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VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2001

OCTOBER 15, 2001.—Ordered to be printed

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

REPORT

[To accompany S. 1090]

The Committee on Veterans' Affairs, to which was referred the bill (S. 1090), to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, having considered the same, reports favorably thereon and recommends that the original bill do pass.

COMMITTEE BILL

The text of the original 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 2001".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) **RATE ADJUSTMENT.**—The Secretary of Veterans Affairs shall, effective on December 1, 2001, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) **AMOUNTS TO BE INCREASED.**—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) **COMPENSATION.**—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) **ADDITIONAL COMPENSATION FOR DEPENDENTS.**—Each of the dollar amounts in effect under sections 1115(1) of such title.

(3) **CLOTHING ALLOWANCE.**—The dollar amount in effect under section 1162 of such title.

(4) **NEW DIC RATES.**—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) **OLD DIC RATES.**—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) **ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.**—The dollar amount in effect under section 1311(b) of such title.

(7) **ADDITIONAL DIC FOR DISABILITY.**—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) **DIC FOR DEPENDENT CHILDREN.**—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) **DETERMINATION OF INCREASE.**—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2001.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2001, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) **SPECIAL RULE.**—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), 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.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

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 2002, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

INTRODUCTION

The Committee on Veterans' Affairs (hereinafter, the "Committee") hereby reports a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation (hereinafter, "DIC") for the survivors of certain disabled veterans.

COMMITTEE HEARING

On June 28, 2001, the Committee held a hearing on legislation pending before the Committee. Among the measures on which the Committee received testimony was S. 1090, a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates of DIC for the survivors of certain disabled veterans. The Committee received testimony from, among others, representatives of the Department of Veterans Affairs (hereinafter, "VA"), and from representatives of The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the Paralyzed Veterans of America. The Committee also received written statements for the record from the Vietnam Veterans of America.

COMMITTEE MEETING

On August 2, 2001, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered was S. 1090, a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates of DIC for the survivors of certain disabled veterans. The Committee voted by unanimous voice vote to report S. 1090, as introduced, favorably to the Senate.

SUMMARY OF S. 1090 AS REPORTED

The Committee bill contains freestanding provisions that would require the Secretary of Veterans Affairs to increase, effective December 1, 2001, the rates of and limitations on certain benefits paid by VA by the same percentage as the cost-of-living adjustment (hereinafter, "COLA") provided to Social Security recipients and VA pension beneficiaries that become effective on the same date. 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 allowance 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 dependency and indemnity compensation 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 edu-

cational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

The Congressional Budget Office (hereinafter, "CBO") currently estimates that the COLA to be provided to Social Security recipients will be 2.7 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 paid 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 March 31, 2001, VA was providing disability compensation to 2,324,225 veterans with service-connected disabilities. Among the veterans receiving such compensation were 39 World War I veterans; 484,735 World War II veterans; 168,217 Korean-conflict veterans; 747,699 Vietnam-era veterans; and 349,184 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 September 2000, 741,148 veterans received additional compensation for dependents, with an average of 1.51 dependents per case, or 1,119,133 total dependents.

Dependency and Indemnity Compensation

Under chapter 13 of title 38, VA pays dependency and indemnity compensation to the survivors of servicemembers 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, children age 18 or older who are permanently incapable of self-support, 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 currently receive \$881 per month and, if the deceased veteran was totally disabled for 8 years prior to death, an additional

\$191 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 March 31, 2001, VA was paying DIC benefits to, or on behalf of, 288,157 surviving spouses, 30,820 children, and 10,487 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 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	January 1991 ¹	5.4	393.13
1992	December 1991	3.7	407.68
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	2.9	467.59
1998	December 1997 ²	2.1	477.41
1999	December 1998 ²	1.3	483.62
2000	December 1999 ²	2.4	495.23

History of Service-Connected Disability Compensation Increases, 1975 to Present—Continued

Fiscal Year	Effective Date	Increase (percent)	Cumulative (1969 = \$100)
2001	December 2000 ²	3.5	512.56
2002	December 2001 ²	³ 2.7	526.40

¹ Payment of the December 1990 increase was delayed until January 1991 by section 7 of Public Law 102-3.

² December 1994, 1995, 1997, 1998, 1999, 2000, 2001, and 2002 increases are rounded to the next lower dollar amount pursuant to sections 2(c)(2) of Public Law 103-418 and Public Law 104-57, and section 8031 of Public Law 105-33.

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, 2001. The rates would be increased by the same percentage as the Social Security and VA pension COLA that will take effect on that date. In accordance with section 8031 of the Balanced Budget Act of 1997 (Public Law 105-33), amounts of compensation so computed that are not even multiples of \$1 will be rounded down to the next lower whole dollar amount.

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 (hereinafter, "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, 2000.

CBO, in its most recent baseline, estimated that the FY 2002 Social Security COLA, and thus the COLA provided for by the Committee bill, will be 2.7 percent. The actual Social Security COLA could differ from this estimate. 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 the Congressional Budget Office (CBO), estimates that, compared to the CBO baseline, there would be no costs or savings resulting from enactment of the Committee bill.

The cost estimate provided by CBO follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 14, 2001.

Hon. JOHN D. ROCKEFELLER IV,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1090, the Veterans' Compensation Cost-of-Living Adjustment Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Michelle S. Patterson.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

S. 1090, Veterans' Compensation Cost-of-Living Adjustment Act of 2001 (As ordered reported by the Senate Committee on Veterans' Affairs on August 2, 2001)

S. 1090 would increase the amounts paid to veterans for disability compensation and to their survivors for dependency and indemnity compensation by the same cost-of-living adjustment (COLA) payable to Social Security recipients. The increase would take effect on December 1, 2001, and the results of the adjustment would be rounded to the next lower dollar.

The COLA that would be authorized by this bill is assumed in the budget resolution baseline, pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act, and savings from rounding it down were achieved by the Balanced Budget Act of 1997 (Public Law 105-33). As a result, the bill would have no budgetary effect relative to the baseline. Relative to current law, CBO estimates that enacting this bill would increase spending for these programs by about \$407 million in 2002. (The 2002 cost on an annualized basis would be about \$543 million, which would be the approximate cost in subsequent years.) This estimate assumes that the COLA effective on December 1, 2001, would be 2.7 percent.

S. 1090 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On July 20, 2001, CBO prepared a cost estimate for H.R. 2540, the Veterans Benefits Act of 2001, as ordered reported by the House Committee on Veterans' Affairs on July 19, 2001. Section 101 of H.R. 2540 would provide the same COLA as this bill would. The estimated costs of this bill and section 101 of H.R. 2540 are the same.

The CBO staff contact is Michelle S. Patterson. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis, Congressional Budget Office.

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' Affairs at its August 2, 2001, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 1090, a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans reported favorably to the Senate.

AGENCY REPORT

On June 28, 2001, the Honorable Leo S. Mackay, Jr., Ph.D., Deputy Secretary for the Department of Veterans Affairs, appeared before the Committee and submitted testimony on, among other things, S. 1090, a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans. Excerpts from this statement are reprinted below:

STATEMENT OF LEO S. MACKAY, JR., PH.D., DEPUTY SECRETARY, DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several legislative items of great interest to veterans.

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COMPENSATION COLA

The "Veterans' Compensation Cost-of-Living Adjustment Act of 2001," S. 1090, would authorize a cost-of-living adjustment (COLA) for fiscal year (FY) 2002 in the rates of disability compensation and dependency and indemnity compensation (DIC). Section 2 of the draft bill would direct the Secretary of Veterans Affairs to increase administratively the rates of compensation for service-disabled veterans and of DIC for the survivors of veterans whose deaths are service related, effective December 1, 2001. As provided in the President's FY 2002 budget request, the rate of increase would be the same as the COLA that will be provided under current law to veterans' pension and Social Security recipients, which is currently estimated to be 2.5 percent. We estimate that enactment of this section would cost \$376 million during FY 2002, \$7.1 billion over the period FY's 2002–2006 and \$28.5 billion over the period FY's 2002–2011. Although this section is subject to the PAYGO requirement of the Omnibus Budget Reconciliation act of 1990 (OBRA), the PAYGO effect would be zero because OBRA requires that the

full compensation COLA be assumed in the baseline. We believe this proposed COLA is necessary and appropriate in order to protect the benefits of affected veterans and their survivors from the eroding effects of inflation. These worthy beneficiaries deserve no less.

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CHANGES IN EXISTING LAW MADE BY THE COMMITTEE BILL, AS
REPORTED

Since the Committee bill would not repeal or amend any provisions of current law, this report does not contain the material described in clauses (a) and (b) of paragraph 12 of Rule XXVI of the Standing Rules of the Senate.

