

## Calendar No. 217

109TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
109-138

### VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2005

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SEPTEMBER 21, 2005.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1234]

The Committee on Veterans' Affairs (hereinafter, "Committee"), to which was referred the bill (S. 1234) to increase, effective as of December 1, 2005, 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 bill do pass.

#### INTRODUCTION

On June 14, 2005, Committee Chairman Larry E. Craig introduced S. 1234, a bill to increase, effective as of December 1, 2005, 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. The bill was referred to the Committee on Veterans' Affairs.

#### COMMITTEE HEARING

On June 23, 2005, the Committee held a hearing on legislation pending before the Committee. Among the measures on which the Committee received testimony was S. 1234. 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 July 28, 2005, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered was S. 1234. The Committee voted by unanimous voice vote to report favorably S. 1234, as introduced, 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, 2005, 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 (hereinafter, "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;

(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 2006 will be 2.3 percent.

## DISCUSSION

## 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 2006 budget, VA estimates that it will provide disability compensation to 2,688,248 veterans with service-connected disabilities in fiscal year 2006. Among the veterans estimated to receive such compensation are 12 World War I veterans; 347,126 World War II veterans; 162,549 Korean-conflict veterans; 944,799 Vietnam-era veterans; and 639,690 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, United States Code, VA pays 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 \$993 per month and, if the deceased veteran was totally disabled for 8 years prior to death, an additional \$213 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 2006 budget, VA estimates that it will pay DIC benefits to 335,081 survivors, a sum that 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, 1999, 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 <sup>1</sup> .....	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 <sup>2</sup> .....	2.8	442.89
1996 .....	December 1995 <sup>2</sup> .....	2.6	454.41
1997 .....	December 1996 .....	2.9	467.59
1998 .....	December 1997 <sup>2</sup> .....	2.1	477.41
1999 .....	December 1998 <sup>2</sup> .....	1.3	483.62
2000 .....	December 1999 <sup>2</sup> .....	2.4	495.23
2001 .....	December 2000 <sup>2</sup> .....	3.5	512.56
2002 .....	December 2001 <sup>2</sup> .....	2.6	525.89
2003 .....	December 2002 <sup>2</sup> .....	1.4	535.88
2004 .....	December 2003 <sup>2</sup> .....	2.1	547.13
2005 .....	December 2004 <sup>2</sup> .....	2.7	561.90
2006 .....	December 2005 <sup>2</sup> .....	<sup>3</sup> 2.3	<sup>3</sup> 574.82

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

<sup>2</sup> December 1994-1995 and 1997-2006 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, section 8031 of Public Law 105-33 and section 205 of Public Law 107-103, and section 706 of Public Law 108-183.

<sup>3</sup> 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, 2005. The rates would be increased by the same per-

centage 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 2003, this provision was extended until 2013 by section 706 of Public Law 108–183.

The increases in DIC automatically would result in identical percentage increases in benefits paid at DIC rates under section 1318 of title 38, United States Code, 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 (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.

The Congressional Budget Office (hereinafter, “CBO”), in its most recent baseline, estimated that the Social Security COLA affecting fiscal year 2006 payments, and thus the COLA provided for by the Committee bill, will be 2.3 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 CBO, estimates that enactment of the Committee bill would, relative to current law, increase spending by \$538 million in 2006 and by \$720 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, August 3, 2005.*

Hon. LARRY E. CRAIG,  
*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. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005.

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.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

#### *S. 1234—Veterans' Compensation Cost-of-Living Adjustment Act of 2005*

S. 1234 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, 2005, 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 CBO's 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) and extended to 2013 by the Veterans Benefits Act of 2003 (Public Law 108–183).

Because the COLA is assumed in CBO's baseline, the COLA provision would have no budgetary effect relative to that baseline. Relative to current law, CBO estimates that enacting this provision would increase spending for these programs by \$538 million in 2006. (The annualized cost would be \$720 million in subsequent years.) This estimate assumes that the COLA effective on December 1, 2005, would be 2.3 percent.

S. 1234 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 June 29, 2005, CBO transmitted a cost estimate for H.R. 1220, the Veterans' Cost-of-Living Adjustment Act of 2005, as ordered reported by the House Committee on Veterans' Affairs on June 23, 2005. H.R. 1220, as ordered reported, contains provisions that are not included in S. 1234—specifically, provisions that would increase the amount of additional assistance paid to surviving spouses with dependent children under age 18; direct the Department of Veterans Affairs (VA) to conduct a demonstration project to improve business practices within the Veterans Health Administration for recovering payments from third-party payors; and authorize VA to establish six centers to conduct research, education, and clinical activities related to Parkinson's disease. Differences in the estimated costs reflect differences in the two bills.

On June 2, 2005, CBO transmitted a cost estimate for H.R. 1220, as introduced on March 10, 2005. S. 1234 contains similar language to H.R. 1220, as introduced, and the associated costs are identical.

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 S. 1234 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 July 28, 2005, meeting. On that date, the Committee, by unanimous voice vote, ordered to report S. 1234, a bill to increase, effective as of December 1, 2005, 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.

#### AGENCY REPORT

On June 23, 2005, VA Under Secretary for Benefits, the Honorable Daniel L. Cooper, appeared before the Committee on Veterans' Affairs and submitted testimony on, among other things, S. 1234. 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, I appreciate this opportunity to testify today on several bills concerning important programs administered by the Department of Veterans Affairs (VA).

\* \* \* \* \*

#### *S. 1234*

Section 2 of S. 1234, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2005," would direct the Secretary of Veterans Affairs to administratively increase the rates of disability compensation for veterans with service-connected disabilities, additional compensation for their dependents, the clothing allowance, and dependency and indemnity compensation for the survivors of veterans whose deaths are service related, effective December 1, 2005. As provided in the President's fiscal year (FY) 2006 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 veterans' pension and Social Security recipients. We believe this proposed COLA is necessary and appropriate to protect the benefits of affected veterans from the eroding effects of inflation. These worthy beneficiaries deserve no less.

We estimate that enactment of this bill would cost \$399 million during FY 2006 and \$5.5 billion over the period FYs 2006–2015. However, because the cost is already assumed in the Budget baseline, enactment of this provision would not result in any additional cost.

\* \* \* \* \*

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.