CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

August 24, 2004

H.R. 4658

Servicemembers and Veterans Legal Protections Act of 2004

As ordered reported by the House Committee on Veterans' Affairs on July 21, 2004

SUMMARY

H.R. 4658 would affect several veterans programs, including education, health care, disability compensation, and pensions. CBO estimates that enacting this legislation would raise direct spending for veterans programs by $11 million over the 2005-2009 period and by $16 million over the 2005-2014 period. In addition, CBO estimates that discretionary spending resulting from H.R. 4658 would total almost $28 million over the 2005-2009 period, assuming appropriation of the necessary amounts.

H.R. 4658 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs for state, local, and tribal governments and the private sector to comply with those mandates would be well below the thresholds established by UMRA ($60 million in 2004 and $120 million in 2004, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4658 is shown in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

TABLE 1. ESTIMATED BUDGETARY IMPACT OF H.R. 4658

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	*	2	2	2	2
Estimated Outlays	*	2	2	2	2
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	4	5	5	6	6
Estimated Outlays	4	5	5	6	6

NOTES: Five and 10-year costs in the text may differ slightly from a summation of the annual costs listed here because of rounding.

* = less than $50,000.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted before the end of calendar year 2004, and that the amounts necessary to implement the bill will be appropriated for each year.

Direct Spending

H.R. 4658 would affect direct spending in veterans' programs for education, compensation, and pensions. Table 2 summarizes those effects, and the individual provisions that would affect direct spending are described below. In total, CBO estimates that enacting this legislation would increase direct spending by about $11 million over the 2005-2009 period and by $16 million over the 2005-2014 period.

TABLE 2. ESTIMATED CHANGES IN DIRECT SPENDING FOR VETERANS' BENEFITS UNDER H.R. 4658

Description of Provisions	Outlays by Fiscal Year, in Millions of Dollars 2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
MGIB for Self-Employment Training	0	2	2	2	2	3	*	0	0	0
Misuse of Benefits by a Fiduciary	*	*	*	*	*	*	*	*	*	*
Total Changes	*	2	2	2	2	3	1	*	*	*

NOTES: Five and 10-year costs in the text may differ slightly from a summation of the annual costs listed here because of rounding.

MGIB = Montgomery GI Bill

* = less than $500,000.

Montgomery GI Bill (MGIB) for Self-Employment Training. Section 403 would allow veterans to use their education benefits to receive on-the-job training without pay for periods of less than six months, when that training is needed to obtain a license to engage in a self-employment occupation or is required for ownership and operation of a franchise. This provision would take effect October 1, 2005, and remain in force through September 30, 2010. Under current law, education benefits for on-the-job training would only be approved if the veteran was paid wages that, at the start of training, equaled at least 50 percent of the wage paid for the job for which the veteran was to be trained, and increased over the course of the training to at least 85 percent of the prevailing wage. Based on information from the Department of Veterans Affairs (VA), CBO believes this temporary waiver of the wage requirement would be of use primarily to those seeking to own and operate a franchise. Franchise companies typically require prospective owners to undergo a four-to-six week program of on-the-job training and they do not pay wages to the prospective owners.

Based on information from the Department of Labor, CBO estimates that about 6,500 eligible veterans took self-employment classes through Small Business Development Centers in 2002, and we assume that about 1,600 of these also completed an average of five weeks of on-the-job training that was associated with the purchase of a franchise. Because the population eligible for and using MGIB benefits is growing, we estimate this number will increase to about 1,700 in 2006 and 2,000 by 2014. Under current law, the MGIB benefit, currently $1,000 a month, is adjusted annually for increases in the cost of living. CBO estimates that by 2006 the MGIB benefit will increase to about $1,020 a month or about $1,270 for a five-week period. Thus, CBO estimates that enacting section 403 would increase direct spending for veterans' education benefits by $2 million in 2006, $9 million over the 2006-2009 period, and $12 million over the 2006-2011 period.

Misuse of Veterans' Benefits by a Fiduciary. H.R. 4658 contains several provisions dealing with fiduciary fraud. Taken together, CBO estimates that enactment of those provisions would increase direct spending for veterans compensation and pensions by about $2 million over the 2005-2009 period and $4 million over the 2005-2014 period.

Reissuing of Benefits Associated with Fiduciary Fraud. Section 303 would require VA to reissue veterans' compensation and pension benefits to beneficiaries when those benefits were misused by a fiduciary if the fraud can be attributed to negligence by VA. (A fiduciary is the guardian, curator, organization, or person legally vested to care for a claimant or beneficiary's estate.) Under the bill, VA negligence would be defined as:

- VA's failure to review a fiduciary's accounting in a timely manner, or
- VA's failure to act on allegations of fraud by a fiduciary in a timely manner, or
- Any other case in which actual negligence is shown.

Under section 303, VA also would be required to reissue benefits to a beneficiary in cases where a fiduciary represents 10 or more beneficiaries, regardless of whether or not the benefits are recouped from the fiduciary. Currently, VA only reissues benefits that were recouped from the fiduciary through court-ordered restitution. Any benefits that are not recovered from the fiduciary are not reissued to the beneficiary.

CBO assumes that under the bill, VA would be held liable for any fraud that stems from certifying fiduciaries. (Under section 302 of the bill, VA would be required to complete in-depth investigations to determine the fitness of an individual before certifying him or her as a fiduciary.) According to data provided by VA for the 1999-2003 period, it received about 50 referrals a year for fiduciary fraud on average. Those referrals resulted in about 10 arrests a year and about $350,000 annually in recoveries. CBO assumes that roughly 90 percent of the recoveries are for actual benefit payments which would be reissued under the bill and that under the conditions specified most fiduciary fraud would be found to stem from VA negligence. After adjusting for inflation, CBO estimates that this provision would raise direct spending for veterans' disability compensation and pensions by less than $500,000 in 2005, about $2 million over the 2005-2009 period, and about $4 million over the 2005-2014 period.

Judicial Orders of Restitution. Section 304 would give VA the ability to pursue civil monetary penalties against fiduciaries of no more than $5,000 for each fraudulent act, and would subject a fiduciary to an assessment, in lieu of damages, of no more than twice the amount of any payments recovered. Section 304 also would allow VA to use court-ordered amounts recovered as penalties or fines that are not received in connection with misuse of benefits by a fiduciary to defray the costs of investigations of fiduciaries.

Under current law, all amounts received due to restitution, penalties, or court-ordered fines are returned to the Treasury. Thus, the spending of these receipts under section 304 by VA would be considered direct spending. Absent more information from VA, CBO cannot determine the amount of fines and penalties that VA might expect to recover and spend over the 2005-2014 period.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 4658 also would increase discretionary spending for veterans' medical care and operating expenses within the Veterans Benefits Administration by about $28 million over the 2005-2009 period, assuming appropriation of the necessary amounts.

Veterans Receiving Maternity Care. Section 402 would allow VA to provide care to newborn infants when the mother is a veteran receiving maternity care from VA. According to VA, a little more than 700 women a year are expected to receive maternity care from VA. Based on data from VA, CBO estimates that the cost of providing neonatal care to those infants would be about $5,700 per infant in 2005. (Providing neonatal care for most infants would cost much less; the high average cost is driven by those infants who require extensive care for longer periods of time.) Based on assumed enactment late in calendar year 2004, CBO estimates that implementing section 402 would cost $3 million in 2005 and $21 million over the 2005-2009 period, assuming appropriation of the estimated amounts.

Qualification of Fiduciaries. Section 302 would both codify and expand upon current requirements for VA certification of status as a fiduciary. Under section 302, VA would be required to certify a fiduciary based upon an inquiry or investigation into the fitness of an individual to serve as a fiduciary, adequate evidence that certification of the fiduciary would be in the beneficiary's best interest, and the furnishing of any bond as required by VA.

Under current practice, when required, VA conducts investigations to determine the type of fiduciary best suited to a beneficiary. Using its field examiners, VA contacts the beneficiary or their family and through face-to-face interviews, if possible, determines the ability of the beneficiary to manage their benefit payments. The field examiner then certifies a fiduciary based upon his or her observations. VA also maintains periodic contact with certified fiduciaries to observe the performance of the fiduciary and also completes a review to determine whether the continued use of a fiduciary is necessary.

Under this section, VA would be required to review the proposed fiduciary's credit report and conduct a criminal background check to determine if that person has been convicted of any federal or state offense resulting in imprisonment for more than a year. If that person had been convicted and imprisoned, VA would be allowed to certify that person as a fiduciary only if it determines that the proposed fiduciary has been rehabilitated and is an appropriate person to act as a fiduciary for a beneficiary.

Based on information from VA, CBO estimates that requiring more in-depth reviews would require VA to hire seven additional people at an annual cost of about $500,000. Based on the cost of similar investigations conducted by the Social Security Administration, and using VA's estimate of new fiduciaries (excluding the number of family members who might become a fiduciary), CBO also estimates that conducting the required criminal background investigations would cost an additional $500,000 a year. Thus, CBO estimates that implementing section 302 would cost about $4 million over the 2005-2009 period, assuming appropriation of the necessary amounts

Additional Protections for Beneficiaries. Section 304 would codify and expand current procedures that protect beneficiaries from misuse of their benefits by fiduciaries. These protections include:

- Requiring VA to complete periodic on-site reviews of fiduciaries who serve 20 or more beneficiaries and manage benefits greater that $50,000;

- Requiring a report of accounting from the fiduciary;

- Allowing VA to pursue civil monetary penalties against persons who commit fraud; and

- Requiring any federal court to order a defendant convicted of fraud involving benefits to make restitution to VA, or to explain why no restitution was ordered.

Based on information from VA, CBO estimates that to complete the tasks of completing periodic on-site reviews and pursuing civil penalties, VA would hire an additional seven people at an annual cost of about $500,000. Thus, CBO estimates implementing section 304 would cost about $2 million over the 2005-2009 period, subject to appropriation of the necessary amounts.

Annual Report on Fiduciary Program. Section 305 would require VA to prepare an annual report on the fiduciary program. The report would include the number of beneficiaries, total amount of benefits involved, number of fiduciaries, and information regarding fiduciary fraud and results of investigations. According to VA, preparation of the report would require an update to their computer systems to comply with the data requirements for the report. Based on information provided by VA, CBO estimates that implementing section 305 would cost less than $500,000 in 2005, subject to appropriation of the necessary amounts.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 4658 contains both intergovernmental and private-sector mandates as defined in UMRA, but CBO estimates that the costs for state, local, and tribal governments and the private sector to comply with those mandates would be well below the thresholds established by UMRA ($60 million in 2004 and $120 million in 2004, respectively, adjusted annually for inflation).

Extension of Health Insurance

Current law imposes a mandate on public and private-sector employers by requiring them to continue to provide health insurance coverage to certain workers, including those who are absent from work because of military service. Although those workers can be required to pay the employer 102 percent of the average cost of the insurance, research suggests that the actual cost of providing that coverage generally is greater than that amount.

This bill would increase, from 18 months to 24 months, the amount of time those reservists who are mobilized are eligible to continue their health insurance. That extension would increase the cost of the existing mandate on both public and private-sector employers to provide continued coverage. However, CBO estimates that few workers would participate in the program and the total direct cost for employers to comply with that mandate would be about $2 million annually.

State and Local Government Authority to Tax

H.R. 4658 also contains an intergovernmental mandate as defined by UMRA because it would prohibit state and local jurisdictions from collecting certain taxes from servicemembers. Specifically, the bill would prohibit those governments from collecting sales, use, and excise taxes from nonresident servicemembers unless they provided a credit for fees paid on the same property in other jurisdictions.

The Servicemembers' Civil Relief Act (SCRA) protects servicemembers from paying the same tax in multiple jurisdictions and provides that, for certain tax purposes, a servicemember's place of residence is his or her home state, not the state in which he or she is stationed. This bill would extend the SCRA tax provisions to explicitly include excise and other use taxes. Currently, no state or local governments collect those taxes from nonresident servicemembers. It would require jurisdictions, if they choose to collect such revenues, to credit payments made in other locations. CBO estimates that the cost, if any, for those governments to comply with that mandate would be minimal.

Termination of Leases

Section 104 of this bill would provide that, in the case of joint leases, the termination of a lease (residential and motor vehicle) by a servicemember under the provisions of section 305 of the Servicemembers Civil Relief Act also terminates the obligation of a dependent under that lease. However, implementation of current law has typically extended coverage of lease termination to both servicemembers and their dependents. In particular, the disputes that have arisen about dependents' rights to terminate leases have usually been resolved in favor of a servicemember's dependent. Therefore, CBO estimates that this section of H.R. 4658 would not create new costs for the private sector. The joint lease language in H.R. 4658 is predominantly clarifying and would not create a new mandate.

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