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104TH CONGRESS }
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SENATE

{ REPORT
{ 104-367

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1996

SEPTEMBER 9, 1996.—Ordered to be printed

Mr. SIMPSON, from the Committee on Veterans' Affairs,
submitted the following

REPORT

[To accompany 1791]

The Committee on Veterans' Affairs, to which was referred the bill (S. 1791) to increase, effective December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

COMMITTEE BILL

The text of the bill as reported is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1996".

SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) **IN GENERAL.**—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1996, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1995 (Public Law No.

104-57; 109 Stat. 555). This increase shall be made in such rates and limitations as in effect on November 30, 1996, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1996, as a result of a determination under section 215(I) of such Act (42 U.S.C. 415(I)).

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(I)(2)(D) of the Social Security Act (42 U.S.C. 415(I)(2)(D)) are required to be published by reason of a determination made under section 215(I) of such Act during fiscal year 1996, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.

INTRODUCTION

On May 22, 1996, Committee Chairman Alan K. Simpson and Ranking Minority Member John D. Rockefeller IV introduced S. 1791, the proposed "Veterans' Compensation Cost-of-Living Adjustment Act of 1996." S. 1791 would provide for a December 1, 1996, cost-of-living adjustment (COLA), equal to the December 1, 1996, COLA in Social Security benefits, in the rates of compensation for veterans who have service-connected disabilities and in the rates of dependency and indemnity compensation (DIC) for the survivors of those who died from service-connected causes.

On May 23, 1996, the Committee held a hearing, chaired by Senator Simpson, to receive testimony on the compensation COLA and on other bills pending before the Committee. The Committee received testimony on the bill from Charles L. Cragin, Chairman, Board of Veterans' Appeals, Department of Veterans Affairs (VA), and representatives of The American Legion, Veterans of Foreign Wars, Disabled American Veterans, Paralyzed Veterans of America, and Vietnam Veterans of America. Testimony was also submitted for the record of the hearing by the Gold Star Wives of America, the Non Commissioned Officers Association of the United States, and by the Military Coalition (representing the views of the Air Force Association; Army Aviation Association of America; Association of Military Surgeons of the United States; Association of the United States Army; Chief Warrant Officer and Warrant Officer Association, United States Coast Guard; Commissioned Officers Association of the United States Public Health Service; Enlisted Association of the National Guard of the United States; Fleet Reserve Association; Jewish War Veterans of the United States; Marine Corps League; Marine Corps Reserve Officers Association; National Military Family Association; National Order of Battlefield Commissions; Naval Enlisted Reserve Association; Navy League of the

United States; Reserve Officers Association; The Military Chaplains Association of the United States; The Retired Enlisted Association; The Retired Officers Association; United Armed Forces Association; United States Army Warrant Officers Association; and the USCG Chief Petty Officers Association).

All of the witnesses at the Committee's May 23, 1996, hearing who addressed the issue expressed support for the Committee bill. VA testified that it "wholeheartedly endorse[s] a COLA for recipients of compensation and dependency and indemnity compensation."

COMMITTEE MEETING

After carefully reviewing the testimony from the May 23 hearing, the Committee met in open session on July 24, 1996, and voted by unanimous voice vote to report S. 1791, as introduced, favorably to the Senate.

SUMMARY OF S. 1791 AS REPORTED

S. 1791 (hereinafter referred to as the "Committee bill") contains freestanding provisions that would require the Secretary of Veterans Affairs to increase, effective December 1, 1996, the rates of and limitations on compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) paid to certain service-connected-disabled veterans' survivors by the same percentage as the COLA provided to Social Security recipients and VA pension beneficiaries that becomes effective on that same date. The Congressional Budget Office (CBO) currently estimates that the FY 1997 COLA will be 2.8 percent.

The COLA would apply to:

1. basic compensation rates for veterans with service-connected disabilities and the rates payable for certain severe disabilities;
2. the allowances for spouses, children, and dependent parents paid to service-connected-disabled veterans rated 30 percent or more disabled;
3. the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing, or requires the use of a medication prescribed by a physician for a service-connected skin condition if the medication causes irreparable damage to the veteran's outer garments; and
4. the DIC rates paid to:
 - (a) surviving spouses of veterans whose deaths were service connected;
 - (b) surviving spouses for dependent children;
 - (c) surviving spouses who are so disabled that they need aid and attendance or are permanently housebound; and
 - (d) the children of veterans whose deaths were service connected if no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

The Committee bill would require the Secretary of Veterans Affairs to increase the rates of and limitations on compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) paid to survivors of certain service-disabled veterans effective December 1, 1996. The adjustment would be the same percentage increase as the FY 1997 COLA for Social Security and VA pension benefits and would take effect on the same date as those increases. CBO's most recent estimate was that the COLA will be 2.8 percent; the Office of Management and Budget has also estimated that the COLA will be 2.8 percent.

BACKGROUND

Disability compensation

The service-connected disability compensation program under chapter 11 of title 38, United States Code, provides monthly cash benefits to veterans who have disabilities incurred or aggravated during active duty in the Armed Forces.

The amount of compensation depends on the nature of the veteran's disability or combination of disabilities and the extent to which the disability impairs earning capacity. VA rates compensable disabilities according to its Schedule for Rating Disabilities on a graduated scale ranging from 0 to 100 percent, in 10-percent increments. VA pays higher monthly rates (known as "special monthly compensation") to totally disabled veterans with certain specific, very severe disabilities or combinations of disabilities.

As of June 1, 1996, VA was providing disability compensation to 2,247,654 veterans with service-connected disabilities. Among the veterans receiving such compensation were 430 World War I veterans; 662,493 World War II veterans; 187,536 Korean-conflict veterans; 710,966 Vietnam-era veterans; and 159,930 veterans of the Persian Gulf War era.

A veteran with a disability rated at 30 percent or more may receive additional compensation on behalf of the veteran's spouse, children, and dependent parents. These dependents' allowances are prorated according to the percentage of disability. As of March 31, 1996, 664,570 veterans received additional compensation on behalf of 1,001,449 dependents.

Dependency and indemnity compensation

Under chapter 13 of title 38, VA pays dependency and indemnity compensation (DIC) to the survivors of service members or veterans who died on or after January 1, 1957, from a disease or injury incurred or aggravated during military service. Survivors eligible for DIC include surviving spouses, unmarried children under the age of 18, certain helpless children age 18 or older, children between the ages of 18 and 22 who are enrolled in school, and certain needy parents. Under section 5312 of title 38, parents' DIC rates are adjusted automatically at the same time and by the same percentage as Social Security and VA pension benefits. Surviving spouses, children, and parents who are receiving death compensation based on deaths before January 1, 1957, may elect to receive DIC instead of death compensation.

For deaths prior to January 1, 1993, surviving spouses received DIC at rates determined by the pay grade (service rank) of the deceased veteran. For deaths on or after January 1, 1993, surviving spouses receive \$790 per month and, if the deceased veteran was totally disabled for 8 years prior to death, an additional \$177 per month. Surviving spouses who had been receiving benefits under the prior DIC program are paid under whichever program will pay the higher benefit.

A surviving spouse who is so disabled as to be housebound or in need of regular aid and attendance is eligible to receive an additional amount. A surviving spouse also may receive additional allowances on behalf of the veteran's surviving children.

Children are entitled to DIC if there is no surviving spouse, if they are 18 years or older and became permanently incapable of self-support before reaching age 18, or if they are 18 to 22 years old and pursuing an approved course of education.

As of June 1, 1996, VA was paying DIC benefits to, or on behalf of, 279,315 surviving spouses, 35,230 children, and 16,212 needy surviving parents.

Under section 1318(b) of title 38, VA pays benefits at DIC rates to the surviving spouses and children of veterans whose deaths are not service connected, if the veteran, immediately prior to his or her death, had been receiving (or had been entitled to receive) compensation at the 100-percent rate continuously for 10 or more years or for at least 5 years from the date of discharge or release from active duty.

History of cost-of-living increases

The Committee periodically reviews the service-connected disability compensation and DIC programs to ensure that the benefits provide reasonable and adequate compensation for disabled veterans and their families. Based on this review, the Congress acts periodically to provide a cost-of-living adjustment (COLA) in compensation and DIC benefits. In fact, the Congress has provided annual increases in these rates for every fiscal year since 1976. The following table shows the percentage increases since 1975.

HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1975 TO PRESENT

Fiscal year	Effective date	Increase (percent)	Cumulative (1969=\$100)
1976	August 1975	11.8	158.55
1977	October 1976	8.0	171.23
1978	October 1977	6.6	182.53
1979	October 1978	7.3	195.86
1980	October 1979	9.9	215.25
1981	October 1980	14.3	246.03
1982	October 1981	11.2	273.58
1983	October 1982	7.4	293.82
1984	April 1983	3.5	304.11
1985	December 1984	3.2	313.84
1986	December 1985	3.1	323.57
1987	December 1986	1.5	328.42
1988	December 1987	4.2	342.22
1989	December 1988	4.1	356.25
1990	December 1989	4.7	372.99
1991	December 1990 ¹	5.4	393.13
1992	December 1991	3.7	407.68

HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1975 TO PRESENT—
Continued

Fiscal year	Effective date	Increase (percent)	Cumulative (1969=\$100)
1993	December 1992	3.0	419.91
1994	December 1993	2.6	430.83
1995	December 1994 ²	2.8	442.89
1996	December 1995 ²	2.6	454.41
1997	December 1996	³ 2.8	467.13

¹ Payment of the December 1990 increase was delayed until January 1992 by section 8005(b) of Public Law 101-508.

² December 1994 and 1995 increases were rounded to the next lower dollar amount pursuant to sections 2(c)(2) of Public Law 103-418 and Public Law 104-57 respectively.

³ Estimate.

COMMITTEE BILL

The Committee bill would direct VA to compute and provide increases in the monthly rates of compensation and DIC, effective December 1, 1996. The rates would be increased by the same percentage as the Social Security and VA pension COLA that will take effect on that date.

The increases in DIC automatically would result in identical percentage increases in benefits paid at DIC rates under section 1318 of title 38 to the surviving spouses and children of veterans who had a service-connected disability at the time of death for which they continuously were rated totally disabled for at least either (1) 10 years, or (2) 5 years from the date of discharge from active duty.

Under section 156(e)(1)(A) of Public Law 97-377, the DIC increases also automatically would result in the same percentage increases in Social Security benefits that were terminated by section 2205 of the Omnibus Budget Reconciliation Act of 1981 (OBRA 1981) (Public Law 97-35). Prior to OBRA 1981, those benefits had been paid to certain surviving spouses of those who died on active duty or from a service-connected disability on behalf of their children under 18 and children over age 19 who were secondary-school students; OBRA 1981 reduced the eligibility cutoff age from 18 to 16 years old.

Section 314 of Public Law 100-322 amended section 156(a)(1) of Public Law 97-377 to restore the benefits eliminated by the OBRA 1981. The DIC increase also would apply to these restored benefits, effective December 1, 1996.

CBO, in its most recent (May 1996) baseline, estimated that the FY 1997 Social Security COLA, and thus the COLA provided for by the Committee bill, will be 2.8 percent. The Office of Management and Budget's corresponding estimate was 2.8 percent. The actual Social Security COLA could differ from these estimates. Rather than selecting any particular percentage adjustment at the time the Committee ordered the bill reported, the Committee followed its prior practice of setting the COLA by reference to the Social Security increase. The Committee believes this is the most equitable means of providing increases in these important service-connected benefits.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied

by CBO, estimates that, compared to the CBO baseline, there would be no costs or savings resulting from enactment of the Committee bill. The costs of the Committee bill compared to current law would be \$335 million in budget authority and \$308 million in outlays in FY 1997; \$402 million in budget authority and \$396 million in outlays in FY 1998; \$414 million in budget authority and \$413 million in outlays in FY 1999; \$426 million in budget authority and \$458 million in outlays in FY 2000; \$439 million in budget authority and \$404 million in outlays in FY 2001; and \$452 million in budget authority and \$451 million in outlays in FY 2002.

The cost estimate provided by CBO follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 1996.

Hon. ALAN K. SIMPSON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1791, the Veterans' Compensation Cost-of-Living Adjustment Act of 1996, as ordered reported by the Senate Committee on Veterans' Affairs on July 24, 1996. The bill would increase the rates of disability compensation for veterans and dependency and indemnity compensation for survivors of veterans by a cost-of-living allowance (COLA). Because the COLA is assumed in the CBO baseline prepared under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, this bill would have no cost relative to that baseline.

The bill would affect a direct spending program and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, although the pay-as-you-go costs would equal zero in each year.

S. 1791 contains no intergovernmental or private-sector mandates as defined by Public Law 104-4 and would not affect the budgets of state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mary Helen Petrus.

Sincerely,

JUNE E. O'NEILL, *Director.*

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact that would be incurred in carrying out the Committee bill. The Committee finds that the Committee bill would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Af-

fairs at its July 24, 1996, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 1791 reported favorably to the Senate.

AGENCY REPORT

On May 23, 1996, Charles L. Cragin, Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, submitted testimony on, among other things, S. 1791, as introduced. An excerpt from that testimony is reprinted below:

STATEMENT OF CHARLES L. CRAGIN, CHAIRMAN, BOARD OF VETERANS' APPEALS, DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman and Members of the Committee: I am pleased to be here today to present the views of the Department of Veterans Affairs (VA) on several bills. Those bills are:

Legislation to provide a cost-of-living adjustment in rates of disability compensation and dependency and indemnity compensation;

* * * * *

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT

One of our Nation's most important obligations to veterans and their survivors is to see that they are appropriately compensated for service-connected disabilities and deaths. A high priority of this Administration is to ensure that this compensation keeps pace with rising costs.

The President's Fiscal Year 1997 budget proposal calls for cost-of-living adjustments (COLA's) in both disability compensation and dependency and indemnity compensation rates effective December 1, 1996. The rate increases would be of a percentage equal to that by which VA pension and Social Security benefits are adjusted on that date, currently estimated to be 2.8 percent. Consistent with the Fiscal Year 1996 compensation COLA, the Administration proposes that all increased compensation and dependency and indemnity compensation rates, if not a multiple of one dollar, be rounded to the next lower whole-dollar amount.

We wholeheartedly endorse a COLA for recipients of compensation and dependency and indemnity compensation. We estimate Fiscal Year 1997 costs of the COLA as contemplated in the Administration's budget proposal to be \$288.7 million and six-year costs (Fiscal Years 1997-2002) to be \$2.01 billion. Because the Omnibus Budget Reconciliation Act of 1990 requires that the compensation COLA be assumed in the baseline, the paygo effect of veterans' compensation COLA legislation is usually zero. However, because this proposal would require all benefit levels to be rounded down to the next lowest whole dollar, it would reduce direct spending by \$17 million in Fiscal Year 1997 and by a total of \$397 million during Fiscal Years 1997 through 2000.

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CHANGES IN EXISTING LAW MADE BY S. 1791, AS REPORTED

Since the Committee bill would not repeal or amend any provisions of current law, this report does not contain the material de-

scribed in clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.

