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SENATE

{ REPORT
108-163

VETERANS COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2003

OCTOBER 14, 2003.—Ordered to be printed

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

R E P O R T

[To accompany S. 1131]

The Committee on Veterans' Affairs (hereinafter, "Committee"), to which was referred the bill (S. 1131) to increase, effective as of December 1, 2003, 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 2003."

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, 2003, increase the dollar amounts in effects 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) 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 section 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, 2003.

(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 effected December 1, 2003, 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 2004, 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

On May 22, 2003, Committee Chairman Arlen Specter introduced S. 1131, a bill to increase, effective as of December 1, 2003, 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. Committee Member Jim Bunning was an original cosponsor of S. 1131. The bill was referred to the Committee on Veterans' Affairs.

COMMITTEE HEARING

On July 10, 2003, the Committee held a hearing on legislation pending before the Committee. Among the measures on which the Committee received testimony was S. 1131. 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, AMVETS, and the Paralyzed Veterans of America.

COMMITTEE MEETING

On September 30, 2003, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered was S. 1131. The Committee voted by unanimous voice vote to report S. 1131, as introduced, favorably to the Senate.

SUMMARY OF THE COMMITTEE BILL AS REPORTED

The Committee bill contains freestanding provisions that would require the Secretary of Veterans Affairs to increase, effective December 1, 2003, 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;
 - (d) surviving spouses covered under 38 U.S.C. § 1318(b); and
 - (e) 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 Congressional Budget Office (hereinafter, "CBO") currently estimates that the COLA to be provided to Social Security recipients in 2004 will be 2.2 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.

According to its fiscal year 2004 budget, VA estimates that it will provide disability compensation to 2,543,600 veterans with service-connected disabilities in 2004. Among the veterans estimated to receive such compensation are 12 World War I veterans; 387,843 World War II veterans; 157,091 Korean-conflict veterans; 884,177 Vietnam-era veterans; and 517,446 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.

Dependency and indemnity compensation

Under chapter 13 of title 38, VA pays dependency and indemnity compensation (hereinafter, "DIC") 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 \$948 per month and, if the deceased veteran was totally disabled for 8 years prior to death, an additional \$204 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.

In its fiscal year 2004 budget, VA estimates that it will pay DIC benefits to 316,747 survivors, a sum which includes surviving spouses, children, and 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. VA also pays DIC benefits to the surviving spouses and children of veterans who were former prisoners of war and after September 30, 1994, whose deaths were not service connected if the veterans had been receiving (or had been entitled to receive) compensation at the 100-percent rate continuously for not less than one year preceding death.

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	December 1990 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
2001	December 2000 ²	3.5	512.56
2002	December 2001 ²	2.6	525.89
2003	December 2002 ²	1.4	535.88
2004	December 2003 ²	³ 2.2	³ 547.67

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

² December 1994-1995 and 1997-2003 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 and section 205 of Public Law 107-103.

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, 2003. 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. In 2001, this provision was extended until 2011 by section 205 of Public Law 107-103.

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 a least either (1) 10 years, (2) 5 years from the date of discharge from active duty, or (3) 1 year if the veteran was a former prisoner of war.

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 2003 Social Security COLA, and thus the COLA provided for by the Committee bill, will be 2.2 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 (hereinafter, "CBO"), estimates that enactment of the Committee bill would, relative to current law, increase spending by \$420 million in 2004 and by \$560 million annually in subsequent years, but that such increases in spending are assumed in the budget resolution baseline and thus will have no budgetary effect relative to the baseline. Enactment of the Committee bill would not affect the budget of state, local, or tribal governments.

The cost estimate provided by CBO, setting forth a detailed breakdown of costs, follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 2003.

Hon. ARLEN SPECTER,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for S. 1131, the Veterans' Compensation Cost-of-Living Adjustment Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

As ordered reported by the Senate Committee on Veterans' Affairs

S. 1131 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, 2003, 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 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). The authority to round down the COLA increase was extended to 2011 by the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103).

Because the COLA is assumed in the baseline, the COLA provision would have no budgetary effect relative to the baseline. Relative to current law, CBO estimates that enacting this provision would increase spending for these programs by about \$420 million in 2004. (The annualized cost would be about \$560 million in subsequent years.) This estimate assumes that the COLA effective on December 1, 2003, would be 2.2 percent.

S. 1131 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 May 16, 2003, CBO transmitted a cost estimate for H.R. 1683 (an identically titled bill), as ordered reported by the House Committee on Veterans' Affairs on May 15, 2003. On April 25, 2003, CBO transmitted a cost estimate for H.R. 1683 as introduced on April 9, 2003. The three versions of the legislation are identical, as are the three estimates.

The CBO staff contact is Dwayne M. Wright. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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 September 30, 2003, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 1131, a bill to increase, effective as of December 1, 2003, 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 July 10, 2003, the Honorable Daniel L. Cooper, Under Secretary for Benefits, Department of Veterans Affairs, appeared before the Committee and submitted testimony on, among other things, S. 1131, a bill to increase, effective as of December 1, 2003, 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 DANIEL L. COOPER, UNDER SECRETARY FOR
BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

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

* * * * *

S. 1131, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2003," would direct the Secretary of Veterans Affairs to increase administratively the rates of compensation for veterans with service-connected disabilities and of DIC for the survivors of veterans whose deaths are service related, effective December 1, 2003. As provided in the President's FY 2004 budget request, the rate of increase would be the same as the cost-of-living adjustment (COLA) that will be provided under current law to Social Security recipients which is currently estimated to be 2.0 percent. We believe this proposed COLA is necessary to protect the benefits of affected veterans and their survivors from the eroding effects of inflation.

We estimate that enactment of this COLA bill would cost \$355 million during FY 2004 and \$4.3 billion over the period FY 2004 through FY 2013. However, this cost is already assumed in the Budget baseline and, therefore, would not have any effect on direct spending.

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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.