

Fleet Reserve Association

Statement of the Fleet Reserve Association  
on its Goals for 2002  
Before a Joint Hearing of the  
House Veterans Affairs Committee  
and the  
Senate Veterans Affairs Committee

Presented by  
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National Executive Secretary  
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March 14, 2002

**Biography of Senior Chief Charles L. Calkins, USN, (Ret.)  
National Executive Secretary  
Fleet Reserve Association**

Charles L. Calkins is the National Executive Secretary of the Fleet Reserve Association (FRA) a 140,000 member national organization of active duty, reserve, and retired U.S. Navy, Marine Corps, and Coast Guard enlisted personnel. The FRA is Congressionally Chartered and communicates the views and concerns of its members and their families to the U.S. Congress and works to enhance the career compensation, benefits, and entitlements, including veterans' benefits, for Sea Service personnel.

As the FRA's senior salaried national officer, Mr. Calkins manages the National Headquarters in Alexandria, Virginia, is a member of the National Board of Directors, chairs the National Committee on Legislative-Service, and serves as the senior lobbyist. In addition, he is the first President of The Military Coalition.

He retired in October 1978 as a Senior Chief Signalman after 21 years of naval service.

Mr. Calkins has been a continuous FRA member since July 1975, serving on Branch, Regional, and National Committees and as the New England Regional President from 1993 to 1994.

Mr. Calkins was a Human Resources Specialist with the U.S. Postal Service prior to his election as FRA's National Executive Secretary.

He is a member of the Greater Washington Society of Association Executives and the Board of Directors of the Navy Memorial Foundation.

He and his wife, Lynda, reside in Alexandria, Virginia.

**CERTIFICATION OF NON-RECEIPT  
OF FEDERAL FUNDS**

Pursuant to the requirements of House Rule XI, the Fleet Reserve Association has not received any federal grant or contract during the current fiscal year or either of the two previous fiscal years.

## **STATEMENT OF GOALS FOR 2002**

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Chairman Smith, Chairman Rockefeller, Ranking Member Evans, Ranking Member Specter, members of the Veterans' Affairs Committees, the membership is pleased the Fleet Reserve Association (FRA) has been invited by the distinguished Joint Committees to present its legislative goals for the year 2002. On behalf of more than 140,000 shipmates, I extend gratitude for the concern and active interest generated by the Committees in protecting, improving, and enhancing benefits that are richly deserved by our Nation's veterans.

FRA was established in 1924 and its name is derived from the Navy's program for personnel transferring to the Fleet Reserve or Fleet Marine Reserve for the Marine Corps after 20 or more years of active duty but not 30 years to fully retire. During the required period of service in the Fleet Reserve, assigned personnel earn retainer pay and are subject to recall by the Secretary of the Navy.

FRA is the oldest and largest professional military enlisted association exclusively serving and representing men and women of the three Sea Services. It continues to seek protection and equity for those who serve in or have retired from the United States Navy, Marine Corps, and Coast Guard, plus those veterans requesting assistance. The Association has been active over the past 78 years in pursuing Congressional and the respective Administration's support for enlisted quality of life and veterans' programs for Sea Services' personnel.

## **LEGISLATIVE GOALS IN BRIEF**

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FRA's membership has an average age of 68 years, all veterans of as many as three wars, mostly retired and from the Sea Services. They have tasked the Association to seek Congressional action to authorize and fund the following:

- t Expand health care benefits for all veterans.
- t Funds for the construction and leasing of additional nursing and long-term care facilities.
- t Legislation to amend Title 38 USC to authorize concurrent receipt of military retired pay and veterans' compensation without loss to either.
- t Repeal the statute requiring the repayment of separation pay if the service member reenlists in the Reserve component, subsequently is entitled to retired pay, or becomes entitled to VA compensation.
- t Prevent Civil Courts from dividing veterans' service-connected disability compensation and military retired pay.

- t Enhance educational programs and provide voluntary open enrollment in the GI Bill for all current active duty military personnel, including military personnel who never enrolled in VEAP or MGIB.

The following military and miscellaneous goals of the Association are offered for your support. With the exception of the Uniformed Services Former Spouses Protection Act (USFSPA) and the Survivor's Benefit Plan (SBP) they are not addressed elsewhere in this statement.

### **Military**

- t Continue to monitor implementation and ensure adequate funding of military health care program enhancements.
- t Amend SBP to increase the annuity to 55% and shift the paid up coverage effective date from 2008 to 2003.
- t USFSPA — Support legislation eliminating inequities in the Uniformed Services Former Spouses Protection Act (USFSPA).
- t Increase military manpower commensurate with demanding operational commitments.
- t Improve compensation for career noncommissioned and petty officers of the U.S. Armed Forces.
- t Provide adequate funding for military commissaries and continue supporting its exchange systems.
- t Support equity in cost-of-living adjustments for all beneficiaries.
- t Protect personnel benefits for retirees and families residing at or near BRAC sites.
- t Authorize and fund construction and maintenance of family and bachelor housing, child care centers, and MWR facilities.
- t Support permanent change of station (PCS) process reform.

### **Miscellaneous**

- t Support full funding for the Impact Aid Program for schools enrolling children of military personnel.
- t Ensure parity for Coast Guard personnel with DOD pay and benefits.

- t Amend the tax code to exclude taxation on residential sales for active duty members returning from overseas assignments.
- t Support enactment of a Flag desecration statute.

## **DEPARTMENT OF VETERANS AFFAIRS FY 2003 BUDGET**

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### **FY 2003 Budget**

FRA continues its quest for a DVA budget that will provide adequate funding to care for the Nation=s veterans, their families and survivors. Although the FY 03 budget is the largest increase ever for the DVA, FRA has listed the following veterans= programs it believes should be authorized and funded in full. The Association urges their consideration and adoption to assure America=s veterans they will be fully compensated for their sacrifices while in the uniform of the Armed Forces of the United States, and that their families and survivors will be cared for as prescribed in the mission of the Department of Veterans Affairs.

## **VETERANS HEALTH ADMINISTRATION**

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### **Expand Access to Veterans Health Care**

VA treatment facilities should be accessible to military retirees= use at no cost to the veteran. The Veterans Millennium Health Care and Benefits Act (Public Law 106-117) Section 113 authorizes the Department of Defense (DOD) to reimburse the Department of Veterans Affairs (VA) for medical care provided to eligible military retirees. However, recent benefit changes under Public Law 106-398 with regard to TRICARE and Medicare eligible retirees have delayed retirees= who are enrolled as Priority Category 7 from utilizing the VA facilities without cost. This especially affects non-disabled military retirees under 65 years old, who do not have access to military treatment facilities (MTF).

Eligibility Reform and the Uniform Benefits Package are appealing concepts offering our veterans a comprehensive health care plan that provides the care they need. However, the annual enrollment requirement is of concern in addition to the uncertainty about what priority levels will be enrolled each year. FRA believes the Veterans Health Administration (VHA) medical treatment and care centers should be open to all veterans= regardless of their ability to pay. The Association agrees there must be a system granting priority access for certain veterans; i.e., – service-connected disabled at 30 percent or more; however, all veterans rated 20 percent or less, or non-rated, should be granted access on an equal basis – first come, first served. FRA commends Secretary Principi for retaining Category 7 veterans in the VA Health system. Unfortunately, FRA strongly disagrees with the Departments proposal to change its policy to include a \$1,500 yearly deductible for higher income, non-service-connected veterans. This would mandate forced choice between the VA and DOD Health systems. FRA opposes the forced choice proposal and a full DOD and VA merger. Military retirees shouldn't have to choose, if they are eligi-

ble for both systems. The mission of these two systems is dissimilar in many ways, and focused on serving different populations with diverse needs.

The Association supports continued collaborative efforts between the DOD and VA, to enhance the Defense Health System and provide the necessary care for a very deserving population. The Conference Report for the National Defense Authorization Act for FY 2002 (H.R. 2620), requests both the Secretaries of VA and DOD to submit to the Committees on Appropriations a credible plan to fully integrate facilities at three demonstration sites. FRA is opposed to a complete integration of these two Health systems, (per H.R. 2667). Before Congress considers this issue any further, it should wait until the President's Task Force to Improve Health Care for Our Nation's Veterans (PTF) issues its findings. {Please note that a copy of FRA's testimony to the PTF is available upon request.}

A large portion of the current generation of our nation's veterans, especially veterans who served during peacetime, do not use VA facilities. They have disturbing views of the Veterans Health Administration (VHA) system of hospitals and clinics. We find that these perceptions and non-participation are fostered by a lack of service member education. These problems could be corrected with the dissemination of concise, easily understood information about all benefits and services available to veterans before service members are discharged.

Those younger veterans who are familiar with the VHA system and do use their benefits see the system as bureaucratic and staffed with poorly trained personnel. They do not view the VHA system as an equal to civilian hospitals, especially when comparing specialized services. While the older generation of veterans in America is more comfortable with the VHA system and has a more realistic and appreciative view of its services, the perception of our nation's younger veterans is just as important, if not more so. Without a change in perception and participation on the part of younger veterans, in 30 years the VA will be in worse shape than it is today.

### **Medicare Subvention**

FRA is concerned about dwindling access to health care. When military retirees made decisions to retire in certain areas of our country, they did so with the thought of being close to a military installation or MTF (Military Treatment Facility). Now because of BRAC actions, many of those military installations and MTF=s are no longer available.

In recent years, the House and Senate have passed VA Subvention in separate sessions of Congress, but have not been able to agree on a plan to test the use of Medicare funds in VA facilities. Medicare Subvention could prove beneficial to the government and stakeholders. For veterans, VA Subvention would mean improved access to care, as nearly 60% of enrolled veterans are Medicare eligible. These beneficiaries have paid into Medicare throughout their working lives. One important question that needs to be evaluated is

whether the VA can deliver Medicare-sponsored services more efficiently than Medicare in the private sector.

FRA recommends that legislation be enacted to authorize a demonstration project for the VA to test the feasibility of establishing Medicare Subvention programs within its health care facilities. FRA believes that VA Subvention could enhance older veterans' access to VA health care and determine whether government resources can be used more efficiently to pay for the care of growing numbers of older Medicare-eligible veterans. FRA also believes with Medicare Subvention, the VA can withdrawal its proposal for a \$1500 deductible for Category 7 veterans – a proposal the Association strongly opposes.

### **Nursing Homes, Long Term Care, and other Health Care Programs**

FRA believes Public Law 106-117, Section 101, The Veterans Millennium Health Care Act makes great strides in providing the long-term care our veterans deserve. However, this program is only authorized for a period of four years, and only for veterans who need care for a service-connected disability, and/or those with service-connected disability ratings of 70% or more. The Association urges the extension of this program an expansion to include veterans with service-connected disability ratings of 50% or more.

Veterans of World War II and Korea are in their 60s or older, as are some Viet Nam veterans, and many require a greater level of long-term care. As our veterans are aging, more will become dependent upon the VA to provide the necessary care in nursing homes, domiciles, state home facilities, and its underused hospital beds.

The methodology used in collecting funds for the Millennium Act and then transferring the money over to the Treasury is flawed. VA's rationale for this practice is to allow more discretionary VA spending under the current caps set in the Balanced Budget Act. This is slight of hand rather than a reliable business practice and FRA firmly believes any money collected from veterans for veteran's health care should remain within the VHA.

### **Tobacco-related Illnesses**

In 1998, Congress changed the law prohibiting service-connection for disabilities related to smoking. Many veterans began using tobacco during their military service. It was a way of life and information on health risks associated with tobacco use and nicotine addiction was nonexistent. In earlier years it could be said that the Armed Services facilitated smoking by including cigarettes in meal rations, and selling cigarettes at discounted prices in military exchanges. FRA recommends that Congress revisit and repeal its 1998 decision not to review tobacco-related claims.

## **Medical and Prosthetic Research**

VA is widely recognized for its effective research program. FRA continues to support adequate funding for medical research and for the needs of the disabled veteran. In particular, FRA supports the FY02 Senate Appropriations Committee report language that states, "Prostate cancer research has not kept pace with scientific opportunities and the proportion of the male population who are afflicted with the disease." FRA urges the VHA to propel new research opportunities forward, particularly through inter-institutional collaborations.

## **Service-Connection for Lou Gehrig's Disease**

Gulf War veterans have long contended that they suffer from Amyotrophic Lateral Sclerosis (Lou Gehrig's Disease). According to the VA, 20 Gulf War veterans have already died from Lou Gehrig's disease and 20 others are now in various stages of dying. FRA asks support for H.R. 3461, to provide a statutory presumption of service-connection for veterans diagnosed with ALS. FRA also commends Secretary Principi for moving quickly to provide disability and survivor's benefits to Gulf War veterans with ALS.

# **VETERANS BENEFITS ADMINISTRATION**

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## **Concurrent Receipt**

FRA continues its advocacy of concurrent receipt of military retired pay and veterans= service-connected disability payments without reduction to either.

Congress reviewed military retired pay and disability pensions in the late nineteenth century and found the administration of the two was in shambles. There were instances of persons receiving military disability pensions while still on active duty. In an effort to correct this situation, members of Congress inserted language in the FY 1892 appropriations legislation prohibiting an individual from receiving both military retired pay and a disability pension. Currently, the prohibition in 38 USC is described below.

*' 5304 (a) (1) Except to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency officers=, regular, or reserve retirement pay, or initial award of a naval pension granted after July 13, 1943, shall be made concurrently to any person based on such person=s own service or concurrently to any person based on the service of any other person*

The FY 2002 National Defense Authorization Act (NDAA) includes a provision addressing concurrent receipt. However, it authorizes concurrent receipt only if the Administration seeks that authorization and includes a request for funding in the Federal budget. Such a request is not included in the President's FY 2003

budget. Although FRA is not privy to the Administration's reason to not ask Congress to adopt and fund concurrent receipt, some government officials reference a 1993 Congressional Research Service report that cites a number of programs (i.e. social security, unemployment compensation, black lung disease) that have offsets or limits in concurrent receipts. However, the report states emphatically that:

*“...veterans' disability compensation is always payable fully and concurrently with income or benefits from nonmilitary sources because concern about preserving work incentives for disabled veterans and the long-standing policy that disabled veterans who are able to work in the private economy after separation from military service should not be penalized.”*

The report further noted that its review listed 25 pairs of programs that in a broad sense might be relevant to policies pertaining to military retired pay and veterans' compensation. **“However,” the report warns, “many of the program pairs are not similar enough to the veterans' situation to be instructive.”**

FRA also reminds Congress that its actions relative to tax changes to the military's disability retirement system forced many retired service members to seek redress from the Veterans Administration, later the Department of Veterans Affairs (DVA). Before 1975 all military disability was tax exempt. A perception of abuse to the system, mostly in the more senior Armed Forces grades, caused Congress to amend the Internal Revenue Code.

The Tax Reform Act of 1976 forced the Department of Defense (DOD) to change the rules so that only a percentage of the member's disability retired pay attributable to combat-related injuries would be tax-exempt. Subsequently, many retiring service members petitioned the VA for relief for service-connected injuries.

Service members, whether in uniform or retired, are considered Federal employees, subject not only to Title 10, U.S. Code, but Title 5, U.S. Code, the latter governing the conduct and performance of government employees. Both active and retired Federal civilian employees eligible for veterans' compensation may also receive full benefits of Federal civil service pay or Federal civil retirement payments, including disability retirement with no offsets, reductions, or limits. FRA encourages Congress to take the helm and fully authorize and fund concurrent receipt of military retirement pay and veterans' disability compensation as currently offered to other retired Federal employees – including those receiving benefits under the Federal government's disability program. It is a constitutional requirement that Congress take the initiative in matters dealing with the uniformed services as well as Federal employees. For Congress to pass the issue to the Administration is nothing more than a deceptive ploy to avoid responsibility. **Congress must remember that U.S. service members not only had a major hand in the creation of this Nation, but also have contributed more than any group to the military and economic power of the United States for more than 200 years.** Those who served in the Armed Forces for 20 years or more certainly deserve equity with their counterparts in the Federal service.

Therefore, as it has for several years, FRA strongly recommends the repeal of 38 USC 5304(a)(1).

### **Separation Pays**

Under current law, service members released from active duty who fail to qualify for veterans' disability payments, and are not accepted by the National Guard or Reserve, never have to repay any portion of separation pay. If, however, qualified for either, it's time for payback. FRA can not understand why an individual willing to further serve the Nation in uniform, or awarded service-connected disability compensation should have to repay the Federal government for that privilege.

FRA is totally opposed to the repayment requirement. The Association recommends the repeal or the necessary technical language revision to amend the applicable provisions in Chapters 51 and 53, 38 USC, to terminate the requirement to repay the subject benefits. (Also requires an amendment to 1704(h)(2), 10 USC.)

### **Court-Ordered Division of Veterans Compensation**

Service-connected disability payments are intended to financially assist a veteran whose disability may restrict his or her physical or mental capacity to earn a greater income from employment. FRA believes this payment is exclusively that of the veteran and should not be a point at issue in any States' Civil Actions. If a Civil Court finds the veteran must contribute financially to the support of his or her family, let the court set the amount allowing the veteran to choose the method of contribution. If the veteran chooses to make payments from the VA compensation award, then so be it. The Federal government, however, should not be involved in enforcing collections ordered by the states. Let the states bear the costs of their own decisions. FRA recommends the adoption of stronger language offsetting the provisions in 42 USC, now authorizing Federal enforcement of state court ordered divisions of veterans' compensation payments.

### **Montgomery GI Bill (GI Bill)**

The GI Bill is one of the major enticements for enlisting in the United States Armed Forces. FRA believes that continued improvements to the GI Bill are necessary in order to continuously attract new recruits per Congressionally mandated recruitment levels each year.

The Association is grateful to Chairmen's Smith and Rockefeller for the passage of PL 106-419 during the first session of the 107<sup>th</sup> Congress, which included the enhancement of MGIB benefits. However, FRA believes Congress should increase MGIB annually based on a benchmark of the current average cost of a four-year state run college education.

Would be participants in the MGIB are not permitted to enroll into the new MGIB because they never enrolled in the VEAP program. During the VEAP era, that program was considered to be insufficient in providing adequate funding for a college education. Therefore, current active-duty military personnel that never enrolled in VEAP or MGIB should be given an opportunity to participate. FRA believes this authorization would enhance opportunities for this group of future veterans.

The Association continues to believe that veterans who take advantage of the GI bill will eventually return more money to the U.S. Treasury than was spent by the Federal government for their education. A concept once offered by the Treasury Department.

### **Disability Compensation Claims Processing**

Among veterans, VA=s inability to process claims in a timely, accurate fashion continues to be one of its most serious problems and a primary source of dissatisfaction with the Federal government.

The Veterans Benefits Administration (VBA) reports the average processing time for initial claims is 193 days. If that claim is appealed to the Board of Veterans Appeals (BVA), as many are, the average time for a decision is 620-plus days. Speed is an issue. More important is accuracy, a component of processing ignored for years and the cause of many delays in finalizing claims.

As then Chairmen of the VA Claims Processing Task Force, Daniel L. Cooper stated on 8 November 2001, “I must say that I think the VA has the necessary resources right now to do the job...the Agency can’t justify asking for more people right now.” To improve quality, VBA must devote adequate resources for training personnel. It needs additional staff to conduct quality reviews of the work of each of its claims adjudicators in order to assess performance, impose accountability, and remedy deficiencies on the individual employee level. FRA believes the recommendations and changes proposed by the Task Force should be implemented in order to improve the way VA does business.

## **NATIONAL CEMETERY ADMINISTRATION (NCA)**

### **Cemetery Systems**

The NCA has undergone many changes since its inception. Currently, the administration maintains more than 13,850 acres of developed and undeveloped land containing more than 2.3 million gravesites as well as 33 soldier’s lots and monument sites. That equates to 120 cemeteries throughout 39 states, the District of Columbia, and Puerto Rico. One quarter of the nation=s 26 million veterans alive today are over the age of 65. Rapidly aging veteran populations coupled with the death rate of World War I, World War II, and Korean veterans create resource challenges within the NCA. It was estimated that the number of deaths in

2001 were 674,400 veterans, and by 2006 that number will increase to 687,000 annually, or an average of 1,900 funerals a day. During this time period, the interment rate will continue to rise thereby placing even greater strain on NCA=s workforce and equipment.

FRA is grateful to Congress for its increased funding for the new construction of future cemeteries. The NCA is doing much to meet resource challenges and the demand for burial spaces for aging veterans. It could do more, but without sustained additional funding, the system will never meet the demand. FRA urges increased funding, so the NCA has exclusive rights for the purchase of land, preparation, construction and operation of new cemeteries, the maintenance of existing cemeteries, and the expansion of grants to states to construct and operate their own cemeteries.

As part of the Veterans Education and Benefits Act of 2001, the government also will provide grave markers for veterans whenever requested, even if there is another marker on the grave. However, as it stands the law only applies to new burials, FRA believes the grave-marker rule should be amended to include the thousands of families denied grave markers in the past decade.

## **OTHER RECOMMENDATIONS FOR CONSIDERATION**

The following are recommendations related to the goals of the Association as resolved by the FRA membership in convention in August 2001.

### **TRICARE and DOD**

The VA's role as a TRICARE network provider is a potential source for increased access to quality health care for all DOD beneficiaries. If VA's capacity allows, and its core mission is not compromised, then the VA should play a vital role in offering primary and specialized care to TRICARE beneficiaries as a network provider.

In a June 1995 Memorandum of Understanding, TRICARE contractors were authorized to include VA medical centers (VAMCs) in provider networks and, therefore, TRICARE contractors were encouraged to use VA facilities. Due to persistent billing and reimbursement problems, VA's potential as a network provider has not been fully realized. Despite 80% of VAMCs currently being considered TRICARE network providers, three-quarters of the activity occurs in only 26 facilities and the total level-of-effort was miniscule according to the GAO (May 2000).

Current TRICARE contracts will begin to expire over the next few years, and FRA is pleased that the VA is represented in the new contract development. TRICARE Management Activity (TMA) has acknowledged the importance of considering the VA in the next generation of contracts. In light of the growth of VA's Community Based Outpatient Clinics (CBOCs), the VA could be a service delivery alternative for TRICARE benefi-

aries where capacity exists.

The Association supports greater utilization of VA networks in partnership with TRICARE. Although many VA providers are also TRICARE network providers, actual usage has been marginal. Some of the reasons why this partnership has not been fully realized include:

- VA providers are not qualified in specialties most in demand by DOD beneficiaries. i.e. pediatrics and obstetrics and gynecology.
- VA providers often cannot meet TRICARE Prime access standards.
- Business practices in the areas of claims processing, IM/IT systems' incompatibility, conflicts over pricing of services, various administrative limitations and a lack of aligned incentives impede use of VA providers by TRICARE Managed Care Support Contractors.

Expanding the use of VA providers as TRICARE-authorized providers to care for all TRICARE beneficiaries may improve active duty and retirees' access to care in areas where TRICARE Prime is not available.

## **UNIFORMED SERVICES FORMER SPOUSES PROTECTION ACT (USFSPA)**

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The USFSPA was enacted nearly 20 years ago, the result of Congressional chicanery that denied the opposition an opportunity to express its position in open public hearings. With one exception, only private and public entities favoring the proposal were permitted to testify before the Senate Manpower and Personnel Subcommittee. Since then, Congress has made 23 amendments to the Act: eighteen (18) benefiting former spouses. All but 2 of the 23 amendments were adopted without public hearings, discussions, or debate. In the nearly 20 years since the USFSPA was adopted, opponents of the Act or some of its existing inequitable provisions, have had but one or two opportunities to voice their concern to a congressional panel. The last hearing, in 1999, was conducted by the House Veterans Affairs Committee and not before the Armed Services Committee that has the oversight authority for amending the USFSPA.

FRA strongly believes that Congress is avoiding its responsibility to the men and women who serve or have served in the Armed Forces of the United States. For nearly 200 years, Congress controlled the pay and allowances of active, reserve, and retired military personnel. The states had no say as to how Federal payments would be regulated, even when the recipient retired from military service. In fact, in retirement the Federal courts ruled that the member was still in the military service and was "in all respects still performing service." This led to the term, "reduced pay for reduced but continuing service." In short, military retired (or retainer) pay is not a pension or an annuity. Through the media and other public forums, members of Congress, reporters, and outside advocates for the en-

actment of a former spouses protection act, used the term “pension” to describe military retired pay. Today, the word has nearly replaced its true nomenclature.

One of the major problems with the USFSPA is its few provisions protecting the rights of the service member. They are unenforceable by the Department of Justice or DOD. If a state court violates the right of the service member under the provisions of USFSPA, the Solicitor General will make no move to reverse the error. Why? Because the Act fails to have the enforceable language required for Justice or Defense to react. The only recourse is for the service member to appeal to the court, which in many cases gives that court jurisdiction over the member that it had not when the original ruling violated the Act. Another infraction is committed by some state courts awarding a percentage of veterans= compensation to ex-spouses; a clear violation of U. S. law. Yet, the Federal government does nothing to stop this transgression.

A recent DOD review of the USFSPA was more politically flavored and less concerned with what effect the Act may have on the service members= morale and readiness. One of the stipulations attached by the military to the Act reads that it “*should not interfere with the ability of the Armed Forces to recruit and retain qualified personnel.*” (Emphasis added.) However, it appears DOD is skeptical of possible negative results from the USFSPA for it fails to publicize the provisions of the Act to its uniformed members. Why? Could it be such action may cause retention problems? FRA believes that if members are informed of the possibility of losing 50% or more of their retirement pay should they divorce- regardless of the number of years of marriage-retention may suffer.

FRA believes Congress should take a hard look at the USFSPA with a sense of purpose to amend the language therein so that the Federal government is required to protect its service members against state courts that ignore provisions of the Act. More so, a few of the other provisions weigh heavily in favor of former spouses. For example, when a divorce is granted and the former spouse is awarded a percentage of the servicemember=s retired pay its should be based on the member=s pay grade at the time of the divorce and not at a higher grade that may be held upon retirement. The former spouse has nothing to do to assist or enhance the member=s advancements subsequent to the divorce, therefore, the former should not be entitled to a percentage of the retirement pay earned as a result of service after the decree is awarded. Additionally, Congress should review other provisions considered inequitable or inconsistent with former spouses laws affecting other Federal employees with an eye toward amending the Act.

## **SURVIVOR BENEFIT PLAN**

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FRA believes the Federal government continues to renege on its commitment to members of the uniformed services who opt to participate in the military=s Survivor Benefit Plan (SBP). First, the plan was to be patterned after the Civil Service/Federal Employees Retirement Systems. Second, the cost of the program would be shared; 40 percent by the

government and 60 percent by participating military retirees. Both of these themes appear numerous times in congressional hearings on SBP before the House and Senate Armed Services Committees.

House and Senate Hearings in the 94<sup>th</sup>, 95<sup>th</sup>, 96<sup>th</sup>, and 99<sup>th</sup> Congress' note that the military's SBP should "conform identically to the formula" or "function in an identical fashion" to the civil service plan. During a September 1976 hearing conducted by the House Armed Services Committee, a Department of Defense General Counsel letter of July 26, 1976, was inserted for the record. The letter stated that if Congress failed to make certain corrections to the military's SBP as it had authorized for the civil service plan, it would "constitute an unwarranted inequity that has extremely adverse impact on the morale of retirees and those nearing retirement."

The 40-60 share between the government and the participating military retiree is also a topic of many congressional hearings. One such hearing is reported in Senate Hearing No. 99-298 of June 20, 1985 that lists five different references to the intent of the plan to share the cost at the above percentage figures. Spokesmen for the Congressional Budget Office and Department of Defense referred to the cost sharing as follows:

*(CBO). Under current law, members retiring today will bear about 62 percent of the cost of the Survivor Benefit Plan; roughly consistent with the 60 percent goal for cost-sharing.*

*(DOD) The legislative history of the SPB shows an intent that the Government contribute approximately 40 percent of the benefits.*

There has been some reluctance by Congressional sources to accept the fact that the military's Survivor Benefit Plan was designed to emulate the civil service plan or that the participating service member was to incur but 60 percent of the program's costs. It's obvious these sources are ignoring the wishes of earlier congresses to provide an attractive program that would be both equitable and reasonable.

Equity has gone the way of all good intentions. Military SBP participants have seen their share of the plan's cost rises above the 70% factor (approximately 73% overall, 79% for those enrolled since the 1970s.) The rise in the plan's cost sharing for military retirees was predicted as early as 1980 (Senate Report No. 96-748, p. 7) and again in 1996 (Military Compensation Background Papers, Fifth Edition, Sep. 1996, p. 691). In fact, DOD, in the Senate Report referenced immediately above, warned that if certain changes were not made to the Plan, the officer portion of the cost sharing will escalate to 76 percent, while enlisted members share 125 percent of the costs. @ Nearly 10 years earlier, in the September 1, 1976, House hearing referenced above, a DOD General Counsel letter of August 30, 1976, was inserted for the record. It stated that over time, **"inflation will cause the cost of the SBP participant to become increasingly out of balance with the cost to his or her counterpart participating in the comparable plan for Federal civil**

**servants.”** Meanwhile, the civil service and federal employees’ plans remain at participating costs of 50 percent and 58 percent, respectively.

There is yet another cost-sharing inequity that exists in the military SBP. *Participants in the plan pay premiums over a much longer period than their counterparts in the civil service/federal employees= plans.* This gives the federal retiree a far more advantageous benefit-to-premium ratio.

FRA is in agreement with Retired Air Force Colonel Mike Lazorchak who wrote in *Navy Times*, January 15, 2001, “(E)ach year Congress fails to pass more meaningful SBP rates, military retirees are forced to give the government an ever-increasing interest-free loan in return for their benefits. Admittedly, an increase in the government subsidy will require Congress...to increase the annual contribution to the Military Retirement Trust Fund, most of this increase is merely a repayment of the interest-free loans that military retirees have been required to give the government for decades.”

The high cost of participating in the military=s Plan is contrary to the intent of Congress to pattern it after the Civil Service/Federal Employees survivor plans. To accomplish this goal, Congress is urged to amend the military=s Survivor Benefit Program to repeal the minimum post-62 SBP annuity over a period of 10 years. [35% to 40% in October 2002, to 45% in October 2005, and 55% no later than October 2011.] Additionally, to further amend the year 2008 to 2003, at which time the military retiree who has paid premiums for 30 years and is at least 70 years of age, will be a paid-up participant.

## **NATIONAL MILITARY APPRECIATION MONTH**

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FRA urges every member to sign on to H.R. 3498 and S. 1785, to urge the President to establish the White House Commission on National Military Appreciation Month. This Act, if passed, would recognize the importance of our past, present, and future military to the current and future citizens of the United States.

## **CONCLUSION**

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Mr. Chairman. In closing, allow me to again express the sincere appreciation of the Association=s membership for all that you, the Distinguished Veterans Affairs Committees, have done for our Nation=s veterans over these many years.

FRA again thanks the Joint Committees for having its representatives aboard for a review of the Association=s 2002 goals. Granted, not all veterans= issues are cited in this statement, however, the Committees do have the Association=s support for the improvement or enhancement of any veterans programs not addressed herein.