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2^D SESSION

H. R. 4386

IN THE SENATE OF THE UNITED STATES

AUGUST 9 (legislative day, AUGUST 8), 1994

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To amend title 38, United States Code, authorizing the Secretary of Veterans Affairs to provide compensation to veterans suffering from disabilities resulting from illnesses attributed to service in the Persian Gulf theater of operations during the Persian Gulf War, to provide for increased research into illnesses reported by Persian Gulf War veterans, and for other purposes.

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 “Veterans’ Persian Gulf
5 War Benefits Act”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress makes the following findings:

8 (1) During the Persian Gulf War, members of
9 the Armed Forces were exposed to numerous poten-

1 tially toxic substances, including fumes and smoke
2 from military operations, oil well fires, diesel ex-
3 haust, paints, pesticides, depleted uranium, infec-
4 tious agents, chemoprophylactic agents, and indige-
5 nous diseases, and were also given multiple immuni-
6 zations. It is not known whether these
7 servicemembers were exposed to chemical or biologi-
8 cal warfare agents. However, threats of enemy use
9 of chemical and biological warfare heightened the
10 psychological stress associated with the military op-
11 eration.

12 (2) Significant numbers of veterans of the Per-
13 sian Gulf War are suffering from illnesses, or are ex-
14 hibiting symptoms of illness, that cannot now be di-
15 agnosed or clearly defined. As a result, many of
16 these conditions or illnesses are not considered to be
17 service connected under current law for purposes of
18 benefits administered by the Department of Veter-
19 ans Affairs.

20 (3) The Technology Assessment Workshop on
21 the Persian Gulf Experience and Health conducted
22 by the National Institutes of Health concluded that
23 the complex biological, chemical, physical, and psy-
24 chological environment of the Southwest Asia thea-
25 ter of operations produced complex adverse health

1 effects in Persian Gulf War veterans and that it ap-
2 pears that no single disease entity or syndrome ex-
3 ists. Rather, it appears that the illnesses suffered by
4 those veterans result from multiple illnesses with
5 overlapping symptoms and causes that have yet to
6 be defined.

7 (4) That workshop concluded that the data con-
8 cerning the range and intensity of exposure to toxic
9 substances by military personnel in the Southwest
10 Asia theater of operations are very limited and that
11 such data were collected only after a considerable
12 delay.

13 (5) In response to concerns regarding the
14 health-care needs of Persian Gulf War veterans, par-
15 ticularly those who suffer from illnesses or condi-
16 tions for which no diagnosis has been made, the
17 Congress, in Public Law 102-585, directed the es-
18 tablishment of a Persian Gulf War Veterans Health
19 Registry, authorized health examinations for veter-
20 ans of the Persian Gulf War, and provided for the
21 National Academy of Sciences to conduct a com-
22 prehensive review and assessment of information re-
23 garding the health consequences of military service
24 in the Persian Gulf theater of operations and to de-
25 velop recommendations on avenues for research re-

1 garding such health consequences. In Public Law
2 103–210, the Congress authorized the Department
3 of Veterans Affairs to provide health care services on
4 a priority basis to Persian Gulf War veterans. The
5 Congress also provided in Public Law 103–160 (the
6 National Defense Authorization Act for Fiscal Year
7 1994) for the establishment of a specialized environ-
8 mental medical facility for the conduct of research
9 into the possible health effects of exposure to low
10 levels of hazardous chemicals, especially among Per-
11 sian Gulf veterans, and for research into the possible
12 health effects of battlefield exposure in such veterans
13 to depleted uranium.

14 (6) Further research and studies must be un-
15 dertaken to determine the underlying causes of the
16 illnesses suffered by Persian Gulf War veterans and,
17 pending the outcome of such research, veterans who
18 are seriously ill as the result of such illnesses should
19 be given the benefit of the doubt and be provided
20 compensation benefits to offset the impairment in
21 earnings capacities they may be experiencing.

22 **SEC. 3. PURPOSES.**

23 The purposes of this Act are—

24 (1) to provide compensation to Persian Gulf
25 War veterans who suffer disabilities resulting from

1 illnesses that cannot now be diagnosed or defined,
2 and for which other causes cannot be identified,

3 (2) to require the Secretary of Veterans Affairs
4 to develop at the earliest possible date case assess-
5 ment strategies and definitions or diagnoses of such
6 illnesses,

7 (3) to promote greater outreach to Persian Gulf
8 War veterans and their families to inform them of
9 ongoing research activities, as well as the services
10 and benefits to which they are currently entitled,
11 and

12 (4) to ensure that research activities and ac-
13 companying surveys of Persian Gulf War veterans
14 are appropriately funded and undertaken by the De-
15 partment of Veterans Affairs.

16 **SEC. 4. DEVELOPMENT OF CASE ASSESSMENT PROTOCOL**
17 **AND CASE DEFINITIONS.**

18 (a) IN GENERAL.—The Secretary of Veterans Affairs
19 shall—

20 (1) develop and implement at the earliest pos-
21 sible date a uniform case assessment protocol that
22 will ensure thorough assessment, diagnosis, and
23 treatment of all Persian Gulf War veterans suffering
24 from illness attributed to service in the Southwest

1 Asia theater of operations during the Persian Gulf
2 War; and

3 (2) develop at the earliest possible date case
4 definitions or diagnoses for illnesses associated with
5 such service.

6 (b) CONSULTATION.—Development of a uniform case
7 assessment protocol under subsection (a)(1) and develop-
8 ment of case definitions or diagnoses under subsection
9 (a)(2) shall be carried out by the Secretary of Veterans
10 Affairs in consultation with the Secretary of Defense and
11 the Secretary of Health and Human Services.

12 (c) REPORTS.—The Secretary shall submit to the
13 Committees on Veterans' Affairs of the Senate and House
14 of Representatives an annual report on the status of the
15 activities required by this section. The first such report
16 shall be submitted not later than six months after the date
17 of the enactment of this Act.

18 **SEC. 5. PROVISION OF INFORMATION TO VETERANS OF**

19 **THE PERSIAN GULF WAR.**

20 (a) OUTREACH PROGRAM.—The Secretary of Veter-
21 ans Affairs shall develop and implement a comprehensive
22 outreach program and information system to provide Per-
23 sian Gulf War veterans and their families with information
24 regarding the following:

1 (1) The Persian Gulf War Veterans Health
2 Registry established by the Persian Gulf War Veter-
3 ans' Health Status Act (38 U.S.C. 527 note).

4 (2) Access to health services and health-related
5 benefits provided by or under the auspices of the
6 Department of Veterans Affairs, including—

7 (A) marriage and family counseling avail-
8 able under section 121 of the Veterans' Medical
9 Programs Amendments of 1992 (38 U.S.C.
10 1712A note);

11 (B) health care available under section
12 1710(e)(1)(C) of title 38, United States Code;
13 and

14 (C) health examinations, consultation, and
15 counseling available under section 703 of the
16 Persian Gulf War Veterans' Health Status Act
17 (38 U.S.C. 527 note).

18 (3) Compensation and benefits related to dis-
19 abilities resulting from service in the Persian Gulf
20 War, including disabilities resulting from illness that
21 resulted from such service.

22 (4) Significant developments in research relat-
23 ing to the health consequences of service in the Per-
24 sian Gulf War.

1 (5) Any other information that the Secretary
2 determines to be appropriate.

3 (b) TOLL-FREE TELEPHONE NUMBER.—The infor-
4 mation system required by subsection (a) shall include the
5 establishment and staffing of a toll-free telephone number
6 for the use of such veterans and their families.

7 (c) FURTHER INFORMATION.—Section 702(f) of the
8 Persian Gulf War Veterans' Health Status Act (38 U.S.C.
9 527 note) is amended to read as follows:

10 “(f) ONGOING OUTREACH TO INDIVIDUALS LISTED
11 IN REGISTRY.—(1) The Secretary of Veterans Affairs
12 shall notify each individual listed in the Registry or, in
13 the case of such an individual who is deceased, the surviv-
14 ing spouse, children, or parents of such individual, at least
15 quarterly, by newsletter or by other means that the Sec-
16 retary determines to be appropriate, of—

17 “(A) the status and findings of federally spon-
18 sored research relating to the illnesses of individuals
19 who served as members of the Armed Forces in the
20 Persian Gulf theater of operations during the Per-
21 sian Gulf War or to the illnesses of the family mem-
22 bers of such individuals;

23 “(B) compensation and benefits, including
24 health care and other health-related benefits, that
25 may be provided by the Department of Veterans Af-

1 **“§ 1117. Compensation for disabilities associated with**
2 **Persian Gulf War**

3 “(a) The Secretary shall pay compensation under this
4 subchapter to a Persian Gulf veteran suffering from a
5 chronic disability resulting from an undiagnosed illness (or
6 combination of undiagnosed illnesses) that became mani-
7 fest to a degree of 10 percent or more before the later
8 of (1) October 1, 1996, or (2) the end of the two-year
9 period beginning on the last date on which the veteran
10 performed active military, naval, or air service in the
11 Southwest Asia theater of operations while on active duty.

12 “(b) A disability for which compensation under this
13 subchapter is payable shall be considered to be service con-
14 nected for purposes of all other laws of the United States.

15 “(c) Compensation may not be paid under this sec-
16 tion with respect to a disability occurring in a veteran—

17 “(1) where there is affirmative evidence that
18 the disability was not incurred by the veteran during
19 service in the Persian Gulf theater of operations
20 during the Persian Gulf War; or

21 “(2) where there is affirmative evidence to es-
22 tablish that an intercurrent injury or illness which is
23 a recognized cause of the disability was suffered by
24 the veteran between the date of the veteran’s most
25 recent departure from that theater of operations
26 while on active duty and the onset of the disability.

1 “(d) The Secretary may not make payments under
2 this section with respect to a disability for which com-
3 pensation is paid under this section for any month after
4 the month during which the Secretary determines that
5 such disability was not incurred as the result of service
6 in the Southwest Asia theater of operations during the
7 Persian Gulf War.

8 “(e) For purposes of this section, the term ‘Persian
9 Gulf veteran’ means a veteran who served on active duty
10 in the Armed Forces in the Southwest Asia theater of op-
11 erations during the Persian Gulf War.

12 “(f)(1) No payment may be made under this section
13 for any month that begins after the end of the three-year
14 period beginning on the date of the enactment of this sec-
15 tion.

16 “(2) If, before the end of such three-year period, the
17 Secretary submits to the Committees on Veterans’ Affairs
18 of the Senate and House of Representatives a report stat-
19 ing that, as of the date of the report, no diagnoses for
20 the illnesses referred to in subsection (a) can be made
21 based on current medical knowledge, such three-year pe-
22 riod shall continue for an additional three years.

23 “(3) The Secretary shall submit to those committees
24 a report addressing the issue of diagnoses of such illnesses
25 not later than April 1, 1997.”.

1 (2) The table of sections at the beginning of such
2 chapter is amended by inserting after the item relating
3 to section 1116 the following new item:

“1117. Compensation for disabilities associated with Persian Gulf War.”.

4 (b) EFFECTIVE DATE.—Section 1117 of title 38,
5 United States Code, as added by subsection (a), shall take
6 effect on October 1, 1994.

7 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR PER-**
8 **SIAN GULF ILLNESS RESEARCH.**

9 There is authorized to be appropriated to the Depart-
10 ment of Veterans Affairs \$5,000,000 for each of fiscal
11 years 1995 through 1997 for the conduct of research,
12 which the Secretary of Veterans Affairs, in consultation
13 with the Secretary of Defense and the Secretary of Health
14 and Human Services, determines would advance under-
15 standing of health risks and effects of service during the
16 Persian Gulf War and effective means of treating such
17 health effects.

18 **SEC. 8. SURVEY OF PERSIAN GULF VETERANS.**

19 (a) IN GENERAL.—There is authorized to be appro-
20 priated to the Department of Veterans Affairs such sums
21 as are needed for fiscal year 1995 for the conduct of a
22 survey of Persian Gulf veterans to gather information on
23 the incidence and nature of health problems occurring in
24 Persian Gulf veterans and their families.

1 (b) COORDINATION WITH DEPARTMENT OF DE-
2 FENSE.—The survey under subsection (a) shall be carried
3 out in coordination with the Secretary of Defense.

4 (c) PERSIAN GULF VETERAN.—For purposes of this
5 section, a Persian Gulf veteran is an individual who served
6 on active duty in the Armed Forces in the Southwest Asia
7 theater of operations during the Persian Gulf War as de-
8 fined in section 101(33) of title 38, United States Code.

9 **SEC. 9. AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.**

10 (a) STUDY OF HEALTH CONSEQUENCES OF PERSIAN
11 GULF SERVICE.—If the National Academy of Sciences in-
12 cludes in the report required by section 706(b) of the Vet-
13 erans Health Care Act of 1992 (Public Law 102–585) a
14 finding that there is a sound basis for an epidemiological
15 study or studies on the health consequences of service in
16 the Persian Gulf theater of operations during the Persian
17 Gulf War and recommends the conduct of such a study
18 or studies, the Secretary of Veterans Affairs is authorized
19 to carry out such study.

20 (b) OVERSIGHT.—(1) The Secretary shall seek to
21 enter into an agreement with the Medical Follow-Up
22 Agency (MFUA) of the Institute of Medicine of the Na-
23 tional Academy of Sciences for (A) the review of proposals
24 to conduct the research referred to in subsection (a), (B)

1 oversight of such research, and (C) review of the research
2 findings.

3 (2) If the Secretary is unable to enter into an agree-
4 ment under paragraph (1) with the entity specified in that
5 paragraph, the Secretary shall enter into an agreement de-
6 scribed in that paragraph with another appropriate sci-
7 entific organization which does not have a connection to
8 the Department of Veterans Affairs. In such a case, the
9 Secretary shall submit to the Committees on Veterans' Af-
10 fairs of the Senate and House of Representatives, at least
11 90 days before the date on which the agreement is entered
12 into, notice in writing identifying the organization with
13 which the Secretary intends to enter into the agreement.

14 (c) ACCESS TO DATA.—The Secretary shall enter into
15 agreements with the Secretary of Defense and the Sec-
16 retary of Health and Human Services to make available
17 for the purposes of any study described in subsection (a)
18 all data that the Secretary, in consultation with the Na-
19 tional Academy of Sciences and the contractor, considers
20 relevant to the study.

21 (d) AUTHORIZATION.—There are authorized to be ap-
22 propriated to the Department such sums as are necessary
23 for the conduct of studies described in subsection (a).

1 **SEC. 10. EXTENSION OF MARRIAGE AND FAMILY COUNSEL-**
2 **ING AVAILABILITY FOR PERSIAN GULF WAR**
3 **VETERANS.**

4 (a) IN GENERAL.—Section 121(a) of the Veterans’
5 Medical Programs Amendments of 1992 (38 U.S.C.
6 1712A note) is amended by striking out “September 30,
7 1994” and inserting in lieu thereof “December 31, 1998”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
9 121(g) of the Veterans’ Medical Programs Amendments
10 of 1992 (38 U.S.C. 1712A note) is amended by striking
11 out “and 1994” and inserting in lieu thereof “through
12 1999”.

13 **SEC. 11. COST-SAVINGS PROVISIONS.**

14 (a) ELECTION OF DEATH PENSION BY SURVIVING
15 SPOUSE.—Section 1317 of title 38, United States Code,
16 is amended—

17 (1) by striking out “No person” and inserting
18 in lieu thereof “(a) Except as provided in subsection
19 (b), no person”; and

20 (2) by adding at the end the following:

21 “(b) A surviving spouse who is eligible for dependency
22 and indemnity compensation by reason of any death occur-
23 ring after December 31, 1956, may elect to receive death
24 pension instead of such compensation.”.

25 (b) POLICY REGARDING COST-OF-LIVING ADJUST-
26 MENT IN COMPENSATION RATES FOR FISCAL YEAR

1 1995.—The fiscal year 1995 cost-of-living adjustments in
2 the rates of and limitations for compensation payable
3 under chapter 11 of title 38, United States Code, and of
4 dependency and indemnity compensation payable under
5 chapter 13 of such title will be no more than a percentage
6 equal to the percentage by which benefit amounts payable
7 under title II of the Social Security Act (42 U.S.C. 401
8 et seq.) are increased effective December 1, 1994, as a
9 result of a determination under section 215(i) of such Act
10 (42 U.S.C. 415(i)), with all increased monthly rates and
11 limitations (other than increased rates or limitations equal
12 to a whole dollar amount) rounded down to the next lower
13 dollar.

Passed the House of Representatives August 8,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.