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THE SOLDIERS', SAILORS', AIRMEN'S AND MARINES' BILL OF RIGHTS ACT OF 1999

FEBRUARY 2, 1999.—Ordered to be printed

Mr. WARNER, from the Committee on Armed Services,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 4]

The Committee on Armed Services, to which was referred the bill (S. 4) having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 4 would authorize a 4.8 percent military pay raise, effective January 1, 2000, reform the military pay tables, revise the military retirement system, authorize active duty military personnel to participate in the Thrift Savings Plan, revise benefits under the Montgomery G.I. Bill, authorize a special subsistence allowance for junior enlisted military personnel who demonstrate eligibility for food stamps, and require an annual report on the impact of these programs on recruiting and retention.

COMMITTEE OVERVIEW AND RECOMMENDATIONS

The Committee on Armed Services held a series of two hearings in which the Joint Chiefs of Staff testified to the state of military readiness and recommended several legislative proposals that, according to their testimony, would provide remedies for the causative factors the services identified as the reasons military personnel

were leaving the service and potential recruits were reluctant to enlist.

The first of these hearings was held on September 29, 1998 and the second was held January 5, 1999. During these hearings the Joint Chiefs testified that, among their recommendations, their highest priority was to repeal the "Redux" retirement plan. The Military Retirement Reform Act of 1986, also known as the "Redux" retirement plan, was enacted in July 1986. The provisions of this Act changed the existing military retirement program by reducing the multiplier used to calculate military retired pay. Prior to this act, military retired pay was calculated by multiplying two and one-half percent of the average of the highest three years of basic pay by the number of years of service. This formula resulted in service members who served for 20 years receiving 50 percent of their average of the highest three years of basic pay. The retired pay under the pre-1986 retirement program is indexed to adjustment by the full amount of the Consumer Price Index. Under the Military Retirement Reform Act of 1986, military retired pay is calculated by multiplying two and one-half percent of the average of the highest three years of basic pay by the number of years of service, less one percent for each year less than 30 years of service. This formula resulted in service members who served for 20 years receiving 40 percent of their average of the highest three years of basic pay until they reach age 62, at which time they receive 50 percent of their average of the highest three years of basic pay. Annual cost-of-living adjustments are limited to the Consumer Price Index less one percent until the recipient reaches age 62. At age 62 retired pay is adjusted with a one-time adjustment to restore the purchasing power of the annuity. Annual cost-of-living adjustments continue to be limited to the Consumer Price Index less one percent.

The House report accompanying H.R. 4420, the Military Retirement Reform Act of 1986 (H. Rept. 99-513), states that the changes to the military retirement system were intended to provide an incentive for service members who complete 20 years of service to remain on active duty. In the statement of managers accompanying the Military Retirement Reform Act of 1986 (Public Law 99-348), the conferees acknowledge that changing one aspect of an integrated personnel and compensation system could well engender need for adjustments in other aspects of the system. The conferees stated:

As future career force needs develop, the management tools for recruiting and retaining a career force may require adjustment. The Conferees are confident that the Department of Defense and the military services will monitor this situation closely and provide the Committees on Armed Service of the Senate and the House of Representatives annually in posture statements their assessments of the state of the career force, together with recommendations for legislative action that may be necessary to prudent management of the career force.

The testimony of the Joint Chiefs in September 1998 and January 1999 fulfilled the expectations described by the conferees in

1986. The Joint Chiefs made it clear that, in their opinion based on the data available to them, the incentive for career personnel to remain on active duty longer than 20 years envisioned in the House report (H. Rept. 99-513) was not as attractive as originally thought in 1986. The Joint Chiefs testified that mid-career military personnel were deciding to leave the service well before reaching 20 years of service. In exit surveys, these departing personnel reported that dissatisfaction with reduced retirement benefits was an important factor in their decision to leave the service. The Joint Chiefs testified that, along with repeal of the "Redux" retirement program, it was essential to close the gap between military pay and private sector wages. General Shelton testified that:

One can argue about how large the pay gap is depending on the base selected, but the estimates range from 8.5 percent to 13.5 percent, and very few deny that the gap is real.

On December 21, 1998, the Secretary of Defense and General Shelton announced their proposals for increasing military pay and changing the military retirement system. In his statement, Secretary Cohen said:

We must compensate men and women in uniform properly in relation to their peers and in relation to the larger economy. And the compensation system must help the Services recruit and retain the high quality men and women our defense requires. The leadership of the Department of Defense and the military services are deeply committed to providing for the welfare of the men and women who serve the nation so well, and for their families.

The proposal announced by Secretary Cohen and General Shelton, while more modest in scale, are similar in construct and design to those in this bill.

On January 19, the Majority Leader, along with the Republican Members of the Armed Services Committee and others, introduced S. 4, the Soldiers", Sailors", Airmen's and Marines' Bill of Rights Act of 1999. Also on January 19, 1999, Senator Cleland, along with the Democratic Members of the Armed Services Committee and others, introduced S.169, the Military Recruiting and Retention Improvement Act of 1999. Both bills were referred to the Committee on Armed Services. The bill reported by the Committee includes provisions from both of these bills.

The Committee recommends the following specific provisions.

TITLE I—PAY AND ALLOWANCES

Section 101—Fiscal year 2000 increase and restructuring of basic pay

The committee recommends a provision that would waive section 1009 of title 37, United States Code, and increase the rates of basic pay for members of the uniformed services by 4.8 percent. This increase would be effective January 1, 2000. The recommended provision, effective July 1, 2000, would restructure the pay tables for the uniformed services to relieve compression between grades by restoring significance to promotion pay raises and eliminating incon-

sistencies in the current pay tables. The proposed restructuring of the pay tables would shift the emphasis toward promotion while reducing and making longevity increases more uniform than those in the current pay tables.

Section 102—Pay increases for fiscal years after fiscal year 2000

The committee recommends a provision that would amend section 1009 of title 37, United States Code, to provide that military pay raises after October 1, 2000 shall be equal to the Employment Cost Index plus one-half percent. The committee intends that future military pay raises exceed the annual growth in private sector wages, as indicated by the Employment Cost Index, to close the gap between military pay and private sector wages. The committee recognizes that this formula may require further adjustment in the future once the gap between military and private sector wages is eliminated.

The committee is aware that military and civilian federal employees have received similar pay raises for many years. While the committee does not have jurisdiction over federal civilian pay, it does believe that treating both military and federal civilian compensation adjustments with parity has served both entities well.

Section 103—Special subsistence allowance

The committee recommends a provision that would authorize a special subsistence allowance of \$180 per month payable to enlisted personnel in grades E-5 and below who can demonstrate eligibility for food stamps. This allowance would be payable for a period of twelve months, unless one of the following events occurred: the service member is no longer eligible for food stamps; the service member is promoted to a higher grade; or the service member is transferred in a permanent change of station. Once the allowance is terminated, the service member may re-apply for the allowance if he or she can demonstrate continued eligibility for food stamps. The recommended provision would require the Secretary of Defense to submit an annual report on the number of military personnel eligible to receive food stamps to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1 of each year. The special subsistence allowance would be effective within 180 days of enactment and would expire after five years. The committee believes that the Nation should take extraordinary measures to assist the neediest military families who now require federal food stamp assistance. This allowance, when combined with the 4.8 percent pay raise, restructuring of the pay tables and the requirement for future pay raises to be based on the Employment Cost Index plus one-half percent, is estimated to assist nearly 10,000 military personnel to discontinue the use of food stamps.

TITLE II—RETIREMENT BENEFITS

Section 201—Retired pay options for personnel entering uniformed services on or after August 1, 1986

The committee recommends a provision that would afford service members who entered the uniformed services on or after August 1,

1986 the option to elect to retire under the pre-1986 military retirement plan or to accept a one-time \$30,000 lump sum bonus and to remain under the “Redux” retirement plan. Service members would be permitted to select between the two retirement programs within 180 days of completing 15 years of service. Service members who elect to accept the lump sum bonus would be obligated to serve the remaining five years to become retirement eligible. Those who do not complete the required service would be required to repay a prorated amount based on the unserved amount of the obligation. Service members would be permitted to elect to have the pre-tax value of the bonus deposited directly into a Thrift Savings account. The committee believes that affording service members an option fulfills the request of the Joint Chiefs by permitting those who find the “Redux” retirement system as a disincentive to serving a full career the opportunity to transfer to the pre-1986 retirement plan. However, those who would prefer to receive a cash bonus or those who seek the benefits of a Thrift Savings Plan may elect to remain under the “Redux” retirement system. The committee believes these options are both cost effective and provide the necessary incentives for mid-career personnel to remain on active duty.

Section 202—Participation in thrift savings plan

The committee recommends a provision that would, effective July 1, 2000, authorize members of the uniformed services to participate in the Thrift Savings Plan now available for federal civil service employees. Service members would be eligible to deposit up to five percent of their basic pay, before tax, each month. The government is not required to match the service member’s contributions. In addition, service members would be permitted to directly deposit special pays for enlistment, reenlistment and the lump-sum for electing to remain in the “Redux” retirement program, pre-tax, into their Thrift Savings account. Participating in a Thrift Savings account would encourage personal savings and enhance the retirement income for service members, who currently do not have access to a 401k savings plan. Under current Thrift Savings Plan regulations, participants may borrow from their accounts for such worthy purposes as college tuition and purchasing a home. If enacted, military personnel would be able to join other federal workers in a savings program that will enhance the value of their retirement system and permit them to improve their quality of life. The committee believes this provision will be an important incentive for military personnel and their families to remain on active duty.

Section 203—Special retention incentive

The committee recommends a provision that would authorize service secretaries to make contributions to the Thrift Savings Plan of a service member serving in a speciality designated as critical to meet service requirements. The recommended provision would be entirely discretionary and would permit the service secretary to offer to make monthly contributions, up to the maximum amount contributed by the service member, for a period of six years in return for a six year service commitment on the part of the service member. The Joint Chiefs testified as to the difficulty the services are experiencing with mid-career retention in critical specialities.

Pilots, air crewmen, special operations personnel, surface warfare officers, and other critical military specialties have been identified as examples of the hemorrhage of highly trained, experienced military personnel. The committee believes this provision would provide service secretaries a powerful tool to be used to encourage personnel in the most critical specialties to remain on active duty.

TITLE III—MONTGOMERY G.I. BILL BENEFITS

Section 301—Increase in rates of educational assistance for full-time education

The committee recommends a provision that would increase the monthly benefit under the Montgomery G.I. Bill, authorized in Title VII of the National Defense Authorization Act for Fiscal Year 1985 (Public Law 98-525), from \$528 to \$600 for members who serve at least 3 years, and from \$429 to \$488 for members with two year enlistments. Although Montgomery G.I. Bill (MGIB) benefit levels are adjusted annually by the increase in the Consumer Price Index, the benefits have not kept up with the increase in cost of college education. The committee concluded that the adverse ratio between the cost of higher education and the benefits available to pay for it may be one reason why veterans are not using the benefit that they invested \$1,200 to obtain. The committee believes that this modest increase in the MGIB benefit will make this program a more attractive recruiting incentive. This recommendation is consistent with the recent recommendation of the Congressional Commission on Servicemembers and Veterans Transition Assistance.

Section 302—Terminations of reductions of basic pay

The committee recommends a provision that would eliminate the \$1,200 contribution required of members who elect to participate in the Montgomery G.I. Bill program (MGIB), and to absolve any balance of the \$1,200 payroll deduction owed by active duty members effective the date of enactment. Under the current provisions of the MGIB program, recruits are enrolled upon entering active duty and are given the option to decline enrollment if they so desire. If they remain enrolled, \$100 per month is deducted from their basic pay for 12 months. Once enrolled, members cannot disenroll and the money deducted is non-refundable, except in cases of a service-connected death of the service member. The committee believes that the elimination of the \$1,200 pay reduction will enhance the attractiveness of the MGIB as a recruiting incentive. This recommendation is consistent with the recent recommendation of the Congressional Commission on Servicemembers and Veterans Transition Assistance.

Section 303—Accelerated payments of educational assistance

The committee recommends a provision that would permit payment of accelerated “lump sum” benefits for an entire term, semester, or quarter at colleges and for the entire course for courses not leading to a college degree. Payment of the Montgomery G.I. Bill (MGIB) benefit at a fixed monthly rate constrains veterans and service members desiring to enroll in certain courses of study. The committee believes that permitting accelerated payments will make

it easier to use the MGIB benefits without increasing the cost of the benefits and make the MGIB a more attractive recruiting and retention incentive. This recommendation is consistent with the recent recommendation of the Congressional Commission on Servicemembers and Veterans Transition Assistance.

Section 304—Transfer of entitlement to educational assistance

The committee recommends a provision that would provide the Services with the discretionary authority to permit service members to transfer their Montgomery G.I. Bill (MGIB) benefits to immediate family members. Many service members reluctantly leave the service to take advantage of more lucrative opportunities so they can afford a college education for their family members. This provision gives them a vehicle to finance a college education for family members while remaining in the service. The committee believes that the ability to transfer MGIB benefits to family members will prove to be a powerful retention incentive. This recommendation is consistent with the recent recommendation of the Congressional Commission on Servicemembers and Veterans Transition Assistance.

TITLE IV—REPORT

Section 401—Annual report on effects of initiatives on recruitment and retention

The committee recommends a provision that would require the Department of Defense to report annually on the impact of the initiatives contained in this bill on recruiting and retention. This will ensure that Congress receives analysis and feedback on the effectiveness of these programs on recruiting and retention in the Services.

COMMITTEE ACTION

In accordance with the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, there is set forth below the committee vote to report the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999 (S. 4).

In favor: Warner, Thurmond, McCain, Smith, Inhofe, Santorum, Snowe, Roberts, Allard, Hutchinson, Sessions, Kennedy, Bingaman, Byrd, Robb, Cleland, Landrieu and Reed.

Opposed: None.

Present: Levin and Lieberman.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

It is not possible to include the Congressional Budget Office cost estimate on this legislation because it was not available at the time the report was filed. The committee will publish in the Congressional Record information on the five-year cost projections when such information is received from the Congressional Budget Office.

REGULATORY IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be in-

cluded in the report on the bill. The committee finds that there is no regulatory impact in the case of S. 4.

CHANGES IN EXISTING LAW

Pursuant to the provisions of paragraph 12 of rule XXVI of the Standing Rules of the Senate, the changes in existing law made by certain portions of the bill have not been shown in this section of the report because, in the opinion of the committee, it is necessary to dispense with showing such changes in order to expedite the business of the Senate and reduce the expenditure of funds.

ADDITIONAL VIEWS OF SENATORS LEVIN, KENNEDY,
BINGAMAN, BYRD, ROBB, LIEBERMAN, CLELAND,
LANDRIEU, AND REED

All of the Members of this Committee are in agreement that we must provide fair compensation to the men and women of our armed services for their outstanding performance and dedicated service to our nation. We are all keenly conscious of the demands that we place on our troops, the circumstances in which they must live and work, and the fact that we often pay them less, and expect them to do far more, than employers in the private sector.

Secretary Cohen and the Joint Chiefs of Staff have made a strong case that military recruitment and retention have begun to suffer, in part, because of this pay gap with the private sector. For this reason, the Administration has recommended that we act to address this problem with an across-the-board increase in military salaries, targeted pay raises to better reward performance, and a change to the military retirement system to place service members who entered after 1986 on a footing more comparable to those who entered the service at an earlier date. We concur in these three recommendations.

We also believe that the bill reported by the Committee has been enhanced by adding provisions, first proposed by Senator Cleland in S. 169 and consistent with the recommendations of the Congressional Commission on Servicemembers and Veterans Transition Assistance, to improve the educational benefits provided to service members through the GI bill. These changes should provide a substantial incentive to assist the services' recruiting and retention, while providing our men and women in uniform an educational opportunity in the proudest tradition of our country.

At the same time, we believe that we do a disservice to our military and to our nation by failing to give these far-reaching measures the kind of serious, thoughtful consideration that they deserve. Although the Joint Chiefs of Staff have testified at two hearings that they want us to change the military retirement system, the proposals in S. 4 are very different from their proposals. We recommend that the Committee ask the Joint Chiefs whether they support the retirement proposals in this bill.

The Armed Services Committee has held two hearings in recent months on the state of military readiness, but we have not held a hearing on the specific proposals that are included in this bill. While it is unlikely that the Department of Defense would oppose a bill that does so much for the uniformed military, it is not unreasonable to think that they might have constructive changes to suggest. At the very least, we should afford the Secretary of Defense, the Joint Chiefs of Staff, and the Deputy Chiefs of Staff for Personnel an opportunity to testify before acting on a bill that is likely

to shape our military force, and our defense budget, for the next generation.

There are any number of questions that should be addressed before this bill is taken up for consideration by the full Senate. For example:

- How do the cost and benefits of the retirement proposal in S. 4 differ from the cost and benefits of DOD's proposal? Do the Joint Chiefs of Staff and the uniformed military support the changes to the DOD proposal that we would make in this bill, or do they prefer their own proposal?

- What is the monetary difference in the benefits available through the two military retirement systems for a typical retiree? What was the basis for offering a \$30,000 cash payment as an alternative to the more generous, pre-1986 retirement benefits? Which alternative are most retirees likely to select and what will the cost impact be?

- How will civilian employees of the federal government react to a provision that severs the traditional link between military and civilian pay raises and codifies in permanent law that the annual increase in military pay would be one percent greater than the annual increase currently applicable to Federal civilian pay?

- By setting annual cost of living adjustments in permanent law, will we commit ourselves to increasing military pay faster than the rate of inflation, even after problems with military recruiting and retention have been addressed?

- Do the military services support the Thrift Savings Plan proposal in the bill, or are they concerned that it might undermine confidence in the military retirement system?

- Do we know which categories of members are most likely to take advantage of the Thrift Savings Plan? How do these categories relate to the categories of members that we most need to attract and retain? Do we have any basis for concluding that this proposal would have a greater impact on recruiting and retention than more targeted spending, such as increased special pays and bonuses?

- Are members of the National Guard and Reserve eligible to participate in the Thrift Savings Plan proposals? Should they be?

- Will the special subsistence allowance for those who are eligible for food stamps create an inequity between military families living on a base in military housing and families living off base in private housing, since they receive a cash housing allowance which counts as income for the purpose of determining food stamp eligibility?

- Will the special subsistence allowance increase tensions between married and unmarried service members, since it will provide an additional benefit for members with a large number of dependents? How will it affect military families living overseas, who are not eligible for food stamps?

We do not yet have a CBO estimate of how much this bill will cost, but the Department of Defense has estimated that these costs will exceed the cost of the proposal of Secretary Cohen and the Joint Chiefs of Staff by more than \$7 billion over the next five years. The cost to the Department could be increased even further, if Congress stands by the historic concept of pay equity and provides annual pay increases for civilian employees of the federal

government equal to those proposed in this bill for members of the military services. Consideration needs to be given to how Congress would pay for those increased benefits.

At this early point in the legislative cycle, we do not yet know how much money will be available for defense, or the full extent of the other requirements that will be placed on those funds. If the defense budget is not substantially increased, we may need to make deep cuts in the readiness and modernization accounts to pay for the changes proposed in this bill. Such cuts, coming at a time when our senior military leadership have already expressed concerns about our readiness, could have a serious impact on our national security.

We continue to believe that the proper way to address this issue is to weigh this proposal against other military requirements in our normal authorization process. At the very least, we should wait until we have a defense budget and give DOD an opportunity to testify on the budgetary impact of the bill before the bill is brought to the full Senate.

We support efforts to improve our military pay and retirement systems and to address the recruiting and retention problems identified by the Joint Chiefs of Staff in a timely manner. We must not, however, make promises of this kind to the troops without carefully considering how much they will cost and where the money will come from.

We urge the Committee to take additional time to carry out its responsibility to the Senate in a thoughtful and deliberate manner. We look forward to providing our troops with the pay and retirement system they so rightly deserve.

CARL LEVIN.
EDWARD M. KENNEDY.
JEFF BINGAMAN.
ROBERT C. BYRD.
CHARLES S. ROBB.
JOSEPH I. LIEBERMAN.
MAX CLELAND.
MARY L. LANDRIEU.
JACK REED.

ADDITIONAL VIEWS OF SENATOR MAX CLELAND

I am pleased that two of the most important provisions of my bill, S. 169, the Military Recruiting and Retention Improvement Act of 1999, are included in the bill the Committee has adopted.

All of us are very concerned about the recruiting and retention challenges our Services are facing. We simply have to support our troops if we are to maintain the strong, ready force our Nation needs. We need programs that will motivate our Nation's young men and women to serve, and to stay in the Service once they are in.

I am particularly pleased that my proposal to enhance the GI Bill is included in S. 4. When new recruits are asked why they enlisted, more say it is to earn money for college than any other reason. If education is our greatest attraction, we need to enhance that incentive. The enhanced GI Bill benefits included in S. 4 will do just that.

Currently, new recruits have to forfeit \$100 a month for 12 months to enroll in the GI Bill program. That is a lot of money, especially for young people, most of whom are just out of high school and who have no savings. Eliminating the requirement for our lowest paid members to forfeit \$100 a month will make the GI Bill a much more attractive and effective recruiting tool.

My provision to allow service members to transfer GI Bill benefits to members of their immediate family serves a two-fold purpose, which will enhance recruiting and retention. First, it allows family members to use the benefits while the military member is still in the Service, preventing those benefits from going unused. Second, allowing military family members to use these valuable benefits sends them a strong signal that their support and sacrifices are appreciated.

Finally, the enhancement of the GI Bill basic benefits will help to defray spiraling college costs. This will serve to enhance both recruiting and retention.

This combination of modifications to the current GI Bill provides a powerful incentive for ambitious young Americans to join the Service and to stay there. These changes are just the beginning. The Congressional Commission on Service Members and Veterans Transition Assistance made additional recommendations to improve the GI Bill. All of these recommendations warrant serious consideration outside of this bill.

I am also pleased that the bill reported out by the Committee includes the provision of my bill to require DOD to report annually on how well these recruiting and retention incentives are working. This will give us the ability to make mid-course adjustments, if we need to, so that we can assure the taxpayers that they are getting the best value for their investment. I fully expect these reports will reflect the wisdom of the legislation we are advancing.

Again, I am very enthusiastic about the legislative package that we are forwarding to the full Senate for consideration.

MAX CLELAND.

