

## Calendar No. 550

111TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 111-281

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### VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2010

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AUGUST 5, 2010.—Ordered to be printed  
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Mr. AKAKA, from the Committee on Veterans' Affairs,  
submitted the following

### R E P O R T

[To accompany S. 3107]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs (hereinafter, "Committee"), to which was referred the bill (S. 3107) to increase, effective as of December 1, 2010, 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, having considered the same, reports favorably thereon, and recommends that the bill do pass without amendment.

#### INTRODUCTION

On March 11, 2010, Committee Chairman Daniel K. Akaka introduced S. 3107, a bill to increase, effective as of December 1, 2010, 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. Committee Ranking Member, Richard Burr, and Committee Members John D. Rockefeller IV, Patty Murray, Bernard Sanders, Sherrod Brown, Jon Tester, Mark Begich, Roland Burris, Arlen Specter, Johnny Isakson, and Lindsey Graham are original cosponsors of the bill, which was referred to the Committee upon introduction.

#### COMMITTEE HEARING

On May 19, 2010, the Committee held a hearing on legislation pending before the Committee. Testimony on S. 3107 was received

from: Thomas J. Pamperin, Associate Deputy Under Secretary for Policy and Program Management, Veterans Benefits Administration, Department of Veterans Affairs; Ian de Planque, Deputy Director, Veterans Affairs and Rehabilitation Commission, The American Legion; Eric Hilleman, Director, National Legislative Service, Veterans of Foreign Wars of the United States; and Richard Weidman, Executive Director for Policy and Government Affairs, Vietnam Veterans of America.

#### COMMITTEE MEETING

On August 5, 2010, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered was S. 3107. The Committee voted by voice vote, without objection, to report favorably S. 3107 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, 2010, 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 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 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; 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 2010 will be .1 percent.

## BACKGROUND AND DISCUSSION

*A. 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 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 2011 budget, the Department estimates that it will provide disability compensation to 3,434,556 veterans with service-connected disabilities in fiscal year 2011. Among the veterans estimated to receive such compensation are 1 World War I veteran; 209,405 World War II veterans; 151,030 Korean-conflict veterans; 1,317,466 Vietnam-era veterans; 1,174,326 veterans of the Persian Gulf War era; and 582,328 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, 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, United States Code, 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 \$1,154 per month and, if the deceased veteran was totally disabled for eight years prior to death, will receive an additional \$246 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 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, United States Code. 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 2011 budget, VA estimates that it will pay DIC benefits to 380,525 survivors, a total that includes surviving spouses, children, and needy surviving parents.

Under section 1318 of title 38, United States Code, 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 five 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 who die after September 30, 1999, and 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.

#### *Committee bill*

The Committee bill would direct VA to compute and provide increases in the monthly rates of compensation and DIC, effective December 1, 2010. 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 2003, this provision was extended until 2013 by section 706 of Public Law 108-183.

The increases in DIC would automatically 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) five years from the date of discharge from active duty, or (3) one year if the veteran was a former prisoner of war who died after September 30, 1999, 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 one 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, 2000.

The CBO, in its most recent baseline, estimated that the Social Security COLA affecting fiscal year 2011 payments, and thus the COLA provided for by the Committee bill, will be .1 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.

#### CONGRESSIONAL BUDGET OFFICE 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 \$50 million in 2011 and by \$70 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:

AUGUST 5, 2010.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3107, the Veterans' Compensation Cost-of-Living Adjustment Act of 2010.

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 W. ELMENDORF.

Enclosure.

#### *S. 3107—Veterans' Compensation Cost-of-Living Adjustment Act of 2010*

S. 3107 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, 2010, and the resulting adjustment would be rounded to the next lower dollar.

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, and savings from rounding it down were achieved by the Balanced Budget Act of 1997 (Public Law 105–33) as extended 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 the baseline. Relative to current law, CBO estimates that enacting this bill would increase spending for those programs by \$50 million in fiscal year 2011. (The annualized cost would be about \$70 million in subsequent years.) This estimate assumes that the COLA effective on December 1, 2010, would be 0.1 percent.

S. 3107 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.

Enacting S. 3107 would not affect direct spending or revenues relative to CBO's baseline; therefore, pay-as-you-go procedures do not apply.

On March 12, 2010, CBO transmitted a cost estimate for H.R. 4667, the Veterans' Compensation Cost-of-Living Adjustment Act of 2010, as ordered reported by the House Committee on Veterans' Affairs on March 10, 2010. The two bills are similar and their estimated costs are the same.

The CBO staff contact for this estimate is Dwayne M. Wright. The estimate was approved by Theresa Gullo, 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. 3107 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 August 5, 2010, meeting. On that date, the Committee, by voice vote, without objection, ordered to report S. 3107, a bill to increase, effective as of December 1, 2010, 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 19, 2010, Thomas J. Pamperin, Associate Deputy Under Secretary for Policy and Program Management, Veterans Benefits Administration, Department of Veterans Affairs, appeared before the Committee on Veterans' Affairs and submitted testimony on, among other things, S. 3107. Excerpts from this statement are reprinted below:

STATEMENT OF THOMAS J. PAMPERIN, ASSOCIATE DEPUTY UNDER SECRETARY FOR POLICY AND PROGRAM MANAGEMENT, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman, I am pleased to be here today to provide the Department of Veterans Affairs' (VA) views on pending legislation.

\* \* \* \* \*

S. 3107, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2010," would provide an increase for the rates of disability compensation and dependency and indemnity compensation by a percentage commensurate with the annual Social Security cost-of-living adjustment, effective December 1, 2010.

VA supports this bill, which is consistent with the President's FY 2011 budget request. This legislation is necessary to guard the affected benefits against any eroding effects of inflation. The worthy recipients of these benefits deserve no less.

Current economic assumptions project no increase in the cost-of-living. If that assumption holds true, there would be no benefit costs associated with this bill, nor would there be an administrative cost.

\* \* \* \* \*

CHANGES IN EXISTING LAW

Because 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.

