



MEMO TO: National Officers
All National Service Officers
National Executive Committee
Department Commanders and Adjutants
DAVA National Commander
DAVA National Adjutant

FROM: Joseph A. Violante, National Legislative Director

SUBJ: **H.R. 3219, Veterans' Benefits Act of 2010**

DATE: October 29, 2010

On October 13, 2010, President Obama signed Public Law 111-275, the Veterans' Benefits Act of 2010, H.R. 3219. Because this bill has many provisions of interest to our members, I have outlined specific details about the law.

TITLE I—EMPLOYMENT, SMALL BUSINESS, AND EDUCATION MATTERS

(SEC 101) Extension and expansion of authority for certain qualifying work-study activities for purposes of the educational assistance programs of the Department of Veterans Affairs

Section 3485 of title 38, United States Code (U.S.C.), permitting certain students enrolled in a program of education to participate in work-study programs through June 30, 2010, will be extended through June 30, 2013, during which qualifying work-study activities may include assisting with outreach services to servicemembers and veterans furnished by employees of State approving agencies, provision of care to veterans in State homes, and activities related to administration of a national cemetery or State veterans' cemetery. In addition, effective October 1, 2011, it would add to the list of qualifying work-study activities the following:

Activities of State veteran's agencies helping veterans obtain any benefit under laws administered by VA or States; Positions at Centers of Excellence for Veteran Student Success; Positions working in programs run jointly by VA and an institution of higher learning; and Any other veterans-related position in an institution of higher learning.

(SEC 102) Reauthorization of veterans' advisory committee on education

Section 3692 of title 38, U.S.C., originally provided for the formation of a Veterans' Advisory Committee on Education (VACE) through December 31, 2009.

This measure reauthorizes and extends the VACE through December 31, 2013.



(SEC 103) 18-month period for training of new Disabled Veterans' Outreach Program Specialists and Local Veterans' Employment Representatives by National Veterans' Employment and Training Services Institute

Section 4102A(c)(8) of title 38, U.S.C., originally required that, as a condition of receiving grants under the Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representatives (LVER) program authorities, States are generally required to have each DVOP and LVER complete a program of training through the National Veterans' Employment and Training Services Institute within three years of beginning employment.

This measure requires DVOPs and LVERs hired on or after the date of enactment complete training within 18 months of employment and that any previously-hired DVOPs and LVERs who were hired on or after January 1, 2006, also complete training within 18 months of the date of enactment.

(SEC 104) Clarification of responsibility of Secretary of Veterans Affairs to verify small business ownership

Public Law 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, requires VA to maintain the VetBiz Vendor Information Page (VIP) database containing Veteran Owned Small Businesses (VOSB) and Service-Disabled Veteran Owned Small Businesses (SDVOSB). This law also requires VA to verify that registered firms meet the eligibility requirements to be classified as VOSBs or SDVOSBs to be included in the database.

This measure requires VA to verify small business concerns prior to being listed in the VIP database.

(SEC 105) Demonstration project for referral of USERRA claims against federal agencies to the Office of Special Counsel

Under chapter 43 of title 38, U.S.C., the Department of Labor has responsibility for receiving, investigating, and attempting to resolve all claims filed under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

This measure requires the Secretary of Labor and the Office of Special Counsel to carry out a 36-month demonstration project to start no later than 60 days after the Comptroller General submits a report assessing the proposed methods and procedures for the demonstration project; under the demonstration project, certain USERRA claims against Federal executive agencies would be received by or referred to the Office of Special Counsel. It will also allow the Office of Special Counsel to receive and investigate certain claims under USERRA and related prohibited personnel practice claims. Finally, this measure will establish general guidelines for administration of the demonstration project; will require the Department of Labor and the Office of Special Counsel to jointly establish methods and procedures to be used during the demonstration project and submit to Congress a report describing those methods and procedures; will require the Comptroller General to submit to Congress a report assessing those methods and procedures; and will require the Comptroller General to submit to Congress reports on the demonstration project.

(SEC 106) Veterans Energy-Related Employment Program

This measure will establish a pilot competitive grant program (Veterans Energy-Related Employment Program) as part of the Veterans Workforce Investment Program for up to three States to provide grants to energy employers that train veterans in skills particular to the energy industry. This measure authorizes \$1.5 million for the grant program for each of fiscal years 2012 through 2014.

(SEC 107) Pat Tillman Veterans' Scholarship Initiative

This measure requires the VA, by June 1, 2011, to make available on its website a list of organizations that provide scholarships to veterans and their survivors. VA will also be required to make reasonable efforts to notify schools and other organizations of the opportunity to be listed on the website.

TITLE II—HOUSING AND HOMELESSNESS MATTERS

(SEC 201) Reauthorization of appropriations for Homeless Veterans Reintegration Program

The Homeless Veterans Reintegration Program (HVRP) was initially enacted in 1987 to expand services beyond food and shelter to homeless veterans. Public Law 107-95, The Homeless Veterans Comprehensive Assistance Act of 2001, directed the Secretary of Labor to provide homeless veterans with job training, counseling, and placement services as part of a holistic approach to reintegrating homeless veterans back into society. The authorization of appropriations to carry out this program expired at the end of fiscal year 2009.

This measure reauthorizes appropriations for the HVRP through fiscal year 2011.

(SEC 202) Homeless Women Veterans and Homeless Veterans with Children Reintegration Grant Program

Currently, under section 2021 of title 38, U.S.C., the Secretary of Labor is required to conduct, directly or through grant or contract, the HVRP. Through HVRP, the Secretary selects programs that are appropriate to provide job training, counseling, and placement services (including job readiness, literacy and skills training) to expedite the reintegration of homeless veterans into the labor force. HVRP is administered through the Assistant Secretary of Labor for Veterans' Employment and Training (VETS).

This measure will amend title 38, U.S.C., by adding a new section 2021A, entitled "Homeless women veterans and homeless veterans with children reintegration grant program." This measure will also direct the Secretary of Labor to carry out a grant program to provide reintegration services through programs and facilities that emphasize services for homeless women veterans and homeless veterans with children; appropriations to carry out this program will be \$1 million for fiscal years 2011 to 2015.

(SEC 203) Specially Adapted Housing Assistive Technology Grant Program

This measure authorizes grants of not more than \$200,000 per fiscal year to develop assistive technology for specially adapted housing. The recipient of a grant shall use the grant to develop assistive technologies for use in specially adapted housing. The VA will not retain any patent rights

to the technology developed by any grant recipient; the funding amount would be reduced from \$2 million to \$1 million per fiscal year to carry out this program, and the funding will come from amounts appropriated to VA for readjustment benefits, not Medical Services. The effective date of the five-year pilot program will be October 1, 2011.

(SEC 204) Waiver of housing loan fee for certain veterans with service-connected disabilities called to active service

Under current law, section 3729(c)(1) of title 38, U.S.C., housing loan fees are waived for veterans in receipt of service-connected disability compensation, or those who, but for the receipt of retirement pay, would be entitled to receive compensation.

This measure extends the waiver of housing loan fees to certain veterans with service-connected disabilities who are called back to active service.

TITLE III—SERVICEMEMBERS CIVIL RELIEF ACT MATTERS

(SEC 301) Residential and motor vehicle leases

Currently section 305 of the Servicemembers Civil Relief Act (SCRA) permits the cancellation of motor vehicle leases and prohibits early termination penalties. It also permits cancellation of residential leases, but it does not provide protection from early termination fees.

This measure amends subsection (e) of section 305 of SCRA to revise provisions concerning arrearages and other obligations to prohibit a lessor from charging an early termination charge with respect to a residential, professional, business, or agricultural rental lease entered into by a person who subsequently enters military service, or for a servicemember who has received orders for permanent change of station or for deployment in support of a military operation. It will provide that unpaid lease charges shall be paid by the lessee.

(SEC 302) Termination of telephone service contracts

Currently Section 305A of SCRA permits certain servicemembers the option to request a termination or suspension of their cellular phone contracts if they are deployed outside of the continental United States for a period of not less than 90 days or have a permanent change of duty station within the United States.

This measure allows a servicemember to terminate a contract for cellular telephone or telephone exchange service at any time after receiving notice of military orders to relocate for a period of 90 days or more to a location that does not support the contract. It would further require the telephone number of an individual who terminated a contract to be kept available for a period of not to exceed three years if the servicemember resubscribes to the service within 90 days of the last day of relocation. This measure will also permit certain family plan contracts for cellular telephone service entered into by a family member of a servicemember to be terminated.

(SEC 303) Enforcement by the Attorney General and by private right of action

This measure amends the SCRA to add a new title, Title VIII—Civil Liability, which will authorize the U.S. Attorney General to bring a civil action in U.S. district court to enforce provisions of the

SCRA. It will also authorize the court to grant appropriate relief to include monetary damages. In addition, it will clarify that a person has a private right of action to file a civil action for violations under the SCRA and that the court may award costs and attorney fees to a servicemember who prevails.

TITLE IV—INSURANCE MATTERS

(SEC 401) Increase in amount of supplemental insurance for totally disabled veterans

Currently Section 1922A of title 38 U.S.C. allows eligible totally disabled veterans to receive a maximum of \$20,000 in Service-Disabled Veterans' Insurance (S-DVI) supplemental life insurance coverage.

This measure amends section 1922A(a) of title 38, U.S.C., to increase the amount of life insurance available to totally disabled veterans by allowing them to purchase an additional \$10,000 in supplemental insurance coverage, raising the maximum amount of S-DVI supplemental coverage from \$20,000 to \$30,000 effective October 1, 2011.

(SEC 402) Permanent extension of duration of Servicemembers' Group Life Insurance coverage for totally disabled veterans

Public Law 109-233, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, authorized VA to extend from one to two years, after separation from active duty service, the period within which totally disabled members may receive premium free SGLI coverage and convert their coverage to a policy under the VGLI program after separation from active duty service. However, Public Law 109-233 mandated that on or after October 1, 2011, this two-year time period would be shortened to 18 months.

This measure will amend section 1968(a) of title 38, U.S.C., to eliminate the expiration date for a potential two-year extension of SGLI coverage available to servicemembers who are totally disabled when they separate from service.

(SEC 403) Adjustment of coverage of dependents under Servicemembers' Group Life Insurance

Under current law, insurable dependents of servicemembers on active duty, or Ready Reservists who are totally disabled on the date of separation or release from service or assignment, are authorized to continue receiving insurance coverage long after the servicemembers' separation or release from service. Servicemembers on active duty are potentially eligible for continued coverage for up to 2 years after the date of separation or release from service; Ready Reservists are potentially eligible for an additional 1 year of coverage after separation or release from an assignment. Thereafter, the insurable dependents of covered servicemembers on active duty are also potentially eligible for continued coverage for up to 2 years after the date of separation or release from service or, in the case of an insurable dependent of a Ready Reservists, up to 1 year after the date of separation or release from an assignment.

This measure amends section 1968(a)(5)(B)(ii) of title 38, U.S.C., so that no insurable dependent, not even those of servicemembers who remain covered for up to 1 or 2 years after service or assignment,

could remain covered under SGLI for more than 120 days after the servicemembers' separation or release from service or assignment.

(SEC 404) Opportunity to increase amount of Veterans' Group Life Insurance

Currently section 1977(a)(1) of title 38, U.S.C., limits the amount of VGLI coverage a veteran may carry to the amount of SGLI coverage that continued in force after that veteran was separated from service.

This measure amends section 1977(a) of title 38, U.S.C., to allow VGLI participants who are under the age of 60 and insured for less than the current maximum authorized for SGLI the opportunity to obtain, without a health care examination, an additional \$25,000 in coverage once every 5 years at the time of renewal.

(SEC 405) Elimination of reduction in amount of accelerated death benefit for terminally-ill persons insured under Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI)

The current SGLI/VGLI Accelerated Benefits Option (ABO) requires VA to discount or reduce the payout available under both the SGLI and VGLI programs for terminally-ill servicemembers and veterans who exercise the option to use up to half of their policy. Currently, VA discounts this payment by an amount commensurate to the interest rate earned by the program on its investment in effect at the time that a servicemember or veteran applies for the benefits, thereby often significantly reducing the amount of the ABO payment.

This measure amends section 1980(b)(1) of title 38, U.S.C., by eliminating the requirement that the lump sum accelerated payment be "reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefit paid, as determined by the Secretary."

(SEC 406) Consideration of loss of dominant hand in prescription of schedule of severity of traumatic injury under Servicemembers' Group Life Insurance

Under current law, traumatic injury protection under Servicemembers' Group Life Insurance (TSGLI) provides for payment to servicemembers who suffer a qualifying loss as a result of a traumatic injury event. In the event of a qualifying loss, VA will pay between \$25,000 and \$100,000, depending on the severity of the qualifying loss. In prescribing payments, VA does not account for the effect, if any, that the loss of a dominant hand has on lengthening hospitalization or rehabilitation periods.

This measure amends section 1980A(d) of title 38, U.S.C., authorizing VA to distinguish in specifying payments for qualifying losses of a dominant hand and a non-dominant hand effective October 30, 2011.

(SEC 407) Enhancement of Veterans' Mortgage Life Insurance

Under current law, service-connected disabled veterans who have received specially adapted housing grants from VA may purchase up to \$90,000 in Veterans' Mortgage Life Insurance (VMLI). In the event of the veteran's death, the veteran's family is protected because VA will pay the balance of the mortgage owed up to the maximum amount of insurance purchased.

This measure amends section 2106(b) of title 38, U.S.C., increasing the maximum amount of insurance that may be purchased under the VMLI program from the current maximum of \$90,000 to \$150,000 effective October 1, 2011. The maximum amount would then increase from \$150,000 to \$200,000 on January 1, 2012.

(SEC 408) Expansion of individuals qualifying for retroactive benefits from traumatic injury protection coverage under Servicemembers' Group Life Insurance

Under current law, TSGLI provides coverage against qualifying losses incurred as a result of a traumatic injury. In the event of a loss, VA will pay between \$25,000 and \$100,000 depending on the severity of the qualifying loss. TSGLI went into effect on December 1, 2005. In order to provide assistance to those servicemembers suffering traumatic injuries on or between October 7, 2001, and November 30, 2005, retroactive TSGLI payments were authorized under section 1032(c) of Public Law 109-13, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, to individuals whose qualifying losses were sustained as "a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom." Under section 501(b) of Public Law 109-233, the Veterans' Housing Opportunity Benefits Improvement Act of 2006, this definition was amended to allow retroactive payments to individuals whose qualifying losses were sustained as a "direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom and Operation Iraqi Freedom." Men and women who were traumatically injured on or between October 7, 2001, and November 30, 2005, but were not in the Operation Iraqi Freedom or Operation Enduring Freedom theaters of operation are not eligible for retroactive payments.

This measure amends section 501(b) of Public Law 109-233 removing the requirement that limits retroactive TSGLI payments to those who served in the Operation Iraqi Freedom (OIF) or Operation Enduring Freedom (OEF) theaters of operation. This measure authorizes retroactive TSGLI payments for qualifying traumatic injuries incurred on or after October 7, 2001, but before December 1, 2005, irrespective of where the injuries occurred. This measure will take effect on October 1, 2011.

TITLE V—BURIAL AND CEMETERY MATTERS

(SEC 501) Increase in certain burial and funeral benefits and plot allowances for veterans

Currently VA will pay up to \$300 toward the funeral and burial costs of veterans who die while receiving care at certain VA facilities. In addition, VA will pay a \$300 plot allowance when a veteran is buried in a cemetery not under U.S. government jurisdiction if: the veteran was discharged from active duty because of a disability incurred or aggravated in the line of duty; the veteran was receiving compensation or pension, or would have been if he/she was not receiving military retired pay; or the veteran died in a VA facility.

This measure increases the amount paid for the burial and funeral of a veteran who dies in a VA facility from \$300 to \$700, and increases the plot allowance for a deceased veteran who is eligible for burial at a national cemetery from \$300 to \$700, effective October 1, 2011. It further directs the Secretary of Veterans Affairs to provide an annual percentage increase in relation to the Consumer Price Index; however, no cost-of-living increases are to be made to these benefits in fiscal year 2012.

(SEC 502) Interment in National Cemeteries of parents of certain deceased veterans

Currently under section 2402(5) of title 38, U.S.C., certain spouses, surviving spouses, and minor children of servicemembers and veterans who are eligible for burial in national cemeteries are eligible to be interred in national cemeteries.

This measure gives VA the discretion to provide space-available burial to qualifying parents in the gravesite of their deceased son or daughter who, on or after October 7, 2001, died in combat or died of a combat-related training injury and who has no other eligible survivors as identified under section 2402(5) of title 38, U.S.C. The term “parent” means the biological mother or father or, in the case of adoption, the adoptive mother or father.

(SEC 503) Reports on selection of new National Cemeteries

This measure will require VA, not later than one year following the date of enactment, to report to Congress on the selection and construction of five new national cemeteries. Selection sites are to be in: an area in Southern Colorado; an area near Melbourne and Daytona, Florida; an area near Rochester and Buffalo, New York; an area near Tallahassee, Florida; and an area near Omaha, Nebraska. The Secretary will be required to solicit the advice and views of State and local veterans organizations. The report will be required to include a schedule for the establishment of and the funds available for each such cemetery. This measure will further require annual reports to be submitted to Congress until the completion of the cemeteries.

TITLE VI—COMPENSATION AND PENSION

(SEC 601) Enhancement of disability compensation for certain disabled veterans with difficulties using prostheses and disabled veterans in need of regular aid and attendance for residuals of traumatic brain injury

Currently, under subsections (m), (n), and (o) of section 1114, of title 38, U.S.C., higher levels of monthly compensation are paid to veterans under subsections (a) through (j) of section 1114 of title 38, U.S.C. VA pays disability compensation to a veteran based on the rating assigned to the veteran’s service-connected disabilities; under subsections with severe disabilities if certain criteria are satisfied. The criteria for compensation under section 1114(m) include “the anatomical loss...of both legs at a level, or with complications, preventing natural knee action with prostheses in place” or “the anatomical loss...of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place.” The criteria for compensation under section 1114(n) include “the anatomical loss...of both arms at levels, or with complications, preventing natural elbow action with prostheses in place”; “the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances”; or “the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances.” The criteria for compensation under section 1114(o) include “the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances.”

Additionally, a veteran whose service-connected condition(s) requires regular aid and attendance will be entitled to higher amount of compensation under section 1114(r)(1) of title 38, U.S.C. Also, under section 1114(r)(2), a higher level of aid and attendance compensation is provided to certain veterans with severe service-connected disabilities who need “a higher level of care” in addition to regular aid

and attendance. Under section 1114(r)(2), this higher level of compensation generally is provided only to a veteran who has suffered a severe anatomical loss, who needs “health-care services provided on a daily basis in the veteran’s home,” and who would require institutionalization in the absence of that care.

This measure amends subsections (m), (n), and (o) of section 1114 of title 38, U.S.C., to allow for higher rates of monthly compensation to be paid for service connected condition(s) if there are any factors preventing natural elbow or knee action with prostheses in place or prevent the use of prosthetic appliances.

This measure also adds a new subsection (t) to section 1114 of title 38, U.S.C., which would provide that, if a veteran is in need of regular aid and attendance due to the residuals of traumatic brain injury, is not eligible for compensation under section 1114(r)(2), and, in the absence of regular aid and attendance, would require institutional care, the veteran will be entitled to a monthly aid and attendance allowance equivalent to the allowance provided under section 1114(r)(2).

(SEC 602) Cost-of-living increase for temporary Dependency and Indemnity Compensation payable for surviving spouses with dependent children under the age of 18

Currently section 1310 of title 38, U.S.C., provides dependency and indemnity compensation (DIC) to a surviving spouse if a veteran’s death resulted from: (1) a disease or injury incurred or aggravated in the line of duty while on active duty or active duty for training; (2) an injury incurred or aggravated in the line of duty while on inactive duty for training; or (3) a service-connected disability or a condition directly related to a service-connected disability. The Veterans Benefits Improvement Act of 2004, amended section 1311 of title 38, U.S.C., to authorize VA to pay a \$250 per month temporary benefit to a surviving spouse with one or more children below the age of 18, during the 2 years following the date on which entitlement to DIC began.

This measure amends section 1311(f) of title 38, U.S.C., by authorizing a permanent, automatic, cost-of-living adjustment for this temporary DIC payment so that the value of the benefit does not erode over time. This cost-of-living increase will occur whenever there is an increase in benefit amounts payable under title II of the Social Security Act.

(SEC 603) Payment of Dependency and Indemnity Compensation to qualified survivors of former prisoners of war who died on or before September 30, 1999

Currently, under chapter 13 of title 38, U.S.C., DIC is paid to the surviving spouse or children of a veteran when the veteran’s death is a result of a service-connected disability. In addition, VA provides DIC to the surviving spouses and children of veterans who have died after service from a non-service-connected disability if the veteran had been totally disabled due to a service-connected disability for a continuous period of 10 or more years immediately preceding death, or for a continuous period of at least 5 years after the veteran’s release from service.

Prior to Public Law 106-117, the Veterans Millennium Health Care and Benefits Act, qualified survivors of former Prisoners of War (POWs) were eligible for DIC under the same rules as all other qualified survivors. Section 501 of Public Law 106-117 extended eligibility for DIC to the qualified survivors of former POWs who died after September 30, 1999, from non-service-connected causes if the former POWs were totally disabled due to a service-connected cause for a period of 1 or more years, rather than 10 or more years, immediately prior to death.

This measure amends section 1318(b)(3) of title 38, U.S.C., to make all qualified survivors of former POWs eligible for DIC if the veteran died from non-service-connected causes and was totally disabled due to service-connected condition(s) for a period of 1 or more years immediately prior to death, without regard to date of death.

(SEC 604) Exclusion of certain amounts from consideration as income for purposes of veterans pension benefits

Currently, under chapter 15 of title 38, U.S.C., VA is authorized to pay pension benefits to wartime veterans who have limited or no income, and who are ages 65 or older, or, if under 65, who are permanently and totally disabled. When calculating annual income for purposes of these pension benefits, section 1503 of title 38, U.S.C., authorizes VA to include income received by the veteran and from most sources. However, certain sources of income, such as donations from public or private relief or welfare organizations, are not taken into account.

This measure will exclude, for purposes of determining income for pension eligibility, up to \$5,000, paid to a veteran from a State or municipality, if the benefit was paid due to the veteran's injury or disease.

(SEC 605) Commencement of period of payment of original awards of compensation for veterans retired or separated from the uniformed services for catastrophic disability

Currently, under section 5110(b)(1) of title 38, U.S.C., if a veteran files a claim for VA disability compensation within 1 year after being discharged from military service, the effective date of an award of service connection will be the day after the date of discharge. However, under section 5111(a) of title 38, U.S.C., the effective date for payment of compensation based on that award will not be until the first day of the month following the month in which the service-connection award is effective.

This measure amends section 5111 of title 38, U.S.C., to provide that, if a veteran is retired from the military for a catastrophic disability or disabilities, payment of disability compensation based on an original claim for benefits will be made as of the date on which the award of compensation becomes effective. "Catastrophic disability" is defined as a permanent, severely disabling injury, disorder, or disease that compromises the ability of the veteran to carry out the activities of daily living to such a degree that the veteran requires personal or mechanical assistance to leave home or bed, or requires constant supervision to avoid physical harm to self or others.

(SEC 606) Applicability of limitation to pension payable to certain children of veterans of a period of war

This measure amends section 5503 of title 38, U.S.C., so that adult-disabled children of veterans who receive pension under section 1542 of title 38, U.S.C., and are covered by a Medicaid plan while residing in nursing homes, will have their pension benefits reduced in the same manner as veterans and surviving spouses.

(SEC 607) Extension of reduced pension for certain veterans covered by Medicaid plans for services furnished by nursing facilities

Currently, under section 5503(d)(7) of title 38, U.S.C., VA pension for certain veterans in receipt of Medicaid-covered nursing home care will be no more than \$90 per month, for any period after the month of admission to the nursing care facility. Public Law 107-103, The Veterans' Education and Benefits Expansion Act of 2001, extended this authority through September 30, 2011.

This measure amends section 5503(d)(7) of title 38, U.S.C., to extend, from September 30, 2011, to May 31, 2015, the authority for limitation of VA pension to \$90 per month for certain beneficiaries receiving Medicaid-covered nursing home care.

TITLE VII—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

(SEC 701) Clarification that Uniformed Services Employment and Reemployment Rights Act (USERRA) prohibits wage discrimination against members of the armed forces

Under current law, section 4311(a) of title 38, U.S.C., employers may not deny any “benefit of employment” to employees or applicants on the basis of membership in the uniformed services, application for service, performance of service, or service obligation. However, the U.S. Court of Appeals for the Eighth Circuit held in 2002 that USERRA does not prohibit wage discrimination because “wages or salary for work performed” are specifically excluded from the law’s definition of “benefit of employment.” *Gagnon v. Sprint Corp.*, 284 F.3d 839, 853 (8th Cir. 2002).

This measure amends section 4303(2) of title 38, U.S.C., to make it clear that wage discrimination is not permitted under USERRA.

(SEC 702) Clarification of the definition of “successor in interest”

Currently, section 4303 of title 38, U.S.C., uses a broad definition of the term “employer” and includes in subsection (4)(A)(iv) a definition of a “successor in interest.” In regulations, the Department of Labor has provided that an employer is a “successor in interest” where there is a substantial continuity in operations, facilities and workforce from the former employer. It further stipulates that the determination of whether an employer is a successor in interest must be made on a case-by-case basis using a multifactor test (20 CFR § 1002.35). One Federal court, however, in a decision made prior to the promulgation of the regulation, held that an employer could not be a successor in interest unless there was a merger or transfer of assets from the first employer to the second.

This measure amends section 4303 of title 38, U.S.C., to clarify the definition of “successor in interest” by incorporating language that mirrors the regulatory definition adopted by the Department of Labor.

TITLE VIII—BENEFITS MATTERS

(SEC 801) Increase in number of veterans for which programs of Independent Living Services and Assistance may be initiated

Currently, section 3120(e) of title 38, U.S.C., authorizes VA to initiate a program of independent living services for no more than 2,600 service-connected disabled veterans in each fiscal year. This measure amends section 3120(e) of title 38, U.S.C., increasing from 2,600 to 2,700 the number of veterans who may initiate a program of independent living services in any fiscal year.

(SEC 802) Payment of unpaid balances of Department of Veterans Affairs guaranteed loans

Under current law, section 3732 of title 38, U.S.C., provides default procedures for VA home loans and illustrates the actions VA may take to preserve the loan before suit or foreclosure. However, it does not address what would occur in the event an individual files for bankruptcy and a loan is modified under the authority provided under section 1322(b) of title 11.

This measure amends section 3732(a)(2) by adding a new subparagraph authorizing additional default procedures for VA home loans in the event that a VA home loan is modified under the authority provided under section 1322(b) of title 11. This new authority would allow VA to pay the holder of the obligation the unpaid balance of the obligation, plus accrued interest, due as of the date of the filing of the petition under title 11, but only upon the assignment, transfer, and delivery to VA in a form and manner satisfactory to VA of all rights, interest, claims, evidence, and records with respect to the housing loan.

(SEC 803) Eligibility of disabled veterans and members of the armed forces with severe burn injuries for automobiles and adaptive equipment

Currently, under section 3901 of title 38, U.S.C., veterans and members of the Armed Forces are eligible for assistance with automobiles and adaptive equipment if they suffer from one of three qualifying service-connected disabilities: loss or permanent loss of use of one or both feet; loss or permanent loss of use of one or both hands; or a central visual acuity of 20/200 or less or a peripheral field of vision of 20 degrees or less.

This measure amends section 3901 of title 38, U.S.C., to include individuals with a service-connected disability due to a severe burn injury, effective October 1, 2011. The scope and definition of what constitutes a disability due to a severe burn injury would be determined pursuant to regulations prescribed by VA.

(SEC 804) Enhancement of automobile assistance allowance for veterans

Currently, under section 3902 of title 38, U.S.C., eligible veterans and servicemembers are provided a maximum of \$11,000 to for the purchase of an automobile or other conveyance and adaptive equipment to safely operate either.

This measure amends section 3902 of title 38, U.S.C., to increase the maximum authorized automobile assistance allowance from \$11,000 to \$18,900, effective October 1, 2011. This allowance would be adjusted October 1 of each year, beginning in 2011, by a percentage equal to the percentage by which the Consumer Price Index for all urban consumers (U.S. city average) increased

during the 12-month period ending with the last month for which Consumer Price Index data is available. This measure also directs VA to establish a method of determining the average retail cost of new automobiles for the preceding calendar year.

(SEC 805) National Academies review of best treatments for Gulf War Illness

This measure requires VA to contract with the Institute of Medicine to gather a group of medical professionals, who are experienced in treating individuals diagnosed with chronic multisymptom illness, in order to conduct a comprehensive review of the best treatments for this illness. These medical professionals must have experience treating individuals who served during the Persian Gulf War in the Southwest Asia theater of operations, or in Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.

The final report on the review required by this section must be submitted to VA and the House and Senate Committees on Veterans' Affairs by December 31, 2012, and include recommendations for legislative or administrative actions as the Institute of Medicine considers appropriate in light of the results of that review.

(SEC 806) Extension and modification of National Academy of Sciences reviews and evaluations on illness and service in Persian Gulf War and Post 9/11 Global Operations theaters

Public Law 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, required VA to enter into an agreement with the National Academy of Sciences to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Persian Gulf War service. Congress extended these reviews and evaluations in Public Law 107-103, the Veterans Education and Benefits Expansion Act of 2001. This requirement expired on October 1, 2010.

Public Law 105-368, the Veterans Programs Enhancement Act of 1998, required the National Academy of Sciences to examine the scientific and medical literature on the potential health effects of chemical and biological agents related to the 1991 Gulf War. The requirement for this examination ended in 2009.

The new provision will extend until October 1, 2015, the mandate for the National Academy of Sciences to review and evaluate scientific evidence regarding associations between illnesses and exposure. Section 602(b) extends until October 1, 2018, the requirement for the National Academy of Sciences to report on the health effects of exposure. It also requires the disaggregation of results by theaters of operations before and after September 11, 2001.

(SEC 807) Extension of authority for Regional Office in Republic of the Philippines

Current law under section 315(b) of title 38, U.S.C., authorizes VA to maintain a regional office in the Republic of the Philippines until December 31, 2010. Congress has periodically extended this authority, most recently in Public Law 111-117, the Consolidated Appropriations Act, 2010.

This measure amends section 315(b) of title 38, U.S.C., authorizing VA to maintain a regional office in the Republic of the Philippines until December 31, 2011. This measure also adds to section 603 of

H.R. 1037 that within one year, the Comptroller General would be required to provide a report to the House and Senate Committees on Veterans' Affairs and Appropriations on the activities of the Manila Regional Office. This report would also include an assessment of the costs and benefits of maintaining the office in the Philippines in comparison with moving the activities of the office to the United States.

(SEC 808) Extension of an Annual Report on Equitable Relief

Under current law, VA is authorized to provide monetary relief to persons whom the Secretary determines were deprived of VA benefits by reason of administrative error by a Federal Government employee. The Secretary may also provide relief which the Secretary determines is equitable to a VA beneficiary who has suffered a loss as a consequence of an erroneous decision made by a Federal Government employee. No later than April 1 of each year, the Secretary was required to submit to Congress a report containing a statement as to the disposition of each case recommended to the Secretary for equitable relief during the preceding calendar year; the requirement for this report was extended through December 31, 2009, by Public Law 109-233, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006.

This measurement extends the requirement for the report on equitable relief through December 31, 2014.

(SEC 809) Authority for the performance of medical disability examinations by contract physicians

Public Law 104-275, the Veterans' Benefits Improvements Act of 1996, authorized VA to carry out a pilot program of contract disability examinations through ten VA regional offices. Subsequently, Public Law 108-183, the Veterans Benefits Act of 2003, gave VA additional, time-limited authority to contract for disability examinations using other appropriated funds. That initial authority was extended until December 31, 2010, by Public Law 110-389, the Veterans' Benefits Improvement Act of 2008. VA continues to report high demand for compensation and pension examinations and satisfaction with the contracted examinations.

This measure extends VA's authority, through December 31, 2012, to use appropriated funds for the purpose of contracting with non-VA providers to conduct disability examinations.

TITLE IX—AUTHORIZATION OF MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES

(SEC 901) Authorization of fiscal year 2011 major medical facility leases

This measure authorizes fiscal year 2011 major medical facility leases as follows:

- \$7.1 million for a Community Based Outpatient Clinic (CBOC) in Billings, Montana;
- \$3.3 million for an Outpatient Clinic in Boston, Massachusetts;
- \$21.5 for a CBOC in San Diego, California;
- \$10 million for a Research Lab in San Francisco, California;
- \$5.3 million for a Mental Health Facility in San Juan, Puerto Rico.

(SEC 902) Modification of authorization amount for major medical facility construction project previously authorized for the Department of Veterans Affairs Medical Center, New Orleans, Louisiana

This measure authorizes \$995 million for restoration, new construction, or replacement of the medical care facility for the VAMC at New Orleans, Louisiana.

(SEC 903) Modification of authorization amount for major medical facility construction project previously authorized for the Department of Veterans Affairs Medical Center, Long Beach, California

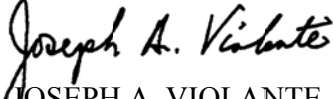
This measure authorizes \$117.8 million to conduct seismic corrections on Buildings 7 and 126 at the VAMC in Long Beach, California.

(SEC 904) Authorization of appropriations

This measure authorizes \$47.3 million to be appropriated to the Medical Facilities account for the leases authorized in section 901 and \$1.1 billion to be appropriated to the Construction, Major Projects account for the projects authorized in sections 902 and 903.

(SEC 905) Requirement that bid savings on major medical facility projects of Department of Veterans Affairs be used for other major medical facility construction projects of the Department

This measure requires that bid savings from major medical facility projects realized in any fiscal year must be used for major medical facility projects authorized for that fiscal year or a prior year. At the time of obligation, VA will be required to submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives notice of the source of the savings, the amount obligated, and the authorized project the savings are being obligated to.


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