

109TH CONGRESS
2D SESSION

S. 2617

To amend title 10, United States Code, to limit increases in the costs to retired members of the Armed Forces of health care services under the TRICARE program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2006

Mr. LAUTENBERG (for himself, Mr. HAGEL, Mr. KERRY, Mr. MENENDEZ, Mrs. LINCOLN, and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to limit increases in the costs to retired members of the Armed Forces of health care services under the TRICARE program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Retirees
5 Health Care Protection Act”.

6 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) Career members of the Armed Forces and
2 their families endure unique and extraordinary de-
3 mands, and make extraordinary sacrifices, over the
4 course of 20-year to 30-year careers in protecting
5 freedom for all Americans.

6 (2) The nature and extent of these demands
7 and sacrifices are never so evident as in wartime,
8 not only during the current Global War on Ter-
9 rorism, but also during the wars of the last 60 years
10 when current retired members of the Armed Forces
11 were on continuous call to go in harm's way when
12 and as needed.

13 (3) The demands and sacrifices are such that
14 few Americans are willing to bear or accept them for
15 a multi-decade career.

16 (4) A primary benefit of enduring the extraor-
17 dinary sacrifices inherent in a military career is a
18 range of extraordinary retirement benefits that a
19 grateful Nation provides for those who choose to
20 subordinate much of their personal life to the na-
21 tional interest for so many years.

22 (5) One effect of such curtailment is that re-
23 tired members of the Armed Forces are turning for
24 health care services to the Department of Defense,
25 and its TRICARE program, for the health care ben-

1 efits in retirement that they earned by their service
2 in the Armed Forces.

3 (6) In some cases, civilian employers establish
4 financial incentives for employees who are also eligi-
5 ble for participation in the TRICARE program to
6 receive health care benefits under that program
7 rather than under the health care benefits programs
8 of such employers.

9 (7) While the Department of Defense has made
10 some efforts to contain increases in the cost of the
11 TRICARE program, a large part of those efforts has
12 been devoted to shifting a larger share of the costs
13 of benefits under that program to retired members
14 of the Armed Forces.

15 (8) The cumulative increase in enrollment fees,
16 deductibles, and copayments being proposed by the
17 Department of Defense for health care benefits
18 under the TRICARE program far exceeds the 31
19 percent increase in military retired pay since such
20 fees, deductibles, and copayments were first required
21 on the part of retired members of the Armed Forces
22 10 years ago.

23 (9) Proposals of the Department of Defense for
24 increases in the enrollment fees, deductibles, and co-
25 payments of retired members of the Armed Forces

1 who are participants in the TRICARE program fail
2 to recognize adequately that such members paid the
3 equivalent of enormous in-kind premiums for health
4 care in retirement through their extended sacrifices
5 by service in the Armed Forces.

6 (10) Some of the Nation's health care providers
7 refuse to accept participants in the TRICARE pro-
8 gram as patients because that program pays them
9 significantly less than commercial insurance pro-
10 grams, and imposes unique administrative require-
11 ments, for health care services.

12 (11) The Department of Defense has chosen to
13 count the accrual deposit to the Department of De-
14 fense Military Retiree Health Care Fund against the
15 budget of the Department of Defense, contrary to
16 the requirements of section 1116 of title 10, United
17 States Code, as amended section 725 of Ronald W.
18 Reagan National Defense Authorization Act for Fis-
19 cal Year 2005 (Public Law 108-375; 118 Stat.
20 1991).

21 (12) Senior officials of the Department of De-
22 fense leaders have reported to Congress that count-
23 ing such deposits against the budget of the Depart-
24 ment of Defense is impinging on other readiness
25 needs of the Armed Forces, including weapons pro-

1 grams, an inappropriate situation which section
2 1116 of title 10, United States Code, was intended
3 expressly to prevent.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that—

6 (1) the Department of Defense and the Nation
7 have a committed obligation to provide health care
8 benefits to retired members of the Armed Forces
9 that exceeds the obligation of corporate employers to
10 provide health care benefits to their employees;

11 (2) the Department of Defense has many addi-
12 tional options to constrain the growth of health care
13 spending in ways that do not disadvantage retired
14 members of the Armed Forces who participate or
15 seek to participate in the TRICARE program and
16 should pursue any and all such options rather than
17 seeking large increases for enrollment fees,
18 deductibles, and copayments for such retirees, and
19 their families or survivors, who do participate in that
20 program;

21 (3) any percentage increase in fees, deductibles,
22 and copayments that may be considered under the
23 TRICARE program for retired members of the
24 Armed Forces and their families or survivors should

1 not in any case exceed the percentage increase in
2 military retired pay; and

3 (4) any percentage increase in fees, deductibles,
4 and copayments under the TRICARE program that
5 may be considered for members of the Armed Forces
6 who are currently serving on active duty or in the
7 Selected Reserve, and for the families of such mem-
8 bers, should not exceed the percentage increase in
9 basic pay or compensation for such members.

10 **SEC. 3. LIMITATIONS ON CERTAIN INCREASES IN HEALTH**
11 **CARE COSTS FOR MEMBERS OF THE UNI-**
12 **FORMED SERVICES.**

13 (a) PHARMACY BENEFITS PROGRAM.—Section 1074g
14 of title 10, United States Code, is amended by adding at
15 the end the following new subparagraph:

16 “(C) The amount of any cost sharing requirements
17 under this paragraph shall not be increased in any year
18 by a percentage that exceeds the percentage increase of
19 the most current previous adjustment to retired pay for
20 members of the armed forces under section 1401a(b)(2)
21 of this title. To the extent that such increase for any year
22 is less than one dollar, the accumulated increase may be
23 carried over from year to year, rounded to the nearest dol-
24 lar.”.

1 (b) PREMIUMS FOR TRICARE STANDARD FOR RE-
 2 SERVE COMPONENT MEMBERS WHO COMMIT TO SERVICE
 3 IN THE SELECTED RESERVE AFTER ACTIVE DUTY.—Sec-
 4 tion 1076d(d)(3) of such title is amended—

5 (1) by striking “The monthly amount” and in-
 6 serting “(A) Except as provided in subparagraph
 7 (B), the monthly amount”; and

8 (2) by adding at the end the following new sub-
 9 paragraph:

10 “(B) In any year after 2006, the percentage increase
 11 in the amount of the premium in effect for a month for
 12 TRICARE Standard coverage under this section may not
 13 exceed a percentage equal to the percentage of the most
 14 recent increase in the rate of basic pay authorized for
 15 members of the uniformed services for a year.”.

16 (c) COPAYMENTS UNDER CHAMPUS.—Section
 17 1086(b)(3) of such title is amended in the first sentence
 18 by inserting before the period at the end the following:
 19 “, except that in no event may such charges exceed \$535
 20 per day”.

21 (d) PROHIBITION ON ENROLLMENT FEES UNDER
 22 CHAMPUS.—Section 1086(b) of such title is further
 23 amended by adding at the end the following new para-
 24 graph:

1 “(5) A person covered by subsection (c) may
2 not be charged an enrollment fee for coverage under
3 this section.”.

4 (e) PREMIUMS AND OTHER CHARGES UNDER
5 TRICARE.—Section 1097(e) of such title is amended—

6 (1) by inserting “(1)” before “The Secretary of
7 Defense”; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(2) In any year after 2006, the percentage increase
11 in the amount of any premium, deductible, copayment or
12 other charge established by the Secretary of Defense
13 under this section may not exceed the percentage increase
14 of the most current previous adjustment of retired pay for
15 members and former members of the armed forces under
16 section 1041a(b)(2) of this title.”.

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