

SPINA BIFIDA HEALTH CARE PROGRAM EXPANSION ACT

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. 5729]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5729) to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide comprehensive health care to children of Vietnam veterans born with Spina Bifida, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Spina Bifida Health Care Program Expansion Act”.

**SEC. 2. PROVISION OF COMPREHENSIVE HEALTH CARE BY SECRETARY OF VETERANS AFFAIRS TO CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA.**

(a) **PROVISION OF COMPREHENSIVE HEALTH CARE.**—Section 1803(a) of title 38, United States Code, is amended by striking “such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition” and inserting “health care under this section”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to care furnished after the date of the enactment of this Act.

## PURPOSE AND SUMMARY

H.R. 5729 was introduced by Representative Brad Ellsworth of Indiana on April 8, 2008. The legislation would expand the Department of Veterans Affairs Spina Bifida Health Care Program to provide a comprehensive health benefit to beneficiaries.

The Spina Bifida Health Care Program is a federal health benefit administered by the Department of Veterans Affairs (VA). The program was established to provide appropriate health care benefits to children who were born with Spina Bifida and whose birth parent is a veteran of Vietnam or Korea. The current program is fee-for-service and provides payment for medical services and supplies related to Spina Bifida and conditions associated with Spina Bifida. H.R. 5729 expands the current benefit to provide comprehensive health care to children of Vietnam and Korean War veterans born with Spina Bifida.

## BACKGROUND AND DISCUSSION

Spina Bifida is a developmental birth defect in which the embryonic neural tube does not completely close, resulting in an incompletely formed spinal cord. The vertebrae overlying the open portion of the spinal cord do not fully form and remain unfused and open. Spina Bifida can cause varying degrees of sensory, motor and/or cognitive impairment. Other conditions associated with Spina Bifida include latex allergy, obesity, skin breakdown, gastrointestinal disorders, learning disabilities, depression, and social and sexual issues.

The “Agent Orange Benefits Act,” Public Law 104–204 established a benefits package for children of Vietnam veterans born with Spina Bifida, possibly as a result of one or both parents’ exposure to herbicides during active service in the Republic of Vietnam during the Vietnam era. Benefits include lifetime health services for Spina Bifida and “any disability associated” with Spina Bifida, a monthly monetary allowance, and VA vocational training and rehabilitation services.

The “Veterans Benefits Act of 2003,” Public Law 108–183, mandated that benefits of the Spina Bifida Health Care Program be extended to the natural children of those who served in Korea during the period of September 1, 1967, to August 31, 1971. In order to be eligible for this benefit, the veteran must have served in the active military, naval or air service and must have been exposed to

an herbicide agent during such service in or near the Korean demilitarized zone.

The Spina Bifida Health Care Program currently has approximately 1,200 beneficiaries and this number is not expected to grow in the future. As currently administered, this program puts a significant administrative burden on beneficiaries and their families. Because current law requires that care provided under the Spina Bifida Health Care Program be for medical services for Spina Bifida or related conditions, beneficiaries must provide documentation that the care received was related to Spina Bifida. This requirement is often burdensome and difficult, as Spina Bifida has numerous secondary conditions, and it is oftentimes difficult or impossible to ascertain if a condition is secondary to Spina Bifida.

H.R. 5729 would provide Spina Bifida Health Care Program beneficiaries with a comprehensive health benefit. Because there is no requirement that health care provided under this program be related to Spina Bifida, it will decrease the administrative burden on the beneficiaries by allowing them to access a comprehensive health benefit. Additionally, many program beneficiaries' parents are their primary caretaker. As these parents age, and are no longer able to provide the level of care that their children require, this bill ensures they will receive the services they need when their caretakers are no longer able to care for them.

#### HEARINGS

On April 15, 2008, the Subcommittee on Health held a legislative hearing on a number of bills introduced in the 110th Congress, including H.R. 5729. The following witnesses testified: The Honorable Bob Filner of California; The Honorable Michael H. Michaud of Maine; The Honorable Ginny Brown-Waite of Florida; The Honorable Ed Perlmutter of Colorado; The Honorable Christopher P. Carney of Pennsylvania; The Honorable Brad Ellsworth of Indiana; Mr. Joseph L. Wilson, Deputy Director, Veterans Affairs and Rehabilitation Commission, The American Legion; Ms. Joy J. Ilem, Assistant National Legislative Director, Disabled American Veterans; Mr. Christopher Needham, Senior Legislative Associate, National Legislative Services, Veterans of Foreign Wars of the United States; Mr. Richard F. Weidman, Executive Director for Policy and Government Affairs, Vietnam Veterans of America; Mr. Bernie Edelman, Deputy Director, Vietnam Veterans of America; Gerald M. Cross, MD, FAAFP, Principal Deputy Under Secretary for Health, Veterans Health Administration, U.S. Department of Veterans Affairs accompanied by Mr. Walter Hall, Assistant General Counsel, U.S. Department of Veterans Affairs. Those submitting statements for the record included: American Veterans (AMVETS) and the Paralyzed Veterans of America.

#### COMMITTEE CONSIDERATION

On April 23, 2008, the Subcommittee on Health met in open markup session and ordered favorably forwarded to the full Committee H.R. 5729, without amendment, by voice vote.

On April 30, 2008, the full Committee met in open markup session, a quorum being present, and ordered H.R. 5729, as amended, favorably reported to the House of Representatives, by voice vote.

During consideration of the bill the following amendment was considered:

An amendment by Mr. Buyer of Indiana to strike the authority to provide domiciliary care, was agreed to 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. 5729 reported to the House. A motion by Mr. Buyer of Indiana to order H.R. 5729, as amended, 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. 5729 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. 5729 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. 5729 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. 5729, the Spina Bifida Health Care Program Expansion Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

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

Enclosure.

*H.R. 5729—Spina Bifida Health Care Program Expansion Act*

H.R. 5729 would authorize the Department of Veterans Affairs (VA) to expand the health care benefits provided to the children, born with spina bifida, of certain veterans. CBO estimates that implementing the bill would cost \$11 million over the 2009–2013 period, assuming appropriation of the estimated amounts. Enacting the bill would have no effect on direct spending or revenues.

Spina bifida is a congenital condition in which the spine fails to close completely and can lead to severe neurological damage and mobility impairments. Under two sections of current law (38 U.S.C. 1803 and 38 U.S.C. 1821), the children of Vietnam and Korean war veterans who were born with spina bifida are eligible for VA health care related to that condition. H.R. 5729 would expand that benefit and allow them to receive comprehensive health care through VA. (The bill amends 38 U.S.C. 1803, which addresses children of Vietnam veterans. However, 38 U.S.C. 1821 requires that the same benefits be provided to eligible children of veterans of the Korean war.)

In 2007, VA provided health care related to spina bifida to about 745 beneficiaries at an average cost of \$22,000 per person; that population has remained fairly stable in recent years. Based on information from VA about the population and the wide range and complexity of conditions related to spina bifida, CBO estimates that VA currently provides about 90 percent of the comprehensive health care needs of this population. CBO expects that the expansion of benefits under H.R. 5729 would not significantly increase the number of individuals seeking care for spina bifida from VA. We expect that people who do not currently use VA's services under this program would prefer to maintain continuity of care with their current health care providers.

CBO estimates that under the bill, VA would provide comprehensive care to beneficiaries it already serves at an added cost of \$2,500 per person in 2009, for a total of \$2 million, assuming appropriation of the necessary amounts. After adjusting for inflation, CBO estimates those costs would rise to \$3,400 per person by 2013, for a total of \$3 million, assuming appropriation of the necessary amounts.

H.R. 5729 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.

The CBO staff contact for this estimate is Sunita D'Monte. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 5729 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. 5729.

#### 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. 5729 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. 5729 as the "Spina Bifida Health Care Program Expansion Act."

##### *Section 2. Provision of comprehensive health care by Secretary of Veterans Affairs to children of Vietnam veterans born with Spina Bifida.*

This section amends section 1803 of title 38, United States Code, to provide a comprehensive health benefit to the children of Vietnam veterans born with Spina Bifida.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 1803 OF TITLE 38, UNITED STATES CODE**

**§ 1803. Health care**

(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with [such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition] *health care under this section.*

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