

111TH CONGRESS
2D SESSION

H. R. 4593

To amend part B of title XVIII of the Social Security Act to waive Medicare part B premiums for certain military retirees.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2010

Mr. VAN HOLLEN (for himself, Mr. COSTELLO, Mr. LoBIONDO, Mr. BARROW, Mrs. LOWEY, Mr. RUPPERSBERGER, Mr. SHULER, Mr. JONES, Mr. KILDEE, Mr. MOORE of Kansas, Mr. CLAY, Mr. FATTAH, Mr. HARE, Mr. REYES, Ms. SHEA-PORTER, Ms. JACKSON LEE of Texas, Mr. KAGEN, and Mr. BRADY of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend part B of title XVIII of the Social Security Act to waive Medicare part B premiums for certain military retirees.

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 “Keeping Faith With
5 the Greatest Generation Military Retirees Act of 2010”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) No statutory health care program existed
4 for members of the uniformed services who entered
5 service prior to December 7, 1956, and retired after
6 serving a minimum of 20 years.

7 (2) Recruiters, re-enlistment counselors, and of-
8 ficers at all levels of the uniformed services, and
9 other government officials, as agents of the United
10 States Government, used recruiting tactics that al-
11 lowed members who entered the uniformed services
12 prior to December 7, 1956, to believe they would be
13 entitled to fully paid lifetime health care upon retire-
14 ment.

15 (3) In the decision of *Schism v. United States*
16 (No. 99–1402) on November 18, 2002, the United
17 States Court of Appeals for the Federal Circuit said:
18 “[W]e must affirm the district court’s judgment and
19 can do no more than hope Congress will make good
20 on the promises recruiters made in good faith to
21 plaintiffs and others of the World War II and Ko-
22 rean War era—from 1941 to 1956, when Congress
23 enacted its first health care insurance act for mili-
24 tary members, excluding older retirees. . . . We can-
25 not readily imagine more sympathetic plaintiffs than
26 the retired officers of the World War II and Korean

1 War era involved in this case. They served their
 2 country for at least 20 years with the understanding
 3 that when they retired they and their dependents
 4 would receive full free health care for life. The prom-
 5 ise of such health care was made in good faith and
 6 relied upon. Again, however, because no authority
 7 existed to make such promises in the first place, and
 8 because Congress has never ratified or acquiesced to
 9 this promise, we have no alternative but to uphold
 10 the judgment against the retirees’ breach-of-contract
 11 claim. . . . Perhaps Congress will consider using its
 12 legal power to address the moral claims raised by
 13 [the plaintiffs] on their own behalf, and indirectly
 14 for other affected retirees.”.

15 (4) Only the United States Congress can make
 16 good on the promises recruiters made in good faith
 17 to plaintiffs and others of the World War II and Ko-
 18 rean War era.

19 **SEC. 3. WAIVER OF MEDICARE PART B PREMIUM FOR CER-**
 20 **TAIN MILITARY RETIREES.**

21 (a) IN GENERAL.—Section 1839 of the Social Secu-
 22 rity Act (42 U.S.C. 1395r) is amended—

23 (1) in subsection (a)(2), by striking “The
 24 monthly premium” and inserting “Except as pro-
 25 vided in subsection (j), the monthly premium”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(j)(1) The amount of the monthly premium for an
4 eligible individual enrolled under this part is equal to \$0.

5 “(2) For purposes of paragraph (1), the term ‘eligible
6 individual’ means—

7 “(A) an individual who is entitled to retired or
8 retainer pay based upon service in the uniformed
9 services (as defined in section 101 of title 10, United
10 States Code) that began before December 7, 1956;

11 “(B) the spouse (as determined under section
12 7703 of the Internal Revenue Code of 1986) of an
13 individual described in subparagraph (A); and

14 “(C) the widow or widower, as the case may be,
15 of an individual described in subparagraph (A).

16 “(3) With respect to years beginning after the date
17 of the enactment of this subsection, the monthly premium
18 rate calculated under subsection (a)(3) for individuals en-
19 rolled under this part who are not eligible individuals
20 under this subsection shall be determined without regard
21 to benefits and administrative costs attributable to such
22 eligible individuals during such years.”.

23 (b) CONFORMING AMENDMENT.—Subsection (i) of
24 such section is amended by adding at the end the following
25 new paragraph:

1 “(7) INAPPLICABILITY TO CERTAIN MILITARY
2 RETIREES.—This subsection shall not apply to eligi-
3 ble individuals (as defined in subsection (j)(2)).”.

4 (c) EFFECTIVE DATE; REBATE MECHANISM.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to premiums for months be-
7 ginning on or after the date that is 45 days after
8 the date of the enactment of this Act.

9 (2) REBATE METHOD.—The Secretary of
10 Health and Human Services shall use the rebate
11 method established pursuant to section 625(a)(2) of
12 the Medicare Prescription Drug, Improvement, and
13 Modernization Act of 2003 (Public Law 108–173,
14 117 Stat. 2318) to provide rebates to eligible indi-
15 viduals (as defined in subsection (j)(2) of section
16 1839 of the Social Security Act, as added by sub-
17 section (a)) of any premium or premium penalty
18 paid under such section for months described in
19 paragraph (1).

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