees only.

Military retired pay is compensation for longevity of honorable military service. VA service-connected disability compensation is for medical conditions incurred or aggravated while on active duty. These payments to a veteran are thus made for two very distinct and very different reasons.

Traditionally, getting the Disabled Veterans’ Tax language included in the annual NDAA was virtually automatic because of the support of longtime advocate, Senator Harry Reid (NV), Majority Leader of the Senate. Over the past five years, the NDAA has included at least some Senator Reid-proposed initiatives to reduce the remaining number of service-connected disabled military retirees affected by the dollar-for-dollar offset.
Disabled Veterans Tax bills in the 113th Congress:

On January 15, 2013, Representative Gus Bilirakis (FL) introduced H.R. 303, to amend title 10, United States Code, to permit additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their service-connected disability and their retired pay by reason of their years of military service or Combat-Related Special Compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

On January 22, 2013, Representative Sanford Bishop (GA) introduced H. R. 333, the Disabled Veterans Tax Termination Act, which amends federal military retired pay provisions to: (1) permit veterans with a service-connected disability of less than 50% to concurrently receive both retired pay and disability compensation; (2) eliminate provisions requiring a phase-in between January 1, 2004, and December 31, 2013, of concurrent receipt of retired pay and disability compensation; (3) eliminate a phase-in of concurrent receipt of retired pay and disability compensation for disabled veterans determined to be individually unemployable; and (4) require a limited reduction in retired pay for qualified disability retirees with less than 20 years of retirement-creditable service.

On February 7, 2013, Senator Harry Reid (NV) introduced S. 234, the Retired Pay Restoration Act of 2013 which allows the receipt of both military retired pay and veterans' disability compensation with respect to any service-connected disability (under current law, only a disability rated at 50% or more) and makes eligible for the full concurrent receipt of both veterans' disability compensation and either military retired pay or combat-related special pay those individuals who were retired or separated from military service due to a service-connected disability.

Legion Position:

Our support for full concurrent receipt is based upon Resolution No. 28. It is essential The American Legion continue to make the case that retired pay and disability compensation are for two entirely different payments. Furthermore, a veteran may receive other federal and non-federal benefits, in addition to VA service-connected disability compensation, either in part or in full. Currently, a veteran can receive service-connected disability compensation without offsets, reductions or limits with:

- Unemployment Compensation;
- Social Security;
- Federal Civil Service pay;
- Private sector job pay;
- Federal civil service retirement (including disability retirement);
- Retirement pension from non-federal employment; and,
- Federal workers compensation (benefits for work-caused disability or illness provided under FECA).
Thus, The American Legion position is simply that because veterans can earn income from all those other sources listed above without any offset, as a matter of public policy as well as fairness, then service-connected disabled veterans must be able to earn their military retired pay without it being offset as well.

Equitable economic justice is one reason to end the Disabled Veterans’ Tax. Military retirees are the only federal employees who must offset their retired pay with their VA disability compensation. Secondly, it must be argued that the unique nature of military service, given its sacrifices and hardships, merits retirees receiving both their military retired pay and VA disability compensation.

VA service-connected disability compensation is awarded for physical and mental disabilities incurred or aggravated while in military service. These disabilities cannot be equated with disabilities incurred in civilian life. Military service rendered in defense, and on behalf, of the Nation deserves special consideration in determining policy toward benefit offsets. It is a moral and ethical responsibility to award preferential treatment to the needs of any veteran, given their sacrifices and hardships incurred during their honorable military service.

The American Legion continues to seek the complete repeal of the prohibition on receiving payments from both programs. All service-connected disabled military retirees should be eligible to participate regardless of length of service or VA disability rating.

**WIDOW’S TAX**

Under current federal law, if the surviving spouse of a military retiree is eligible to receive the monthly Survivor Benefit Program (SBP) annuity payment and is also awarded a monthly Dependency and Indemnity Compensation (DIC) benefit by the Department of Veterans Affairs (VA), the SBP annuity is offset, dollar-for-dollar, by the amount of DIC received. This offset is commonly referred to throughout the veterans’ community as the ‘Military Widows’ Tax’. The American Legion believes this offset is an injustice to surviving spouses of America’s heroes.

Retired military service members are eligible to participate in the SBP. SBP is an optional annuity insurance plan designed to pay an eligible surviving spouse a monthly payment to help make up for the loss of military retirement income. Those military retirees who choose to enroll in SBP have deductions made from their military retired pay to purchase their survivor’s annuity. Under the plan, upon the military retiree’s death, the annuity is paid monthly to eligible beneficiaries.

Among the earned benefits awarded by VA to service-connected disabled veterans and their survivors is the DIC program. DIC is an earned benefit awarded monthly to the eligible surviving spouse of a service-connected disabled veteran by a grateful nation.
DIC is a tax-free benefit (like service-connected disability compensation) for the surviving spouse and dependent children. VA also adds a transitional benefit of $250 to the surviving spouse's monthly DIC if there are children under age 18. The amount is based on a family unit, not individual children. It is paid for two years from the date that entitlement to DIC commences, but is discontinued earlier when there is no child under age 18 or no child on the surviving spouse's DIC for any reason.

Clearly, SBP is a personal financial decision made by a military retiree to provide some degree of financial security for the surviving military spouse; whereas, DIC is an earned benefit awarded for a veteran’s death due to a service-connected medical condition. The American Legion believes that the VA indemnity compensation should be added to the SBP the military retiree paid for with personal funds, and not be subject to the dollar-for-dollar offset.

SBP and DIC are two distinct and independent programs with unique eligibility criteria. SBP is optional for military retirees and mandates personal financial contributions from that individual retiree, whereas DIC is awarded only to survivors of service-connected disabled veterans.

The American Legion supports corrective legislation, **H.R. 32**, introduced by Representative Joe Wilson (SC) on January 3, 2013 which amends title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans’ dependency and indemnity compensation.

**The American Legion supports passage of all four bills.**
FLAG PROTECTION AMENDMENT

“The Congress shall have power to prohibit the physical desecration of the flag of the United States.” A proposed amendment to the United States Constitution; which The American Legion fully supports.

Background

The U.S. Supreme Court’s 1989 decision in Texas v. Johnson held that the physical desecration of Old Glory was “protected speech.” In this case, the Court struck down existing flag desecration laws in 48 states and the District of Columbia. The American Legion believes the Court misinterpreted the Constitution by calling flag desecration “speech” and that this imprudent decision overturned a century of American law and tradition. Acts of physical desecration are conduct, not speech. Accordingly, these acts should not be recognized and protected as “speech” by the First Amendment. President Abraham Lincoln once remarked, “… If the policy of the government on vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court the people will have ceased to be their own rulers....” The American people intend to return flag protection authority to Congress where it belongs and not allow the Supreme Court to have the final say.

The American Legion believes the final say should be with the People, as expressed through the Congress and the 50 state legislatures. All 50 state legislatures have passed memorializing resolutions asking Congress to pass this proposed amendment and send it to the states for ratification. The proposed amendment returns the power to protect Old Glory to the People. This is the true essence of the amendment and why it must prevail.

House Actions

In the first session of the 113th Congress, Representative Spencer Bachus (AL) introduced House Joint Resolution (H.J. Res.) 47, a proposed constitutional amendment supported by The American Legion and the Citizens Flag Alliance (CFA). The resolution was referred to the Committee on the Judiciary at introduction on June 14.

The Judiciary Committee chairman is Rep. Bob Goodlatte (VA) and the chairman of the Constitution and Civil Justice Subcommittee is Rep. Trent Franks (AZ). Both are known supporters of the proposed constitutional amendment. Nevertheless, even with
supportive committee leadership in the last Congress, no hearings were held then and the amendment never came up for a vote.

There are currently 25 cosponsors of the bill. Please ask your representative to sign on as a cosponsor.

**Senate Update**

On June 14, 2013, Senator Orrin Hatch (UT) introduced a companion bill, Senate Joint Resolution (S.J. Res.) 17. The resolution was referred to the Committee on the Judiciary at introduction. The Judiciary Committee is chaired by Senator Patrick Leahy (VT), and the chairman of the Constitution, Civil Rights, and Human Rights Subcommittee is Sen. Dick Durbin (IL). Both are outspoken opponents of the flag amendment. As in past years, this will be an uphill fight in the Senate. Nevertheless, we intend to persevere until we prevail.

There are currently 22 cosponsors of the bill. Please ask your senator to sign on as a cosponsor.

Americanism Resolution No. 272 mandates, in part, that The American Legion continue to urge the Congress of the United States to propose and approve an amendment to the U.S. Constitution that would allow the Congress to prohibit the physical desecration of the Flag of the United States.

Past precedent has shown that constitutional amendments can take a long time, but they can be accomplished. The successful effort to change constitutional law, and in particular to overturn a Supreme Court decision, is dependent on a sense of conviction. Thus, we have a great advantage, because the American people love their flag. And that, in the end, is our treasure on which we can, should, and will draw.