

PROVIDING MORE ADEQUATE AND UNIFORM ADMINISTRATIVE
PROVISIONS IN VETERANS' LAWS PERTAINING TO COMPENSA-
TION, PENSION, AND RETIREMENT PAY PAYABLE BY THE
VETERANS' ADMINISTRATION

JULY 6 (legislative day, MAY 24), 1943.—Ordered to be printed

Mr. CLARK of Missouri, from the Committee on Finance, submitted
the following

REPORT

[To accompany H. R. 2703]

The Committee on Finance, to whom was referred the bill (H. R. 2703) to provide more adequate and uniform administrative provisions in veterans' laws pertaining to compensation, pension, and retirement pay payable by the Veterans' Administration, and for other purposes, having considered the same, report favorably thereon with the following amendments, and with such amendments recommend that the bill do pass.

Page 4 of the bill, line 8, after the word "person" add the following: "not a citizen of the United States".

Page 7 of the bill, line 13, strike the words "That for" and substitute the word "For".

Page 7 of the bill, line 15, strike the words "for ninety days or more".

Page 7 of the bill, line 18, after the word "enrollment" and before the period and quotation mark, insert the following:

, or where clear and unmistakable evidence demonstrates that the injury or disease existed prior to acceptance and enrollment and was not aggravated by such active military or naval service.

EXPLANATION OF COMMITTEE AMENDMENTS

The amendment on page 4, line 8, is for the purpose of restricting the application of section 5 of the bill to persons not citizens of the United States. The amendment will preserve the substantial purpose of the measure and avoid injustices as to certain citizens of the United States.

The amendments to subsection (b) of section 9 of the bill, page 7, lines 13, 15, and 18, are for the following purposes: (1) The amendment in line 13 is a formal change to conform with the structure of

the Veterans Regulations; (2) the amendment in line 15 is to remove the requirement of a particular period of service for application of the rebuttable presumption of soundness prior to acceptance and enrollment. Your committee is advised by the Veterans' Administration that this change will aid materially in making factual determinations as to service connection and aggravation, and is more in conformity with the World War Veterans' Act, 1924, as amended, which has no such limitation; (3) the amendment in line 18 is for the purpose of applying a rebuttable presumption under Public, No. 2, Seventy-third Congress, and the Veterans Regulations for war service connection of disability or death, including World War II, similar to that applied for World War I service connection of disability or death under Public, No. 141, Seventy-third Congress, March 28, 1934.

The language added by the committee, "and was not aggravated by such active military or naval service" is to make clear the intention to preserve the right in aggravation cases as was done in Public, No. 141. Section 9 (b), as it passed the House of Representatives, would leave the 90-day service requirement in the law and would provide a conclusive presumption of soundness similar to that provided in section 200 of the World War Veterans' Act, 1924, as amended, as it stood prior to its repeal by the act of March 20, 1933. Bearing in mind that defects, infirmities, or disorders, in some cases, necessarily are overlooked due to the speed with which persons are taken into service during a war emergency, experience under the conclusive presumption precluded factual determination and numerous cases were included for benefits where it was clearly and unmistakably established that the condition existed prior to acceptance and enrollment. The rebuttal provisions of Public, 141 and in section 9 (b), as amended by this committee, are considered reasonable both from the standpoint of the veteran and the Government.

BRIEF EXPLANATION OF THE BILL

Briefly, the bill, as amended by your committee, is designed to correct inequalities arising under existing law, with a view to simplifying adjudicative practices and administrative procedure by establishing uniform provisions wherever possible.

Sections 1 to 8, inclusive, define or modify existing definitions, the terms "widow of a World War II veteran," "child," "parent," "father," and "mother"; provide for uniform application of section 21, World War Veterans' Act, 1924, as amended, and Public Law No. 262, Seventy-fourth Congress, as amended, which pertain to safeguarding of estates of veterans derived from benefits under laws administered by the Veterans' Administration, and the administrative and definitive provisions of Public Law No. 2, Seventy-third Congress, and the Veterans Regulations, as amended, including provisions for renouncement of compensation or pension; provide for forfeiture of certain benefits as to persons found guilty of certain offenses; and authorize termination of awards in favor of persons, not citizens of the United States, in enemy-controlled territory with provision for apportionments to their dependents who are in the United States.

Sections 9 to 13, inclusive, contain provisions applying to World War II veterans, a rebuttable presumption of soundness at acceptance and enrollment, and the rebuttable presumption of service-connection

for chronic diseases to be applied uniformly to veterans of World War I and the Spanish-American War, Boxer Rebellion, and Philippine Insurrection under part I of Veterans Regulation No. 1 (a), as amended; giving recognition to service as a cadet at the United States Military Academy, as a midshipman at the United States Naval Academy, or as a cadet at the United States Coast Guard Academy on or after December 7, 1941, and before termination of hostilities incident to the present war, as active service in World War II for the purposes of laws administered by the Veterans' Administration; clarifying the exemptions from the income limitation in Public Law No. 484, Seventy-third Congress, as amended, and extending entitlement to a child or children, otherwise eligible where the widow's rights are barred by the income limitation; regulating payments of accrued benefits due and unpaid at death; establishing uniform application of the limitations on payments in hospitalized and domiciled cases of veterans without dependents, increasing the reduced amount of \$15 per month to \$20 per month, and increasing the reduced amount for non-service-connected disability under part III of Veterans Regulation No. 1 (a), as amended, from \$6 to \$8 per month.

Section 14 simplifies and adjusts the rates of wartime service-connected death compensation or pension by elimination of the differentiation in rates to the widow or children based upon age, adopting the higher rates for all ages. These adjustments result in increased rates and will facilitate adjudicative actions. The increase of the widow's rate from \$45 to \$50 per month and the payment of that rate regardless of age (now \$38 if under 50 years of age) is believed to be a conservative and more appropriate recognition of the Federal obligation in these cases. In order that no inequality may result and that the rates of death pension based upon service other than in period of war may simultaneously be adjusted, this section adjusts those rates to the recognized 75-percent ratio to wartime service-connected rates. The estimated cost of the wartime service-connected adjustment under this section for the first year is \$4,026,000 and the adjustment of death pension rates based upon service other than during a period of war is estimated at \$510,000 for the first year.

Section 15 governs the receipt of concurrent payments, removing certain inequalities in existing law and providing more equitable rules for uniform application.

Section 16 relates to the effective date of the act and of certain adjustments or benefits authorized thereunder and provides that no payments authorized by the act shall be made for any period prior to date of its enactment.

Section 17 provides that pension payable for disability shall be payable from date of discharge if claim therefor is filed within 1 year from discharge.

ESTIMATE OF COST

Exclusive of the provisions of section 14, for which an estimate of \$4,536,000 for the first year is given, it is not possible to make any satisfactory estimate of the cost, but it may be stated that any additional cost under this bill will be largely offset by the simplifications of administrative provisions and establishment of greater uniformity.

The letter from the Administrator of Veterans' Affairs, recommend-

ing the bill introduced as S. 1228 and identical with H. R. 2703 as originally introduced in the House of Representatives, is as follows:

JUNE 7, 1943.

The PRESIDENT OF THE SENATE,
The Capitol, Washington, D. C.

SIR: There are forwarded herewith two copies of a draft of a proposed bill entitled, "A bill to provide more adequate and uniform administrative provisions in veterans' laws pertaining to compensation, pension, and retirement pay payable by the Veterans' Administration, and for other purposes," with the request that same be introduced and referred to the appropriate committee for consideration.

The proposed bill is designed to correct certain inequalities arising under existing law, with a view to simplifying adjudicative practices and administrative procedure by establishing uniform provisions wherever possible. These provisions, in some instances, affect to a minor degree, eligibility for certain monetary benefits under laws administered by the Veterans' Administration. A detailed analysis of the proposed bill is enclosed.

Briefly, sections 1 to 8, inclusive, define or modify existing definitions of the terms "widow of a veteran of World War II," "child," "parent," "father," and "mother"; provide for uniform application of section 21, World War Veterans' Act, 1924, as amended, and Public, No. 262, Seventy-fourth Congress, as amended, which pertain to safeguarding of estates of veterans derived from benefits under laws administered by the Veterans' Administration, and the administrative and definitive provisions of Public, No. 2, Seventy-third Congress, and the Veterans Regulations, as amended, including provision for renouncement of compensation or pension; provide for forfeiture of certain benefits as to persons found guilty of certain offenses; and authorize termination of awards in favor of persons in enemy-controlled territory with provision for apportionments to their dependents who are in the United States. These provisions will result in little or no expense and result in material savings under the provision for termination of awards.

Sections 9 to 13, inclusive, which affect the grant of benefits, contain provisions applying to World War II veterans the rebuttable presumption of soundness and rebuttable presumption of service connection for chronic diseases on a parity with veterans of World War I and the Spanish-American War, Boxer Rebellion, and Philippine Insurrection under part I of Veterans Regulation No. 1 (a), as amended, which will entail only slight additional cost as wartime rates are now payable in such cases although the eligibility requirements are those in part II of Veterans Regulation No. 1 (a), as amended (peacetime); giving recognition to service as cadet at the United States Military Academy or as midshipman at the United States Naval Academy, or as cadet at the United States Coast Guard Academy on or after December 7, 1911, and before termination of hostilities incident to the present war as determined by proclamation of the President or by concurrent resolution of the Congress, as active military or naval service in World War II, which will result in some additional cost; clarifying the exemption from the income limitation of Public, No. 484, Seventy-third Congress, as amended, and extending entitlement to a child or children, otherwise eligible, where the widow's rights are barred by the income limitation which will entail slight additional expense; regulating payments of accrued benefits due and unpaid at death, entailing slight additional cost which would be more than offset by considerable savings due to the restriction on retroactive awards; establishing uniform application of the limitations on payments in hospitalized and domiciled cases of veterans without dependents, which would result in small additional cost under one provision, due to slight increase in the reduced amount payable in non-service-connected permanent total disability cases from \$6 to \$8 per month, to take cognizance of the increase of the permanent total non-service-connected rate from \$30 to \$40 per month under part III, Veterans Regulation No. 1 (a), but result in material savings through extension of the limitations uniformly to cases not presently covered thereby, thus permitting reduction or discontinuance of payments in a number of cases and tending to further prevent the accumulation of large estates.

Section 14 under paragraph (a), would simplify and adjust the rates of wartime service connected death compensation or pension by elimination of the differential in rates to the widow or children based upon age, adopting the higher rates for all ages. These adjustments will result in conservative increases, partially offset by simplification of adjudicative actions. The increase of the widow's rate from \$45 to \$50 per month is considered justified in war service connected cases as the present rate has been repeatedly questioned in recent years and experience of the Veterans' Administration justifies the conclusion that the proposed rate represents

a conservative and more appropriate recognition of the Federal obligation in these cases. It is estimated that the cost of this section for the first year would be \$4,026,000.

Section 14 under paragraph (b) would adjust the rates of peacetime service connected death pension based upon the principles applied to wartime service connected death rates in section 14, and maintain the existing 75 per centum ratio of peacetime service connected rates to wartime service connected rates. The estimated cost of this section for the first year is \$510,000. This cost, as under section 14, would be partially offset by administrative savings. Paragraph (c) relates to the effective dates of benefits or increased benefits authorized under this section.

Section 15 governs receipt of concurrent payments and, in removing certain inequalities of existing law and providing more equitable rules for uniform application, will result in some additional cost.

Section 16 relates to the effective date of the act and of necessary adjustments or benefits authorized thereunder and provides that no payments authorized by the act shall be made for any period prior to date of its enactment.

Due to the detailed provisions of the bill and lack of necessary data, it would be impracticable to furnish an acceptable estimate of the cost of the bill. As indicated above, some of the provisions will entail additional expense, whereas others will result in savings to the Government. It is believed that the savings effected will materially reduce the additional cost.

In view of the inequalities which will be corrected, the advantages which will result from simplification of adjudicative practices and administrative procedure, and the fact that the saving effected will materially reduce the additional cost, it is desirable that this legislation be secured at the earliest possible date.

Advice has been received from the Director, Bureau of the Budget, that while there would be no objection to the submission of legislation to the Congress for its consideration which would simplify certain adjudicatory practices and administrative procedures of the Veterans' Administration, the provisions of section 13 of the bill which would increase from \$6 to \$8 a month the pension to veterans who are receiving hospitalization or institutional care by reason of non-service-connected disabilities should not be considered as being in accord with the program of the President.

Respectfully,

FRANK T. HINES, *Administrator.*

The letter from the Administrator of Veterans' Affairs recommending certain amendments to H. R. 2703 as it passed the House of Representatives is as follows:

JUNE 20, 1943.

HON. WALTER F. GEORGE,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

MY DEAR SENATOR GEORGE: Reference is made to my letter of June 7, 1943, addressed to the President of the Senate transmitting a draft of proposed legislation to provide more adequate and uniform administrative provisions in veterans' laws pertaining to compensation, pension, and retirement pay payable by the Veterans' Administration, and for other purposes, with a detailed analysis of the bill, which was referred to your committee June 10, 1943, and introduced as S. 1228, Seventy-eighth Congress, on June 14, 1943.

I desire to supplement the above letter to the President of the Senate with a brief comparative analysis of S. 1228 and a similar bill, H. R. 2703, Seventy-eighth Congress, which passed the House of Representatives, with amendments, June 21, 1943, and was referred to your committee June 22, 1943. An explanation of the amendments approved by the Committee on World War Veterans' Legislation, is contained in House Report No. 463 which accompanied the bill.

S. 1228 is identical with H. R. 2703 as it was originally introduced except as to certain formal errors in H. R. 2703 which were corrected by the House committee amendments. Three important changes were made in H. R. 2703 by the House committee amendments, one of which would not only have the effect of restoring the conclusive presumption of soundness provision of section 200, World War Veterans' Act (Act of June 7, 1924) as to veterans of World War I, but also of extending this presumption of soundness to veterans of the Spanish-American War, Philippine Insurrection, Boxer Rebellion, and World War II; another would increase the reduced amount payable to disabled veterans, having no

6 PROVIDE ADEQUATE AND UNIFORM PROVISIONS IN VETERANS' LAWS

dependents, from \$15 to \$20, while they are being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof where benefits are payable for service connected disability; and the third would permit payment of pension from date of discharge if claim therefor is filed within 1 year from discharge.

With respect to the first of these amendments, it is the view of the Veterans' Administration that elimination of all provisions for rebuttal of the presumption of soundness except as to defects, infirmities, or disorders noted at time of examination, acceptance, and enrollment, is too far-reaching and cannot be justified. Even with the greatest of care, medical officers in the armed forces cannot possibly discover all existing diseases or disabilities and since compensation or pension is payable for aggravation of preexisting disabilities under Veterans Regulation No. 1 (a), as amended, it seems only fair that the Government should be properly safeguarded so that payment of compensation or pension will be made only for disabilities incurred in service; or aggravation of disabilities which the person had when he entered the service, even though such disabilities may not have been noted at the time of examination, acceptance, or enrollment. At the hearings on H. R. 2703, the Committee on World War Veterans' Legislation was informed by me of the unsatisfactory results which obtained under the conclusive presumption of soundness under section 200 of the World War Veterans' Act, 1924, as amended, and as well of the more satisfactory results obtained since the repeal of that law and its reenactment with rebuttal limitations under Public, No. 141, Seventy-third Congress, March 28, 1934. At these hearings it was suggested by a representative of the American Legion that the rebuttal of the presumption of soundness be made on a factual basis rather than on medical judgment as provided in paragraph 1 (b), part I, Veterans Regulation No. 1 (a), as amended.

It is now provided in paragraph 1 (b), part I, Veterans Regulation No. 1 (a), as follows:

"That for the purposes of paragraph I (a) hereof every person employed in the active military or naval service for 90 days or more, shall be taken to have been in sound condition when examined, accepted and enrolled for service except as to defects, infirmities or disorders noted at time of the examination, acceptance, and enrollment, *or where evidence, or medical judgment is such as to warrant a finding that the injury or disease existed prior to acceptance and enrollment.*" [Italic supplied.]

The representative of the American Legion suggested the elimination only of the phrase "or medical judgment." However, all of the italicized portion was eliminated from this paragraph by the House committee amendment to H. R. 2703. There would be no objection on the part of the Veterans' Administration to elimination of the service requirement of 90 days and insertion of the following substitute provision for that part of paragraph 1 (b), part I, Veterans Regulation No. 1 (a), as amended, eliminated by the committee amendment to H. R. 2703.

"or where clear and unmistakable evidence demonstrates that the injury or disease existed prior to acceptance and enrollment."

The above proposed amendment would have the effect of applying a rebuttable presumption of soundness for veterans of World War I, World War II, and the Spanish-American War, including the Boxer Rebellion and Philippine Insurrection, similar to that now applicable to World War I veterans under section 200 of the World War Veterans' Act, 1924, as amended, as reenacted with limitations by the act of March 28, 1934, Public, No. 141, Seventy-third Congress.

With respect to the House committee amendment to H. R. 2703 increasing the reduced amount payable to certain disabled veterans without dependents while being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof, the Veterans' Administration offers no objection although no increase in the existing rate of \$15 now payable for service-connected disabilities under these conditions was recommended in the draft of proposed legislation which became S. 1228. With respect to the proposal of the Veterans' Administration that the rate payable to veterans under these conditions for permanent total non-service-connected disability under part III, Veterans Regulation No. 1 (a), as amended, be increased from \$6 to \$8 per month, the Director, Bureau of the Budget, stated that this provision should not be considered as being in accord with the program of the President.

The Veterans' Administration has no objection to offer to the third House committee amendment to H. R. 2703 that pension payable for disability shall be payable from date of discharge if claim therefor is filed within 1 year from discharge.

With respect to section 5 of S. 1228, the Veterans' Administration, upon further consideration, feels that its provisions should be applicable only to persons who are not citizens of the United States. This could be accomplished by inserting the phrase "not a citizen of the United States" between the word "person" and the word "entitled", line 11, page 4, of the bill now pending before the committee.

There are enclosed copies of H. R. 2703 and S. 1228 showing proposed amendments in conformity with the views expressed herein for consideration of the committee.

Advice has been received from the Bureau of the Budget that there would be no objection by that office to the submission of this report to your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

The detailed analysis of the bill as it passed the House of Representatives is reprinted for convenience.

DETAILED ANALYSIS OF THE PROVISIONS OF THE BILL

Section 1: Section 1 of the proposed bill would make the administrative, definitive, and regulatory provisions of Public, No. 2, Seventy-third Congress, and Veterans Regulations, as now or hereafter amended, applicable to benefits provided under Public, No. 141, Seventy-third Congress, as amended, Public, No. 484, Seventy-third Congress, as amended, and under laws reenacted by Public, No. 269, Seventy-fourth Congress, as amended. Notwithstanding certain legislative enactments and regulatory measures designed to insure uniform application of these provisions to benefits provided under these separate acts, complications tending to create injustices and inequalities have arisen, particularly in administering the provisions of Public, No. 484, Seventy-third Congress, which clearly indicate the necessity for the legislative action proposed to establish uniformity in the manner stated. One result of this provision would be to extend entitlement to pension under the general or service pension laws to the child of a deceased veteran of the Spanish-American War, the Philippine Insurrection, or Boxer Rebellion until the child attains the age of 18 years or marries or to age 21, if he is pursuing a course of instruction in an educational institution as the term "child" as defined in paragraph VI, Veterans Regulation No. 10—Series would be for application. As the rates payable to a child or children under the general or service pension laws are higher than those payable for wartime service-connected death, provision is made for payment to the child or children in such cases at the rates payable for World War I non-service-connected death under Public, No. 484, Seventy-third Congress, as amended.

Section 2: The purpose of the amendment proposed by this section is to provide uniform application of the provisions of section 21, World War Veterans' Act, 1924, as amended, and of Public Law No. 262, Seventy-fourth Congress, August 12, 1935, which pertain to safeguarding of estates of veterans derived from benefits under laws administered by the Veterans' Administration, and to afford more flexible administrative action in certain types of cases wherein the present provisions of section 21, World War Veterans' Act, 1924, as amended, are too restrictive. The amendment would extend the provisions of these laws to retirement pay of Reserve officers, United States Army, payment of which is made by the Veterans' Administration although the question of eligibility is determined by the War Department under Public Law No. 18, Seventy-sixth Congress, April 3, 1939. It would also authorize the Administrator of Veterans' Affairs, in his discretion, to make payments of compensation, pension, or retirement pay to the wife of an incompetent veteran, having no guardian, for the use of the veteran and his dependents, and permit payment of death benefits directly to a minor widow, having no guardian, for herself and minor child or children, notwithstanding her minority. This last provision is for the purpose of applying, where indicated, the principle of emancipation by marriage which is recognized by a considerable number of the States.

Section 3: Section 3 would amend paragraph XXI, Veterans Regulation No. 10—Series pertaining to renouncement of pension. The language follows the existing regulation which now applies only to any person entitled to monetary benefits under the provisions of title I, Public, No. 2, Seventy-third Congress, or section 20, Public, No. 78, Seventy-third Congress, but extends its provisions to any person entitled to pension or compensation under any law or veterans regulation administered by the Veterans' Administration. Under this paragraph, as amended, any person entitled to pension or compensation, upon written applica-

tion over his signature may renounce his right thereto, and from date of receipt of such application payment of such benefits and the right thereto are terminated. This renouncement, however, does not preclude the person from filing a new application for pension or compensation at a future date, but no payment may be made for any period prior to the date thereof.

Section 4: Section 4 of the proposed bill provides for forfeiture of all accrued or future benefits under laws administered by the Veterans' Administration pertaining to gratuities for veterans and their dependents, by any person shown by evidence satisfactory to the Administrator of Veterans' Affairs to be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies, but permits apportionment and payment of any part of such benefits to the dependents of such person not exceeding the amount to which each dependent would be entitled if such person were dead.

Section 5: This section would authorize termination of the award of compensation, pension, or other gratuity under laws administered by the Veterans' Administration in favor of any person located in the territory of or under military control of an enemy of the United States or any of its allies and provides that such person will not be entitled to any such benefits except upon the filing of a new claim accompanied by evidence satisfactory to the Administrator of Veterans' Affairs showing that the claimant was not guilty of any of the offenses enumerated in section 4 of the act, and then only prospectively, as such benefits would not be paid for any period prior to date of such new claim. It permits the Administrator to apportion and pay any part of the benefits to which such person would otherwise be entitled, to the dependents of such person who are in the United States or in a place not occupied or controlled by the enemy not exceeding the amount to which each dependent would be entitled if such person were dead. The purpose of this section is to bar accrued or future payments of gratuities to persons guilty of any of the offenses enumerated in section 4 of the act or alien enemies and to prevent the building up of large estates in favor of those residing in countries at war with the United States or in countries under military control of the enemy. While payments of such gratuities which have already been made in favor of persons located in foreign countries controlled by the enemy and which have been deposited in the special deposit account with the Treasurer of the United States entitled "Secretary of the Treasury, Proceeds of Withheld Foreign Checks" under the act of October 9, 1940 (Public, No. 828, 76th Cong.), as amended, will not be affected by the provisions of this amendment, payments which may have accrued in favor of any person while he is located in territory controlled by the enemy will be barred as any such benefits to which such person may be shown to be entitled upon the filing of a new claim may only be paid prospectively.

Section 6: This section would amend paragraph VI of Veterans Regulation No. 10, as amended, so as to define the term "widow of a World War II veteran." Service in World War II is not now included in part I, Veterans Regulation No. 1 (a), as amended, as wartime service, hence the eligibility requirements governing payment of pension for disabilities incurred in peacetime service or deaths resulting therefrom must be applied in World War II cases, although wartime rates are payable by virtue of the provisions of Public, No. 359, Seventy-seventh Congress, December 19, 1941. As a result the definition of the term "widow of a peacetime veteran" is now applied in determining eligibility of a widow of a World War II veteran. Section 9 of the bill would amend paragraph I (a), part I, of Veterans Regulation No. 1 (a), as amended, to include service on or after December 7, 1941, and before termination of hostilities incident to the present war as wartime service. The effect of this amendment is to apply to veterans and the dependents of veterans of World War II the eligibility requirements governing payment of pensions based upon wartime service, as contained in part I rather than those now governing their eligibility as contained in part II of this regulation. As the definition of the term "widow of a peacetime veteran" would no longer be applicable to widows of veterans of World War II, it is essential that the term "widow of a World War II veteran" be defined for adjudicatory purposes. No material change is made in the definition of the term "widow of a peacetime veteran," now applicable in World War II cases in establishing a definition for the term "widow of a World War II veteran."

Section 7: Section 7 would amend paragraph VI of Veterans Regulation No. 10—Series to establish a definition of the term "child" for purposes of Public, No. 2, and the Veterans Regulations, as amended, comparable, generally, to that applied in World War I cases under the World War Veterans' Act, 1924, as amended, and reenacted by Public, No. 141, Seventy-third Congress. The effect of this amendment is to include within the definition of that term, a stepchild,

and an illegitimate child under certain conditions, permitting in the latter connection recognition of an illegitimate child, but as to the father only, if he is otherwise shown by evidence satisfactory to the Administrator of Veterans' Affairs to be the putative father of such child.

Section 8: This section would amend paragraph VII, Veterans Regulation No. 10, so as to define the term "parent" and include within the definition of that term and the terms "mother" and "father" as now defined in this paragraph, persons who have stood in loco parentis to a member of the military or naval forces at any time prior to entry into active service for a period of not less than 1 year. It is identical with the definition of these terms as contained in the National Service Life Insurance Act of 1940, as amended, and similar to the definition of the terms "father" and "mother" as contained in the World War Veterans' Act, 1924, as amended, except that the latter includes stepfathers and stepmothers. Such persons, although not included specifically in the proposed amendment, may, if the facts so warrant, establish entitlement as persons who stood in loco parentis. The amendment would establish greater uniformity and permit payment of benefits in certain meritorious cases where it is not now possible to make an award under Public, No. 2, Seventy-third Congress and the Veterans Regulations, as amended. The amendment would further limit recognition in any case to not more than one father or one mother, as defined, and give statutory preference to such father or mother who actually exercised parental relationship at the time of or most nearly prior to the date of entry into active service by the person who served. Such limitation and direction as to preference are considered desirable in order that administrative complications, where there are contesting claimants, may be avoided.

Section 9: This section under paragraph (a) would amend paragraph 1 (a), part I, Veterans Regulation No. 1 (a), as amended, so as to extend to veterans and to the dependents of deceased veterans entitlement to pension for disability or death resulting from service on or after December 7, 1941, and before termination of hostilities incident to the present war as determined by proclamation of the President or by concurrent resolution of the Congress on a parity with veterans and the dependents of deceased veterans of the Spanish-American War, including the Boxer Rebellion and Philippine Insurrection, and of World War I. While pension, at wartime rates, for service-connected disability or death based upon service in the present war is payable under Public, No. 359, Seventy-seventh Congress, December 19, 1941, the eligibility provisions governing payment of such benefits are those contained in part II of said regulation, as amended, applicable to peacetime service. By including World War II service in paragraph 1 (a), part I, Veterans Regulation No. 1 (a), as amended, the eligibility requirements would be those established for wartime service rather than those established for peacetime service. As to the former, paragraph 1 (b), part I of Veterans Regulation No. 1 (a), as amended, at present provides that for the purposes of paragraph 1 (a) every person employed in the active military or naval service for 90 days or more shall be taken to have been in sound condition when examined, accepted, and enrolled for service except as to defects, infirmities, or disorders noted, at time of the examination, acceptance, and enrollment, or where evidence or medical judgment is such as to warrant a finding that the injury or disease existed prior to acceptance and enrollment. This latter exception, i. e., where evidence, or medical judgment is such as to warrant a finding that the injury or disease existed prior to acceptance and enrollment would be removed by the amendment proposed in paragraph (b) of this section.

This modification of the eligibility requirements would affect veterans of World War I, the Spanish-American War, Boxer Rebellion, and Philippine Insurrection who meet the requirements of paragraph 1 (a), part I, of this regulation as well as veterans of World War II. No change would be made in the eligibility requirements for peacetime service as contained in paragraph 1 (b), part II, of Veterans Regulation No. 1 (a), as amended, which provide that for the purposes of paragraph 1 (a) of part II every person employed in the active military or naval service for 6 months or more shall be taken to have been in sound condition when examined, accepted, and enrolled for service, except as to defects, infirmities, or disorders noted at time of the examination, acceptance, and enrollment, or where evidence or medical judgment is such as to warrant a finding that the disease or injury existed prior to acceptance and enrollment, but these provisions would no longer be applicable to service in World War II. Further, the provision of paragraph 1 (c), part I, Veterans Regulation No. 1 (a), as amended, governing service connection of chronic diseases becoming manifest to a degree of 10 percent or more within 1 year from date of separation from active

10 PROVIDE ADEQUATE AND UNIFORM PROVISIONS IN VETERANS' LAWS

service, now applicable to those who served in the Spanish-American War, Boxer Rebellion, Philippine Insurrection, or World War I, would be applicable to World War II cases. This provision is not applicable to those who rendered peacetime service.

Section 10: This section would recognize service as a cadet at the United States Military Academy, or as a midshipman at the United States Naval Academy, or as a cadet at the United States Coast Guard Academy, on or after December 7, 1941, and before a termination of hostilities incident to the present war as determined by proclamation of the President or by concurrent resolution of the Congress, as active military or naval service in World War II for the purposes of laws administered by the Veterans' Administration. Under the general pension law, cadets at the United States Military Academy and midshipmen at the United States Naval Academy were considered eligible for pension if disabled by reason of any wound or injury received or disease contracted while in the service of the United States and in the line of duty, there being no distinction between wartime or peacetime service, or active service requirement. Further, such cadets and midshipmen had long been held to be officers of the Army and Navy within the meaning of the general pension laws. They were not pensionable under the service pension acts solely on the basis of wartime service while pursuing courses of instruction at these academies unless they were assigned to duties which constituted war service as practice cruises during a period of hostilities. Cadets and midshipmen disabled by reason of wounds or injuries received or disease contracted while pursuing the prescribed course of instruction at the academies and in line of duty are entitled to pension at peacetime rates as prescribed in Veterans Regulation No. 1 (a), part II, and if so disabled while assigned to duties constituting war service, which includes practice cruises at sea but excludes practice maneuvers at West Point, to the wartime rates authorized under part I of said regulation, if otherwise entitled. If suffering from permanent total disability not connected with any period of service, the pension rates prescribed in part III of Veterans Regulation No. 1 (a) are payable if the service requirements thereof were met while they were assigned to practice cruises or otherwise actually assigned to active duty during a period of hostilities as enumerated in said regulation. There is no authority under Public, No. 359, Seventy-seventh Congress, to pay pension as provided in section 5 of Public, No. 198, Seventy-sixth Congress, as amended, to the dependents of a cadet or midshipman otherwise entitled to pension under part II, Veterans Regulation No. 1 (a) or the general pension law where his death results from injury or disease received in line of duty while pursuing his prescribed course of instruction at the academy and such death occurs while the United States is engaged in war, for the reason that their service is not active military or naval service.

As many of those who are now being enrolled or inducted in the active military or naval service are continued or enrolled in schools for prescribed courses of instruction as a part of their military training for service during the present war, it is believed that cadets at the United States Military Academy and midshipmen at the United States Naval Academy and cadets at the United States Coast Guard Academy, particularly in view of the intensive training programs prescribed for these groups, should occupy a similar status and that their service while pursuing courses of instruction at these academies for any period on or after December 7, 1941, and prior to termination of hostilities incident to the present war, should be considered as active military or naval service.

Section 11: This section would amend section 1 (c) of Public No. 484, Seventy-third Congress, as amended by Public No. 198, Seventy-sixth Congress, so as to provide that any payments made by the United States Government under laws administered by the Veterans' Administration because of disability or death shall not be considered in determining annual income of the widow, child, or children of a deceased World War I veteran. The law prohibits payment of benefits thereunder if the income of the person entitled exceeds a certain amount but provides that payments of war risk term insurance, United States Government life (converted) insurance, and payments under the World War Adjusted Compensation Act, as amended, and the Adjusted Compensation Payment Act, 1936, as amended, shall not be considered in determining annual income. It does not specifically include, for exemption, payments under the National Service Life Insurance Act of 1940, as amended, which were authorized by a subsequent statute.

The amendment, without designating any specific benefit, by the general language employed, would comprehend the benefits now excluded in determining

annual income, as well as payments under the National Service Life Insurance Act of 1940, as amended, and any other analogous benefits now or hereafter payable under laws administered by the Veterans' Administration.

The law would be further amended to provide that where payments to a widow are disallowed or discontinued, payment to a child or children of the deceased veteran may be made as though there is no widow. Under the existing law, where there is a widow with child or children, whether in her custody or not, the rights of such child or children are governed by the rights of the widow and where her entitlement is barred because of the income limitation, it is not possible to award benefits to the child or children. It is believed that this was not intended and the amendment will permit payment of benefits to a child or children under such or similar circumstances and result in more equitable administration of this law.

Section 12: This section would amend paragraph V, part I, Veterans Regulation No. 2 (a), which pertains to payment of pension, compensation, or emergency officers' retirement pay, to which a person was entitled prior to his death and not paid during his lifetime. The amendment would limit the amount payable to that which was due and unpaid for a period not to exceed 1 year prior to date of death, whereas now there is no limit as to the period prior to death over which the amount due may be computed. It would also authorize payment under ratings or decisions based upon evidence in file at date of death, whereas at present payment may be made only under ratings or decisions existing at date of death. In specifying the persons to whom payments may be made and directing the order in which each shall be eligible, certain changes have been made with a view to clarifying and facilitating uniform application of the provisions under laws administered by the Veterans' Administration. Where there are no persons entitled to such benefits, within the classes thus enumerated, the regulation authorizes payment of such amount due and unpaid at death as may be necessary to reimburse the person who bore the expense of burial.

The amendment would permit similar reimbursement to the person who bore the expense of last sickness as well as the expense of burial. The amendment would further provide that a check received by a payee in payment of pension, compensation, or retirement pay shall in the event of the death of the payee on or after the last day of the period covered by such check, become an asset of the estate of the deceased payee. Under the regulation, such checks, other than for pension payable under laws relating to service prior to April 21, 1898, and those reenacted by Public, No. 269, Seventy-fourth Congress, August 13, 1935, must be returned and canceled. Cases have arisen wherein substantial justice would require that the amount of the check received but not negotiated by the payee during his lifetime be considered as an asset of his estate.

Section 13: This section would amend paragraph VI of Veterans Regulation No. 6 (c) by modifying the provisions of subparagraphs (A) and (B), repealing subparagraph (C) and substituting a new subparagraph (C) in lieu thereof and by adding a new subparagraph (D).

The effect of the proposed changes would be to make veterans of all wars and the Regular Establishment subject to the limitations on payment of pensions, compensation, or retirement pay contained in subparagraphs (A), (B), and (C), except that the pension of any disabled veteran who is an inmate of the United States Soldiers' Home or of any National or State soldiers' home on the date of the enactment of the amendment may not be reduced or discontinued by reason of the provisions of (A), (B), or (C). The proposed changes will insure uniform administration as to all persons furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof.

The principal changes which would be effected are as follows:

(A) At present, the amount payable to a disabled veteran having no dependents, while he is being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof, is limited to \$15 per month where benefits are payable for service-connected disability, and \$8 per month where benefits are payable for non-service-connected disability. However, in the case of any such veteran entitled to pension on account of service prior to the Spanish-American War who is being furnished such treatment or care by the Veterans' Administration, \$15 per month is payable. The amendment would authorize payment of \$20 per month in all these cases, except where

12 PROVIDE ADEQUATE AND UNIFORM PROVISIONS IN VETERANS' LAWS

the veteran is entitled to pension for non-service-connected disability under part III of Veterans Regulation No. 1 (a), as amended, but would increase the rate from \$6 to \$8 per month in such cases. This is in cognizance of the increase of pension for permanent total non-service-connected disability under part III, Veterans Regulation No. 1 (a), as amended, from \$30 to \$40 per month. The effect of the amendment would be to authorize payment of pension in Spanish-American War cases on a parity with Civil War cases at the rate of \$20 per month where the disabled veteran without dependents is being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof.

(B) The changes proposed by this subparagraph would permit consideration of funds derived from any source, when the estate of an insane disabled veteran, having no dependents, who is being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof, equals or exceeds \$1,500, whereas at present only funds derived from payments under certain laws administered by the Veterans' Administration may be considered under this limitation when discontinuing further payments until the estate is reduced to \$500; extend the limitation to cases where the insane disabled veteran is maintained at his own expense in an institution, but make provision, in such cases, for payment of any additional amounts otherwise payable as would equal the amount charged for his care and maintenance in such institution not exceeding the amount the Administrator of Veterans' Affairs determines to be the charge as fixed by an applicable statute or valid administrative regulation. This latter provision is designed to prevent circumvention of the statute and the accumulation of large estates for the ultimate benefit of remote heirs or next of kin on death of the veteran, in those cases where he is removed from an institution where he is being maintained by the Government to an institution whose maintenance charges may be paid from his estate, thus avoiding operation of the provision for discontinuing payments in cases subject to the limitations of this subparagraph.

(C) In view of the foregoing provisions, the present subparagraph (C) relating to the amount payable under the regulation where benefits are based upon service prior to the Spanish-American War, is not required and a new subparagraph is substituted in lieu thereof, which provides that any veteran subject to the provisions of subparagraph (A) or (B) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. It further provides that in no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than 6 months prior to receipt of satisfactory evidence showing such veteran has a wife, child, or dependent parent.

(D) As the purpose of the proposed amendments to paragraph VI of Veterans Regulation No. 6 (a), as amended, is to insure uniform application of the limitations prescribed therein where any disabled person is being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof, provision has been made in subparagraph (E) for the repeal of those laws or parts of laws regulating the amount of pension which may be paid to any disabled veteran while an inmate of the United States Soldiers' Home, or any National or State soldiers' home. It is proposed, however, by the new subparagraph (D) to save from reduction or discontinuance, the pension of any such disabled veteran who is in the United States Soldiers' Home or any National or State soldiers' home on the date of enactment of the amendment where such reduction or discontinuance would be caused by the operation of the provisions of (A), (B), or (C). Any disabled veteran thereafter admitted would, of course, be subject to the limitations prescribed therein.

(E) This subparagraph provides for the repeal or modification of any law or regulation in conflict with the foregoing provisions.

Section 14: Section 14 (a) has for its general purpose the simplification of wartime service-connected rates of death compensation or pension to widows and children by elimination of the differential in rates based upon age, and adoption of the higher rates for all ages, with some adjustments within what are considered to be conservative and equitable limits. The rates under existing law, Public, No. 198, Seventy-sixth Congress, July 19, 1939, and the rates proposed by this bill are set forth for convenience below:

PROVIDE ADEQUATE AND UNIFORM PROVISIONS IN VETERANS' LAWS 13

Public, No. 198, Seventy-sixth Congress,
July 19, 1939

Proposed rates

WIDOW—NO CHILD

Age under 50 years.....	\$38	Irrespective of age.....	\$50
Age 50 years or over.....	45		

WIDOW—WITH CHILD OR CHILDREN

Widow's rate, with \$10 additional for first child up to 10 years of age, increased to \$15 from age 10 with \$8 for each additional child up to 10 years of age, increased to \$13 from age 10.	Widow, 1 child, with \$13 for each additional child.....	\$65
--	--	------

RATES FOR CHILDREN (NO WIDOW)

1 child.....	\$20	1 child.....	\$25
2 children.....	33	2 children.....	38
3 children.....	46	Each additional child.....	10
Each additional child.....	8	Total amount may not exceed.....	100
Total amount may not exceed.....	83		

With respect to the elimination of age differentials as to widows and children, while the facts supporting such principle are recognized, experience has shown that an age limitation produces inequitable results; that widows under age 50, generally have minor children, and responsibility for their care and supervision precludes their being employed on a permanent and full-time basis, and in many instances they are not qualified for sufficiently remunerative employment to warrant the differentiation. The age differential as to children was established in the veterans regulations promulgated by the President under the Economy Act of March 20, 1933, and while it is generally true that the cost of maintaining a child under 10 years of age is undoubtedly less than for a child of 10 years of age or over, the particular age limitation in this instance also produces inequitable results as circumstances exist in many cases where the importance of the differential is materially reduced. One of the most important considerations in connection with the proposed change is that the age differentials require adjudicative actions involving administrative cost and impede prompt adjudication of death compensation and pension claims. These results offset the savings effected by establishment of age differentials. Further, although administrative complications should be avoided at any time, the exigency of the present war makes it imperative that any provisions of law which are not shown to be justifiably necessary and which serve to hamper adjudications of claims should be changed.

Section 14 (b) is designed to accomplish the same purpose with respect to peacetime-service-connected death pension benefits. The rates which would be authorized are approximately 75 percent of the rates which would be authorized under section 14 (a) for wartime-service-connected death. This ratio has been consistently maintained in the laws or veterans regulations establishing monetary rates for disability or death resulting from wartime or peacetime service. Paragraph (c) relates to the effective dates of benefits or increased benefits authorized under this section.

It is estimated that the cost of the proposed equalization of rates of compensation or pension to widows and children of veterans whose deaths resulted from wartime or peacetime service would amount to approximately \$4,536,000 the first year. This estimate is based upon the following statistical data:

	Number of cases	Estimated cost, first year
Wartime-service connected:		
World War II ¹	2,100	\$349,000
World War I.....	34,000	3,516,000
Spanish-American War.....	1,000	66,000
Total wartime.....	37,100	3,931,000
Regular Establishment:		
At peacetime rates.....	7,350	510,000
At wartime rates.....	750	95,000
Total Regular Establishment.....	8,100	605,000
Total estimated cost.....	45,200	4,536,000

¹ Based on cases on rolls Mar. 31, 1943.

14 PROVIDE ADEQUATE AND UNIFORM PROVISIONS IN VETERANS' LAWS

This additional expense, it is believed, would be offset to some extent by savings effected through simplification of adjudicative actions, which, as stated above, now result in considerable administrative cost due to complicated adjustments in awards necessitated by present age differentials.

Section 15: This section would amend paragraph XIII, Veterans Regulation No. 10, and repeal certain laws relating to concurrent payments of compensation or pension or of such gratuities and active service or retired pay, and provide more equitable provisions with respect thereto to be uniformly applied under all laws administered by the Veterans' Administration.

The statutes relating to concurrent payments of pension under the general or service pension laws, or compensation under the World War Veterans' Act, 1924, as amended, which were continued or restored with limitations by Public, No. 141, Seventy-third Congress, or pension under Public, No. 2, Seventy-third Congress, and the Veterans Regulations, as amended, or such benefits with active service or retired pay are not uniform, and Public, No. 484, Seventy-third Congress, as amended, contains no provision either permitting or prohibiting payment of benefits thereunder to any person in receipt of compensation or pension under any other law. As the result of the variance in these laws and administrative interpretations thereof, certain inequalities exist which justify immediate correction by way of legislation. For example, a widow entitled to death pension benefits under the general or service pension law or Public, No. 484, Seventy-third Congress, as amended, may receive such benefits concurrently with active service pay as a member of the Women's Reserve of the Navy or Women's Reserve of the Coast Guard or as a United States Army nurse, whereas a widow entitled to death pension benefits under Public, No. 2, Seventy-third Congress, and the Veterans Regulations, as amended, or Public, No. 141, Seventy-third Congress, as amended, would be precluded from receiving such benefits while in receipt of active service pay. These and similar inequalities arising under existing laws will be rectified by the proposed amendment.

Section 16: This section provides that the act shall be effective from date of its approval and that necessary adjustments in awards shall be effective, unless otherwise provided, the first of the calendar month following adjudicative action, or the first of the calendar month following date of receipt of claim, whichever is earlier. In all other cases, benefits authorized by virtue of any of the provisions in the act will be effective from date of receipt of claim therefor except that death compensation or pension will be effective as of the day following date of death of the veteran if claim is filed within 1 year after the death of the veteran. This provision conforms to similar provisions in sections 2 and 4 of Public, No. 690, Seventh-seventh Congress, July 30, 1942. This section also provides that payments authorized under this act shall not be made for any period prior to date of its enactment.

Section 17: This section provides that pension payable for disability shall be payable from date of discharge if claim therefor is filed within 1 year from discharge.

