



Legislative BulletinMay 23, 2011

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H.R. 1407 – Veteran’s Compensation Cost-of-Living Adjustment Act of 2011 (Runyan, R-NJ)

Order of Business: H.R. 1407 is scheduled to be considered on Monday, May 23, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 1407 extends the authority of the Department of Veterans’ Affairs (Department) to provide certain housing grants and increase the rates of disability compensation and dependency and indemnity compensation for disabled veterans’ survivors by the same cost-of-living adjustment (COLA) applied to Social Security benefits. The increase would take effect on December 1, 2011.

Additional Background: The purpose of the disability compensation program is to provide relief from the impaired earning capacity of disabled veterans as a consequence to their military service to the United States. Income and financial need do not factor in determining a surviving spouse or dependent because the nation has assumed, in part, the legal and moral obligation to support the veteran’s spouse and children. Congress has provided annual increases in these rates for every fiscal year since 1976. This bill follows the traditional practice of setting veterans’ disability compensation COLA by reference to the yet-to-be determined Social Security increase, which is currently expected to be 1.1% (but it could be more or less depending on changes in the Consumer Price Index).

The bill also extends by five years the temporary residence adaptation grant (TRA). Established in the 109th Congress (P.L. 109-233), this grant program allows for certain service-disabled veterans or service members to receive a TRA grant while the individual is temporarily living with a family member. It is available to those applicants who have been rated eligible for the Specially Adapted Housing (SAH) grant under section 2101(a)

of title 38 of the United States Code, or the Special Home Adaptation (SHA) grant under 2101 (b) of the same title 38. Each grant may only be paid once per eligible applicant. The SAH grant pays a maximum of \$63,780, and the SHA grants pays a maximum of \$12,756. Grant assistance under either the SAH or SHA is used to either to purchase or adapt homes, so that those with serious injuries can maneuver throughout their residence (i.e., wheelchair ramps, widened hallways/doorways, handrails, etc.) According to the Department, only 24 TRA grants have been awarded since enactment of P.L. 109-233. The Congressional Budget Office estimates that extending this grant authority for five years would assist about 35 veterans in modifying a family member's home with each grant averaging about \$13,600.

Committee Action: H.R. 1407 was introduced by Rep. John Runyan (R-NJ) on April 12, 2011 and referred to the Committee on Veterans' Affairs. The Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs held a hearing on this bill on May 3, 2011. On May 5, 2011, the Subcommittee held a markup and adopted an amendment in the nature of a substitute by voice vote. On May 12, 2011, the Veterans' Affairs Full Committee reported the bill, as amended, out favorably by voice vote.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 1407 on May 16, 2011. It estimates that enacting H.R. 1407 would increase direct spending by less than \$500,000 over the 2012-2021 period, *relative to CBO's baseline*. However, relative to current law, CBO estimates that enacting this bill would increase spending by \$475 million in fiscal year 2012 (and about \$630 million in subsequent years). The reason for the difference is because the COLA is assumed in CBO's baseline.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. It extends by five years the Department's authority to provide adaptive housing grants to veterans residing temporarily in housing owned by a family member.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. H.R. 1407 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1407 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: "Congress has the power to

enact this legislation pursuant to the following: Article I, Section 8 of the Constitution of the United States.”

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H.R. 1627 – To amend title 38, United States Code, to provide for certain requirements for the placement of monuments in Arlington National Cemetery, and for other purposes (Miller, R-FL)

Order of Business: H.R. 1627 is scheduled to be considered on Monday, May 23, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 1627 codifies current practices at Arlington National Cemetery (ANC) regarding the type, placement, and funding of commemorative monuments, and the current prohibition of the reservation of gravesites. Under this bill, no gravesite can be reserved for any individuals before their death unless the request was submitted prior to January 1, 1962. The bill also requires the Department of the Army to submit a report within 180 days describing the number of reservation requests made to ANC before January 1, 1962; the number of gravesites that were reserved because of such requests; the number of reserved gravesites that are unoccupied; the number of reservations approved by ANC management; the measures being taken to improve transparency and accountability regarding gravesite reservations at ANC; and recommendations for possible legislative action to improve transparency and accountability. Lastly, the bill provides for two Senses of Congress: a Sense of Congress regarding the provision of a memorial marker on Chaplains Hill to honor the memory of the Jewish chaplains who died while on active duty in the armed forces of the United States, and a Sense of Congress regarding the service and sacrifice of members of the United States armed forces who are serving in, or have served in, Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn.

Additional Background: ANC is both an active burial ground and a national treasure that attracts millions of visitors each year to pay their respects to our nation’s fallen heroes who served in our armed services. Over 300,000 former service members, their spouses, and children are buried in ANC. Currently, approximately 4,000 people are buried here each year, and current projections show that the cemetery will reach its capacity to lay the fallen to rest in the year 2060.

Section 2 of H.R. 1627 would establish objective criteria for the Secretary of the Army in considering and approving monuments request. It would require that monuments commemorate the military service of an individual, a group of individuals, or a military event that is at least 25 years old (with waiver-authority) to ensure that permanent monument truly stands the test of time and is not commemorating an event based on the passions of the moment. This section would also require that monuments are placed in areas at ANC that are exclusively on land that is not suitable for burial and that private funds are used to fund monument construction and placement. Lastly, this section retains

ultimate Congressional oversight of monument placement at ANC by requiring the Secretary of the Army to notify Congress of any decision to approve a monument—Congress would have 60 days to review a monument placement and pass a disapproval resolution in order to halt the monument from proceeding. If Congress takes no action, the monument would be deemed approved.

Section 3 of H.R. 1627 prohibits gravesite reservations at ANC and limit eligible families to one gravesite, except in certain unique circumstances. It has been commonplace for many years for burial plots to be reserved when burial space was not problematic. Since 1962, the Department of the Army has had a policy that is still in place that prohibits the acceptance of burial reservations. Despite this official policy, past ANC officials have maintained secret reservation lists of distinguished individuals—including senior military and government officials—and, therefore, removed open gravesites from availability for internment by recently deceased service members. These violations of official policy adds to what is commonly a wait of several months for an opportunity to be buried at ANC. This section codifies in federal law the prohibition against reservation of gravesites by living service members and veterans, and reaffirms that eligibility for burial at ANC is based on service member's or veteran's qualifying service (not on their rank or position).

Section 4 of H.R. 1627 expresses the Sense of Congress that an appropriate site on Chaplain's Hill in ANC be provided for a memorial marker. Chaplain's Hill is a memorial marker for military chaplains from four wars. Three current memorials currently exist on Chaplain's Hill to honor Protestant and Catholic Chaplains. There is currently no recognition of Jewish Rabbis who have been serving as military Chaplains since the Civil War and who died in service. This section would recognize Jewish Chaplains who have given their lives in the service of their country at ANC.

Section 5 of H.R. 1627 expresses the Sense of Congress in honoring the service and sacrifice of members of the Armed Forces who are serving in, or have served in, Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn.

Committee Action: H.R. 1627 was introduced by Chairman Jeff Miller (R-FL) on April 15, 2011 and referred to the Committee on Veterans' Affairs and the Committee on Armed Services. The Veterans' Affairs Subcommittee Disability Assistance and Memorial Affairs held a hearing on this bill on May 3, 2011. On May 5, 2011, the Subcommittee held a markup and adopted an amendment in the nature of a substitute by voice vote. On May 12, 2011, the Veterans' Affairs Full Committee reported the bill, as amended, out favorably. On May 19, 2011, the Chairman McKeon of the Committee on Armed Services waived the Committee's right to a sequential referral.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 1627 on May 16, 2011. The estimate stated that implementing H.R. 1627 would cost less than \$500,000 in 2012 assuming availability of the necessary appropriations.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 1627 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1627 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: “Article I, Section 8, of the United States Constitution reserves to Congress the power to raise and support Armies and provide and maintain a Navy, as well as make Rules for the Government and Regulation of the land and naval Forces.”

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H.R. 1383 – Restoring GI Bill Fairness Act of 2011, as amended (Miller, R-FL)

Order of Business: H.R. 1383 is scheduled to be considered on Monday, May 23, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 1383 temporarily changes the amount of education benefits payable to certain veterans and qualifying dependents for three years using the Post-9/11 GI Bill, beginning August 1, 2011 through July 31, 2014.

Additional Background: Under current federal law (P.L. 111-377), beginning this August, educational assistance payable under the Post-9/11 GI Bill for programs at private institutions will be limited to the cost of tuition and fees (net amount minus scholarships and other financial assistance) up to \$17,500 per year. Prior to enactment to P.L. 111-377, the amount of this educational assistance was the actual cost of tuition and fees up to the highest in-state tuition and fees charged by a public educational institution in the state. Despite availability of additional assistance under the Yellow Ribbon GI Education Enhancement, where educational institutions match the Department of Veterans’ Affairs contribution to reduce a student’s out-of-pocket expenses, the Congressional Budget Office (CBO) estimates that certain students attending private institutions will experience significant out-of-pocket expenses relative to what they

would have experienced prior to enactment of P.L. 111-377, which capped the educational assistance beginning August 1, 2011.

Under current law, current beneficiaries of the Post-9/11 GI Bill who attend private educational institutions are scheduled to have their educational benefits capped at \$17,500 beginning August 1, 2011. Under H.R. 1383, this cap will be temporarily increased to \$27,000 through July 31, 2014. Beneficiaries must have been enrolled in a private institution on or before April 1, 2011 where tuition and fees for full-time attendance exceeded \$17,500 during the 2010-2011 academic year, and is located in a state where a public institution charged in-state students more than \$700 per credit hour (as determined by the Department) during the 2010-2011 academic year. CBO estimates that about 4,500 veterans and dependents attending private four-year and graduate institutions would satisfy these conditions. CBO estimates that this provision would increase direct spending by \$51 million over the 2012-2021 period.

The manager's amendment to H.R. 1383 would extend existing loan fee requirements associated with subsequent use of a Department loan guaranty for one year. Under existing law, the funding fee for subsequent use of a Department loan guaranty is 3.3% of the total loan amount. That fee is set to be reduced to 2.15% on October 1, 2011. Instead, the Manager's Amendment would reduce the fee to 2.8% for the one year period ending September 30, 2012, after which the fee would again be reduced to 2.15%. In total, the manager's amendment would save \$22 M in Fiscal Year 2012; save \$3 M over five years; and save \$3 M over 10 years.

Committee Action: H.R. 1383 was introduced by Chairman Jeff Miller (R-FL) on April 6, 2011 and referred to the House Committee on Veterans Affairs. On May 3, 2011, the Subcommittee on Economic Opportunity held a legislative hearing on the bill. On May 5, 2011, the Subcommittee marked up the bill and forwarded it favorably to the Full Committee. On May 12th, the Full Committee ordered the amended bill out favorably by voice vote.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 1383 on May 16, 2011. The estimate states that implementing H.R. 1383 would (on net) reduce direct spending by \$5 million over the 2012-2021 periods. According to the Committee on Veterans' Affairs, the Manager's Amendment will reduce direct spending by \$3 million, which differs from the original CBO report issued on May 16th, because the Manager's Amendment—by changing the scheduled cut in funding fees (from 2.15% to 2.8% in the first year) for subsequent use of a Department loan guaranty—was drafted after the CBO report was issued.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill temporarily increases the Post-9/11 GI Bill program's cap of educational assistance for tuition and fees paid by the Department of Veterans' Affairs on behalf of veterans

pursuing programs of education at private institutions of higher learning from \$17,500 to \$27,000. However, the bill reduces (on net) overall direct spending by \$3 million over 10 years according to the Committee on Veterans' Affairs.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 1383 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1383 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: "Congress has the power to enact this legislation pursuant to the following: Clauses 12, 13, 14, and 18 of Section 8 of Article 1 of the Constitution."

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H.R. 1657 – To amend title 38, United States Code, to revise the enforcement penalties for misrepresentation of a business concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans (Stutzman, R-IN)

Order of Business: H.R. 1657 is scheduled to be considered on Monday, May 23, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 1657 would revise the penalties for businesses that misrepresent their status as small business concerns owned and controlled by veterans or service disabled veterans in their dealing with the Department of Veterans Affairs (Department). Under current law, the Department of Veterans Affairs is required to prohibit such businesses from contracting with the Department for a period of time determined by the Secretary of Veterans Affairs to be "reasonable." This bill would prevent the Department from contracting with such businesses—and all of the business' Principals—for no less than five years. Upon a determination that a business misrepresented its status, the Department would be required to take action to bar that business within 90 days.

Additional Background: Federal law (P.L. 106-50 and Executive Order 1336) established a goal that all Federal agencies spend at least 3% of their contract dollars with

Service-Disabled Veteran-Owned Small Businesses (SDVOBs). According to the Small Business Administration (SBA), in Fiscal Year 2005, the Department of Veterans Affairs awarded 2.151% of its total contract dollars with SDVOBs. The next year, Congress enacted Public Law 109-461 to provide the Department with new contracting authorities and protections for SDVOBs, which statistics show significantly increased the Department's contract awards to SDVOBs and Veteran-Owned Small Businesses (VOBs) to over 20% of its contract dollars. Public Law 109-461 also required the Department to maintain a database of verifiable SDVOBs and VOBs, so that contracting agencies and other private businesses could make sure that they were dealing with authentic SDVOBs and VOBs.

Two recent Government Accountability Office (GAO) reports found “a lack of government-wide fraud prevention controls, a lack of validation of information provided by SDVOBs firms used to substantiate their eligibility for the program, non-existent monitoring of continued compliance with program requirements, and an ineffective process for investigating and prosecuting firms found to be abusing the program.”¹

Committee Action: H.R. 1657 was introduced by Rep. Marlin Stutzman (R-IN) on April 15, 2011 and referred to the House Committee on Veterans Affairs. On May 3, 2011, the Subcommittee on Economic Opportunity held a legislative hearing on the bill. On May 5, 2011, the Subcommittee marked up the bill, and on May 12th, the Full Committee ordered the bill out favorably by voice vote.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 1657 on May 16, 2011. The estimate stated implementing H.R. 1657 would have no budgetary impact to the federal government.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 1657 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1657 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

¹ Service-Disabled Veteran-Owned Small Business Program: Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars in Contracts (GAO-10-255T), 2009; Service-Disabled Veteran-Owned Small Business Program: Fraud Prevention Controls Needed to Improve Program Integrity (GAO-10-740T), 2010.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill references Clauses 12, 13, 14, and 18 of Section 8 of Article I of the Constitution as support for this legislation.

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H.R. 1893 - Airport and Airway Extension Act, Part II (Mica, R-FL)

Order of Business: The bill is scheduled to be considered on Monday, May 23, 2011, under suspension of the rules and requires two-thirds majority vote for passage. The rule provides for 40 minutes of debate equally divided and controlled by Chairman Mica (R-FL) or his designee and the Democratic manager Rep. Rahall (D-WV), or his designee. The bill is not subject to amendment.

Summary: H.R. 1893 will extend for one month, through June 30, 2011, certain authorities of the Federal Aviation Administration (FAA), which will expire on May 31, 2011, under current law. Aviation-related taxes that are used to finance the Airport and Airway Trust Fund currently expire on May 31. The bill extends the taxes that are used to finance the Airport and Airway Trust Fund, including taxes on aviation fuel, domestic and international ticket taxes, and taxes on cargo shipped by air. The bill also extends the authority to use money from the Airport and Airway Trust Fund, into which revenue from those taxes are deposited for FAA programs for that same period.

H.R. 1893 will authorize \$2.6 billion in contract authority for the Airport Improvement Program and extend the authority to make grants from the Airport and Airway Trust Fund for a nine-month period beginning on Oct. 1, 2010 through June 30, 2011 (The bill extends the duration of the authorization by one month, from May 31st to June 30th, 2011). The bill requires the FAA to extend, through June 30, 2011 the termination date of certain insurance policies under its aviation war-risk insurance program. The department also would be permitted to extend the termination date of such policies through September 30, 2011. It also extends, through September 30th, air carrier liability protection for third party claims arising out of acts of terrorism that exceed \$100 million. H.R. 1893, reduces, by 15%, certain apportioned amounts within the Airport Improvement Program. The legislation also extends the authority to make grants from the Airport and Airway Trust Fund and the federal government's 95% share of Airport Improvement Program project costs through June 30, 2011.

Lastly, the H.R. 1893 extends a passenger facility fee pilot program at non-hub airports compatible land use planning and projects by state and local governments, funding for the

Midway Island Airport, and grant eligibility for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. It allows the FAA to approve airport development project grants for large or medium hub airports, and for the Metropolitan Washington Airports Authority, which oversees the Washington D.C. area airports, for an additional month.

Background: The last multi-year FAA reauthorization law, Vision 100--Century of Aviation Reauthorization Act (P.L. 108-176), was enacted in 2003. It was a four-year reauthorization, covering fiscal years 2004-2007. Since September 30, 2007, the FAA has been operating under a series of short-term extensions; eighteen to date.

Committee Action: H.R.1893 was introduced by Rep. John Mica (R-FL) on 5/13/2011 and the legislation was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Mean.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: No Congressional Budget Office cost estimate is available.

Does the Bill Expand the Size and Scope of the Federal Government?: No

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available.

Constitutional Authority: According the author, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 1, Clause 3, and Clause 18."

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