

Calendar No. 202

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 114-122

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2015

—————
AUGUST 28, 2015.—Ordered to be printed
—————

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

R E P O R T

[To accompany S. 1493]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs (hereinafter, "Committee"), to which was referred the bill (S. 1493) to provide for an increase, effective December 1, 2015, in 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, and for other purposes, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

INTRODUCTION

On June 3, 2015, Committee Chairman Johnny Isakson introduced S. 1493, a bill to provide for an increase, effective December 1, 2015, in the 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, and for other purposes. Ranking Member Richard Blumenthal and Committee Members Jerry Moran, John Boozman, Dean Heller, Bill Cassidy, Mike Rounds, Thom Tillis, Dan Sullivan, Patty Murray, Bernard Sanders, Sherrod Brown, Jon Tester, Mazie K. Hirono, and Joe Manchin are original cosponsors of the bill, which was referred to the Committee upon introduction.

COMMITTEE HEARING

On May 13, 2015, the Committee held a hearing on legislation pending before the Committee. Testimony on S. 1493 was received from: David R. McLenachen, Acting Deputy Under Secretary for Disability Assistance, Department of Veterans Affairs; Jeffrey E. Phillips, Executive Director, Reserve Officers Association; and Aleks Morosky, Deputy Director, National Legislative Service, Veterans of Foreign Wars of the United States.

COMMITTEE MEETING

On July 22, 2015, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered was S. 1493. The Committee voted by voice vote, without objection, to report favorably S. 1493 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, 2015, the rates of certain benefits paid by the Department of Veterans Affairs (hereinafter, "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 DIC rates paid to:
 - (a) surviving spouses of veterans whose deaths were service-connected;
 - (b) surviving spouses for dependent children below the age of 18;
 - (c) surviving spouses who are so disabled that they need aid and attendance or are permanently housebound;
 - (d) surviving spouses covered under section 1318 of title 38, United States Code (hereinafter, "U.S.C."); 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") estimated in its March 2015 baseline that the COLA to be provided to Social Security recipients in 2015 will be .9 percent.

BACKGROUND AND DISCUSSION

A. Disability compensation

The service-connected disability compensation program under chapter 11 of title 38, U.S.C., 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 and severity of the veteran's disability or combination of disabilities. VA rates compensable disabilities according to its Schedule for Rating Disabilities on a graduated scale ranging from 10 to 100 percent, in 10 percent increments. VA pays higher monthly rates (known as "special monthly compensation") to disabled veterans with certain specific, very severe disabilities or combinations of disabilities.

According to VA, as set forth in its fiscal year 2016 budget, the Department estimates that it will provide compensation to 4,699,871 beneficiaries (4,299,512 veterans and 400,359 survivors) in fiscal year 2016. Among the veterans estimated to receive such compensation are 84,175 World War II veterans; 126,193 Korean Conflict veterans; 1,335,527 Vietnam-era veterans; 2,022,224 veterans of the Persian Gulf War era; and 731,393 veterans who served during peacetime.

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.

B. Dependency and indemnity compensation

Under chapter 13 of title 38, U.S.C., 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, U.S.C., 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 on or after January 1, 1957, but 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, DIC is paid at a flat rate. Surviving spouses currently receive \$1,254.19 per month and, if the deceased veteran was totally disabled for 8 years prior to death, an additional \$266.32 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 may also 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 of age 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.

Parents of deceased veterans whose incomes are below statutorily prescribed income thresholds are eligible for DIC under section 1315 of title 38, U.S.C. As previously noted, parents' DIC rates are adjusted automatically at the same time and by the same percentage as Social Security and VA pension benefits.

In its fiscal year 2016 budget, VA estimates that it will pay DIC benefits to 400,359 survivors, a total that includes surviving spouses, children, and needy surviving parents.

Under section 1318 of title 38, U.S.C., 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 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 1 year preceding death.

Committee Bill. The Committee bill would direct VA to compute and provide increases in the monthly rates of compensation and DIC, effective December 1, 2015. 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 would automatically result in identical percentage increases in benefits paid at DIC rates under section 1318 of title 38, U.S.C., 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 and whose death was not service-connected if the veteran had been receiving (or had been entitled to receive) compensation at the 100 percent rate continuously for not less than 1 year preceding death.

Under section 156(e)(1)(A) of Public Law 97-377, the DIC increases also would automatically 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 Social Security 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, the Further Continuing Appropriations Act of 1993, to restore the benefits eliminated by OBRA 1981. The DIC increase also would apply to these restored benefits, effective December 1, 2015.

The CBO, in its most recent baseline, estimated that the Social Security COLA affecting fiscal year 2015 payments, and thus the

COLA provided for by the Committee bill, will be .9 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.

COMMITTEE BILL 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, not affect direct spending or revenues. 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:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 2015.

Hon. JOHNNY ISAKSON,
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. 1493, the Veterans' Compensation Cost-of-Living Adjustment Act of 2015.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 1493, Veterans' Compensation Cost-of-Living Adjustment Act of 2015

As ordered reported by the Senate Committee on Veterans' Affairs on July 22, 2015

S. 1493 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) that recipients of Social Security receive. The increase would take effect on December 1, 2015.

The COLA that would be authorized by this bill is assumed in CBO's baseline, consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985. Because the COLA is assumed in CBO's baseline, authorizing the COLA would have no budgetary effect relative to the baseline. In CBO's March 2015 baseline, that COLA was projected to be 0.9 percent. In that case, enacting this bill would increase spending for those programs by \$662 million in fiscal year 2016. However, in their recent report, the "2015 Annual Report of the Board of Trustees of the Federal

Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds,” the Social Security Trustees estimated that, because inflation has been so low, there would be no Social Security COLA this year.

Enacting S. 1493 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1493 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On July 2, 2015, CBO transmitted a cost estimate for H.R. 675, the Veterans’ Compensation Cost-of-Living Adjustment Act of 2015, as ordered reported by the House Committee on Veterans’ Affairs on May 21, 2015. S. 1493 is similar to section 101 of H.R. 675, but does not include language that would require the increased payments to be rounded down to the next lowest dollar. Differences in the estimated costs reflect differences in the bills’ language.

The CBO staff contact for this estimate is Dwayne M. Wright. The estimate was approved by H. Samuel Papenfuss, 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. 1493 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(b) 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 22, 2015, meeting. On that date, the Committee voted without dissent to order favorably reported S. 1493, a bill to provide for an increase, effective December 1, 2015, in 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, and for other purposes.

AGENCY REPORT

On May 13, 2015, David R. McLenachen, Acting Deputy Under Secretary for Disability Assistance, Department of Veterans Affairs, appeared before the Committee on Veterans’ Affairs and submitted testimony on, among other things, S. 1493. Excerpts from this statement are reprinted below:

PREPARED STATEMENT OF DAVID R. MCLENACHEN, ACTING DEPUTY UNDER SECRETARY FOR DISABILITY ASSISTANCE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Good afternoon, Mr. Chairman and Members of the Committee. I am pleased to be here today to provide the views of the Department of Veterans Affairs (VA) on pending legislation affecting VA's programs, including the following: S. 270, S. 602, S. 627, the "21st Century Veterans Benefits Delivery Act," the "Veterans' Compensation Cost-of-Living Adjustment Act of 2015," and a draft bill concerning VA small business contracting, Veterans benefits, and burial matters. We will separately provide views on the following bills: S. 681; sections 202, 203 and 206 of the "21st Century Veterans Benefits Delivery Act;" the bill associated with legislative proposals from the Report of the Military Compensation and Retirement Modernization Commission; the bill associated with legislative proposals from the Department of Defense (DOD); and sections 201 and 206 of the consolidated bill related to bills from the 113th Congress. Accompanying me this afternoon is Renée Szybala, Assistant General Counsel.

* * * * *

DRAFT BILL COST-OF-LIVING-ADJUSTMENT ACT

The Draft bill on the "Veterans' Compensation Cost-of-Living Adjustment Act of 2015," would require the Secretary of Veterans Affairs to increase, effective December 1, 2015, the rates of disability compensation for service-disabled Veterans and the rates of DIC for survivors of Veterans. This bill would increase these rates by the same percentage as the percentage by which Social Security benefits are increased effective December 1, 2015. The bill would also require VA to publish the resulting increased rates in the *Federal Register*.

VA strongly supports this bill because it would express, in a tangible way, this Nation's gratitude for the sacrifices made by our service-disabled Veterans and their surviving spouses and children and would ensure that the value of their benefits will keep pace with increases in consumer prices.

The cost of the cost-of-living adjustment (COLA) is included in VA's baseline budget because we assume a COLA will be enacted by Congress each year. Therefore, enactment of the draft bill which would extend the COLA adjustment through November 30, 2016, would not result in costs.

* * * * *

CHANGES IN EXISTING LAW

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.

