# Action in Congress

**By Tom Philpott,** Contributing Editor

## Possible SBP Fixes; Reserve Benefits Boosts; Worries Over Entitlements; New Pay Commission ...

### An SBP Fix On the Way?

Both houses of Congress have sent strong signals that lawmakers, this year, may vote to raise benefits for elderly spouses of deceased military retirees. Currently, the Survivor Benefit Plan (SBP) contains a sharp drop in benefits for spouses when they reach 62.

Beginning at age 62, benefits typically fall from 55 percent of the SBP-covered annuity down to as low as 35 percent. That provision, known as the Social Security Offset, has been part of the plan since its introduction in 1972 because most surviving spouses begin to draw Social Security at that age.

The 2005 Senate budget resolution earmarks for SBP $2.7 billion that could go toward a 10-year phaseout of the benefit drop. The Senate budget action, which came from a floor amendment offered by Sen. Mary Landrieu (D-La.), would be financed by raising taxes on US companies that re-incorporate in foreign tax havens and by ending tax breaks on individuals who forfeit their US citizenship.

Senators agreed to the amendment by unanimous consent.

The budget committee action gives the Senate Armed Services and Appropriations Committees the headroom to phase out the offset as part of the 2005 defense authorization and spending bills.

The House Budget Committee declined to match that action. Its members voted down an identical SBP offset amendment. Many who voted against the amendment list themselves as co-sponsors of legislation (H.R. 3763), sponsored by Rep. Jeff Miller (R-Fla.), that would phase out the SBP offset over 10 years. Rep. Jim Nussle (R-Iowa), budget committee chairman, said he would work with the House Armed Services Committee "to arrive at a financial fix."

Reps. Duncan Hunter (R-Calif.) and Ike Skelton (D-Mo.), the Armed Services Committee's chairman and ranking Democrat, earlier had urged the budget committee to support a phaseout of the SBP offset.

### The "Paid-Up" SBP Rule

Service associations are pressing Congress to enact legislation to advance by four years the effective date of a rule favorable to Survivor Benefit Plan participants. It would allow them to stop paying monthly premiums after 30 years or when they reach the age of 70, whichever is later.

In 1999, Congress set Oct. 1, 2008, as the effective date for the "paid-up" provision. Advocates for military retirees have been pressing for an earlier start date ever since.

Making 2008 the start date meant that more than 200,000 military retirees who signed up for SBP in its first six years (1972 through 1977) would end up paying monthly premiums longer (up to six years) than enrollees from 1978 and after.

Sen. Jon Corzine's (D-N.J.) Military Survivors' Fairness Act (S. 2177) would change the effective date to Oct. 1, 2004. Rep. Jim Saxton (R-N.J.) introduced similar legislation (H.R. 1653) in the House last year. Both measures are in their respective armed services committees.

### Congress Boosts Reserve Benefits

The Senate Budget Committee approved legislation expanding health care coverage for Guardsmen and Reservists and benefits under the Montgomery GI Bill.

To participate in Tricare, reservists would agree to pay modest monthly premiums on top of the standard Tricare enrollment fees and cost-sharing paid by beneficiaries not on active duty.

The Senate Tricare initiative was offered by Sens. Lindsey Graham (R-S.C.) and Tom Daschle (D-S.D.). Before the vote, they added language from Sen. Jim Bunning (R-Ky.) to boost monthly MGIB benefits for reserve members from $282 up to almost $400.

When the Montgomery GI Bill began in 1985, Bunning said, the reserve benefits were equal to about 47 percent of the active duty benefits. However, hefty MGIB raises in the late 1990s did not apply to reserve benefits, reducing their relative value to roughly 27 percent of active benefits. Bunning's proposal would raise the reserve MGIB benefits to 40 percent of the active duty benefit.

To pay for reserve Tricare through 2009, the Senate would tap $5.6 billion in unspent funds earmarked for Iraq reconstruction. The MGIB increase would cost another $1.2 billion over five years.

### Worries Over Entitlements

Defense officials have urged Congress to re-examine the recent growth in military entitlements, which they say do not change readiness. The Pentagon wants lawmakers to shelve several new initiatives.

David S.C. Chu, undersecretary of defense for personnel and readiness, told the Senate subcommittee on military personnel in March that one of the department's greatest challenges is "the growing list of military entitlements that do not leverage readiness."

Charles S. Abell, Chu's principal deputy, reinforced that view before a House subcommittee, warning, "It is possible to create a force that is too expensive for the nation, especially when it comes to programs that are essentially deferred compensation or when the benefits accrue only to those who no longer serve."

Chu and Abell outlined entitlement spending for three recently approved programs—Tricare for Life, concurrent receipt (limited to retirees with disability ratings of at least 50 percent), and Tricare for reservists who are unemployed or lack health insurance. They indicated that those three new entitlements will total more than $12 billion annually by 2005 and will hit about $18 billion by 2009.

New proposals threaten to raise costs even more, they argued.

They said that lowering the starting age from 60 to 55 for Guard and Reserve retirement pay would cost, over the next 10 years, $6.6 billion in retirement pay and $4 billion in health care costs, according to preliminary estimates.

Chu and Abell maintained that the phaseout of the SBP offset for surviving spouses could cost $1 billion a year within five years. They said that allowing concurrent receipt of retired pay and VA disability compensation to all retirees with disabilities would cost $8.4 billion a year within 10 years. Opening Tricare to all nonactivated reservists and their families, even charging extra premiums, they said, would cost at least $1 billion a year.

**Out of Money Already?**

Defense officials in March warned Congress that they likely do not have sufficient funds to implement all the reserve health care initiatives enacted last November. Congress authorized three new temporary provisions for Guard and Reserve members but limited the total cost to $400 million.

By mid-March, the department had put into effect only one of the provisions that was to enter into force on Nov. 6, 2003, when the law was signed. (See "Total Force Tricare," April, p. 60.) Officials blamed the delay on the funding cap that requires precise monitoring of program costs and on difficult enrollment challenges.

On March 17, DOD implemented the provision that lengthens Tricare eligibility for certain reservists from 60 or 120 days to 180 days under the Transitional Assistance Management Program (TAMP). The extension, which applies to all Guard and Reserve members who deactivated or separated from active duty after Nov. 6, 2003, expires Dec. 31, 2004.

TAMP-eligible reservists who saved their medical receipts since last November can apply for reimbursement. (Information is at http://www.tricare.osd.mil/claims/default.cfm.)

Tricare officials planned to implement a second initiative, providing premobilization Tricare coverage to Guard or Reserve members and their families when members are called to active duty for longer than 30 days. Coverage begins upon notice of a pending call-up or 90 days before the period of active duty. This provision, too, is retroactive for members who learned of mobilization on or after Nov. 6, 2003.

The Pentagon expected these two provisions alone to use up the $400 million Congress authorized. Although officials continued to work on draft regulations for the third temporary provision—opening Tricare to reservists who are unemployed or lack employer-sponsored health care—prospects of the program starting before its Dec. 31 expiration date appeared dim.

Tricare officials said that starting such a complex benefit typically would take 12 to 18 months. And, even though reservists would pay 28 percent of program costs, in the form of monthly premiums, the Office of Management and Budget has pegged the annual costs at $1 billion a year.

For this benefit even to be tested, Pentagon officials say, Congress will have to provide more money and extend authority through 2005.

**New Pay Commission**

Last year's move by Congress, raising certain special pays for military members, highlighted a weakness in the current military pay system, said DOD officials. As a result, DOD plans to create an independent commission to assess military pays and benefits.

Last year, lawmakers wanted to boost the pay of troops serving in Afghanistan and Iraq and did so by raising the monthly Family Separation Allowance by $150 and Imminent Danger Pay by $75.

The Pentagon opposed the increases because they went to thousands of troops not serving in those war zones.

Senior defense officials told lawmakers that they have dropped plans to roll back the IDP raise and will seek to combine a partial rollback of the FSA hike with a grandfather provision to prevent a drop in pay for service members in Iraq or Afghanistan.

The seven-member panel of outside pay and personnel experts will advise the Pentagon on how it might make military pay more flexible and ensure balance between pay and noncash benefits and between current and future compensation such as retirement.

The commission, which is to make recommendations by early 2005, also will review Guard and Reserve compensation.

**The Part B Penalty**

Congress last year authorized an open window through 2004 for up to 90,000 military Medicare-eligible retirees and qualified family members to apply for waivers of penalties due to late enrollment in Medicare Part B. By early April, the agency tasked with implementing the waiver provision had not issued the necessary guidelines or applications.

Elderly beneficiaries must obtain Part B coverage to use Tricare for Life as a robust supplement to Medicare. Those who delay enrollment face a 10 percent increase in Part B premiums for each year they wait past age 65.

Medicare-eligible military retirees who were not enrolled in Part B before Congress enacted Tricare for Life in January 2001 were caught short and face heavy penalties.

A spokesman for the Centers for Medicare and Medicaid Services, Peter Ashkenaz, said on March 29 that CMS was "still working with Tricare folks and the Social Security Administration, putting together all of the systems we can to identify these people."

Rep. Benjamin Cardin (D-Md.), primary sponsor of the Part B penalty waiver provision, called the agency's delay in implementation "an outrage."

Cardin said that this far into 2004, "CMS needs to immediately stop assessing these penalties [and] must adjust premiums for retirees who have been fined in error since Jan. 1 and refund all overpayments."

Ashkenaz said his agency can't predict yet when applications for waivers might be available or when rebates would be paid, but eligible retirees will be notified by mail of what actions they need to take.

"We're working off three different enrollment systems to identify everybody," he said. "We have to make sure all the computers can talk to each other. And we don't want to miss anybody."

**Retro R&R Pay**

The House was poised to take up a measure favorable to 29,000 troops who last year returned from Iraq and Afghanistan under the rest and recuperation leave program. The bill would make them eligible for retroactive travel reimbursement from point of entry in the US to their home and back. The Senate, on March 4, passed an identical bill.

On Sept. 23, 2003, when the Pentagon implemented the 15-day R&R program for troops serving a year in Afghanistan or Iraq, it only covered travel costs to and from certain points of US entry. On Dec. 19, 2003, the program was expanded to cover the leg of the journey home from the point of entry.

However, defense officials said they needed Congressional authority to reimburse retroactively the troops who used the R&R program between those two dates. The Senate and House legislation would close the reimbursement gap. ■