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SENATE

{ REPORT
{ 105-341

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1998

SEPTEMBER 21, 1998.—Ordered to be printed

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

REPORT

[To accompany S. 2273]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to which was referred the bill (S. 2273) to increase, effective December 1, 1998, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill, as amended, do pass.

COMMITTEE AMENDMENT

The amendment is as follows:

On page 3, line 12, strike out "1998," and insert in lieu thereof "1999,".

Thus, the text of the bill (strike out the material in brackets and insert the material in italics) as reported is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1998".

SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1998, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amend-

ments of 1997 (Public Law No. 105–98; 111 Stat. 2155). This increase shall be made in such rates and limitations as in effect on November 30, 1998, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1998, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) In the computation of increased dollar amounts pursuant to paragraph (2), any amount which as so computed is not an even multiple of \$1 shall be rounded to the next lower whole dollar amount.

(b) SPECIAL RULE.—The Secretary 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.

(c) PUBLICATION REQUIREMENT.—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 [1998,] 1999, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.

INTRODUCTION

On July 8, 1998, Committee Chairman Arlen Specter introduced S. 2273, the proposed “Veterans’ Compensation Cost-of-Living Adjustment Act of 1998.” S. 2273 would provide for a December 1, 1998, cost-of-living adjustment (COLA), equal to the December 1, 1998, COLA in Social Security benefits, in the rates of compensation for veterans who have service-connected disabilities and in the rates of dependency and indemnity compensation (DIC) for the survivors of those who died from service-connected causes.

COMMITTEE MEETING

On July 28, 1998, the Committee met in open session and voted by unanimous voice vote to report S. 2273, as introduced, favorably to the Senate.

SUMMARY OF S. 2273 AS REPORTED

S. 2273 (hereinafter referred to as the “Committee bill”) contains freestanding provisions that would require the Secretary of Veterans Affairs to increase, effective December 1, 1998, the rates of and limitations on compensation paid to veterans with service-connected disabilities, and the rates of dependency and indemnity compensation (DIC) paid to certain survivors of certain deceased veterans who had had service-connected disabilities. 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 allowances 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;
- (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 educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

The Committee bill would require the Secretary of Veterans Affairs to increase the rates of compensation, allowances, and DIC paid by the same percentage as the COLA provided to Social Security recipients and VA pension beneficiaries that becomes effective on December 1, 1998. The Congressional Budget Office (CBO) estimates that the FY 1999 COLA will be 1.6 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 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 July 1, 1998, VA was providing disability compensation to 2,273,999 veterans with service-connected disabilities. Among the veterans receiving such compensation were 168 World War I veterans; 584,054 World War II veterans; 179,297 Korean-conflict veterans; 728,340 Vietnam-era veterans; and 233,808 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 March 31, 1998, 692,501 veterans received additional compensation on behalf of 1,048,985 dependents.

Dependency and indemnity compensation

Under chapter 13 of title 38, VA pays dependency and indemnity compensation to the survivors of service members 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, certain helpless children age 18 or older, 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 \$850 per month and, if the deceased veteran was totally disabled for 8 years prior to death, an additional \$185 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 August 1, 1997, VA was paying DIC benefits to, or on behalf of, 281,157 surviving spouses, 33,054 children, and 13,083 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 |

HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1975 TO PRESENT—
Continued

| Fiscal year | Effective date | Increase (percent) | Cumulative (1969=\$100) |
|-------------|----------------------------|-----------------------|----------------------------|
| 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 | 1.6 ³ | 485.05 ³ |

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, 1997 and 1998 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, 1998. 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 (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, 1998.

CBO, in its most recent baseline, estimated that the fiscal year 1999 Social Security COLA, and thus the COLA provided for by the Committee bill, will be 1.6 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 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, July 30, 1998.

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. 2273, the Veterans' Compensation Cost-of-Living Adjustment Act of 1998.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

S. 2273—Veterans' Compensation Cost-of-Living Adjustment Act of 1998

S. 2273 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, 1998, and the results of the adjustment would be rounded to the next lower dollar. However, the COLA is assumed in the baseline, pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, 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, enacting this bill would increase spending for these programs by about \$316 million in 1999 and about \$415 million a year thereafter.

The bill 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.

This estimate was prepared by Charles Riemann. This estimate was approved by Robert A. Sunshine, 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 July 28, 1998, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 2273 reported favorably to the Senate.

CHANGES IN EXISTING LAW MADE BY S. 2273, 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.