

VETERANS' COMPENSATION COST-OF-LIVING
 ADJUSTMENT ACT OF 2015

JULY 16, 2015.—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. 675]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 675) to increase, effective as of December 1, 2015, 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, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment	2
Purpose and Summary	6
Background and Need for Legislation	7
Hearings	12
Subcommittee Consideration	13
Committee Consideration	13
Committee Votes	14
Committee Oversight Findings	14
Statement of General Performance Goals and Objectives	14
New Budget Authority, Entitlement Authority, and Tax Expenditures	14
Earmarks and Tax and Tariff Benefits	14
Committee Cost Estimate	14
Congressional Budget Office Estimate	14
Federal Mandates Statement	19
Advisory Committee Statement	19
Constitutional Authority Statement	19
Applicability to Legislative Branch	20
Statement on Duplication of Federal Programs	20
Disclosure of Directed Rulemaking	20
Section-by-Section Analysis of the Legislation	20

AMENDMENT

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2015”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMPENSATION COST-OF-LIVING ADJUSTMENT

Sec. 101. Increase in rates of disability compensation and dependency and indemnity compensation.
Sec. 102. Publication of adjusted rates.

TITLE II—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Sec. 201. Extending temporary expansion of United States Court of Appeals for Veterans Claims.
Sec. 202. Recall of retired judges of United States Court of Appeals for Veterans Claims.
Sec. 203. Life insurance program relating to judges of United States Court of Appeals for Veterans Claims.
Sec. 204. Voluntary contributions to enlarge survivors’ annuity.
Sec. 205. Salaries of judges of United States Court of Appeals for Veterans Claims.
Sec. 206. Selection of chief judge of United States Court of Appeals for Veterans Claims.

TITLE III—IMPROVEMENT OF CLAIMS PROCESSING

Sec. 301. Interim payments of compensation benefits under laws administered by the Secretary of Veterans Affairs.
Sec. 302. Claims processors training.
Sec. 303. Notice of average times for processing claims and percentage of claims approved.

TITLE IV—OTHER MATTERS

Sec. 401. Clarification of eligible recipients of certain accrued benefits upon death of beneficiary.
Sec. 402. Observance of Veterans Day.

TITLE I—COMPENSATION COST-OF-LIVING ADJUSTMENT

SEC. 101. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) **RATE ADJUSTMENT.**—Effective on December 1, 2015, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2015, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) **AMOUNTS TO BE INCREASED.**—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) **WARTIME DISABILITY COMPENSATION.**—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) **ADDITIONAL COMPENSATION FOR DEPENDENTS.**—Each of the dollar amounts under section 1115(1) of such title.

(3) **CLOTHING ALLOWANCE.**—The dollar amount under section 1162 of such title.

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

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

(c) **DETERMINATION OF INCREASE.**—

(1) **PERCENTAGE.**—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2015, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

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

(d) **SPECIAL RULE.**—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 title 38, United States Code.

SEC. 102. PUBLICATION OF ADJUSTED RATES.

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 101(b), as increased under that section, not later than the date on which 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 2016.

TITLE II—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SEC. 201. EXTENDING TEMPORARY EXPANSION OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7253(i)(2) of title 38, United States Code, is amended by striking “January 1, 2013” and inserting “January 1, 2020”.

SEC. 202. RECALL OF RETIRED JUDGES OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Paragraph (1) of section 7257(b) of title 38, United States Code, is amended to read as follows:

“(1)(A) The chief judge may recall for further service on the Court a recall-eligible retired judge in accordance with this section. Such a recall shall be made upon written certification by the chief judge that substantial service is expected to be performed by the retired judge for such period, not to exceed 90 days (or the equivalent), as determined by the chief judge to be necessary to meet the needs of the Court.

“(B)(i) A recall-eligible judge may request that the chief judge recall the recall-eligible judge for a period of service of not less than 90 days (or the equivalent).

“(ii) The chief judge shall approve a request made by a recall-eligible judge pursuant to clause (i) unless the chief judge certifies, in writing, that the Court does not have—

“(I) sufficient work to assign such recall-eligible judge during the period of recalled service; or

“(II) sufficient resources to provide to such recall-eligible judge appropriate administrative and office support.

“(iii) At any time during the period of recalled service of a judge who is recalled pursuant to clause (i), the chief judge may terminate such recalled service if the chief judge makes a written certification described in clause (ii).”.

SEC. 203. LIFE INSURANCE PROGRAM RELATING TO JUDGES OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) IN GENERAL.—Section 7281 of title 38, United States Code, is amended by adding at the end the following:

“(j) For purposes of chapter 87 of title 5, a judge who is in regular active service and a judge who is retired under section 7296 of this title or under chapter 83 or 84 of title 5 shall be treated as an employee described in section 8701(a)(5) of title 5.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

SEC. 204. VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS' ANNUITY.

Section 7297 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(p)(1) A covered judge who makes an election under subsection (b) may purchase, in three-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in this section.

“(2) In this subsection, the term ‘covered judge’ means any of the following:

“(A) A judge in regular active service.

“(B) A retired judge who is a recall-eligible retired judge pursuant to subsection (a) of section 7257 of this title.

“(C) A retired judge who would be a recall-eligible retired judge pursuant to subsection (a) of section 7257 but for—

“(i) meeting the aggregate recall service requirements under subsection (b)(3) of such section; or

“(ii) being permanently disabled as described by subsection (b)(4) of such section.”.

SEC. 205. SALARIES OF JUDGES OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7253(e) of title 38, United States Code, is amended by striking “district courts” and inserting “courts of appeals”.

SEC. 206. SELECTION OF CHIEF JUDGE OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7253(d) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “and”;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) are 64 years of age or under and have at least three years remaining in term of office; and”;

(2) by amending paragraph (2) to read as follows:

“(2)(A) In any case in which there is no judge of the Court in regular active service who meets the requirements under paragraph (1), the judge of the Court in regular active service who is senior in commission and meets subparagraph (A) or (B) and subparagraph (C) of paragraph (1) shall act as the chief judge.

“(B) In any case under subparagraph (A) of this paragraph in which there is no judge of the Court in regular active service who meets subparagraph (A) or (B) and subparagraph (C) of paragraph (1), the judge of the Court in regular active service who is senior in commission and meets subparagraph (C) shall act as the chief judge.”.

TITLE III—IMPROVEMENT OF CLAIMS PROCESSING

SEC. 301. INTERIM PAYMENTS OF COMPENSATION BENEFITS UNDER LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) **IN GENERAL.**—Subchapter III of chapter 51 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 5127. Interim payments of compensation benefits

“(a) **IN GENERAL.**—In the case of a claim described in subsection (b), prior to adjudicating the claim, the Secretary shall make interim payments of monetary benefits to the claimant based on any disability for which the Secretary has made a decision or, with respect to such a disability that is not compensable, notify the claimant of the rating relating to such disability. Upon the adjudication of the claim, the Secretary shall pay to the claimant any monetary benefits awarded to the claimant for the period of payment under section 5111 of this title less the amount of such benefits paid to the claimant under this section.

“(b) **CLAIM DESCRIBED.**—A claim described in this subsection is a claim for disability compensation under chapter 11 of this title (including a claim regarding an increased rating)—

“(1) the adjudication of which requires the Secretary to make decisions with respect to two or more disabilities; and

“(2) for which, before completing the adjudication of the claim, the Secretary makes a decision with respect to a disability that would result in the payment of monetary benefits to the claimant upon the adjudication of the claim.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end of the items relating to such subchapter the following new item:

“5127. Interim payments of compensation benefits.”.

SEC. 302. CLAIMS PROCESSORS TRAINING.

(a) **ESTABLISHMENT.**—The Secretary of Veterans Affairs shall establish a training program to provide newly hired claims processors of the Department of Veterans Affairs with training for a period of not less than two years. In carrying out such program, the Secretary shall identify successful claims processors of the Department who can assist in the training of newly hired claims processors.

(b) **ABILITY TO PROCESS CLAIMS.**—The Secretary shall carry out the training program established under subsection (a) without increasing the amount of time in which claims are processed by the Department.

(c) **EFFECTIVE DATE.**—This section shall take effect on the date that is one year after the date of the enactment of this Act.

SEC. 303. NOTICE OF AVERAGE TIMES FOR PROCESSING CLAIMS AND PERCENTAGE OF CLAIMS APPROVED.

(a) **PUBLIC NOTICE.**—The Secretary of Veterans Affairs shall post the information described in subsection (c)—

- (1) in a conspicuous place in each regional office and claims intake facilities of the Department of Veterans Affairs; and
- (2) on the Internet Web site of the Department.

(b) **NOTICE TO APPLICANTS.**—

(1) **IN GENERAL.**—The Secretary shall provide to each person who submits a claim for benefits under the laws administered by the Secretary before the person submits such claim—

- (A) notice of the information described in subsection (c); and
- (B) notice that the person is eligible to receive up to an extra year of benefits payments if the person files a claim that is fully developed.

(2) **ACKNOWLEDGMENT OF RECEIPT OF NOTICE.**—Each person who submits a claim for benefits under the laws administered by the Secretary shall include in such application a signed form acknowledging that the person received the information described in subsection (c).

(c) **INFORMATION DESCRIBED.**—

(1) **IN GENERAL.**—The information described in this subsection is the following:

(A) The average processing time of the claims described in paragraph (2) and the percentage of such submitted claims for which benefits are awarded.

(B) The percentage of each of the following types of submitted claims for benefits under the laws administered by the Secretary of Veterans Affairs for which benefits are awarded:

- (i) Claims filed by veterans who authorized a veterans service organization to act on the veterans' behalf under a durable power of attorney.
- (ii) Claims filed by veterans who authorized a person other than a veterans service organization to act on the veterans' behalf under a durable power of attorney.
- (iii) Claims filed by veterans who did not authorize a person to act on the veterans' behalf under a durable power of attorney.

(2) **CLAIMS DESCRIBED.**—The claims described in this paragraph are each of the following types of claims for benefits under the laws administered by the Secretary of Veterans Affairs:

- (A) A fully developed claim that is submitted in standard electronic form.
- (B) A fully developed claim that is submitted in standard paper form.
- (C) A claim that is not fully developed that is submitted in standard electronic form.
- (D) A claim that is not fully developed that is submitted in standard paper form.
- (E) A claim that is not fully developed that is submitted in non-standard paper form.

(3) **UPDATE OF INFORMATION.**—The information described in this subsection shall be updated not less frequently than once each fiscal quarter.

TITLE IV—OTHER MATTERS**SEC. 401. CLARIFICATION OF ELIGIBLE RECIPIENTS OF CERTAIN ACCRUED BENEFITS UPON DEATH OF BENEFICIARY.**

(a) **ELIGIBILITY OF ESTATE.**—Section 5121(a)(2) of title 38, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting “, or estate,” after “person”; and

(2) by adding at the end the following new subparagraph:

“(D) The estate of the veteran (unless the estate will escheat).”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to the death of an individual on or after the date that is two years after the date of the enactment of this Act.

SEC. 402. OBSERVANCE OF VETERANS DAY.

(a) **TWO MINUTES OF SILENCE.**—Chapter 1 of title 36, United States Code, is amended by adding at the end the following new section:

“§ 145. Veterans Day

“The President shall issue each year a proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day in honor of the service and sacrifice of veterans throughout the history of the Nation, beginning at—

- “(1) 3:11 p.m. Atlantic standard time;
- “(2) 2:11 p.m. eastern standard time;
- “(3) 1:11 p.m. central standard time;
- “(4) 12:11 p.m. mountain standard time;
- “(5) 11:11 a.m. Pacific standard time;
- “(6) 10:11 a.m. Alaska standard time; and
- “(7) 9:11 a.m. Hawaii-Aleutian standard time.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 36, United States Code, is amended by adding at the end the following new item:

“145. Veterans Day.”.

Amend the title so as to read:

A bill to increase, effective as of December 1, 2015, 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, to amend title 38, United States Code, to improve the United States Court of Appeals for Veterans Claims, to improve the processing of claims by the Secretary of Veterans Affairs, and for other purposes.

PURPOSE AND SUMMARY

H.R. 675, as amended, the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2015,” was introduced by Representative Ralph Abraham of Louisiana, Chairman of the Subcommittee of Disability Assistance and Memorial Affairs (DAMA), on February 3, 2015. H.R. 675, as amended, incorporates the text of: H.R. 995, introduced by Representative Stephen Lynch of Massachusetts on February 13, 2015; H.R. 1067, as amended, introduced by Representative Ryan Costello of Pennsylvania on February 25, 2015; H.R. 1414, as amended, introduced by Representative Dina Titus of Nevada on March 17, 2015, and H.R. 1569, introduced by Representative Lee Zeldin of New York on March 25, 2015.

Together, these provisions would, (1) as of December 1, 2015, increase the rates of Wartime Disability Compensation, Compensation for Dependents, Clothing Allowance, Dependency and Indemnity Compensation to Surviving Spouse, and Dependency and Indemnity Compensation to Children by the same percentage as the increase in benefits provided under title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act; (2) extend until 2020 the temporary expansion of the Court of Appeals for Veterans Claims (CAVC); permit retired CAVC judges to be recalled for more than 90 days under certain circumstances; (3) allow regular service and retired CAVC judges to participate in the government life insurance program; (4) authorize certain CAVC judges to purchase additional service credit for retirement purposes; set the salary of CAVC judges at the same rate as that of federal appellate judges; (5) revise the eligibility criteria of the CAVC chief judge; (6) direct the Secretary of the Department of Veterans Affairs (VA) to make interim payments based on any disability for which the Secretary has already made a decision prior to adjudicating a claim requiring decisions with respect to two or more disabilities; (7) establish a statutory two-year training program for claims processors; (8) direct the Secretary to provide notice of average times for processing

claims and percentage of claims approved; (9) require VA to pay accrued benefits for certain deceased veterans to the veteran's estate; and (10) codify a two minute moment of silence on Veterans' Day.

BACKGROUND AND NEED FOR LEGISLATION

TITLE I—COMPENSATION COST OF LIVING ADJUSTMENT

Section 101—Increase in rates of disability compensation and dependency and indemnity compensation

The 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 Dependency Indemnity Compensation (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, U.S.C., 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 authorizing the cost-of-living adjustment (COLA) by reference to the yet-to-be-determined Social Security increase. Section 101 of H.R. 675, as amended, would increase the rates of Wartime Disability Compensation, Additional Compensation for Dependents, Clothing Allowance, Dependency and Indemnity Compensation to Surviving Spouse, and Dependency and Indemnity Compensation to Children. Such increase in benefits would increase to be the same percentage as the increase in benefits provided under title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act.

Section 102—Publication of adjusted rates

Section 102 of H.R. 675, as amended, would require the Secretary to publish in the Federal Register the amounts specified in section 101, as increased under that section, not later than the date on which the matters specified in section 415(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of determination made under section 415(i) of such Act during fiscal year 2016.

TITLE II—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Section 201—Extending temporary expansion of United States Court of Appeals for Veterans Claims

In 1988, Congress created the CAVC to afford veterans the opportunity for an independent judicial review of decisions issued by the Board of Veterans Appeals (Board). The CAVC is an independent appellate court that only reviews veterans' benefits cases, applying general principles for appellate review of federal agency final decisions.

Generally, judges are appointed for 15-year terms, and upon retirement, each judge has the option to agree to be available for further service as a recall-eligible senior judge. During any period of recall service, a senior judge has all of the judicial authority and powers of a judge in active service. The court consists of seven permanent, active judges. Congress authorized two additional judges as part of a temporary expansion provision in 2001. The temporary expansion was reauthorized in 2005 and 2009, but expired on January 1, 2013. As a result of the temporary expansion, CAVC currently has nine active judges, but one judge has announced his intention to retire early next year. Under current law, this position will not be filled. There will be no additional judicial appointments to the CAVC until there are fewer than seven permanent judges.

The CAVC anticipates that appeals will increase proportionally with the increased decisions the Board has projected it will complete in the coming years. In FY 2013, the Board rendered approximately 42,000 decisions, but in FY 2014, the Board decided more than 55,500. The Board projects that it will decide more than 57,000 appeals in FY 2015, with similar and higher projections for following years. The number of appeals being filed at the CAVC already is estimated to be at least 4,500 this calendar year, with projections of continued growth thereafter.¹ During the April 14, 2015, DAMA hearing, Chief Judge Bruce E. Kasold's written testimony stated that the re-authorization for nine judges will help the Court continue to manage its significant caseload.

Section 201 of H.R. 675, as amended, would extend the temporary expansion of the Court of Appeals for Veterans Claims (CAVC) until January 1, 2020. This provision will continue the authorization for nine judges through 2020, at which time the need can again be reviewed.

Section 202—Recall of retired judges of United States Court of Appeals for Veterans Claims

Current law authorizes the chief judge to request that a recall-eligible retired judge temporarily return to service upon written certification by the chief judge that substantial service is expected to be performed by such retired judge for a period not to exceed 90 days (or the equivalent), as determined by the chief judge to be necessary to meet the needs of the court. Pursuant to section 7257(b)(3) of title 38, U.S.C., retired judges who are recall-eligible and who serve in the aggregate of at least five years of recalled service are no longer subject to mandatory recall.

¹ Kasold, Bruce E., Chief Judge, U.S. Court of Appeals for Veterans Claims, Statement to the House of Representatives, Committee on Appropriations, Subcommittee on Military Construction, Veterans Affairs, and Related Agencies Hearing, March 18, 2015.

Section 202 of H.R. 675, as amended, would authorize the chief judge to recall a retired judge who has volunteered to be available for temporary service on the CAVC. The chief judge must provide a written certification that substantial service is expected to be performed by the retired judge for the period not to exceed 90 days (or the equivalent). Section 202 would amend current law by permitting a recall-eligible judge to request that the chief judge recall such judge for a period of service of not less than 90 days (or the equivalent). The chief judge would be required to approve such a request, unless the chief judge certifies, in writing, that the CAVC does not have sufficient work to assign such judge during the period of recalled service or sufficient resources to provide to such recall-eligible judge appropriate administrative and office support. The provision would also authorize the chief judge to terminate such recalled service. However, in order to terminate such recalled-service, the chief judge would be required to provide a written certification that the CAVC no longer has sufficient work or resources to provide appropriate administrative and office support.

Section 203—Life insurance program related to judges of United States Court of Appeals for Veterans Claims

Section 203 of H.R. 675, as amended, would establish that a judge who is in regular active service and a judge who is retired shall be treated as an employee for purposes of eligibility in the federal government life insurance program. Under this section, CAVC judges would be eligible for the Federal Employee Group Life Insurance (FEGLI) program. Additionally, this section clarifies that CAVC judges may purchase life insurance at the employee rate, and authorizes retired judges to do so, consistent with other federal judges, active and retired.

Section 204—Voluntary contributions to enlarge survivors' annuity

Section 204 of H.R. 675, as amended, would authorize a covered judge to purchase, in three-month increments, up to an additional year of service credit for each year of Federal judicial service completed. A covered judge is defined as: (1) a judge in regular active service; (2) a retired judge who is recall-eligible; or (3) a retired judge who would be recall-eligible but for meeting the aggregate recall service requirements under subsection section 7257(b)(3) of title 38, U.S.C., or is permanently disabled as described by section 7257(b)(4) of title 38, U.S.C. This section would allow CAVC judges to purchase additional service credit for annuity purposes, the same as for other federal judges.

Section 205—Salaries of judges of United States Court of Appeals for Veterans Claims

Section 205 of H.R. 675, as amended, would set the salary of CAVC judges at the rate applicable to federal appellate court judges. Currently, their salary is set at the rate applicable to federal district court judges.

Section 206—Selection of chief judge of United States Court of Appeals for Veterans Claims

Current law provides that the chief judge should be in regular active service and senior in commission among the judges of the court who have served at least one year in that capacity.

Section 206 of H.R. 675, as amended, would revise the qualifications for the chief judge of the CAVC. This section would require that the chief judge: (1) be 64 years of age and under; (2) have at least three years remaining in term of office; and (3) have not previously served as chief judge. In any case in which there is no judge of the CAVC who meets all of these requirements, the judge of the CAVC in regular active service who is senior in commission and has not served previously as chief judge; and, has either served for at least one year as a judge of the court, or is 64 years of age and under and has at least three years remaining in term of office, shall act as the chief judge.

TITLE III—IMPROVEMENT OF CLAIMS PROCESSING

Section 301—Interim payments of compensation benefits under laws administered by the Secretary of Veterans Affairs

Veterans seeking disability benefits often seek them for more than one medical condition. Although VA currently has the authority to issue a determination on numerous medical conditions within a claim, VA continues to use this authority sparsely. During the April 14, 2015, DAMA hearing, The American Legion testified that VA is not consistently issuing interim decisions when evaluating multiple claims for disability. Failing to utilize this authority increases the economic burden on veterans who are waiting for the disability claims to be processed in a timely and adequate manner.

Section 301 of H.R. 675, as amended, would add a new section to Subchapter III of chapter 51 of title 38, U.S.C., that would direct the Secretary, prior to adjudicating a claim that requires multiple individual determinations with respect to two or more medical conditions, to make interim payments of monetary benefits for any medical condition for which VA adjudicated to the benefit of the veteran, even if VA has not yet made a decision with respect to all medical conditions claimed. When VA completes adjudication of all of the veteran's medical conditions, the Secretary will pay the full amount of accrued benefits, less the amount of the interim payments the veteran has already received. Requiring VA to grant benefits as it adjudicates each individual claim will mean that veterans will receive at least some of their benefits more expeditiously. If a veteran has pending claims for disability compensation for two or more medical conditions, and VA makes a decision to award benefits for one of the medical conditions, this section would require VA to pay the awarded benefits as soon as the decision on that claimed condition is issued, without waiting to adjudicate pending claims for other medical conditions.

Section 302—Claims processors training

VA has indicated that, on average, it takes two to three years for an employee to master the skills necessary to accurately process claims within Regional Benefits Offices. While VA has implemented new training programs, Veteran Service Organizations

(VSO) have long reported that VA's training is not sufficient. Section 302 of H.R. 675, as amended, would direct the Secretary to establish a training program to provide newly hired VA claims processors with training for a period of not less than two years. In carrying out such a program, the Secretary would be required to identify successful claims processors within VA who can assist in the training of newly hired claims processors. Accordingly, this section will require VA to ensure adequate focus and resources remain targeted to ongoing and improved education and training for employees.

Section 303—Notice of average times for processing claims and percentage of claims approved

Section 303 of H.R. 675, as amended, would require VA to inform each person who submits a claim for benefits that such person is eligible to receive up to an extra year of benefits payments if the person files a Fully Developed Claim (FDC). In addition, this section would require VA to post in a conspicuous place at each VA Regional Office and claims-intake facility, and on its internet website, certain information relating to the average processing time of claims and the percentage of such submitted claims for which benefits are awarded.

This section is intended to provide information that would educate VA stakeholders and veterans of the available options and consequent timeliness that would be associated with various claims submission forms. The information would include FDCs submitted in electronic form, FDCs submitted in paper form, undeveloped claims submitted in paper form, undeveloped claims submitted in standard paper form, claims submitted in a non-standard form, and claims submitted with the assistance of a VSO. By providing ready access to this information, the Committee believes that veterans will be more informed of the possible benefits for faster adjudication of certain forms of claims submission, which will consequently shift behavior by encouraging submissions by the most manageable formats and with an appropriate level of VSO assistance. Additionally, this section would require that veterans be notified of the statutory benefit that is provided to FDCs submissions; pursuant to statute, FDCs are eligible for up to one year of retroactive benefits for any claims filed between August 6, 2013, and August 6, 2015. This provision is also intended to encourage veterans to file FDCs, and is intended to result in time savings within the claims process.

TITLE IV—OTHER MATTERS

Section 401—Clarification of eligible recipients of certain accrued benefits upon death of beneficiary

Processing a claim for veterans' benefits may take years and a veteran may die before VA completes adjudication of the claim. If a veteran dies while VA is still reviewing a claim, VA will pay any accrued benefits to which the veteran was entitled as of the date of death to certain family members, including the spouse, dependent children, and dependent parents. If the veteran dies without any surviving qualifying family members, VA currently retains the benefits.

Section 401 of H.R. 675, as amended, would provide for the payment to the estate of a veteran all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Secretary. Section 401 would require VA to pay any accrued benefits to which the veteran was entitled as of the date of death and would add the estate of the veteran to the list of qualified family members, unless the estate would escheat. This would enable surviving adult children and other beneficiaries of the veteran's estate to receive the benefits to which the veteran was legally entitled.

Section 402—Observance of Veterans Day

On November 11, 1918, at 11:00 A.M., fighting came to an end in World War I. Veterans Day, originally known as Armistice Day, was first observed in 1919 to commemorate the cease-fire on the 11th hour of the 11th day of the 11th month. It has been customarily observed with a two minute moment of silence at 11:00 A.M. Today, observance of a moment of silence varies from community to community and business around the United States.

Section 402 of H.R. 675, as amended, would encourage the nationwide observance of two minutes of silence on Veterans Day. Specifically, this section would direct the President to issue an annual proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day, beginning at 2:11 P.M. Eastern Time, in honor of the service and sacrifice of veterans throughout the history of the nation. This section would call for Americans across the nation to official hold a uniform moment of silence for our nation's servicemen and women on Veterans Day. The Committee believes this section would refocus the American public upon the Day's true and original meaning.

HEARINGS

There were no full Committee hearings held on H.R. 675, as amended. On April 14, 2015, the Subcommittee on Disability Assistance and Memorial Affairs conducted a legislative hearing on various bills introduced during the 114th Congress, including H.R. 675, H.R. 1067, H.R. 1414, and H.R. 1569.

The following witnesses testified: The Honorable Chellie Pingree, U.S. House of Representatives; Mr. David R. McLenachen, Acting Deputy Under Secretary for Disability Assistance, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. Zachary Hearn, Deputy Director for Claims, Veterans Affairs and Rehabilitation Division, The American Legion; Mr. Blake C. Ortner, Deputy Government Relations Director, Paralyzed Veterans of America; Mr. Paul R. Varela, Assistant National Legislative Director, Disabled American Veterans; Mr. Ronald B. Abrams, Joint Executive Director, National Veterans Legal Services Program; and Mr. Kenneth M. Carpenter, Founding Member, National Organization of Veterans' Advocates.

Statements for the record were submitted by the following: The Veterans of Foreign Wars and the U.S. Court of Appeals for Veterans Claims.

SUBCOMMITTEE CONSIDERATION

On April 14, 2015, the Subcommittee on Disability Assistance and Memorial Affairs met in open markup session, a quorum being present, and favorably forwarded to the full Committee H.R. 675, H.R. 1067, as amended, H.R. 1414, as amended, and H.R. 1569.

During consideration of H.R. 1067, the following amendment was considered and agreed to by voice vote: An amendment offered by Mr. Costello of Pennsylvania that modified the original text to clarify that a recall-eligible judge may request that the chief judge recall the recall-eligible judge for a period of service not less than 90 days (or the equivalent).

During consideration of H.R. 1414, the following amendment in the nature of substitute was considered and agreed to by voice vote.

An amendment in the nature of a substitute offered by Ms. Titus of Nevada that included the provisions of H.R. 1414 and inserted text that would: (1) require VA to establish a training program for newly hired claim processors; (2) require VA to publicly report on average time to process claims and the percentage of claims approved; and (3) incorporate text from H.R. 995, as introduced by Mr. Lynch of Massachusetts, which would encourage Americans to observe two minutes of silence on Veterans Day.

COMMITTEE CONSIDERATION

On May 21, 2015, the Full Committee met in an open markup session, a quorum being present, and ordered H.R. 675, as amended, reported favorably to the House of Representatives by voice vote. During consideration of the bill, the following amendments were considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Abraham of Louisiana that incorporated the text of H.R. 1067, originally offered by Mr. Costello of Pennsylvania, to (1) extend the temporary expansion of the CAVC from seven to nine judges through January 1, 2020; (2) permit retired judges to be recalled for more than 90 days under certain circumstances; and, (3) establish that CAVC judges are eligible for the same salaries, life insurance programs, and retirement service credit benefits offered to other federal appellate court judges. The amendment in the nature of a substitute also incorporated the text of H.R. 1414, as amended, originally offered by Ms. Titus of Nevada, which would require that, in cases when a veteran files a claim for two or more disabilities, VA make interim payments for any disability for which VA has already made a decision. The amendment in the nature of a substitute would also establish a training program for claims processors, and require VA to publicly post information regarding the average time for processing claims and the percentage of the claims approved. The amendment in the nature of a substitute also incorporated the text of H.R. 1569, originally offered by Mr. Zeldin of New York, and would require VA to pay accrued benefits to the estate of a veteran if such veteran dies before VA completes adjudication of his or her claim.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Costello of Pennsylvania, which would amend certain qualifications for the chief judge of the CAVC.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. There were no recorded votes taken on amendments or in connection with ordering H.R. 675, as amended, reported to the House. A motion by Ranking Member Corrine Brown of Florida to report H.R. 675, as amended, 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. 675, as amended, 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. 675, as amended, 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. 675, as amended, 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, July 2, 2015.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 675, the Veterans' Compensation Cost-of-Living Adjustment Act of 2015.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 675—Veterans' Compensation Cost-of-Living Adjustment Act of 2015

Summary: H.R. 675 would make changes to several benefit programs administered by the Department of Veterans Affairs (VA), and to the administrative processes of the Court of Appeals for Veterans Claims (CAVC). CBO estimates that enacting H.R. 675 would decrease net direct spending by \$4 million over the 2016–2025 period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting the bill would have no effect on revenues.

In addition, CBO estimates that implementing the bill would cost \$5 million over the 2016–2020 period, subject to the availability of appropriated funds.

H.R. 675 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 675 is shown in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 675, THE VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2015

	Fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN DIRECT SPENDING ^a						
Estimated Budget Authority	–16	–30	7	4	5	–30
Estimated Outlays	–16	–30	7	4	5	–30
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	*	*	*	2	2	5
Estimated Outlays	*	*	*	2	2	5

Notes: Components may not sum to totals because of rounding.

* = between zero and \$500,000.

^a In addition to the changes in direct spending shown above, enacting H.R. 675 would have effects beyond 2020 (see Table 2). CBO estimates that enacting H.R. 675 would decrease net direct spending by \$4 million over the 2016–2025 period.

Basis of estimate: For this estimate, CBO assumes that H.R. 675 will be enacted near the beginning of fiscal year 2016, that appropriations will reflect the estimated changes each year, and that

outlays will follow historical spending patterns for the affected programs.

Direct Spending

H.R. 675 contains several provisions that would affect direct spending (see Table 2). Enacting H.R. 675 would result in a net decrease in direct spending of \$30 million over the 2016–2020 period, and \$4 million over the 2016–2025 period.

Cost-of-Living Adjustment Round-Down. Section 101 would increase the amounts paid to veterans for disability compensation and to their survivors for dependency and indemnity compensation (DIC) by the same cost-of-living adjustment (COLA) that recipients of Social Security receive. Those increased payments would be rounded down to the next lower whole dollar, effective on December 1, 2015.

TABLE 2. ESTIMATED CHANGES IN DIRECT SPENDING UNDER H.R. 675

	Fiscal year, in millions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016– 2020	2016– 2025
CHANGES IN DIRECT SPENDING												
COLA Round-down	–24	–30	–28	–32	–33	–34	–38	–36	–34	–38	–147	–327
Accrued Benefits	0	0	35	36	38	39	40	41	42	43	109	314
Interim Payments of Adju- dicated Claims	8	*	*	*	*	*	*	*	*	*	8	9
Total Changes in Di- rect Spending	–16	–30	7	4	5	5	2	5	8	5	–30	–4

Notes: Components may not sum to totals due to rounding.
COLA = Cost-of-Living Adjustment; * = between zero and \$500,000.

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. Because the COLA is assumed in CBO’s baseline, authorizing the COLA 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 \$662 million in fiscal year 2016. That estimate assumes that the COLA effective on December 1, 2015, would be 0.9 percent. (The annualized cost would be about \$890 million in subsequent years.)

Section 101 also would require that the increased payments resulting from the cost-of-living adjustment be rounded down to the next lower whole dollar. The previous authority to round down the COLA expired at the end of calendar year 2013. Based on projections of the number of people receiving benefits and payments made each year, CBO estimates that enacting this section would reduce direct spending by \$327 million over the 2016–2025 period.

Accrued Benefits. Section 401 would add the estate of a veteran to the list of payees for any accrued benefits owed to a veteran upon his or her death. Under current law, if a veteran dies while an application for benefits is being processed, and that application is subsequently approved, any benefits due to the veteran are paid to the spouse, children, or parents of the veteran, in that order. In the absence of an eligible survivor, no payments are made. By allowing payments to be made to veterans’ estates, section 401 would

ensure that such payments are made in all cases. Section 401 would take effect two years after the date of enactment.

VA reports that, over the last several years, there was an average of 4,200 cases per year where an award for benefits was approved but there was no eligible survivor. The average amount paid to eligible survivors is about \$8,000. CBO expects the same accrued benefit amount would be paid to veterans' estates. After accounting for inflation and annual growth in the number of approved applications, CBO estimates that enacting section 401 would increase direct spending by \$314 million over the 2016–2025 period.

Interim Payments of Adjudicated Claims. In cases where veterans file claims for more than one disability at the same time, section 301 would require VA to pay disability benefits to veterans as each claim is decided. Under current law, VA has the authority to make such partial payments for multiple claims, but that authority is rarely used.

Once adjudicated, VA benefits are paid retroactively from the date of the initial application. That is, veterans usually receive an initial lump-sum payment that covers the months since their application was submitted. Thus, section 301 would have the effect of shifting some payments to an earlier fiscal year by paying certain veterans a part of their benefit earlier than they would otherwise receive it. However, those early payments would be fully offset by savings in the following year when the retroactive payments would normally be made.

Based on information from VA, and assuming trends similar to those observed in previous years, CBO estimates that about 290,000 veterans will apply for disability benefits for the first time in 2016. CBO expects that veterans who begin receiving payments at a disability rating of 50 percent or greater (about 135,000 veterans) would probably have applied to be compensated for more than one disability. Of those, CBO estimates that half would be fully adjudicated within the same fiscal year as the application. For those claims, enacting this provision would not move spending from one fiscal year to another.

For claims that would be settled in the fiscal year after the year of submission, CBO estimates that about 20 percent would have a claim that could be adjudicated quickly. Two-thirds of those claims—about 9,000—would then be paid one year earlier than under current law. Assuming an average rating of 10 percent (\$140 per month) for the quickly adjudicated claims, and an average of six months of benefits, CBO estimates that enacting section 301 would increase direct spending by \$8 million in 2016. However, that new spending in 2016 would be offset by an equal reduction in spending in 2017. In each subsequent year, a similar effect would be seen—increased spending in one year followed by decreased spending in the following year. For this estimate, CBO adjusted the amount of the accelerated spending each year to account for inflation and population growth.

On that basis, CBO estimates that enacting section 301 would cost \$8 million over the 2016–2020 period, and \$9 million over the 2016–2025 period.

Spending Subject to Appropriation

H.R. 675 contains several provisions that would affect spending subject to appropriation including extending the temporary expansion of the Court of Appeals for Veterans Claims and increasing the salaries of CAVC judges, among others (see Table 3). CBO estimates that implementing those provisions would cost \$5 million over the 2016–2020 period, subject to the availability of appropriated amounts.

Extension of Temporary Expansion of CAVC. Section 201 would extend, through January 1, 2020, the authority for the Court of Appeals for Veterans Claims to appoint a new judge to the court should a position become vacant. Previous legislation allowed for the court to expand from seven judges to nine in order to address the workload of the court. The authority to appoint a new judge to maintain nine judges expired on January 1, 2013.

TABLE 3. ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 675

	Fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
Extension of Temporary Expansion of CAVC						
Estimated Authorization Level	0	0	*	1	1	3
Estimated Outlays	0	0	*	1	1	3
Increased Salaries of CAVC Judges						
Estimated Authorization Level	*	*	*	*	*	1
Estimated Outlays	*	*	*	*	*	1
Other Provisions						
Estimated Authorization Level	*	*	*	*	*	1
Estimated Outlays	*	*	*	*	*	1
Total Changes						
Estimated Authorization Level	*	*	*	2	2	5
Estimated Outlays	*	*	*	2	2	5

Note: Components may not sum to totals due to rounding.

*=between zero and \$500,000; CAVC=Court of Appeals for Veterans Claims.

According to the CAVC, the cost of a judge and his or her chamber is about \$1 million per year. CBO expects that one judge will leave or retire over the next several years; thus, under section 201 one new judge would be appointed. Therefore, CBO estimates that implementing section 201 would cost \$3 million over the 2016–2020 period.

Increased Salaries of CAVC Judges. Section 205 would increase the annual salaries for judges of the CAVC. Under current law, CAVC judges are paid at the level of district court judges, which was \$199,100 in 2014. Section 205 would increase the CAVC judges' salaries to the same rate as U.S. Court of Appeals judges—\$211,200 in 2014. Currently, there are nine CAVC judges. After accounting for inflation, CBO estimates that implementing section 205 would increase costs for salaries by about \$1 million over the 2016–2020 period.

Other Provisions. Several sections of H.R. 675 would have very small effects on discretionary costs. In total, CBO estimates that implementing the following provisions would cost \$1 million over the 2016–2020 period.

- Section 202 would allow judges who are eligible to be recalled to serve for more than the 90 days currently authorized.

- Section 302 would require VA to establish a training process for newly hired claims processors. According to VA, it has already begun the process of establishing new training programs for claims processors. Most of the requirements of section 104 would align with VA’s new training program.

- Section 303 would require VA to post in public spaces and on their website information about the average processing times for all claims submitted, claims filed by veterans service organizations or other persons on the behalf of veterans, and claims filed by the veteran. Section 303 also would require VA to provide a notice containing information on processing times for submitted claims to all individuals who submit claims for benefits with the department.

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. 675 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON VETERANS’ AFFAIRS ON MAY 21, 2015

	By fiscal year, in millions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2020	2016–2025
NET DECREASE (–) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	–16	–30	7	4	5	5	2	5	8	5	–30	–4

Intergovernmental and private-sector impact: H.R. 675 contains no intergovernmental or private sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Dwayne M. Wright; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 675, as amended, 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. 675, as amended.

CONSTITUTIONAL AUTHORITY STATEMENT

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(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 675, as amended, 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(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that H.R. 675, as amended, contains no directed rule making.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1—Short title; table of contents

Section 1(a) would establish that this Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2015.”

Section 1(b) would contain the table of contents for this Act.

TITLE I—COMPENSATION COST OF LIVING ADJUSTMENT

Section 101—Increase in rates of disability compensation and dependency and indemnity compensation

Section 101(a) would authorize the Secretary of Veterans Affairs to increase, effective December 1, 2015, the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation.

Section 101(b) would specify the amounts that would be increased regarding the Wartime Disability Compensation, under section 1114 of title 38, U.S.C., the Additional Compensation for Dependents, under section 1115(1) of title 38, U.S.C., the Clothing Allowance, under section 1162 of title 38, U.S.C., the Dependency and Indemnity Compensation to Surviving Spouses, under section 1311 of title 38, U.S.C., and the Dependency and Indemnity Compensation to Children, under sections 1313(a) and 1314 of title 38, U.S.C.

Section 101(c) would specify that each amount shall be increased by the same percentage by which benefits are increased under title II of the Social Security Act² (and would round down to the next lower dollar amount all compensation and DIC benefits, when the amount is not a whole dollar amount).

Section 101(d) would provide a special rule authorizing the Secretary of VA to adjust administratively, consistent with the increases made under subsection (a), the rates of disability com-

²42 U.S.C. §§401 et seq.

pensation payable to persons within the purview of section 10 of Public Law 85–857, who are not in receipt of compensation payable pursuant to chapter 11 of title 38, U.S.C.

Section 102—Publication of adjusted rates

Section 102 would require the Secretary of VA to publish in the Federal Register the amounts specified in subsection 101(b), as increased pursuant to that section.

TITLE II—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Section 201—Extending temporary expansion of United States Court of Appeals for veterans claims

Section 201 would amend section 7253(i)(2) of title 38, U.S.C., to extend the temporary expansion of the CAVC from seven to nine judges to January 1, 2020.

Section 202—Recall of retired judges of United States Court of Appeals for veterans claims

Section 202 would amend section 7257(b) of title 38, U.S.C., to permit a retired, recall-eligible judge of the CAVC to be recalled upon request, unless the chief judge of the CAVC certifies that there is insufficient work for the judge or there are insufficient resources to provide appropriate administrative support to the judge.

Section 203—Life insurance program relating to judges of United States Court of Appeals for veterans claims

Section 203(a) would amend section 7281 of title 38, U.S.C., to extend certain life insurance benefits to judges of the CAVC.

Section 203(b) would establish the effective date of this section as on or after the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

Section 204—Voluntary contributions to enlarge survivors' annuity

Section 204 would amend section 7297 of title 38, U.S.C., to provide for judges of the CAVC the option of purchasing additional service credit to enlarge survivors' annuity.

Section 205—Salaries of judges of United States Court of Appeals for veterans claims

Section 205 would amend section 7253(e) of title 38, United States Code, to provide that the judges on the CAVC shall be paid the same as federal appellate judges.

Section 206—Selection of chief judge of United States Court of Appeals for veterans claims

Section 206 would amend section 7253(d) of title 38, U.S.C., to provide that the chief judge should: (1) be in regular, active service and senior in commission among the judges of the court who have served at least one year as judges of the CAVC; (2) be 64 years of age or under and have at least three years remaining in term of office; and (3) have not previously served as chief judge. In any case in which there is no judge of the CAVC who meets all of these requirements, the judge of the CAVC in regular active service who is senior in commission and has not served previously as chief

judge; and, has either served for at least one year as a judge of the court, or is 64 years of age and under and has at least three years remaining in term of office, shall act as the chief judge.

TITLE III—IMPROVEMENT OF CLAIMS PROCESSING

Section 301—Interim payments for compensation benefits under laws administered by the Secretary of Veterans Affairs

Section 301(a) would add a new section to subchapter III of chapter 51 of title 38, U.S.C., which would require the Secretary of VA, in claims in which adjudication requires decision making with respect to two or more medical conditions, to immediately pay the claimant any monetary benefits awarded to the claimant for positively adjudicated conditions while other conditions are further developed.

Section 301(b) would provide a clerical amendment.

Section 302—Claims processors training

Section 302(a) would require the Secretary of VA to establish a training program for up to two years for newly hired claims processors and to identify successful claims processors to assist in the training.

Section 302(b) would require VA to execute the training program for newly hired claims processors without increasing the amount of time in which claims are processed.

Section 302(c) would set the effective date of this section one year after the enactment of the Act.

Section 303—Notice of average times for processing claims and percentage of claims approved

Section 303(a) would provide for public notice of the information that is required to be collected by this section to be posted in each VA Regional Office and claims-intake facility and on the VA website.

Section 303(b) would require the Secretary of VA to provide notice to claimants of the information that is required to be collected by this section, pursuant to subsection (c), as well as notice that, for the period ending on August 6, 2015, claimants are eligible to receive up to an extra year of benefits payments if they are filing a FDC. This subsection would also require claimants to include a signed form with their application acknowledging that the claimant received such notice.

Section 303(c) would require VA to collect information on the average processing times of specific types of enumerated claims, including electronic FDCs, paper FDCs, electronic claims that are not fully developed, standard paper claims that are not fully developed, and non-standard paper claims that are not fully developed. Information on the percentage of each such submitted claim for which benefits are awarded would also be required. This subsection would also require VA to collect information on the percentage of claims that are awarded benefits based on the type of representation received by the veteran in the claims process. Such information would be required to be updated at least once each fiscal quarter.

TITLE IV—OTHER MATTERS

Section 401—Clarification of eligible recipients of certain accrued benefits upon death of beneficiary

Section 401(a) would amend section 5121(a)(2) of title 38, U.S.C., by requiring VA to pay any accrued benefits that are due and unpaid, as of the date of death of the veteran, to the veteran’s estate unless the estate will escheat.

Section 401(b) would set the effective date of this section at two years after the enactment of the Act.

Section 402—Observance of veterans day

Section 402(a) would provide for a codified two minute moment of silence on Veterans Day in honor of the service and sacrifice of veterans throughout history.

Section 402(b) would provide a clerical amendment.

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):

TITLE 38, UNITED STATES CODE

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

SUBCHAPTER I—CLAIMS

Sec.
5100. Definition of “claimant”.

* * * * *

SUBCHAPTER III—PAYMENT OF BENEFITS

5127. *Interim payments of compensation benefits.*

* * * * *

SUBCHAPTER III—PAYMENT OF BENEFITS

* * * * *

§ 5121. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen’s indemnity) under laws administered by the Secretary to which an in-

dividual was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death (hereinafter in this section and section 5122 of this title referred to as "accrued benefits") and due and unpaid, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Secretary.

(2) Upon the death of a veteran, to the living person, or estate, first listed below:

(A) The veteran's spouse.

(B) The veteran's children (in equal shares).

(C) The veteran's dependent parents (in equal shares).

(D) *The estate of the veteran (unless the estate will escheat).*

(3) Upon the death of a surviving spouse or remarried surviving spouse, to the children of the deceased veteran.

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension.

(5) Upon the death of a child claiming benefits under chapter 18 of this title, to the surviving parents.

(6) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Secretary shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

* * * * *

§ 5127. Interim payments of compensation benefits

(a) *IN GENERAL.*—*In the case of a claim described in subsection (b), prior to adjudicating the claim, the Secretary shall make interim payments of monetary benefits to the claimant based on any disability for which the Secretary has made a decision or, with respect to such a disability that is not compensable, notify the claimant of the rating relating to such disability. Upon the adjudication of the claim, the Secretary shall pay to the claimant any monetary benefits awarded to the claimant for the period of payment under section 5111 of this title less the amount of such benefits paid to the claimant under this section.*

(b) *CLAIM DESCRIBED.*—*A claim described in this subsection is a claim for disability compensation under chapter 11 of this title (including a claim regarding an increased rating)—*

(1) *the adjudication of which requires the Secretary to make decisions with respect to two or more disabilities; and*

(2) *for which, before completing the adjudication of the claim, the Secretary makes a decision with respect to a disability that*

would result in the payment of monetary benefits to the claimant upon the adjudication of the claim.

* * * * *

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Subchapter I—ORGANIZATION AND JURISDICTION

* * * * *

§ 7253. Composition

(a) COMPOSITION.—The Court of Appeals for Veterans Claims is composed of at least three and not more than seven judges, one of whom shall serve as chief judge in accordance with subsection (d).

(b) APPOINTMENT.—The judges of the Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member in good standing of the bar of a Federal court or of the highest court of a State. Not more than the number equal to the next whole number greater than one-half of the number of judges of the Court may be members of the same political party.

(c) TERM OF OFFICE.—The term of office of the judges of the Court of Appeals for Veterans Claims shall be 15 years. A judge who is nominated by the President for appointment to an additional term on the Court without a break in service and whose term of office expires while that nomination is pending before the Senate may continue in office for up to 1 year while that nomination is pending.

(d) CHIEF JUDGE.—(1) The chief judge of the Court is the head of the Court. The chief judge of the Court shall be the judge of the Court in regular active service who is senior in commission among the judges of the Court who—

(A) have served for one or more years as judges of the Court; **and**

(B) are 64 years of age or under and have at least three years remaining in term of office; and

[(B)] (C) have not previously served as chief judge.

[(2) In any case in which there is no judge of the Court in regular active service who has served as a judge of the Court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.]

(2)(A) In any case in which there is no judge of the Court in regular active service who meets the requirements under paragraph (1), the judge of the Court in regular active service who is senior in com-

mission and meets subparagraph (A) or (B) and subparagraph (C) of paragraph (1) shall act as the chief judge.

(B) In any case under subparagraph (A) of this paragraph in which there is no judge of the Court in regular active service who meets subparagraph (A) or (B) and subparagraph (C) of paragraph (1), the judge of the Court in regular active service who is senior in commission and meets subparagraph (C) shall act as the chief judge.

(3) Except as provided in paragraph (4), a judge of the Court shall serve as the chief judge under paragraph (1) for a term of five years or until the judge becomes age 70, whichever occurs first. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, that judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

(4)(A) The term of a chief judge shall be terminated before the end of the term prescribed by paragraph (3) if—

(i) the chief judge leaves regular active service as a judge of the Court;

(ii) the chief judge notifies the other judges of the Court in writing that such judge desires to be relieved of the duties of chief judge.

(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

(5) If a chief judge is temporarily unable to perform the duties of chief judge, those duties shall be performed by the judge of the Court in active service who is present, able and qualified to act, and is next in precedence.

(6) Judges who have the same seniority in commission shall be eligible for service as chief judge in accordance with their relative precedence.

(e) SALARY.—Each judge of the Court shall receive a salary at the same rate as is received by judges of the United States [district courts] *courts of appeals*.

(f) REMOVAL.—(1) A judge of the Court may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or violating section 7255(c) of this title. A judge of the Court may not be removed from office by the President on any other ground.

(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

(g) RULES.—(1) The Court shall prescribe rules, consistent with the provisions of chapter 16 of title 28, establishing procedures for the filing of complaints with respect to the conduct of any judge of the Court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, the Court shall have the powers granted to a judicial council under such chapter.

(2) The provisions of sections 354(b) through 360 of title 28, regarding referral or certification to, and petition for review in, the Judicial Conference of the United States and action thereon, shall apply to the exercise by the Court of the powers of a judicial coun-

cil under paragraph (1) of this subsection. The grounds for removal from office specified in subsection (f)(1) shall provide a basis for a determination pursuant to section 354(b) or 355 of title 28, and certification and transmittal by the Conference shall be made to the President for consideration under subsection (f).

(3)(A) In conducting hearings pursuant to paragraph (1), the Court may exercise the authority provided under section 1821 of title 28 to pay the fees and allowances described in that section.

(B) The Court shall have the power provided under section 361 of title 28 to award reimbursement for the reasonable expenses described in that section. Reimbursements under this subparagraph shall be made from funds appropriated to the Court.

(h) TEMPORARY EXPANSION OF COURT.—(1) During the period from January 1, 2002, through August 15, 2005, the authorized number of judges of the Court specified in subsection (a) is increased by two.

(2)(A) Of the two additional judges authorized by this subsection—

(i) only one may be appointed pursuant to a nomination made in 2002; and

(ii) only one may be appointed pursuant to a nomination made in 2003.

(B) If a judge is not appointed under this subsection pursuant to a nomination made in 2002, a judge may be appointed under this subsection pursuant to a nomination made in 2004. If a judge is not appointed under this subsection pursuant to a nomination made in 2003, a judge may be appointed under this subsection pursuant to a nomination made in 2004. In either case, such an appointment may be made only pursuant to a nomination made before October 1, 2004.

(3) The term of office and the eligibility for retirement of a judge appointed under this subsection, other than a judge described in paragraph (4), are governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Amendments of 1999 (title X of Public Law 106-117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

(4) A judge of the Court as of December 27, 2001, who was appointed to the Court before January 1, 1991, may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section. The term of office of an incumbent judge who receives an appointment as described in the preceding sentence shall be 15 years, which includes any period remaining in the unexpired term of the judge. Any service following an appointment under this subsection shall be treated as though served as part of the original term of office of that judge on the Court.

(5) Notwithstanding paragraph (1), an appointment may not be made to the Court if the appointment would result in there being more than seven judges on the Court who were appointed after January 1, 1997. For the purposes of this paragraph, a judge serving in recall status under section 7257 of this title shall be disregarded in counting the number of judges appointed to the Court after such date.

(i) ADDITIONAL TEMPORARY EXPANSION OF COURT.—(1) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two.

(2) Effective as of **[January 1, 2013]** *January 1, 2020*, an appointment may not be made to the Court if the appointment would result in there being more judges of the Court than the authorized number of judges of the Court specified in subsection (a).

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§ 7257. Recall of retired judges

(a)(1) A retired judge of the Court may be recalled for further service on the Court in accordance with this section. To be eligible to be recalled for such service, a retired judge must at the time of the judge's retirement provide to the chief judge of the Court (or, in the case of the chief judge, to the clerk of the Court) notice in writing that the retired judge is available for further service on the Court in accordance with this section and is willing to be recalled under this section. Such a notice provided by a retired judge to whom section 7296(c)(1)(B) of this title applies is irrevocable.

(2) For the purposes of this section—

(A) a retired judge is a judge of the Court of Appeals for Veterans Claims who retires from the Court under section 7296 of this title or under chapter 83 or 84 of title 5; and

(B) a recall-eligible retired judge is a retired judge who has provided a notice under paragraph (1).

(b)**[(1)** The chief judge may recall for further service on the Court a recall-eligible retired judge in accordance with this section. Such a recall shall be made upon written certification by the chief judge that substantial service is expected to be performed by the retired judge for such period, not to exceed 90 days (or the equivalent), as determined by the chief judge to be necessary to meet the needs of the Court.**]** *(1)(A) The chief judge may recall for further service on the Court a recall-eligible retired judge in accordance with this section. Such a recall shall be made upon written certification by the chief judge that substantial service is expected to be performed by the retired judge for such period, not to exceed 90 days (or the equivalent), as determined by the chief judge to be necessary to meet the needs of the Court.*

(B)(i) A recall-eligible judge may request that the chief judge recall the recall-eligible judge for a period of service of not less than 90 days (or the equivalent).

(ii) The chief judge shall approve a request made by a recall-eligible judge pursuant to clause (i) unless the chief judge certifies, in writing, that the Court does not have—

(I) sufficient work to assign such recall-eligible judge during the period of recalled service; or

(II) sufficient resources to provide to such recall-eligible judge appropriate administrative and office support.

(iii) At any time during the period of recalled service of a judge who is recalled pursuant to clause (i), the chief judge may terminate such recalled service if the chief judge makes a written certification described in clause (ii).

(2) A recall-eligible retired judge may not be recalled for more than 90 days (or the equivalent) during any calendar year without the judge's consent.

(3) If a recall-eligible retired judge is recalled by the chief judge in accordance with this section and (other than in the case of a judge who has previously during that calendar year served at least 90 days (or the equivalent) of recalled service on the court) declines (other than by reason of disability) to perform the service to which recalled, the chief judge shall remove that retired judge from the status of a recall-eligible judge. This paragraph shall not apply to a judge to whom section 7296(c)(1)(A) or 7296(c)(1)(B) of this title applies and who has, in the aggregate, served at least five years of recalled service on the Court under this section.

(4) A recall-eligible retired judge who becomes permanently disabled and as a result of that disability is unable to perform further service on the Court shall be removed from the status of a recall-eligible judge. Determination of such a disability shall be made pursuant to section 7253(g) or 7296(g) of this title.

(c) A retired judge who is recalled under this section may exercise all of the judicial powers and duties of the office of a judge in active service.

(d)(1) The pay of a recall-eligible retired judge to whom section 7296(c)(1)(B) of this title applies is the pay specified in that section.

(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 or to whom section 7296(c)(1)(A) of this title applies shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5 or the judge's annuity under section 7296(c)(1)(A) of this title, whichever is applicable.

(e)(1) Except as provided in subsection (d), a judge who is recalled under this section who retired under chapter 83 or 84 of title 5 shall be considered to be a reemployed annuitant under that chapter.

(2) Nothing in this section affects the right of a judge who retired under chapter 83 or 84 of title 5 to serve as a reemployed annuitant in accordance with the provisions of title 5.

* * * * *

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 7281. Employees

(a) The Court of Appeals for Veterans Claims may appoint a clerk without regard to the provisions of title 5 governing appointments in the competitive service. The clerk shall serve at the pleasure of the Court.

(b) The judges of the Court may appoint law clerks and secretaries, in such numbers as the Court may approve, without regard to the provisions of title 5 governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

(c) The clerk, with the approval of the Court, may appoint necessary deputies and employees without regard to the provisions of title 5 governing appointments in the competitive service.

(d) The Court may fix and adjust the rates of basic pay for the clerk and other employees of the Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5. To the maximum extent feasible, the Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

(e) In making appointments under subsections (a) through (c) of this section, preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

(f) The Court may procure the services of experts and consultants under section 3109 of title 5.

(g) The chief judge of the Court may exercise the authority of the Court under this section whenever there are not at least two other judges of the Court.

(h) The Court shall not be considered to be an agency within the meaning of section 3132(a)(1) of title 5.

(i) The Court may accept and utilize voluntary services and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5 and may accept, hold, administer, and utilize gifts and bequests of personal property for the purposes of aiding or facilitating the work of the Court. Gifts or bequests of money to the Court shall be covered into the Treasury.

(j) *For purposes of chapter 87 of title 5, a judge who is in regular active service and a judge who is retired under section 7296 of this title or under chapter 83 or 84 of title 5 shall be treated as an employee described in section 8701(a)(5) of title 5.*

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SUBCHAPTER V—RETIREMENT AND SURVIVORS
ANNUITIES

* * * * *

§ 7297. Survivor annuities

(a) For purposes of this section:

(1) The term “Court” means the United States Court of Appeals for Veterans Claims.

(2) The term “judge” means a judge of the Court who is in active service or who has retired under section 7296 of this title.

(3) The term “pay” means salary received under section 7253(e) of this title and retired pay received under section 7296 of this title.

(4) The term “retirement fund” means the Court of Appeals for Veterans Claims Retirement Fund established under section 7298 of this title.

(5) The term “surviving spouse” means a surviving spouse of an individual who (A) was married to such individual for at least one year immediately preceding the individual’s death, or (B) is a parent of issue by the marriage.

(6) The term “dependent child” has the meaning given the term “child” in section 376(a)(5) of title 28.

(7) The term “Member of Congress” means a Representative, a Senator, a Delegate to Congress, or the Resident Commissioner of Puerto Rico.

(8) The term “assassination” as applied to a judge shall have the meaning provided that term in section 376(a)(7) of title 28 as applied to a judicial official.

(b) A judge may become a participant in the annuity program under this section by filing a written election under this subsection while in office or within six months after the date on which the judge marries if the judge has retired under section 7296 of this title. Any such election shall be made in such manner as may be prescribed by the Court.

(c) There shall be deducted and withheld each pay period from the pay of a judge who has made an election under subsection (b) of this section a sum equal to that percentage of the judge’s pay that is the same as provided for the deduction from the salary or retirement salary of a judge of the United States Court of Federal Claims for the purpose of a survivor annuity under section 376(b)(1)(B) of title 28. Amounts so deducted and withheld shall be deposited in the retirement fund. A judge who makes an election under subsection (b) of this section shall be considered by that election to agree to the deductions from the judge’s pay required by this subsection.

(d)(1) A judge who makes an election under subsection (b) of this section shall deposit, with interest at 3 percent per year compounded on December 31 of each year, to the credit of the retirement fund, an amount equal to 3.5 percent of the judge’s pay and of the judge’s basic salary, pay, or compensation for service as a Member of Congress, and for any other civilian service within the purview of section 8332 of title 5. Each such judge may elect to make such deposits in installments during the judge’s period of service in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annual annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless the surviving spouse elects to eliminate such service entirely from credit under subsection (k) of this section. However, a deposit shall not be required from a judge for any year with respect to which deductions from the judge’s pay, or a deposit, were actually made (and not withdrawn) under the civil service retirement laws.

(2) The interest required under the first sentence of paragraph (1) shall not be required for any period—

(A) during which a judge was separated from any service described in section 376(d)(2) of title 28; and

(B) during which the judge was not receiving retired pay based on service as a judge or receiving any retirement salary as described in section 376(d)(1) of title 28.

(e) If the service of a judge who makes an election under subsection (b) of this section terminates other than pursuant to the provisions of section 7296 of this title, or if any judge ceases to be married after making the election under subsection (b) of this section and revokes (in a writing filed as provided in subsection (b) of

this section) such election, the amount credited to the judge's individual account (together with interest at 3 percent per year compounded on December 31 of each year to the date of the judge's relinquishment of office) shall be returned to the judge. For the purpose of this section, the service of a judge making an election under subsection (b) of this section shall be considered to have terminated pursuant to section 7296 of this title if—

(1) the judge is not reappointed following expiration of the term for which appointed; and

(2) at or before the time of the expiration of that term, the judge is eligible for and elects to receive retired pay under section 7296 of this title.

(f)(1) If a judge who makes an election under subsection (b) of this section dies after having rendered at least 18 months of civilian service (computed as prescribed in subsection (l) of this section), for the last 18 months of which the salary deductions provided for by subsection (c) of this section or the deposits required by subsection (d) of this section have actually been made (and not withdrawn) or the salary deductions required by the civil service retirement laws have actually been made (and not withdrawn)—

(A) if the judge is survived by a surviving spouse but not by a dependent child, there shall be paid to the surviving spouse an annuity beginning with the day of the death of the judge, in an amount computed as provided in subsection (k) of this section; or

(B) if the judge is survived by a surviving spouse and a dependent child or children, there shall be paid to the surviving spouse an immediate annuity in an amount computed as provided in subsection (k) of this section and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

(i) 10 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

(ii) 20 percent of such average annual pay, divided by the number of such children; or

(C) if the judge is not survived by a surviving spouse but is survived by a dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

(i) 20 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

(ii) 40 percent of such average annual pay, divided by the number of such children.

(2) The annuity payable to a surviving spouse under this subsection shall be terminated—

(A) upon the surviving spouse's death; or

(B) upon the remarriage of the surviving spouse before age 55.

(3) The annuity payable to a child under this subsection shall be terminated upon the child's death.

(4) In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving the spouse, the annuity of such child or children under paragraph (1)(B) of this

subsection shall be recomputed and paid as provided in paragraph (1)(C) of this subsection. In any case in which the annuity of a dependent child is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived the judge.

(5) If a judge dies as a result of an assassination and leaves a survivor or survivors who are otherwise entitled to receive annuity payments under this section, the 18-month requirement in the matter in paragraph (1) preceding subparagraph (A) shall not apply.

(g) Questions of family relationships, dependency, and disability arising under this section shall be determined in the same manner as such questions arising under chapter 84 of title 5 are determined.

(h)(1) If—

(A) a judge making an election under subsection (b) of this section dies while in office (i) before having rendered 5 years of civilian service computed as prescribed in subsection (1) of this section, or (ii) after having rendered 5 years of such civilian service but without a survivor entitled to annuity benefits provided by subsection (f) of this section; or

(B) the right of all persons entitled to an annuity under subsection (f) of this section based on the service of such judge terminates before a claim for such benefits has been established, the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year, to the date of the death of such judge) shall be paid in the manner specified in paragraph (2) of this subsection.

(2) An amount payable under paragraph (1) of this subsection shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

(A) To the beneficiary or beneficiaries whom the judge designated in writing filed before death with the chief judge (except that in the case of the chief judge such designation shall be filed before death as prescribed by the Court).

(B) To the surviving spouse of the judge.

(C) To the child or children of the judge (and the descendants of any deceased children by representation).

(D) To the parents of the judge or the survivor of them.

(E) To the executor or administrator of the estate of the judge.

(F) To such other next of kin of the judge as may be determined by the chief judge to be entitled under the laws of the domicile of the judge at the time of the judge's death.

(3) Determination as to the surviving spouse, child, or parent of a judge for the purposes of paragraph (2) of this subsection shall be made without regard to the definitions in subsection (a) of this section.

(4) Payment under this subsection in the manner provided in this subsection shall be a bar to recovery by any other person.

(5) In a case in which the annuities of all persons entitled to annuity based upon the service of a judge terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge (with interest at 3 percent per

year, compounded on December 31 of each year to the date of the death of the judge), the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (2) of this subsection.

(6) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any individual based upon the service of a judge shall be paid to that individual. Any accrued annuity remaining unpaid upon the death of an individual receiving an annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

(A) To the executor or administrator of the estate of that person.

(B) After 30 days after the date of the death of such individual, to such individual or individuals as may appear in the judgment of the chief judge to be legally entitled thereto.

Such payment shall be a bar to recovery by any other individual.

(i) When a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, the payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or the claimant's estate.

(j) Annuities under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity has accrued. An annuity under this section is not assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

(k)(1) The annuity of the surviving spouse of a judge making an election under subsection (b) of this section shall be an amount equal to the sum of the following:

(A) The product of—

(i) 1.5 percent of the judge's average annual pay; and

(ii) the sum of the judge's years of judicial service, the judge's years of prior allowable service as a Member of Congress, the judge's years of prior allowable service performed as a member of the Armed Forces, and the judge's years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5).

(B) Three-fourths of 1 percent of the judge's average annual pay multiplied by the judge's years of allowable service not counted under subparagraph (A) of this paragraph.

(2) An annuity computed under this subsection may not exceed 50 percent of the judge's average annual pay and may not be less than 25 percent of such average annual pay. Such annuity shall be further reduced in accordance with subsection (d) of this section (if applicable).

(3) For purposes of this subsection, the term “average annual pay”, with respect to a judge, means the average annual pay received by the judge for judicial service (including periods in which the judge received retired pay under section 7296(d) of this title) or for any other prior allowable service during the period of three consecutive years in which the judge received the largest such average annual pay.

(l) Subject to subsection (d) of this section, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of the judge’s surviving spouse shall include the judge’s years of service as a judge of the Court, the judge’s years of service as a Member of Congress, the judge’s years of active service as a member of the Armed Forces not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and the judge’s years of any other civilian service within the purview of section 8332 of title 5.

(m) Nothing contained in this section shall be construed to prevent a surviving spouse eligible therefor from simultaneously receiving an annuity under this section and any annuity to which such spouse would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of such spouse’s annuity under this section shall not be credited.

(n) A judge making an election under subsection (b) of this section shall, at the time of such election, waive all benefits under the civil service retirement laws except section 8440d of title 5. Such a waiver shall be made in the same manner and shall have the same force and effect as an election filed under section 7296(d) of this title.

(o) Each survivor annuity payable from the retirement fund shall be increased at the same time as, and by the same percentage by which, annuities payable from the Judicial Survivors’ Annuities Fund are increased pursuant to section 376(m) of title 28.

(p)(1) A covered judge who makes an election under subsection (b) may purchase, in three-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in this section.

(2) In this subsection, the term “covered judge” means any of the following:

(A) A judge in regular active service.

(B) A retired judge who is a recall-eligible retired judge pursuant to subsection (a) of section 7257 of this title.

(C) A retired judge who would be a recall-eligible retired judge pursuant to subsection (a) of section 7257 but for—

(i) meeting the aggregate recall service requirements under subsection (b)(3) of such section; or

(ii) being permanently disabled as described by subsection (b)(4) of such section.

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TITLE 36, UNITED STATES CODE

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**SUBTITLE I—PATRIOTIC AND NATIONAL
OBSERVANCES AND CEREMONIES**

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PART A—OBSERVANCES AND CEREMONIES

* * * * *

CHAPTER 1—PATRIOTIC AND NATIONAL OBSERVANCES

Sec.

101. American Heart Month.

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145. *Veterans Day.*

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§ 145. *Veterans Day*

The President shall issue each year a proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day in honor of the service and sacrifice of veterans throughout the history of the Nation, beginning at—

- (1) *3:11 p.m. Atlantic standard time;*
- (2) *2:11 p.m. eastern standard time;*
- (3) *1:11 p.m. central standard time;*
- (4) *12:11 p.m. mountain standard time;*
- (5) *11:11 a.m. Pacific standard time;*
- (6) *10:11 a.m. Alaska standard time; and*
- (7) *9:11 a.m. Hawaii-Aleutian standard time.*

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