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PACT ACT DELAY ‘ABSOLUTELY UNACCEPTABLE’

TAKE ACTION NOW

The American Legion and other veterans advocates gathered in Washington, D.C., today to criticize a Senate vote that again has delayed passage of what is known as the PACT Act.

The Promise to Address Comprehensive Toxics Act – which has passed in both the House and Senate – received technical corrections and went to a procedural vote in the Senate on Wednesday. The 55-42 vote failed to meet the 60 votes necessary to advance the legislation.

Speaking for The American Legion during a Thursday press event on Capitol Hill, American Legion Legislative Director Lawrence Montreuil called the delay “absolutely unacceptable. A bill that passed the House of Representatives three times and passed the Senate with wide-ranging bipartisan support – 84 senators voting in favor of it – will now be delayed, and once again veterans will suffer.



Legislative Director, Lawrence Montreuil, delivers remarks at a PACT Act press conference on Thursday, July 28th.

“The PACT Act passed the House and Senate in a bipartisan manner, yet this delay continues because of political games. There is no reason this bill should not be signed by the president by the end of next week.”

Montreuil said the delay impacts toxic-exposed veterans who already have had to wait long enough for their care and benefits.

“This bill’s genesis came from the fact that 70 percent of veterans with illnesses related to burn pits were being denied, and as a result couldn’t access health care. Sick veterans couldn’t meet the burden of proof,” Montreuil said. “Every day that this delay goes on, veterans are unable to receive care. This is wrong. We will not stand by and allow veterans to be denied their duly owed health care. For cancer patients, a one-month delay makes all the difference. The American Legion demands that Congress end this delay and allow our veterans to receive the health care they desperately need and have earned.”

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The PACT Act provides a comprehensive framework to improve the presumptive process for burn pit veterans by streamlining access to health-care benefits for those who served in areas of known toxic exposure — regardless of disability status — and provides health care for as many as 3.5 million veterans exposed to airborne hazards and burn pits.

The anger was clear in the members of Congress attending the press event – as was the resolve to continue to work to get the PACT Act from bill to law.

CONGRESS

In another sign of a strained Senate, Appropriations Committee chair Sen. Leahy (D-VT) released all of the FY23 appropriations bills, without having them go through regular subcommittee and full committee markups. The Defense bill matches the \$850 billion topline amount passed by the House in the FY23 National Defense Authorization Act (NDAA), although it is lower than the Senate NDAA reported out of committee (which has not yet seen floor action). Leahy acknowledged that he was unable to reach agreement with his Republican colleagues on spending levels, but “the stakes of inaction are too high to not complete our work,” he said in a statement accompanying the bills.

In response, Appropriations Committee ranking member Sen. Shelby (R-AL) released a statement that the bills are “non-starters” due to the spending levels and due to the inclusion of “poison pill” provisions, as well as the elimination of long-standing policy riders.

While the House has managed to, on a partisan basis, pass six appropriations bills, Members are leaving for the August recess this weekend without a road ahead for passing the other six bills. It looks like the Federal government will, once again, start the next fiscal year under a continuing resolution. Should the Republicans regain the majority in the House and/or the Senate in the November elections, they are unlikely to approve any appropriations bills until 2023, when the new Congress starts.

SENATOR TESTER INTRODUCES AMERICAN LEGION-SUPPORTED BILL TO MODERNIZE VA MEDICAL CENTER, OTHER INFRASTRUCTURE

Sen. Tester (D-MT) on Tuesday proposed legislation designed to modernize the Department of Veterans Affairs' medical centers and other infrastructure after he and 11 other senators last month blocked a nearly \$2 trillion VA plan to close, consolidate and upgrade agency facilities across the country.

The bill, dubbed the “Build, Utilize, Invest, Learn, and Deliver [or BUILD] for Veterans Act of 2022,” would require the VA to develop plans and workforce hiring strategies to complete new facility projects, examine infrastructure budgeting, and provide Congress with its plans and performance data for enhanced accountability.

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“When it comes to delivering new hospitals, clinics, cemeteries, benefits offices, and other facilities for veterans and the employees that serve them, we’ve got to set VA up for success,” said Tester, D-Mont., chairman of the Senate Veterans’ Affairs Committee. “The BUILD for Veterans Act pushes VA to modernize and manage its current and future infrastructure needs through common-sense provisions that’ll save taxpayer dollars in the process.”

Additionally, the bill would also require the VA to provide plans and performance data to Congress, implement a schedule to eliminate or repurpose unused and vacant buildings and examine infrastructure budgeting strategies. Moreover, it will require the VA to provide yearly budget requirements for 10 years.

In June, Tester and 11 other senators opposed the VA’s Asset and Infrastructure Review, saying the recommendations would not expand or strengthen the agency’s infrastructure and put veterans in rural and urban areas at a disadvantage.

The VA was required to establish the Asset and Infrastructure Review as part of the Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or MISSION Act. The review was designed to analyze the health care needs of veterans as well as the department’s infrastructure. That same year, Congress approved the creation of an Asset and Infrastructure Review Commission to work on the "modernization or realignment" of VA properties.

Tester’s new bill draws from the infrastructure portion of the Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxics Act of 2022, or PACT Act, which he and Sen. Jerry Moran of Kansas, the ranking Republican on the Senate VA Committee, introduced in May.

The PACT Act seeks to provide an easy path to health care and benefits for veterans who served near open-air burn pits, which were used throughout the 1990s and the post-9/11 wars to burn garbage, jet fuel and other materials. The bill would establish 31 new VA health care facilities in 19 states.

Veterans diagnosed with cancer, respiratory issues and lung disease at young ages have blamed exposure to the toxic fumes from these pits, but the VA contended for years that there wasn’t sufficient evidence to support their claims.

The bill also would improve the VA’s workforce and claims processing to speed up efforts to meet the needs of veterans. Additionally, the bill would expand health care eligibility to post-9/11 combat veterans and add 23 conditions related to burn pits and other toxic exposures to the VA’s list of service presumptions. It will also expand the list of presumptions related to Agent Orange exposure to include Thailand, Cambodia, Laos, Guam, American Samoa and Johnston Atoll, strengthen federal research on toxic exposure, and improve the VA’s resources and training.

The PACT Act could reach a vote in the Senate this week.

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Various veteran service organizations announced their support for the BUILD for Veterans Act, including Disabled American Veterans, Iraq and Afghanistan Veterans of America, The American Legion, Veterans of Foreign Wars, and Paralyzed Veterans of America.

“Ensuring VA has state-of-the-art facilities to support the medical and mental health care needs of veterans is a top priority of the American Legion,” said Paul Dillard, national commander of The American Legion, in a prepared statement about the BUILD Act. “Investing in and revitalizing the aging VA infrastructure is vital to the overall success of the VA health care system. We must ensure that VA is properly resourced and structured to manage the infrastructure of the largest integrated health care network in the nation.”

VA ELECTRONIC HEALTH RECORD MODERNIZATION (EHRM) PROJECT

The House Veterans Affairs Committee’s Subcommittee on Technology Modernization spent over three hours on Wednesday grilling VA and Oracle witnesses about the current state of the EHRM. This hearing followed an equally grim hearing last week in the Senate.

This week’s hearing focused largely on the unknown queue. When a provider mis-addresses a referral for imaging, testing, or a specialty consult in the Cerner EHR, it goes into the unknown queue. Someone is supposed to be tasked with reviewing the queue each day and redirecting the referral to the right place. It was apparently created as a patient safety measure, to prevent these referrals from getting lost. However, no one at the first deployment site, Mann-Grandstaff, was fully aware of it, and Cerner was initially in charge of clearing the queue.

Today, mitigation measures are in place. Providers receive a popup warning when they pick the wrong address, and more care is taken by the VA facilities to clear the queue. However, providers can still ignore the popup warning, and the system is still reliant upon human intervention.

Most of the hearing involved questioning by the subcommittee and full committee chairs and ranking members. The GOP leaders both argued for scrapping the Cerner system and returning to VistA. The VA witness informed them that VistA had also lost thousands of referrals on a regular basis. In addition, with the mitigation steps in place, the number of referrals in the unknown queue has dropped markedly. Last week, there was a day at Mann-Grandstaff when there were none.

The Oracle witness again promised that the basic issues with Cerner can be fixed, and his company will absorb the costs.

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UPCOMING HEARINGS

- On Wednesday, August 3, the Senate Foreign Relations Committee will hold a markup of S. 4428, the “Tawain Policy Act of 2022,” with an amendment in the nature of a substitute.

Lawrence Montreuil, Legislative Director
The American Legion