

FOR THE RELIEF OF FRANCIS SCHOCHENMAIER AND MARY HUDSON

OCTOBER 11, 2000.—Referred to the Private Calendar and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany S. 785]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (S. 785) for the relief of Francis Schochenmaier and Mary Hudson, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

S. 785 would provide relief to the widows of two veterans whose benefits were erroneously calculated by the Department of Veterans Affairs.

BACKGROUND AND NEED FOR THE LEGISLATION

In the case of Frances Schochenmaier, her husband, a war hero, suffered an injury during his military service and received disability compensation from the Department of Veterans Affairs (VA) from 1945 until 1995. The VA reevaluated his disability and admitted that it made a clear and unmistakable error in compensating

him \$60,567.58 less than he deserved. However, just prior to the VA paying Mr. Schochenmaier the amount due him, he passed away. Although admitting their error, and acknowledging that recent law allowed them some discretion when a “clear and unmistakable error” had been made in a determination of benefits, they determined that Mrs. Schochenmaier could not receive those monies because survivors are restricted from receiving more than 2 years worth of any awards for accrued benefits under a separate part of the statute. The Schochenmaiers were depending on those funds when Mr. Schochenmaier died and now Mrs. Schochenmaier has been diagnosed with cancer making the need for these monies owed to her and her husband even more important.

This bill would allow Mrs. Schochenmaier to receive the \$60,567.58 owed her husband for his disability.

In the case of Mary Hudson, her husband filed a claim with the VA in 1990 for a service-connected disability for hearing loss and nerve damage incurred during World War II. Eight years later, the Board of Veterans Appeals entered a favorable decision on Mr. Hudson’s claim, ruling that Mr. Hudson’s bilateral hearing loss and residuals of concussion were service-connected. On January 12, 2000, the VA mailed a check to Mr. Hudson in the amount of \$97,253 for retroactive benefits relating to his disability. Unfortunately, Mr. Hudson had died 4 days earlier. The benefits check was deposited by the executor of Mr. Hudson’s estate, and the monthly prospective disability check issued on February 1 in the amount of \$937 was returned to the VA per their request.

Subsequently, the VA determined that Mrs. Hudson was not eligible to receive the lump sum check for retroactive disability benefits as a survivor under the same statute cited in the Schochenmaier case and asked that the funds be returned.

Had the VA not delayed rendering a decision on Mr. Hudson’s case for 8 years, he and his wife would have received these monies long before his death.

This bill would allow Mrs. Hudson to keep the \$97,253 received by her and owed her husband for his disability.

COMMITTEE CONSIDERATION

On October 11, 2000, the Committee on the Judiciary met in open session and ordered reported favorably the bill S. 785 without amendment by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the committee believes that the bill would have no significant impact on the Federal budget. This is based on the Congressional Budget Office cost estimate on S. 785. That Congressional Budget Office cost estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 11, 2000.

Hon. HENRY J. HYDE, *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 785, an act for the relief of Francis Schochenmaier and Mary Hudson.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers Jr.
Ranking Democratic Member

S. 785—An act for the relief of Francis Schochenmaier and Mary Hudson.

S. 785 would require that the Secretary of the Treasury pay \$60,567.58 to Francis Schochenmaier as compensation for the underpayment of disability benefits owed to her husband as a result of his military service in World War II. In addition, the legislation would prohibit the Secretary of Veterans Affairs from attempting to recover \$97,253 from the estate of Wallace Hudson. That recovery relates to disability benefits that were provided after Mr. Hudson's death. Because S. 785 would affect direct spending, pay-as-you-go procedures would apply.

On September 26, 2000, CBO transmitted a cost estimate for S. 785, a bill for the relief of Francis Schochenmaier and Mary Hudson, as reported by the Senate Committee on the Judiciary on September 21, 2000. The two versions of the legislation are identical, as are our cost estimates.

The CBO staff contact for this estimate is John R. Righter, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the committee finds the authority for this legislation in the First Amendment of the Constitution.

