

107TH CONGRESS
1ST SESSION

S. 278

To restore health care coverage to retired members of the uniformed services.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2001

Mr. JOHNSON (for himself, Mr. BINGAMAN, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To restore health care coverage to retired members of the uniformed services.

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 “Keep Our Promise to
5 America’s Military Retirees Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) No statutory health care program existed
9 for members of the uniformed services who entered
10 service prior to June 7, 1956, and retired after serv-

1 ing a minimum of 20 years or by reason of a service-
2 connected disability.

3 (2) Recruiters for the uniformed services are
4 agents of the United States Government and em-
5 ployed recruiting tactics that allowed members who
6 entered the uniformed services prior to June 7,
7 1956, to believe they would be entitled to fully-paid
8 lifetime health care upon retirement.

9 (3) Statutes enacted in 1956 entitled those who
10 entered service on or after June 7, 1956, and retired
11 after serving a minimum of 20 years or by reason
12 of a service-connected disability, to medical and den-
13 tal care in any facility of the uniformed services,
14 subject to the availability of space and facilities and
15 the capabilities of the medical and dental staff.

16 (4) After 4 rounds of base closures between
17 1988 and 1995 and further drawdowns of remaining
18 military medical treatment facilities, access to
19 “space available” health care in a military medical
20 treatment facility is virtually nonexistent for many
21 military retirees.

22 (5) The military health care benefit of “space
23 available” services and medicare is no longer a fair
24 and equitable benefit as compared to benefits for
25 other retired Federal employees.

1 (6) The failure to provide adequate health care
2 upon retirement is preventing the retired members
3 of the uniformed services from recommending, with-
4 out reservation, that young men and women make a
5 career of any military service.

6 (7) Although provisions enacted in the Floyd D.
7 Spence National Defense Authorization Act for Fis-
8 cal Year 2001 (Public Law 106–398) extended cov-
9 erage under the TRICARE program to medicare eli-
10 gible military retirees age 65 and older, those provi-
11 sions did not address the health care needs of mili-
12 tary retirees under the age of 65.

13 (8) The United States should establish health
14 care that is fully paid by the sponsoring agency
15 under the Federal Employees Health Benefits pro-
16 gram for members who entered active duty on or
17 prior to June 7, 1956, and who subsequently earned
18 retirement.

19 (9) The United States should reestablish ade-
20 quate health care for all retired members of the uni-
21 formed services that is at least equivalent to that
22 provided to other retired Federal employees by ex-
23 tending to such retired members of the uniformed
24 services the option of coverage under the Federal
25 Employees Health Benefits program.

1 **SEC. 3. COVERAGE OF MILITARY RETIREES UNDER THE**
 2 **FEDERAL EMPLOYEES HEALTH BENEFITS**
 3 **PROGRAM.**

4 (a) EARNED COVERAGE FOR CERTAIN RETIREES
 5 AND DEPENDENTS.—Chapter 89 of title 5, United States
 6 Code, is amended—

7 (1) in section 8905, by adding at the end the
 8 following new subsection:

9 “(i) For purposes of this section, the term ‘employee’
 10 includes a retired member of the uniformed services (as
 11 defined in section 101(a)(5) of title 10) who began service
 12 before June 7, 1956. A surviving widow or widower of
 13 such a retired member may also enroll in an approved
 14 health benefits plan described by section 8903 or 8903a
 15 of this title as an individual.”; and

16 (2) in section 8906(b)—

17 (A) in paragraph (1), by striking “para-
 18 graphs (2) and (3)” and inserting “paragraphs
 19 (2) through (5)”;

20 (B) by adding at the end the following new
 21 paragraph:

22 “(5) In the case of an employee described in section
 23 8905(i) or the surviving widow or widower of such an em-
 24 ployee, the Government contribution for health benefits
 25 shall be 100 percent, payable by the department from
 26 which the employee retired.”.

1 (b) COVERAGE FOR OTHER RETIREES AND DEPEND-
 2 ENTS.—(1) Section 1108 of title 10, United States Code,
 3 is amended to read as follows:

4 **“§ 1108. Health care coverage through Federal Em-**
 5 **ployees Health Benefits program**

6 “(a) FEHBP OPTION.—The Secretary of Defense,
 7 after consulting with the other administering Secretaries,
 8 shall enter into an agreement with the Office of Personnel
 9 Management to provide coverage to eligible beneficiaries
 10 described in subsection (b) under the health benefits plans
 11 offered through the Federal Employees Health Benefits
 12 program under chapter 89 of title 5.

13 “(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An
 14 eligible beneficiary under this subsection is—

15 “(A) a member or former member of the uni-
 16 formed services described in section 1074(b) of this
 17 title;

18 “(B) an individual who is an unremarried
 19 former spouse of a member or former member de-
 20 scribed in section 1072(2)(F) or 1072(2)(G) of this
 21 title;

22 “(C) an individual who is—

23 “(i) a dependent of a deceased member or
 24 former member described in section 1076(b) or
 25 1076(a)(2)(B) of this title or of a member who

1 died while on active duty for a period of more
2 than 30 days; and

3 “(ii) a member of family as defined in sec-
4 tion 8901(5) of title 5; or

5 “(D) an individual who is—

6 “(i) a dependent of a living member or
7 former member described in section 1076(b)(1)
8 of this title; and

9 “(ii) a member of family as defined in sec-
10 tion 8901(5) of title 5.

11 “(2) Eligible beneficiaries may enroll in a Federal
12 Employees Health Benefit plan under chapter 89 of title
13 5 under this section for self-only coverage or for self and
14 family coverage which includes any dependent of the mem-
15 ber or former member who is a family member for pur-
16 poses of such chapter.

17 “(3) A person eligible for coverage under this sub-
18 section shall not be required to satisfy any eligibility cri-
19 teria specified in chapter 89 of title 5 (except as provided
20 in paragraph (1)(C) or (1)(D)) as a condition for enroll-
21 ment in health benefits plans offered through the Federal
22 Employees Health Benefits program under this section.

23 “(4) For purposes of determining whether an indi-
24 vidual is a member of family under paragraph (5) of sec-
25 tion 8901 of title 5 for purposes of paragraph (1)(C) or

1 (1)(D), a member or former member described in section
 2 1076(b) or 1076(a)(2)(B) of this title shall be deemed to
 3 be an employee under such section.

4 “(5) An eligible beneficiary who is eligible to enroll
 5 in the Federal Employees Health Benefits program as an
 6 employee under chapter 89 of title 5 is not eligible to en-
 7 roll in a Federal Employees Health Benefits plan under
 8 this section.

9 “(6) An eligible beneficiary who enrolls in the Federal
 10 Employees Health Benefits program under this section
 11 shall not be eligible to receive health care under section
 12 1086 or section 1097 of this title. Such a beneficiary may
 13 continue to receive health care in a military medical treat-
 14 ment facility, in which case the treatment facility shall be
 15 reimbursed by the Federal Employees Health Benefits
 16 program for health care services or drugs received by the
 17 beneficiary.

18 “(c) CHANGE OF HEALTH BENEFITS PLAN.—An eli-
 19 gible beneficiary enrolled in a Federal Employees Health
 20 Benefits plan under this section may change health bene-
 21 fits plans and coverage in the same manner as any other
 22 Federal Employees Health Benefits program beneficiary
 23 may change such plans.

24 “(d) GOVERNMENT CONTRIBUTIONS.—The amount
 25 of the Government contribution for an eligible beneficiary

1 who enrolls in a health benefits plan under chapter 89 of
 2 title 5 in accordance with this section may not exceed the
 3 amount of the Government contribution which would be
 4 payable if the electing beneficiary were an employee (as
 5 defined for purposes of such chapter) enrolled in the same
 6 health benefits plan and level of benefits.

7 “(e) SEPARATE RISK POOLS.—The Director of the
 8 Office of Personnel Management shall require health bene-
 9 fits plans under chapter 89 of title 5 to maintain a sepa-
 10 rate risk pool for purposes of establishing premium rates
 11 for eligible beneficiaries who enroll in such a plan in ac-
 12 cordance with this section.”.

13 (2) The item relating to section 1108 at the begin-
 14 ning of such chapter is amended to read as follows:

“1108. Health care coverage through Federal Employees Health Benefits pro-
 gram.”.

15 (3) The amendments made by this subsection shall
 16 take effect on January 1, 2002.

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