

and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under section 1151 of that title or predecessor provisions of law.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, July 25, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill "To amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida."

On March 14, 1996, the Institute of Medicine (IOM) of the National Academy of Sciences released a report which concluded that there is "limited/suggestive" evidence of an association between exposure to herbicides and spina bifida, a neural tube birth defect in which the bones of the spine fail to close over the spinal cord, often causing neurological impairment.¹ Based on this conclusion, and consistent with the spirit of the statutory standard governing decisions regarding presumptions of service connection for disabilities associated with exposure to herbicides during active military service in the Republic of Vietnam, as established by Public Law 102-4, I have determined that a positive association exists between exposure of a parent to herbicides during such service and the birth defect of spina bifida.

This determination was made based on a recommendation of a special task force I established to review the IOM report. The task force noted that certain studies of Vietnam veterans suggested an apparent increase in the risk for spina bifida in their offspring. These included studies conducted by the Centers for Disease Control and Prevention and, more recently, a study of offspring of Air Force Ranch Hand personnel. Although noting that scientific questions remain, the task force indicated that spina bifida does appear to meet the statutory standards set forth in Public Law 102-4.² The task force noted that VA currently has no authority to establish presumptions of service connection for diseases in the offspring of veterans, but concluded that, if such authority existed, it would recommend, at this time, that spina bifida in the offspring of Vietnam veterans be treated in the same manner as prostate cancer and acute/subacute peripheral neuropathy. Because VA currently has no authority to provide benefits to these offspring, enabling legislation is necessary.

We recognize that the provisions of law that govern and, in some instances, mandate, the addition of new disabilities for which a presumption of service connection is provided do not govern the present situation. However, the level of association that we believe has been shown to exist is no less compelling for the conditions suffered by these children than for certain diseases in Vietnam

veterans themselves for which the Government has assumed responsibility. It seems appropriate, therefore, and in the best interests of these children, that the same benefit of the doubt as is required to be given Vietnam veterans be given to their offspring, whose birth defects may be a result of their father's or mother's service to this country.

Historically, benefits for spouses and/or children have been derivative, that is, based on the death or disability of a veteran. The benefits proposed in this draft bill would represent the first instance in which VA would be authorized to provide benefits to a non-veteran based on a possible relationship between that individual's disability and a veteran's service. While this is unprecedented, we believe it to be an appropriate extension of the principle of providing benefits for disabilities that are incurred or aggravated as a result of an individual's service on active duty in the Armed Forces of the United States. When sound medical judgment indicates a course of action, as it appears to in this case, we believe that it is not only reasonable, but responsible, to propose the enactment of appropriate legislative remedies. We believe Congress, in enacting the standards for compensation found in Public Law 102-4, intended that the benefit of the doubt should be applied in making judgments regarding the consequences surrounding the use of herbicide agents and that benefits be provided to individuals who have suffered injury as a result thereof, a policy which should have equal force in terms of providing benefits to the offspring of such individuals.

The primary benefit proposed in the draft bill is associated comprehensive medical care, which could be provided directly by VA or by contract with non-VA providers. Second, because of the likelihood that individuals who suffer from spina bifida will encounter difficulties in pursuing vocational goals, we believe it is appropriate to assist them through the provision of vocational training benefits. Finally, in recognition of other, special financial needs these children are likely to have, we believe they should be provided with a monthly stipend to help defray additional expenses associated with their disabilities. The Secretary would be required to base the amount of the stipend, or allowance, on each child's level of disability, in accordance with a special schedule established for this purpose. Under the proposed framework, the Secretary would pay the allowance based upon three levels of disability, resulting in monthly levels of \$200 per month for the lowest level of disability assigned, \$700 per month for the intermediate level of disability assigned, and \$1,200 per month for the highest level of disability assigned.

In addition, this proposal includes a provision to offset costs associated with these new benefits. This provision would effectively reverse the U.S. Supreme Court decision in *Gardner v. Brown* which held that monthly VA disability compensation must be paid for any additional disability or death attributable to VA medical treatment even if VA was not negligent in providing that care. A detailed explanation of the justification for this cost-saving measure appears in the testimony of VA's General Counsel before the Senate Committee on Veterans' Affairs on June 8, 1995.

This bill would affect direct spending and therefore is subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990. Enactment of this legislation would increase direct spending by \$5.5 million in Fiscal Year 1997 and decrease direct spending by \$291.5 million over a 5-year period.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to the Congress and

that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.

ADDITIONAL COSPONSORS

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1237

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1237, a bill to amend certain provisions of law relating to child pornography, and for other purposes.

S. 1628

At the request of Mr. BROWN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

S. 1734

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 1734, a bill to prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes.

S. 1925

At the request of Mr. GORTON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 2030

At the request of Mr. LOTT, the names of the Senator from Tennessee [Mr. THOMPSON] and the Senator from Hawaii [Mr. INOUE] were added as cosponsors of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2057

At the request of Mr. THURMOND, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2057, a bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs guarantee loans with adjustable rate mortgages.

S. 2104

At the request of Mr. THURMOND, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2104, a bill to amend chapter 71 of title 5, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes.

S. 2108

At the request of Mr. DORGAN, the name of the Senator from Connecticut

¹That report, *Veterans and Agent Orange: Update 1996*, also concluded that "limited/suggestive" evidence of an association exists between exposure to herbicides and cancer of the prostate and acute/subacute peripheral neuropathy. Based on these conclusions, I have determined, under statutory guidelines set forth in section 1116(b)(3) of title 38, United States Code, that a "positive association" exists between such exposure and the two conditions. Pursuant to section 1116(b)(1), we intend to add such diseases to the list of diseases for which a presumption of service connection is established.

²The standard for determining whether a positive association exists with respect to herbicide exposure and diseases in Vietnam veterans is set forth in 38 U.S.C. §1116(b)(3), as added by Public Law 102-4, which states, "An association between the occurrence of a disease in humans and exposure to a herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association."

[Mr. LIEBERMAN] was added as a cosponsor of S. 2108, a bill to clarify Federal law with respect to assisted suicide, and for other purposes.

S. 2123

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 2123, a bill to require the calculation of Federal-aid highway apportionments and allocations for fiscal year 1997 to be determined so that States experience no net effect from a credit to the Highway Trust Fund made in correction of an accounting error made in fiscal year 1994, and for other purposes.

S. 2125

At the request of Mr. HELMS, his name was added as a cosponsor of S. 2125, a bill to provide a sentence of death for certain importations of significant quantities of controlled substances.

SENATE RESOLUTION 233

At the request of Ms. SNOWE, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. JEFFORDS], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 233, a resolution to recognize and support the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

SENATE RESOLUTION 295

At the request of Mr. BIDEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 295, a resolution to designate October 18, 1996, as "National Mammography Day."

SENATE CONCURRENT RESOLUTION 72—RELATIVE TO PARDONS

Mr. SHELBY (for himself, Mr. BOND, Mr. GRAMS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. KYL, Mr. INHOFE, Mr. SANTORUM, Mrs. FRAHM, Mr. THURMOND, Mr. HELMS, and Mr. BENNETT) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 72

Whereas it is incumbent upon the Congress to oppose any action that would have the effect of undermining the rule of law or the faith of the American people in our jury system;

Whereas on May 28, 1996, former business partners of the President were convicted of a total of 24 felony counts by a jury of 12 Arkansas residents;

Whereas Susan McDougal and Jim Guy Tucker have been sentenced for their crimes by a Federal district judge in Little Rock, Arkansas, and their codefendant James McDougal is awaiting sentencing by the same judge;

Whereas on September 4, 1996, Susan McDougal was held in contempt of court for refusing to answer questions before a Federal grand jury relating to (1) the knowledge of

the President with respect to the fraudulent transactions for which she was convicted, and (2) the truthfulness of the testimony of the President at her trial;

Whereas in a televised interview broadcast on September 23, 1996, the President stated that any request for a Presidential pardon made by James or Susan McDougal or Jim Guy Tucker would be reviewed in the normal course, thereby leaving open the possibility that one or more pardons might indeed be issued at some later date;

Whereas any Presidential pardon of James or Susan McDougal or Jim Guy Tucker would seriously undermine the confidence of the American people in our criminal justice system, by essentially nullifying felony convictions of friends and associates of the President rendered by a jury of 12 Arkansas residents on charges initially brought by a grand jury comprised of 23 other Arkansans; and

Whereas the September 23, 1996, remarks by the President could be construed by his recently convicted friends and associates as offering them an inducement to refuse to testify honestly and openly about matters under investigation by Federal law enforcement authorities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should categorically disavow any intention of issuing a Presidential pardon to James or Susan McDougal or Jim Guy Tucker, and thereby affirm the principle that, in the system of justice in the United States, no person is above the law.

• Mr. SHELBY. Mr. President, I have been very disturbed by the recent press reports detailing the President's willingness to pardon Susan McDougal and possibly other former business partners and friends who have been convicted of defrauding the government.

The President's public willingness to suggest that a pardon may be forthcoming, at a time when Susan McDougal is facing contempt charges by a lawfully empaneled grand jury for not responding to questions about the role and truthfulness of the President himself, undermines our judicial system and seriously questions his ability to fulfill his obligation to see that "the laws be faithfully executed."

As you will recall, Mr. President, Susan McDougal was convicted on several felony counts of defrauding the government. She was tried and convicted by a jury of her peers in Little Rock, Arkansas and sentenced to 2 years in prison for her crimes.

While the President may not be pleased with the results of Independent Counsel Kenneth Starr's investigation, including the conviction of many of his friends and former associates, it is outrageous for the President to now allege prosecutorial misconduct on behalf of Mr. Starr. At the request of Attorney General Reno, a three judge panel appointed an Independent Counsel, Kenneth Starr, to investigate fully any violation of Federal law relating in any way to James B. McDougal's, President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

Mr. President, the President's recent statements raise serious questions about his intent to interfere with, and possibly undermine, the Independent Counsel's ongoing investigation into these matters.

Today, Senator BOND and I are submitting a concurrent resolution that would express the Sense of the Congress that the President should disavow any intent of issuing presidential pardons to James and Susan McDougal and Jim Guy Tucker and reaffirm one of the basic tenets of our American system of justice that no one is above the law. •

SENATE CONCURRENT RESOLUTION 73—RELATIVE TO PROPERTY CLAIMS

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 73

Whereas Fascist and Communist dictatorships have caused immeasurable human suffering and loss, degrading not only every conceivable human right, but the human spirit itself;

Whereas the villainy of communism was dedicated, in particular, to the organized, and systematic destruction of private property ownership;

Whereas the wrongful and illegal confiscation of property perpetrated by Fascist and Communist regimes was often specifically designed to victimize people because of their religion, national or social origin, or expressed opposition to the regimes which repressed them;

Whereas Fascists and Communists often obtained possession of properties confiscated from the victims of the systems they actively supported;

Whereas Jewish individuals and communities were often twice victimized, first by the Nazis and their collaborators and then by the subsequent Communist regimes;

Whereas churches, synagogues, mosques, and other religious properties were also destroyed or confiscated as a means of breaking the spiritual devotion and allegiance of religious adherents;

Whereas Fascists, Nazis, and Communists have used foreign financial institutions to launder and hold wrongfully and illegally confiscated property and convert it to their own personal use;

Whereas some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims while denying heirs access to these assets;

Whereas refugees from communism, in addition to being wrongly stripped of their private property, were often forced to relinquish their citizenship in order to protect themselves and their families from reprisals by the Communists who ruled their countries;

Whereas the participating states of the Organization for Security and Cooperation in Europe have agreed to give full recognition and protection to all types of property, including private property, as well as the right to prompt, just, and effective compensation in the event private property is taken for public use;

Whereas the countries of Central and Eastern Europe, as well as the Caucasus and Central Asia, have entered a post-Communist period of transition and democratic