

VETERANS' COMPENSATION COST-OF-LIVING
ADJUSTMENT ACT OF 2007

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MARCH 20, 2007.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed
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Mr. FILNER, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1284]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1284) to increase, effective as of December 1, 2007, 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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

INTRODUCTION

On March 1, 2007, the Honorable John Hall introduced H.R. 1284, a bill to increase, effective as of December 1, 2007, 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. H.R. 1284 was referred to the Committee on Veterans' Affairs. The Chairman of the Veterans' Affairs Committee, the Honorable Bob Filner, is an original co-sponsor of H.R. 1284.

On March 13, 2007, the Subcommittee on Disability Assistance and Memorial Affairs met in open markup session to consider legislation pending before the Subcommittee. Among the measures so

considered was H.R. 1284. The Subcommittee subsequently favorably recommended H.R. 1284 to the full Committee on Veterans' Affairs. The Committee on Veterans' Affairs met on March 15, 2007, and voted to favorably report H.R. 1284 to the House of Representatives. The Committee held no roll call votes on this bill.

SUMMARY

The Committee bill contains freestanding provisions that would require the Secretary of Veterans Affairs to increase, effective December 1, 2007, the rates of and limitations on certain benefits paid by VA by the same percentage as the cost-of-living adjustment (hereinafter, "COLA") provided to Social Security recipients and VA pension beneficiaries that become effective on the same date. The COLA would apply to:

1. basic compensation rates for veterans with service-connected disabilities and the rates payable for certain severe disabilities;

2. the allowance for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30 percent or more disabled;

3. the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing, or requires the use of a medication prescribed by a physician for a service-connected skin condition if the medication causes irreparable damage to the veteran's outer garments; and

4. the dependency and indemnity compensation (hereinafter, "DIC") rates paid to:

(a) surviving spouses of veterans whose deaths were service-connected;

(b) surviving spouses for dependent children below the age of eighteen;

(c) surviving spouses who are so disabled that they need aid and attendance or are permanently housebound;

(d) surviving spouses covered under Section 1318 of title 38, United States Code; and

(e) the children of veterans whose deaths were service-connected if no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

BACKGROUND AND DISCUSSION

A. Disability compensation

The service-connected disability compensation program under chapter 11 of Title 38, United States Code, provides monthly cash benefits to veterans who have disabilities incurred or aggravated during active duty in the Armed Forces.

The amount of compensation paid depends on the nature and severity of the veteran's disability or combination of disabilities and the extent to which the disability impairs earning capacity. VA rates compensable disabilities according to its Schedule for Rating Disabilities on a graduated scale ranging from 10 to 100 percent, in 10 percent increments. VA pays higher monthly rates (known as 'special monthly compensation') to totally disabled veterans with

certain specific, very severe disabilities or combinations of disabilities.

According to VA, as set forth in its fiscal year 2008 budget, the Department estimates that it will provide disability compensation to 3,220,031 veterans with service-connected disabilities in fiscal year 2008. Among the veterans estimated to receive such compensation are 778 World War I and Prior; 391,454 World War II veterans; 192,982 Korean-conflict veterans; 1,142,568 Vietnam-era veterans; 862,975 veterans of the Persian Gulf War era; and 629,982 veterans who served during peacetime.

A veteran with a disability rated at 30 percent or more may receive additional compensation on behalf of the veteran's spouse, children, and dependent parents. These dependents' allowances are prorated according to the percentage of disability.

B. Dependency and indemnity compensation

Under Chapter 13 of title 38, United States Code, VA pays DIC to the survivors of servicemembers or veterans who died on or after January 1, 1957, from a disease or injury incurred or aggravated during military service. Survivors eligible for DIC include surviving spouses, unmarried children under the age of 18, children age 18 or older who are permanently incapable of self-support, children between the ages of 18 and 22 who are enrolled in school, and certain needy parents. Under Section 5312 of title 38, parents' DIC rates are adjusted automatically at the same time and by the same percentage as Social Security and VA pension benefits. Surviving spouses, children, and parents who are receiving death compensation based on deaths before January 1, 1957 may elect to receive DIC instead of death compensation.

For deaths prior to January 1, 1993, surviving spouses received DIC at rates determined by the pay grade (service rank) of the deceased veteran. For deaths on or after January 1, 1993, surviving spouses currently receive \$1,033 per month and, if the deceased veteran was totally disabled for 8 years prior to death, an additional \$221 per month. Surviving spouses who had been receiving benefits under the prior DIC program are paid under whichever program will pay the higher benefit.

A surviving spouse who is so disabled as to be housebound or in need of regular aid and attendance is eligible to receive an additional amount. A surviving spouse also may receive additional allowances on behalf of the veteran's surviving children.

Children are entitled to DIC if there is no surviving spouse, if they are 18 years of age or older and became permanently incapable of self-support before reaching age 18, or if they are 18 to 22 years old and pursuing an approved course of education.

Parents of deceased veterans whose incomes are below statutorily prescribed income thresholds are eligible for DIC under Section 1315 of Title 38. As previously mentioned, parents' DIC rates are adjusted automatically at the same time and by the same percentage as Social Security and VA pension benefits.

Under Section 1318 of title 38, VA pays benefits at DIC rates to the surviving spouses and children of veterans whose deaths are not service-connected if the veteran, immediately prior to his or her death, had been receiving (or had been entitled to receive) compensation at the 100 percent rate continuously for 10 or more years

or for at least 5 years from the date of discharge or release from active duty. VA also pays DIC benefits to the surviving spouses and children of veterans who were former prisoners of war who die after September 30, 1999, and whose deaths were not service-connected if the veterans had been receiving (or had been entitled to receive) compensation at the 100 percent rate continuously for not less than one year preceding death.

C. History of cost-of-living increases

The Committee periodically reviews the service-connected disability compensation and DIC programs to ensure that the benefits provide reasonable and adequate compensation for disabled veterans and their families. Based on this review, the Congress acts periodically to provide a cost-of-living adjustment in compensation and DIC benefits. In fact, the Congress has provided annual increases in these rates for every fiscal year since 1976. The following table shows the percentage increases since 1975.

HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1975 TO PRESENT

Fiscal year	Effective date	Increase (percent)	Cumulative (1969 = \$100)
1976	August 1975	11.8	158.55
1977	October 1976	8.0	171.23
1978	October 1977	6.6	182.53
1979	October 1978	7.3	195.86
1980	October 1979	9.9	215.25
1981	October 1980	14.3	246.03
1982	October 1981	11.2	273.58
1983	October 1982	7.4	293.82
1984	April 1983	3.5	304.11
1985	December 1984	3.2	313.84
1986	December 1985	3.1	323.57
1987	December 1986	1.5	328.42
1988	December 1987	4.2	342.22
1989	December 1988	4.1	356.25
1990	December 1989	4.7	372.99
1991	December 1990 1	5.4	393.13
1992	December 1991	3.7	407.68
1993	December 1992	3.0	419.91
1994	December 1993	2.6	430.83
1995	December 1994 2	2.8	442.89
1996	December 1995 2	2.6	454.41
1997	December 1996	2.9	467.59
1998	December 1997 2	2.1	477.41
1999	December 1998 2	1.3	483.62
2000	December 1999 2	2.4	495.23
2001	December 2000 2	3.5	512.56
2002	December 2001 2	2.6	525.89
2003	December 2002 2	1.4	535.88
2004	December 2003 2	2.1	547.13
2005	December 2004 2	2.7	561.90
2006	December 2005 2	4.1	584.94
2007	December 2006 2	3 2.2	3 597.82
2008	December 2007 2	1.5	606.78

Additional Information

H.R. 1284 would direct VA to compute and provide increases in the monthly rates of compensation and DIC, effective December 1, 2007. The rates would be increased by the same percentage as the Social Security and VA pension COLA that will take effect on that

date. In accordance with Section 8031 of the Balanced Budget Act of 1997 (Public Law 105–33), amounts of compensation so computed that are not even multiples of \$1 will be rounded down to the next lower whole dollar amount. In 2003, this provision was extended until 2013 by Section 706 of Public Law 108–183.

The increases in DIC automatically would result in identical percentage increases in benefits paid at DIC rates under Section 1318 of Title 38, United States Code, to the surviving spouses and children of veterans who had a service-connected disability at the time of death for which they continuously were rated totally disabled for at least (1) 10 years, (2) 5 years from the date of discharge from active duty, or (3) 1 year if the veteran was a former prisoner of war who died after September 30, 1999, and whose death was not service-connected if the veteran had been receiving (or had been entitled to receive) compensation at the 100 percent rate continuously for not less than 1 year preceding death.

Under Section 156(e)(1)(A) of Public Law 97–377, the DIC increases also automatically would result in the same percentage increases in Social Security benefits that were terminated by Section 2205 of the Omnibus Budget Reconciliation Act of 1981 (hereinafter, “OBRA 1981”) (Public Law 97–35). Prior to OBRA 1981, those benefits had been paid to certain surviving spouses of those who died on active duty or from a service-connected disability on behalf of their children under 18 and children over age 19 who were secondary-school students; OBRA 1981 reduced the eligibility cutoff age from 18 to 16 years old.

Section 314 of Public Law 100–322 amended section 156(a)(1) of Public Law 97–377 to restore the benefits eliminated by OBRA 1981. The DIC increase also would apply to these restored benefits, effective December 1, 2000.

The Congressional Budget Office (hereinafter, “CBO”), in its most recent baseline, estimated that the Social Security COLA affecting fiscal year 2008 payments, and thus the COLA provided for by the Committee bill will be 1.5 percent. The actual Social Security COLA could differ from this estimate. Rather than selecting any particular percentage adjustment at the time the Committee ordered the bill reported, the Committee followed its prior practice of setting the COLA by reference to the Social Security increase. The Committee believes this is the most equitable means of providing increases in these important service-connected benefits.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill would provide that this Act may be cited as the “Veterans Compensation Act of 2007.”

Section 2(a) of the bill would require the Secretary of Veterans Affairs to increase, effective December 1, 2007, the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation.

Section 2(b) of the bill would specify the programs to receive increased dollar amounts: compensation in effect under section 114 of title 38, United States Code; additional compensation for dependents in effect under sections 1115(1) of title 38, United States Code; clothing allowance in effect under Section 1162 of title 38, United States Code; Dependency and Indemnity Compensation to Surviving Spouse under subsections (a) through (d) of sections 1311

of title 38, United States Code; and Dependency and Indemnity Compensation to Children—each of the dollar amounts under sections 1313(a) and 1314 of title 38, United States Code.

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

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

Section 2(d) of the bill would provide a special rule authorizing the Secretary of Veterans Affairs to adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263), who are not in receipt of compensation payable pursuant to Chapter 11 of Title 38, United States Code.

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

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill provides a cost of living increase for specific veterans benefits. As such, this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

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, which include improving the quality of life for veterans and their dependents, are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 1284. Article I, Section 8 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office that is included herein.

EARMARK IDENTIFICATION

H.R. 1284 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1284. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under Section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and Section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and Section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1284 from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 16, 2007.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1284, the Veterans' Compensation Cost-of-Living Adjustment Act of 2007.

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

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 1284—Veterans' Compensation Cost-of-Living Adjustment Act of 2007

H.R. 1284 would increase the amounts paid to veterans for disability compensation and to their survivors for dependency and indemnity compensation by the same cost-of-living adjustment (COLA) payable to Social Security recipients. The increase would take effect on December 1, 2007, and the results of the adjustment would be rounded to the next lower dollar.

The COLA that would be authorized by this bill is assumed in CBO's baseline, pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act, and savings from rounding it down were achieved by the Balanced Budget Act of 1997 (Public Law 105-33) and extended to 2013 by the Veterans Benefits Act of 2003 (Public Law 108-183).

Because the COLA is assumed in CBO's baseline, the COLA provision would have no budgetary effect relative to that baseline. Relative to current law, CBO estimates that enacting this bill would increase spending for those programs by \$373 million in 2008. (The annualized cost would be about \$500 million in subsequent years.) This estimate assumes that the COLA effective on December 1, 2007, will be 1.5 percent.

H.R. 1284 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1284 is a freestanding provision and as such does not change positive law.

ADDITIONAL VIEWS OF HON. STEVE BUYER

In my letter of March 8, 2007, objecting to the markup on the bills, including H.R. 327, H.R. 612, H.R. 797, and H.R. 1284 (letter attached), I strongly urged legislative hearings on these bills before the markup.

Had the Committee followed regular order in holding a legislative hearing on H.R. 1284, the Veterans Compensation Cost-of-Living Adjustment Act of 2007, the Committee would have heard testimony from veterans' service organizations and other interested parties on matters and concerns relating to the authorization of a cost of living adjustment (COLA) for disability compensation, and dependency and indemnity compensation. The veterans service organizations and other interested parties should have had the opportunity to testify on H.R. 1284 before the committee reports it. This important annual authorization should not be treated as legislation that is so routine as to no longer merit a hearing. I support H.R. 1284.

STEVE BUYER.

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March 8, 2007

Honorable Bob Filner
 Chairman
 House Committee on Veterans' Affairs
 335 Cannon House Office Building
 Washington, D.C. 20515

Dear Mr. Filner,

This letter is to object to the proposal that the House Committee on Veterans' Affairs hold a markup on H.R. 327, the Joshua Orvig Veterans Suicide Prevention Act; H.R. 612, Returning Service Member VA Healthcare Insurance Act of 2007; H.R. 797, the Dr. James Allen Veteran Vision Equity Act; and H.R. 1284, the Veterans Compensation Cost-of-Living Adjustment Act of 2007, on March 15, 2007.

As you are aware, it is the custom of this committee to hold legislative hearings on substantive bills that affect our nation's veterans. Passing legislation without hearings could lead to unintended adverse consequences that will need to be corrected at a later date. In addition, we have seen no cost information from the Congressional Budget Office (CBO) on H.R. 327, H.R. 612 and H.R. 797.

To markup legislation without knowing the full ramifications or the cost is irresponsible. I therefore ask that this markup be delayed until such time that legislative hearings on these bills have taken place and the cost information have been received from CBO.

Sincerely,



Steve Buyer
 Ranking Republican Member

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