

give them jobs. The problem with the minimum wage debate is that the arguments have ignored the fundamental fact that it is better to give somebody a job and get them started on their path in life by earning their own income, getting ready to go to work, and keeping a schedule, rather than not to have a job at all. I would like to be able to wave a wand and make sure that everybody's income rises, but I cannot, and nobody in government can. What we can do though is say "yes" to somebody who has got a shot at starting in life with a minimum-wage job. So be it, because one moves on from that to the next.

It is not compassionate, therefore, to increase the minimum wage. Every time we have done it since 1974, unless the economy was just shooting through the roof, we lost jobs from what otherwise would have happened. I am afraid that will happen again.

Do not put a tax on those people who offer jobs to people who need them; unemployed people who need a start in life. Do not support an increase in the minimum wage.

A BAD DEAL FOR OUR CONSTITUENTS

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, as I drove several hundred miles across the State of West Virginia yesterday visiting flood-hit areas, I stopped off at a lot of gasoline stations. I saw gasoline selling for everything and bulk gasoline selling for everything from \$1.28 to \$1.37 a gallon for 87 octane regular, and as I would stop, I would ask them how they felt about getting 4.3 cents back or having the Congress actually cut the gasoline tax by 4.3 cents. "Where does it go, BOB? Are we going to get it?"

Well, of course, I told them that the Congress would not be permitted to offer an amendment guaranteeing it went to the consumer.

"You are telling us we don't automatically get it?"

"No, you don't automatically get it. In fact the chances are good that the savings will actually go either to oil companies or to foreign oil producers."

Well, what good does that do?

They would be even less happy to know that the roughly \$3 billion that this will cost while, yes, it will be made up by selling the spectrum in telecommunications, that that is \$3 billion that could have been used for deficit reduction. And then again when we need more deficit reduction, what are they going to cut? That will be education.

It is not a good deal.

CLINTON DEMOCRATS' ACTIONS SPEAK LOUDER THAN WORDS

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, remember President Clinton's campaign promises of 1992? He said, among other things, that he would enact strong welfare reform if elected President. I certainly haven't seen any sign of this. But now, in a true act of desperation, he is trying to blend-over his dismal record by taking credit for some of the reforms our State governments have implemented on their own.

Why the desperation? Because no matter what the campaign game is, the facts remain the same—last Congress when the Democrats were in the majority they didn't deliver a welfare reform package to President Clinton. This Congress with Republicans in charge, President Clinton got a welfare reform package but he vetoed it.

Mr. Speaker, the facts don't lie. The Clinton Democrats' actions speak louder than their words. Until Bill Clinton stops talking about ending welfare as we know it and actually signs a genuine reform bill, we will remain absent without leadership.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WICKER). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

REVISION OF VETERANS BENEFITS DECISIONS

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1483) to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error.

The Clerk read as follows:

H.R. 1483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF DECISIONS BASED ON CLEAR AND UNMISTAKABLE ERROR.

(a) ORIGINAL DECISIONS.—(1) Chapter 51 of title 38, United States Code, is amended by inserting after section 5109 the following new section:

"§ 5109A. Revision of decisions on grounds of clear and unmistakable error

"(a) A decision by the secretary under this chapter is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

"(b) For the purposes of authorizing benefits, a rating or other adjudicative decision that constitutes a reversal or revision of a prior decision on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

"(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Secretary on the Secretary's own motion or upon request of the claimant.

"(d) A request for revision of a decision of the Secretary based on clear and unmistakable error may be made at any time after that decision is made.

"(e) Such a request shall be submitted to the Secretary and shall be decided in the same manner as any other claim."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5109 the following new item:

"5109A. Revision of decisions on grounds of clear and unmistakable error."

(b) BVA DECISIONS.—(1) Chapter 71 of such title is amended by adding at the end the following new section:

"§ 7111. Revision of decisions on grounds of clear and unmistakable error

"(a) A decision by the Board is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decisions shall be reversed or revised.

"(b) For the purposes of authorizing benefits, a rating or other adjudicative decision of the Board that constitutes a reversal or revision of a prior decision of the Board on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

"(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Board on the Board's own motion or upon request of the claimant.

"(d) A request for revision of a decision of the Board based on clear and unmistakable error may be made at any time after that decision is made.

"(e) Such a request shall be submitted directly to the Board and shall be decided by the Board on the merits, without referral to any adjudicative or hearing official acting on behalf of the Secretary.

"(f) A claim filed with the Secretary that requests reversal or revision of a previous Board decision due to clear and unmistakable error shall be considered to be a request to the Board under this section, and the Secretary shall promptly transmit any such request to the Board for its consideration under this section."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7111. Revision of decisions on grounds of clear and unmistakable error."

(c) EFFECTIVE DATE.—(1) Sections 5109A and 7111 of title 38, United States Code, as added by this section, apply to any determination made before, on, or after the date of the enactment of this Act.

(2) Notwithstanding section 402 of the Veterans Judicial Review Act (38 U.S.C. 7251 note), chapter 72 of title 38, United States Code, shall apply with respect to any decision of the Board of Veterans' Appeals on a claim alleging that a previous determination of the Board was the product of clear and unmistakable error if that claim is filed after, or was pending before the Department of Veterans Affairs, the Court of Veterans Appeals, the Court of Appeals for the Federal Circuit, or the Supreme Court on, the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Mississippi [Mr. MONTGOMERY] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 1483.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

(Mr. STUMP asked and was given permission to revise and extend his remarks.)

Mr. STUMP. Mr. Speaker, I want to commend the gentleman from Illinois [Mr. EVANS] for introducing this bill and the subcommittee chairman, the gentleman from Alabama [Mr. EVERETT], for acting on this legislation. They have truly proceeded in a bipartisan manner and deserve the support of the Members.

I would also like to thank my good friend, the gentleman from Mississippi, SONNY MONTGOMERY, the ranking minority member of the full committee, for his efforts on this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. EVERETT] for an explanation of the bill.

Mr. EVERETT. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Committee on Veterans' Affairs and my good friend for yielding the time.

H.R. 1483 will offer veterans whose claims have been denied to appeal on the grounds of clear and unmistakable error. The bill will do three things.

First, it will codify the existing right of appeal at the regional office. Second, it will establish right of appeal at the board of veterans' appeals. And finally, it will provide access to the court of veterans appeals on the grounds of clear and unmistakable error.

The bill received strong support from the VSO's on the grounds that clear erroneous error on the part of the VA should never be allowed to stand. VA has opposed the bill on the grounds that the right already exists through the BVA, chairmans discretionary reconciliation reconsidering process and the potential for increasing the claims backlog, but VA was unable to provide any data supporting the concerns about potential increase in the backlog. I view this as a classic confrontation between the right of the individual and the right of the group, evidence to the contrary showing severe impact on the veterans as a whole. I must support the individual's right to redress, and I urge my colleagues to support the bill.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate and thank the distinguished chairman of the committee, the honorable gentleman from Arizona [Mr. STUMP], for bringing this measure to the floor and

also for the next bill and say that we are a bipartisan committee, and we have worked like that for years in a bipartisan manner doing everything we can to help veterans.

□ 1430

Mr. Speaker, I want to compliment my friend and ranking member of the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs of the Committee on Veterans' Affairs, the gentleman from Illinois, LANE EVANS, for introducing this measure; and I want to say to the chairman of the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, the gentleman from Alabama, TERRY EVERETT, I thank him for his work in bringing both of these bills to the floor.

Mr. Speaker, the Board of Veterans' Appeals must review decisions made by the VA regional offices as a veteran files an appeal within 1 year of the date of the decision. The board can reverse that decision for many reasons, including errors in applying the law if errors in judgment.

However, if no appeal is filed within 1 year, a veteran loses the right to have the board review the decision, even if that decision was clearly wrong. The bill before us gives veterans the right to have the Board of Veterans Appeals' review a prior final decision, no matter when it was made, and correct a clear and unmistakable error. It is a good bill that serves the best interests of the veterans, and I urge my colleagues to support the bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. EVANS], the author of this bill.

Mr. EVANS. Mr. Speaker, I also want to express my appreciation to the chairman of the full committee and the chairman of the subcommittee, to the gentleman from Arizona, BOB STUMP, and the gentleman from Mississippi, SONNY MONTGOMERY.

Mr. Speaker, both bills received extensive scrutiny at a subcommittee hearing last October. They include measures recommended by the administration and members of the Committee on Veterans' Affairs.

H.R. 1483 has received strong support from the Disabled American Veterans and other veterans organizations.

Mr. Speaker, there has been some concern expressed about the possible effect that this bill may have on the backlog of appeals at the Board of Veterans' Appeals. I met with BVA Chairman Cragin and we discussed the Administration's concern about this possibility. While I do not believe that this legislation will have any appreciable effect on the BVA backlog, I want to reflect several important matters concerning this bill.

First, since veterans already have the right to raise a claim of clear and unmistakable error before the regional office, any increase in the BVA backlog should be minimal. Veterans have long had this right, and it does not appear

to cause unusual or time-wasting problems today.

Second, the Board may wish to consider the adoption of procedural rules to make consideration of appeals raising such issues less burdensome, much as the Court of Veterans Appeals did in Russell versus Principi and Fugo versus Brown.

In these cases, the Court noted that a simple claim of CUE, or a "broad-brush allegation" that previous decisions were wrong, is not sufficient to constitute CUE.

If a claimant-appellant wishes to reasonably raise CUE there must be some degree of specificity as to what the alleged error is and . . . persuasive reasons must be given as to why the result would have been manifestly different but for the alleged error. *Fugo v. Brown*, 6 Vet. App. 40, 44 (1993).

It would appear that the Board could propose pleading standards consistent with this statement which would make adjudication of non-meritorious CUE claims easier.

However, an appellate system which would tolerate and let stand decisions so patently wrong as to meet the demanding standard of being clearly and unmistakably erroneous is a system not worthy of continued respect. The very essence of a system of appellate and judicial review cries out for correction of "clear and unmistakable error", no matter when the error occurred or how much effort it takes to sift meritorious claims from all others. I believe that this is why all of the veterans service organizations support this legislation.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, more important than that, I thank the gentleman for his friendship and his tutelage. We all know that the gentleman from Mississippi [Mr. MONTGOMERY] will be retiring at the end of this session. I just want to say when I first arrived in Congress, there was no one who was more gracious or more giving of his time and knowledge than the gentleman from Mississippi; and I appreciate his service, of course, to our Nation's veterans, and his assistance to me personally, as I have tried to learn the issues of veterans.

SONNY, you are going to hear this many times in the next few months, but you will be missed greatly. I thank the gentleman very much.

Mr. Speaker, I, too, rise in support of H.R. 1483. I was a proud cosponsor of the bill, as were the various organizations, such as the Disabled American Veterans and the Vietnam Veterans of America. This bill, as we have heard, provides a review for veterans who have been denied their benefits in the past. If there was a clear and unmistakable error involved in a VA decision the veteran may appeal, even if the

current time limit for appeals has expired. Retroactive benefits will be paid to veterans whose appeal results in a favorable decision. The Board of Veterans' Appeals will be required to review these cases.

Mr. Speaker, during the years 1991 through 1995, 3,600 motions to reconsider Board of Veterans' Appeals decisions were filed, but only 22 percent were granted. The other 78 percent of veterans who believe they had been wronged were denied a hearing on that appeal.

We must keep our promises to our veterans. There are many veterans whose claims have been denied due to an error in the decision making process. This bill will allow us to correct the wrongs that many of these veterans have endured. I thank all the chairs and the ranking members for bringing this bill today, and I urge my colleagues to approve H.R. 1483.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 1483 revising veterans benefits decisions based on clear and unmistakable error.

I want to thank the gentleman from Illinois, Mr. EVANS, for introducing this bill as well as Chairman STUMP and Ranking Member MONTGOMERY for their support of this measure.

H.R. 1483 will amend current law to ensure that benefit decisions by both VA regional offices and the Board of Veterans' Appeals are subject to review on the grounds of clear and unmistakable error.

The intention of this legislation is make the consideration of appeals based on clear and unmistakable errors less burdensome and to ensure just results in cases where such error has occurred.

The Department of Veterans Affairs believes that this legislation will streamline its claims adjudication process, and will result in a more efficient and economical claims administration as well as savings in general operating expenses.

I believe that this legislation provides needed assistance to those veterans who have filed claims and I urge my colleagues to give it their support.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WICKER). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 1483.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VETERANS' BENEFITS AMENDMENTS OF 1996

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3373) to amend title 38, United States Code, to improve certain veterans' benefits programs, and for other purposes.

The Clerk read as follows:

H.R. 3373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Amendments of 1996".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—INSURANCE REFORM

SEC. 101. MERGER OF RETIRED RESERVE SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE AND EXTENSION OF VETERANS' GROUP LIFE INSURANCE TO MEMBERS OF THE READY RESERVE.

(a) DEFINITION OF MEMBER.—Section 1965(5) is amended—

(1) by inserting "and" at the end of subparagraph (B);

(2) by striking out subparagraphs (C) and (D); and

(3) by redesignating subparagraph (E) as subparagraph (C).

(b) PERSONS INSURED.—Section 1967 is amended—

(1) in subsection (a)—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking out paragraphs (3) and (4); and

(C) by striking out "or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 1965(5)(C) of this title, or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,"; and

(2) by striking out subsection (d).

(c) DURATION AND TERMINATION OF COVERAGE.—Section 1968 is amended—

(1) in subsection (a)—

(A) by striking out "subparagraph (B), (C), or (D) of section 1965(5)" and inserting in lieu thereof "section 1965(5)(B)";

(B) by striking out the period at the end of paragraphs (1) and (2) and inserting in lieu thereof a semicolon;

(C) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and";

(D) in paragraph (4)—

(i) by striking out "from such" in the matter preceding subparagraph (A) and all that follows through "(A) unless on" and inserting in lieu thereof "from such assignment, unless on";

(ii) by striking out the semicolon after "such assignment" and inserting in lieu thereof a period; and

(iii) by striking out subparagraphs (B) and (C); and

(E) by striking out paragraphs (5) and (6); and

(2) in subsection (b), by striking out the last two sentences.

(d) PREMIUMS.—Section 1969 is amended—

(1) in subsection (a)(2), by striking out "is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 1965(5)(C) of this title, or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,";

(2) by striking out subsection (e); and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 102. CONVERSION TO COMMERCIAL LIFE INSURANCE POLICY.

(a) SGLI CONVERSION.—Subsection (b) of section 1968, as amended by section 101(c)(2), is amended—

(1) by inserting "(1)" after "(b)" at the beginning of the subsection;

(2) by striking out "would cease," in the first sentence and all that follows through the period at the end of the sentence and inserting in lieu thereof "would cease—

"(A) shall be automatically converted to Veterans' Group Life Insurance, subject to (i) the timely payment of the initial premium under terms prescribed by the Secretary, and (ii) the terms and conditions set forth in section 1977 of this title; or

"(B) at the election of the member, shall be converted to an individual policy of insurance as described in section 1977(e) of this title upon written application for conversion made to the participating company selected by the member and payment of the required premiums."; and

(3) by designating the second sentence as paragraph (2) and in that sentence striking out "Such automatic conversion" and inserting in lieu thereof "Automatic conversion to Veterans' Group Life Insurance under paragraph (1)".

(b) VGLI CONVERSION.—Section 1977 is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)";

(B) by striking out the last two sentences; and

(C) by adding at the end the following:

"(2) If any person insured under Veterans' Group Life Insurance again becomes insured under Servicemembers' Group Life Insurance but dies before terminating or converting such person's Veterans' Group Insurance, Veterans' Group Life Insurance shall be payable only if such person is insured for less than \$200,000 under Servicemembers' Group Life Insurance, and then only in an amount which, when added to the amount of Servicemembers' Group Life Insurance payable, does not exceed \$200,000."; and

(2) in subsection (e)—

(A) in the first sentence, by inserting "at any time" after "shall have the right"; and

(B) by striking out the third sentence and inserting in lieu thereof the following: "The Veterans' Group Life Insurance policy will terminate on the day before the date on which the individual policy becomes effective.".

SEC. 103. INFORMATION TO BE PROVIDED MEMBERS CONCERNING AUTOMATIC MAXIMUM COVERAGE OF \$200,000 UNDER SERVICEMEN'S GROUP LIFE INSURANCE.

Section 1967, as amended by section 101(b), is amended by inserting after subsection (c) the following new subsection (d):

"(d) Whenever a member has the opportunity to make an election under subsection (a) not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount of \$200,000, and at such other times periodically thereafter as the Secretary concerned considers appropriate, the Secretary concerned shall furnish to the member general information concerning life insurance. Such information shall include—

"(1) the purpose and role of life insurance in financial planning;

"(2) the difference between term life insurance and whole life insurance;

"(3) the availability of commercial life insurance; and

"(4) the relationship between Servicemembers' Group Life Insurance and Veterans' Group Life Insurance.".