

AMERICAN HEROES COLA ACT

MAY 17, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 570]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 570) to amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in 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, 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. 570, the American Heroes COLA Act, was introduced on February 6, 2013, by Representative Jon Runyan of New Jersey. H.R. 570 would provide for automatic annual cost-of-living increases in the rates of veterans' disability compensation and dependency and indemnity compensation. This is accomplished by indexing these veteran benefit increases to increases in benefit amounts payable under title II of the Social Security Act.

BACKGROUND AND NEED FOR LEGISLATION

The basic purpose of the disability compensation program is to provide relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability. This amount in turn is required by law to represent, to the extent practicable, the average impairment in earning capacity in civilian occupations resulting from such disability or combination of disabilities.

To be eligible to receive disability compensation, a veteran must have a disability incurred or aggravated during military service, which is not the result of willful misconduct, and must have been discharged under other than dishonorable conditions. The responsibility for determining a veteran's entitlement to service-connection for a disability rests with VA.

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. Additional amounts are paid to survivors who are housebound, in need of aid and attendance, or who have minor children. The purpose of DIC benefits authorized under chapter 13 of title 38, United States Code, is to provide partial compensation to the appropriate survivors for the loss in financial support due to the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement because the Nation, in part, assumes the legal and moral obligation of the veteran to support the spouse and children.

Each year, the Committee approves and reports legislation that sets the cost-of-living adjustment (COLA) by reference to the yet-to-be-determined Social Security increase. Although the Committee typically passes such legislation each year, veterans must wait for Congress to act before they are granted such an increase.

In contrast, Social Security beneficiaries receive an automatic and annual COLA if there is an increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) from the third quarter of the last year a COLA was determined to the third quarter of the current year. Accordingly, service-disabled veterans who are receiving disability benefits from the Department of Veterans Affairs (VA) should also automatically see their benefits increase, particularly in light of the current economic climate. To right this inequity, rather than being subject to the uncertainty of an annual COLA bill, this section makes compensation to veterans and their dependents subject to the same COLA as Social Security

recipients permanently. By making such an increase automatic, veterans would not have to wait for Congress to pass an annual COLA bill before receiving the COLA increase in benefits. Further, because a COLA is assumed in CBO's baseline, there is no projected increase in mandatory spending relative to the baseline projected for this provision.

HEARINGS

On April 16, 2013, the Subcommittee on Disability Assistance and Memorial Affairs conducted a legislative hearing on various bills introduced during the 113th Congress, including H.R. 570. The following witnesses testified at the hearing:

The Honorable Bill Johnson, U.S. House of Representatives; The Honorable Chellie Pingree, U.S. House of Representatives; The Honorable Timothy Walz, U.S. House of Representatives; Mr. Jeff Hall, Assistant National Legislative Director, Disabled American Veterans; Mr. Raymond Kelley, Director of National Legislative Service, Veterans of Foreign Wars; Colonel Robert F. Norton, USA (Ret.), Deputy Director of Government Relations, Military Officers Association of America; Heather Ansley, Esq., MSW, Vice President of Veterans Policy, VetsFirst, a program of United Spinal Association; Mr. Michael D. Murphy, Executive Director, National Association of County Veterans Service Officers; Mr. Richard Hipolit, Assistant General Counsel, U.S. Department of Veterans Affairs; Mr. David R. McLenachen, Director, Pension and Fiduciary Service, U.S. Department of Veterans Affairs, accompanied by Ms. Mary Ann Flynn, Deputy Director, Policy and Procedures, Compensation Service, U.S. Department of Veterans Affairs. The following groups submitted statements for the record: The American Legion; Iraq and Afghanistan Veterans of America; National Organization of Veterans Advocates; and Wounded Warrior Project.

SUBCOMMITTEE CONSIDERATION

On April 25, 2013, the Subcommittee on Disability Assistance and Memorial Affairs met in an open markup session, a quorum being present, and favorably forwarded to the full Committee H.R. 570 by voice vote.

COMMITTEE CONSIDERATION

On May 8, 2013, the full Committee met in an open markup session, a quorum being present and ordered H.R. 570 reported favorably 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. 570 reported to the House. A motion by Ranking Member Michael H. Michaud of Maine to report H.R. 570 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. 570 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 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. 570 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. 570, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

MAY 14, 2013.

Hon. JEFF MILLER,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 570, the American Heroes COLA Act.

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, *Director.*

Enclosure.

H.R. 570—American Heroes COLA Act

Summary: H.R. 570 would provide a permanent annual cost-of-living adjustment (COLA) to the amounts paid to veterans for dis-

ability compensation and to their survivors for dependency and indemnity compensation, and would round down that adjustment to the next lower whole dollar. The effective date of those provisions would be December 1, 2014. CBO estimates that enacting H.R. 570 would decrease direct spending by \$26 million in 2015 and by about \$1.4 billion over the 2015–2023 period.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting H.R. 570 would not affect revenues.

H.R. 570 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the federal government: The estimated budgetary impact of H.R. 570 is shown in the following table. The costs of this legislation fall within budget function 700 (veterans benefits and services).

	By fiscal year, in millions of dollars—											
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2014– 2018	2014– 2023
CHANGES IN DIRECT SPENDING												
Estimated Budget												
Authority	0	–26	–55	–84	–112	–144	–177	–212	–252	–290	–277	–1,351
Estimated Outlays	0	–26	–55	–84	–112	–144	–177	–212	–252	–290	–277	–1,351

Basis of estimate:

Automatic COLA

Section 2 would provide a permanent annual COLA to the amounts paid to veterans for disability compensation and to their survivors for dependency and indemnity compensation. The COLA would equal the cost-of-living adjustment payable to Social Security recipients and would take effect on December 1 of each year.

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. Because the COLA is assumed in CBO's baseline, enacting this provision would have no budgetary impact relative to that baseline. CBO estimates that the projected COLA for 2015 (1.9 percent), which would take effect in the second quarter of fiscal year 2015, would equal \$2.2 billion. The full-year cost of that increase would equal \$2.8 billion. Over the 2015–2023 period, CBO estimates that the COLA would amount to \$74.9 billion.

Permanent extension of provision to round-down COLA

Section 2 also would require that increases in the monthly rates resulting from the COLA be rounded down to the next lower whole dollar. This provision would apply to both disability compensation and dependency and indemnity compensation payments. A similar provision exists under current law and will expire at the end of 2013. Based on projections of the number of beneficiaries and payments made each year, CBO estimates that this section would result in direct spending savings of about \$1.4 billion over the 2015–2023 period.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net

changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 570, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON VETERANS' AFFAIRS ON MAY 8, 2013

	By fiscal year, in millions of dollars—												
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2013–2018	2013–2023
	NET DECREASE (–) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	0	–26	–55	–84	–112	–144	–177	–212	–252	–290	–277	–1,351

Intergovernmental and private-sector impact: H.R. 570 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Dwayne M. Wright; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Elizabeth Bass.

Estimate 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. 570 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. 570.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare 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.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee finds that no provision of H.R. 570, the "American Heroes COLA Act," establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of

Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee estimates that H.R. 570 does not require any directed rulemakings.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1—Short title

This section provides the short title of H.R. 570 as the “American Heroes COLA Act of 2013.”

Section 2—Automatic annual increase in rates of disability compensation and dependency and indemnity compensation

Section 2(a) would make the cost-of-living adjustment for veterans’ disability payments automatic whenever there is an increase in benefit amounts payable under title II of the Social Security Act. Section 2(a) would also require the Secretary to publish any such increase in the Federal Register, and would require that each dollar amount increased, if not a whole dollar amount, be rounded to the next lower whole dollar amount. This section would allow the Secretary of Veterans Affairs to adjust administratively the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38.

Section 2(b) would make the automatic increase in cost-of-living adjustments effective as of December 1, 2014.

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * *

§ 5312. Annual adjustment of certain benefit rates

(a) * * *

* * * * *

(d)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in paragraph (2), as such amounts were in effect immediately before the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

(2) The dollar amounts to be increased pursuant to paragraph (1) are the following:

(A) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts in effect under section 1114 of this title.

(B) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of this title.

(C) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of this title.

(D) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts in effect under subsections (a) through (d) of section 1311 of such title.

(E) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts in effect under sections 1313(a) and 1314 of such title.

(3) Whenever there is an increase under paragraph (1) in amounts in effect for the payment of disability compensation and dependency and indemnity compensation, the Secretary shall publish such amounts, as increased pursuant to such paragraph, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(4) Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(5) The Secretary of Veterans Affairs may 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 (72 Stat. 1263) who have not received compensation under chapter 11 of this title.

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