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SENATE

{ REPORT
111-374 }

TO AMEND CHAPTER 21 OF TITLE 5,
UNITED STATES CODE, TO PROVIDE THAT
FATHERS OF CERTAIN PERMANENTLY DIS-
ABLED OR DECEASED VETERANS SHALL
BE INCLUDED WITH MOTHERS OF SUCH
VETERANS AS PREFERENCE ELIGIBLES
FOR TREATMENT IN THE CIVIL SERVICE

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3650

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DECEMBER 17, 2010.—Ordered to be printed

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TO AMEND CHAPTER 21 OF TITLE 5, UNITED STATES CODE, TO PROVIDE THAT FATHERS OF CERTAIN PERMANENTLY DISABLED OR DECEASED VETERANS SHALL BE INCLUDED WITH MOTHERS OF SUCH VETERANS AS PREFERENCE ELIGIBLES FOR TREATMENT IN THE CIVIL SERVICE

DECEMBER 17, 2010.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3650]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3650) to amend chapter 21 of title 5, United States Code, to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

Under current statute, mothers of certain permanently disabled or deceased veterans receive a preference in obtaining appointment to the civil service if such mothers are widowed, divorced, or separated, or also if they are married to a husband who is permanently disabled. S. 3650 would extend eligibility for the preference to include fathers along with mothers and to include unmarried mothers or fathers along with those who are widowed, divorced, or separated.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Veterans of the Armed Forces have been given preference in gaining appointment to federal employment ever since the Civil

War era, and veterans' preference in its current form was enacted in the Veterans' Preference Act of 1944.¹ Generally, veterans who are disabled or who served during specified wartimes or military campaigns are entitled to a preference in obtaining appointment to the civil service from competitive lists and in retention in the civil service during a reduction in force.² The 1944 Act also provided a preference in obtaining civil service appointment to wives of disabled veterans and to widows of deceased veterans.

In January 1948, Congress extended the hiring preference to widowed, divorced, or legally separated mothers of veterans who died in active duty in wartime or who suffer from a service-connected permanent and total disability.³ In reporting the legislation, the House Committee on Post Office and Civil Service explained—

It is the opinion of this committee that the debt of gratitude owed by the United States to the widowed mothers of ex-servicemen who lost their lives on active duty, and to the widowed mothers of ex-servicemen who are permanently and totally disabled, is immeasurable, but such widowed mothers warrant the same consideration now given to wives and unmarried widows of certain ex-servicemen.⁴

The House Post Office and Civil Service Committee further explained that it supported the bill “[a]fter considering . . . the moral obligation this Government has to the widowed mothers of our ex-servicemen who lost their lives in the service of our country, or who were permanently disabled while serving their country.”⁵ In 1950, Congress further extended the hiring preference to cover mothers of certain deceased or permanently disabled service member whose husbands also are totally and permanently disabled.⁶ Mothers entitled to the preference who pass a civil service examination gain 10 additional points added to their score.⁷

The loss suffered by fathers of disabled or deceased veterans warrants no less consideration than does the loss suffered by mothers, and the debt of gratitude owed by the United States to such fathers is equally immeasurable. In the approximately six decades since Congress granted the preference to mothers of certain veterans, our society and economy have undergone profound transformations, and the Nation has become far more aware of the importance of equal opportunity and non-discrimination. In that light, no basis remains for a statute that grants preference to mothers of veterans but not to fathers of veterans, or that grants preference to veterans' parents who are widowed, divorced, or separated, but not to those who are otherwise unmarried.

III. LEGISLATIVE HISTORY

Senator Ron Wyden introduced S. 3650 on July 26, 2010, and the bill was referred to the Committee on Homeland Security and Gov-

¹See U.S. Office of Personnel Management (OPM); Staffing, Recruiting, Examining, and Assessment Policy, VetGuide, <http://opm.gov/staffingPortal/Vetguide.asp>.

²See *id.*

³Public Law 80-396 (1948).

⁴Committee on Post Office and Civil Service, Report to accompany H.R. 1426, Extending Veterans' Preference Benefits to Widowed Mothers of Certain Ex-Servicemen, H.R. Rep. No. 697, 80th Congress, 1st Session (June 25, 1947).

⁵*Id.*

⁶Public Law 81-887 (Dec. 27, 1950). The laws making mothers of veterans eligible for hiring preference have been codified at 5 U.S.C. §§ 2108(3)(F)–(G).

⁷See OPM Vetguide, note 1 above.

ernmental Affairs on the same day. On July 28, 2010, the Committee ordered the bill to be reported favorably to the Senate without amendment by a unanimous voice vote. Members present were Senators Lieberman, Levin, Akaka, Carper, Pryor, Landrieu, McCaskill, Tester, Kaufman, Collins, and McCain.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides a short title by which the bill may be cited.

Section 2. Preference eligible treatment for fathers of certain permanently disabled or deceased veterans

5 U.S.C. § 2108(3)(F) and (G) now establish that the mothers of certain deceased and totally disabled veterans may be eligible for preference in civil service hiring if certain conditions are met. Section 2 of S. 3650 would amend subparagraphs (F) and (G) so that either parent of a veteran can qualify for the preference.

Also, § 2108(3)(F) and (G) now specifies that mothers may be eligible for a preference only if, among other conditions, they are widowed, divorced, or separated. Section 2 of S. 3650 would amend subparagraphs (F) and (G) so that a parent who was never married may also qualify for a preference.

Section 3. Effective date

This section provides that the amendment made by the bill will take effect 90 days after the date of enactment.

V. ESTIMATED COST OF THE LEGISLATION

AUGUST 6, 2010.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3650, the Jessica Ann Ellis Gold Star Fathers Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 3650—Jessica Ann Ellis Gold Star Fathers Act of 2010

S. 3650 would expand preferred eligibility for federal jobs to the fathers of certain permanently disabled or deceased veterans. CBO estimates that implementing the legislation would have no significant impact on the federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Under current law, mothers of certain veterans are eligible to claim preferences for civil service positions if their children are permanently disabled or deceased. S. 3650 would expand that preference to include veterans' fathers. We estimate that the legislation would have no significant budgetary effect because, while it would

expand the pool of people eligible for federal job preferences, it would not change the total number of federal jobs available or the salaries paid to federal employees.

S. 3650 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.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact. The Congressional Budget Office states that the bill 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.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law, in which no change is proposed, is shown in roman):

TITLE 5, UNITED STATES CODE: GOVERNMENT ORGANIZATION AND EMPLOYEES

PART III—EMPLOYEES

CHAPTER 21—DEFINITIONS

SEC. 2108. VETERAN; DISABLED VETERAN; PREFERENCE ELIGIBLE.

For the purpose of this title—

* * * * *

(3) “preference eligible” means, except as provided in paragraph (4) of this section—

* * * * *

[(F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

- (i) her husband is totally and permanently disabled;
- (ii) she is widowed, divorced, or separated from the father and has not remarried; or
- (iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and

(G) the mother of a service-connected permanently and totally disabled veteran, if—

- (i) her husband is totally and permanently disabled;
- (ii) she is widowed, divorced, or separated from the father and has not remarried; or
- (iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed;】

(F) the parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

- (i) the spouse of that parent is totally and permanently disabled; or*
- (ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from him or her spouse;*

(G) the parent of a service-connected permanently and totally disabled veteran, if—

- (i) the spouse of that parent is totally and permanently disabled; or*
- (ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse; and*