

VETERANS' COMPENSATION COST-OF-LIVING
ADJUSTMENT ACT OF 2008

MAY 15, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 5826]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5826) to increase, effective as of December 1, 2008, 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, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5826 was introduced by Representative Ciro D. Rodriguez of Texas on April 16, 2007. This legislation would provide, effective December 1, 2008, a cost-of-living adjustment (COLA) to the rates of disability compensation (DIC) for veterans with service-connected disabilities and to the rates of DIC for survivors of certain service-connected disabled veterans. The percentage amount would be equal to the increase for benefits provided under the Social Security Act, which is calculated based upon changes in the Consumer Price Index.

BACKGROUND AND DISCUSSION

Congress has provided annual increases in these rates every fiscal year since 1976. For fiscal year 2008, the cost-of-living increase for VA disability compensation and DIC, enacted in accordance with P.L. 110-111, was 2.3 percent.

The COLA provided in H.R. 5826 would apply to:

1. The 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:
 - Surviving spouses of veterans whose deaths were service-connected;
 - Surviving spouses for dependent children below the age of eighteen;
 - Surviving spouses who are so disabled that they need aid and attendance or are permanently housebound;
 - Surviving spouses covered under section 1318 of title 38, United States Code; and,
 - 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.

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 a disability or combination of disabilities incurred or aggravated during active duty in the Armed Forces. The purpose of the disability compensation program is to represent the average loss in earnings capacity. The amount of compensation paid depends on the nature and severity of the veteran's disability or combination of disabilities and an assessment

of the extent to which the disability impairs earnings capacity. To be eligible to receive disability compensation, a veteran's disability must not be the result of willful misconduct, and the veteran must have been discharged under other than dishonorable conditions. The responsibility for determining a veteran's entitlement to service-connection for a disability and the amount of said compensation rests with the Department of Veterans Affairs (VA).

Pursuant to section 1155 of title 38, United States Code, 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 totally disabled veterans with certain specific, very severe disabilities or combinations of disabilities.

As set forth in its fiscal year 2009 budget request, VA estimates that it will provide disability benefits compensation to 3,014,841 veterans with service-connected disabilities. Among the veterans estimated to receive compensation benefits are: two World War I and Prior veterans; 267,250 World War II veterans; 157,690 Korean-conflict veterans; 1,031,410 Vietnam-era veterans; 956,090 veterans of the Persian Gulf War era; and 602,399 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.

DEPENDENCY AND INDEMNITY COMPENSATION

Surviving spouses and dependent children of veterans who died of disabilities determined by VA to be service-connected (including veterans who died while on active duty) or who had a service-connected disability rated at 100 percent for certain periods of time prior to death are entitled to receive monthly DIC benefits. VA pays DIC to the survivors of those servicemembers or veterans who died on or after January 1, 1957. The purpose of DIC, authorized under chapter 13 of title 38, United States Code, is to provide compensation to the appropriate survivors for the loss of financial support as a result of the service-connected death of the veteran.

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. In its fiscal year 2009 budget, the VA estimates that it will provide compensation benefits to 341,502 survivors.

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 \$1,067 per month and, if the deceased veteran was totally disabled for eight years prior to death, they re-

ceive an additional \$228 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.

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 mentioned, parents' DIC rates are adjusted automatically at the same time, and by the same percentage, as Social Security and VA pension benefits.

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 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. In its fiscal year 2009 budget, the VA indicates that veteran termination data has demonstrated that survivors typically access compensation benefits within three years.

OTHER MATTERS

Pursuant to section 8031 of the Balanced Budget Act of 1997 (Public Law 105-33), increases in amounts of compensation made by H.R. 5826 that are not even multiples of \$1 will be rounded down to the next lower whole dollar amount. This "COLA-round-down" 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) ten 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 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 OBRA 1981 (effective December 1, 2000). The DIC increase provided by H.R. 5826 also would apply to these restored benefits.

The Congressional Budget Office (CBO), in its most recent baseline, estimated that the Social Security COLA affecting fiscal year 2009 payments, and thus the COLA provided for by the Committee bill, will be 2.8 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.

HEARINGS

There were no hearings held in connection to the bill reported by the Committee.

COMMITTEE CONSIDERATION

On April 30, 2008, the full Committee met in open markup session, a quorum being present, and ordered H.R. 5826 favorably reported to the House of Representatives, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 5826 reported to the House. A motion by Mr. Buyer of Indiana to order H.R. 5826 reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by

the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 5826 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 5826 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 5826 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 12, 2008.

Hon. BOB FILNER,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5826, the Veterans' Compensation Cost-of-Living Adjustment Act of 2008.

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

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 5826—Veterans' Compensation Cost-of-Living Adjustment Act of 2008

H.R. 5826 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, 2008, 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 bill would increase spending for those programs by \$857 million in 2009. (The annualized cost would be about \$1.1 billion in subsequent years.)

This estimate assumes that the COLA effective on December 1, 2008, will be 2.8 percent.

H.R. 5826 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.

The CBO staff contact for this estimate is Dwayne M. Wright. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 5826 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 5826.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. 5826 is provided by Article I, section 8 of the Constitution of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section would provide the short title of H.R. 5826 as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2008.”

Section 2. Increase in rates of disability compensation and dependency and indemnity compensation

Section 2(a) of H.R. 5826 would require the Secretary of Veterans Affairs to increase, effective December 1, 2008, the dollar amounts for the payment of disability compensation and Dependency and Indemnity Compensation.

Section 2(b) of the bill would specify the programs to receive increased dollar amounts: compensation in effect under section 1114 of title 38, United States Code; additional compensation for dependents in effect under sections 1115(1) of title 38, United States Code; clothing allowance in effect under section 1162 of title 38, United States Code; Dependency and Indemnity Compensation to Surviving Spouse under subsections (a) through (d) of sections 1311 of title 38, United States Code; and Dependency and Indemnity Compensation to Children—each of the dollar amounts under sections 1313(a) and 1314 of title 38, United States Code.

Section 2(c)(1) of the bill would specify that each amount shall be increased by the same percentage by which benefits are increased under title II of the Social Security Act (42 U.S.C. 401 et seq.).

Section 2(c)(2) of the bill would round-down to the next lower dollar amount all compensation and DIC benefits, when the amount is not in the whole dollar amount.

Section 2(d) of the bill would provide a special rule authorizing the Secretary of Veterans Affairs to adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Section 3. Publication of adjusted rates

Section 3 of the bill would require the Secretary of Veterans Affairs to publish in the Federal Register the amounts specified in subsection (b), as increased pursuant to that section.