



THE SECRETARY OF VETERANS AFFAIRS
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The Honorable J. Dennis Hastert
Speaker of the U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I am transmitting a draft bill, the "Veterans Programs Improvement Act of 2004." I request that this draft bill be referred to the appropriate committee for prompt consideration and enactment.

INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Section 2 of the draft bill would direct the Secretary of Veterans Affairs to increase administratively the rates of disability compensation for veterans with service-connected disabilities and of dependency and indemnity compensation (DIC) for certain survivors of veterans, effective December 1, 2004. As provided in the President's fiscal year (FY) 2005 budget request, the rate of increase would be the same as the cost-of-living adjustment (COLA) that will be provided under current law to Social Security recipients, which is currently estimated to be 1.3 percent. We believe this proposed COLA is necessary and appropriate to protect the affected benefits from the eroding effects of inflation.

We estimate that enactment of this section would cost \$242.4 million for FY 2005 and \$3.2 billion over the period FY 2005 through FY 2014. However, this cost is already assumed in the Budget baseline and, therefore, would not have any additional cost.

LIFE INSURANCE TECHNICAL AMENDMENTS

Sections 3(a) through 3(c) of the draft bill would make technical amendments to statutory provisions added by the Veterans' Survivor Benefits Improvements Act of 2001, Pub. L. No. 107-14, 115 Stat. 25.

Section 3(a)(1) would amend 38 U.S.C. § 1967(a)(1)(C) to extend full-time and family SGLI coverage to reservists who volunteer for assignment to a mobilization category in the Individual Ready Reserve, as referenced in 38 U.S.C. § 1965(5)(C). Current law extends full-time and family SGLI to all

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members on active duty and to members of the Ready Reserve who meet qualifications set forth in 38 U.S.C. § 1965(5)(B). Under the current statute, neither full-time nor family SGLI is available to the small group of reservists who volunteer for assignment to a mobilization category in the Individual Ready Reserve. We believe that this group was inadvertently overlooked with the enactment of section 4(b)(1) in Public Law 107-14 and should be added. Also, section 3(a)(2) and (c)(1) would make conforming amendments to 38 U.S.C. §§ 1967(a)(5)(C) and 1969, respectively. Section 3(d) would make these amendments effective retroactively to June 5, 2001, the date of enactment of Public Law 107-14.

Section 3(b) would amend 38 U.S.C. § 1968(a)(5)(B)(ii), which provides that SGLI with respect to an insurable dependent of a servicemember will cease on the earliest of: (1) 120 days after the member's death; (2) 120 days after the date of termination of insurance on the member's life; or (3) 120 days after termination of the dependent's status as an insurable dependent. The second criterion in the current law effectively gives many insurable dependents 240 days of coverage after the member separates from service because a member's SGLI coverage extends for 120 days after separation. Section 3(b) would change the second criterion to refer to the date of the member's separation or release from service, rather than the date of termination of insurance on the member's life.

Section 3(c)(2) would amend 38 U.S.C. § 1969(g)(1)(B) to clarify that VA has authority to set varying age group premiums for servicemembers' spouses by deleting the parenthetical "(which shall be the same for all such members)". VA has established age-based premiums for spouses.

There are no costs associated with these technical amendments.

MEMORIAL HEADSTONES AND MARKERS FOR CHILDREN OF ELIGIBLE VETERANS

Section 4(a)(1) of the draft bill would amend 38 U.S.C. § 2306(b)(2) to extend eligibility for memorial headstones or markers to deceased minor children of eligible veterans whose remains are unavailable for burial. This amendment would allow for placement of memorial headstones or markers for such individuals in national or state veterans' cemeteries. Section 4(a)(2) would amend 38 U.S.C. § 2306(b)(4) to provide that the term "minor child" includes a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution.

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VA currently may provide a memorial headstone or marker for the purpose of commemorating a veteran whose remains are unavailable for burial, for placement in a national, state, local, or private cemetery. Public Law 105-368, the Veterans Programs Enhancement Act of 1998, expanded eligibility for memorial headstones or markers to include the spouse or surviving spouse of a veteran, where the memorial headstone or marker is to be placed in a national or state veterans' cemetery.

Under the current provisions of section 2306(b)(2), VA is unable to honor the request for a memorial headstone or marker from a veteran who wishes to memorialize his or her minor child in a VA national cemetery or a state veterans' cemetery, when the child's remains are unavailable for burial. Such a child would be eligible for burial in a national or state veterans' cemetery were his or her remains available. In an instance where the spouse and a child of a veteran die at the same time and in the same manner, and the remains of neither is available, it appears quite inequitable that a memorial headstone or marker may be provided to commemorate the spouse, but not the child.

The proposed amendment would make eligibility for memorial headstones and markers for minor children parallel to eligibility of such persons for burial in a national cemetery under 38 U.S.C. § 2402(5). In this regard, eligible children would include those under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution.

Also, section 4(a)(4) of the draft bill would make a conforming amendment to 38 U.S.C. § 2306(f)(2) to authorize VA to add a memorial inscription to a veteran's memorial headstone or marker, if feasible, rather than furnishing a separate memorial headstone or marker for the veterans' minor child. Such authorization is already provided in that provision with respect to a veteran's surviving spouse. Section 4(a)(3) would amend 38 U.S.C. § 2306(f)(1), which governs the addition of memorial inscriptions to headstones and markers provided for unmarked graves under 38 U.S.C. § 2306(a), to make that provision parallel the conforming amendment to section 2306(f)(2).

The cost for these amendments would be nominal. We do not anticipate receiving many requests for memorial headstones or markers for children. In 2002, VA received two requests for memorial headstones or markers from veterans who wanted to memorialize their children in a VA national cemetery. The average cost of a memorial headstone or maker is currently \$101.00. Memorial headstones or markers are paid for out of the Compensation and Pension appropriation account.

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INCLUSION OF CERTAIN COURSES GIVEN BY PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION

Section 5 of the draft bill would amend the definition of "educational institution" in 38 U.S.C. §§ 3452(c) and 3501(a)(6) to include an entity that offers courses that enhance an individual's ability to obtain a license or certification generally thought necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation.

Under current law, the courses an individual pursues at such entities must be required for the attainment of a license or certificate in a high technology occupation. Many worthwhile courses, however, though not required for licensure or certification, would be helpful to an individual in a particular technical occupation but cannot be approved under the present strictures. In fact, few courses meet the current requirements. VA does not believe it was the intent of Congress to establish an approval rule that, in effect, makes it nearly impossible to pursue courses consistent with proper training in a particular technical field.

We estimate that enactment of this section would cost \$148,000 for FY 2005 and \$1.7 million over the period FY 2005 through 2014.

CLARIFICATION OF ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS FOR EDUCATION BENEFITS

Section 6 of the draft bill would eliminate internal inconsistencies in the dates of the active duty service required for certain Vietnam Era veterans to qualify for Montgomery GI Bill (MGIB) educational assistance under 38 U.S.C. § 3012. Currently, the law requires that such veterans not have been on active duty on October 19, 1984, to be eligible for MGIB education benefits. However, the law also requires that they must have reenlisted or reentered active duty on or after October 19, 1984. Clarification of this contradictory requirement for MGIB eligibility is necessary. A similar inconsistency in section 3011 was recently eliminated by Public Law 107-330.

There is no cost associated with this technical amendment.

BAR TO VA EDUCATION BENEFITS FOR CERTAIN SERVICEMEMBERS

Section 7 of the draft bill would amend 38 U.S.C. §§ 3016 and 3231(d) to bar payment of education benefits under the chapter 30 MGIB and the chapter 32 Post-Vietnam Era Veterans' Educational Assistance programs, respectively, to certain servicemembers following a court-martial sentence that

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requires a discharge or dismissal from active duty of a nature that would disqualify the servicemember from receiving benefits under chapters 30 and 32, unless the discharge or dismissal is later disapproved or set aside.

Currently, no such bar exists and servicemembers receive education benefits for the pursuit of independent study or correspondence training while their disqualifying discharge is pending. We believe this is an inappropriate reward for such individuals and that limited VA education benefit funds could better be spent on more deserving persons.

Because the number of individuals awaiting disqualifying discharge represents a very small percentage of the number of enrollees in these programs, we anticipate that enactment of this section would entail no significant cost savings.

EXPANSION OF CHAPTER 31 EMPLOYMENT ADJUSTMENT ALLOWANCE

Section 8 of the draft bill would amend 38 U.S.C. § 3108(a)(2) to permit eligible veterans who are employable, but are determined to be in need of chapter 31 employment services only, to receive a Vocational Rehabilitation Employment Adjustment Allowance (EAA), while satisfactorily pursuing employment services.

Under current law, the EAA benefit is limited to veterans who complete a chapter 31 rehabilitation training program and reach a point of employability. Such veterans may be paid an EAA for a period of two months at the full-time subsistence allowance rate for the type of program the veteran was last pursuing, while satisfactorily participating in a program of employment services to obtain or maintain suitable employment.

However, eligible veterans who are determined in need only of employment services to obtain or maintain suitable employment, and who did not participate in a chapter 31 training program to the point of employability, have the same need and ability to benefit from the EAA as those who completed training. They are expected to conduct the same full-time job seeking activities as those veterans transitioning from a training program with the same concomitant costs. We, therefore, believe veterans who satisfactorily participate in an employment services program similarly should receive an EAA benefit.

We estimate that enactment of this section would cost \$1 million for FY 2005 and \$12.3 million over the period FY 2005 through FY 2014.

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The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

A handwritten signature in black ink, reading "Anthony J. Principi". The signature is written in a cursive style with a large initial "A" and "P".

Anthony J. Principi

Enclosure

108th Congress

2nd Session

A BILL

To amend title 38, United States Code, to improve the authorities of the Department of Veterans Affairs relating to compensation, dependency and indemnity compensation, life insurance benefits, memorial benefits, and education benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the “Veterans Programs Improvement Act of 2004”.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND
DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2004, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114;

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1);

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162;

(4) NEW DIC RATES.—Each of the dollar amounts in effect under paragraphs (1) and (2) of section 1311(a);

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3);

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b);

(7) ADDITIONAL DIC FOR DISABILITY.—Each of the dollar amounts in effect under subsections (c) and (d) of section 1311;

(8) DIC FOR DEPENDENT CHILDREN.—Each of the dollar amounts in effect under sections 1313(a) and 1314.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2004.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2004, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law No. 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(e) PUBLICATION OF ADJUSTED RATES.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2005, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) as increased pursuant to subsection (a).

SEC. 3. LIFE INSURANCE TECHNICAL AMENDMENTS.

(a) Section 1967 is amended—

(1) in subsection (a)(1)(C), by inserting “or (C)” after “section 1965(5)(B)”, and

(2) in subsection (a)(5)(C), by inserting “or (C)” after “section 1965(5)(B)”.

(b) Section 1968(a)(5)(B)(ii) is amended by striking “the date of termination of the insurance on the member’s life under this subchapter” and inserting “the member separates or is released from the uniformed services”.

(c) Section 1969(g)(1)(B) is amended—

(1) by inserting “or (C)” after “section 1965(5)(B)”; and

(2) by striking “(which shall be the same for all such members)”.

(d) The amendments made by subsections (a) and (c)(1) of this section shall take effect as if enacted on June 5, 2001, immediately after the enactment of the Veterans’ Survivor Benefits Improvements Act of 2001 (Public Law 107-14; 115 Stat. 25).

**SEC. 4. MEMORIAL HEADSTONES AND MARKERS FOR CHILDREN OF
ELIGIBLE VETERANS.**

(a) IN GENERAL.—Section 2306 is amended—

(1) in subsection (b)(2), by adding at the end the following new subparagraph:

"(C) A minor child of a veteran.";

(2) in subsection (b)(4), by adding at the end the following new subparagraph:

"(C) The term "minor child" includes a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution.";

(3) in subsection (f)(1), by inserting "or minor child" after "surviving spouse"; and

(4) in subsection (f)(2), by inserting "or minor child" after "surviving spouse".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to deaths occurring after the date of the enactment of this Act.

SEC. 5. INCLUSION OF CERTAIN COURSES GIVEN BY PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION.

(a) IN GENERAL.—Sections 3452(c) and 3501(a)(6) are each amended in the last sentence by striking "to fulfill requirements for the attainment of a license or certificate" and inserting "generally recognized as training that enhances an individual's ability to obtain licensure or certification".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollment in courses beginning on or after the date of the enactment of this Act.

SEC. 6. CLARIFICATION OF ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS FOR EDUCATION BENEFITS.

Section 3012(a)(1)(C)(ii) is amended by striking "on or".

**SEC. 7. BAR TO VA EDUCATION BENEFITS FOR CERTAIN
SERVICEMEMBERS.**

(a) Section 3016 is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this chapter, a member of the Armed Forces who is sentenced to a discharge or dismissal by a court-martial may not, following such sentencing, receive educational assistance under this chapter, unless (1) the discharge or dismissal is later disapproved or set aside, or (2) the member previously was discharged or released from a period (or periods) of active duty upon which the member had established entitlement to basic educational assistance under this chapter."

(b) Subsection 3231(d) is amended by adding at the end the following new paragraph:

"(3) A participant who is sentenced to a discharge or dismissal by a court-martial may not thereafter receive educational assistance under this chapter, unless (A) the discharge or dismissal is later disapproved or set aside, or (B) the Secretary finds that the discharge or dismissal to which the participant is sentenced would be a discharge or dismissal from active duty under conditions other than dishonorable."

**SEC. 8. EXPANSION OF CHAPTER 31 EMPLOYMENT ADJUSTMENT
ALLOWANCE.**

Section 3108(a)(2) is amended—

(a) by inserting "(A)" before "In"; and

(b) by adding at the end the following new subparagraph:

"(B) In any case in which the Secretary determines a veteran who has basic entitlement to a rehabilitation program under this chapter is employable but is in need of employment services to obtain or maintain suitable employment, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time institutional training with no dependents, for two months while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title."