

BURIAL FLAG FOR VETERANS OF MEXICAN BORDER SERVICE

AUGUST 28, 1961.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted
the following

R E P O R T

[To accompany H.R. 1098]

The Committee on Finance, to whom was referred the bill (H.R. 1098) to amend section 901 of title 38, United States Code, to provide that a flag shall be furnished to drape the casket of each deceased veteran of Mexican border service, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

This bill provides that a flag shall be furnished to drape the casket of each deceased veteran of the Mexican border service—the service immediately prior to the beginning of World War I which was April 6, 1917.

Specifically it would include any veteran who served in the active military or naval service during the period beginning January 1, 1911, and ending April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto.

Present law permits the furnishing of a burial flag only to: (1) a deceased veteran of any war or, (2) a deceased veteran who met other requirements as to discharge and service prescribed in title 38 United States Code; namely, completion of at least an enlistment, or discharge or release from service for a disability incurred or aggravated in line of duty.

The principal beneficiaries of this bill would be members of the federalized National Guard who were mobilized to service pursuant to the Presidential calls of May 9 and June 18, 1916.

A precise estimate of the number involved cannot be furnished but the Veterans' Administration advises that approximately 157,000 guardsmen served on the Mexican border and that the average length of their service was between 6 and 9 months. Approximately 75

percent of these serving on the Mexican border later served in World War I and would thus qualify for the flag under existing law. Using these figures it would appear that 25 percent of 157,000 or 39,250 individuals would be the maximum number eligible and this is not allowing for the deaths which have occurred since that time 45 years ago.

The Veterans' Administration has always opposed, and the Congress has never enacted, legislation which would provide a non-service-connected pension for veterans of any period of service other than wartime. The Veterans' Administration, however, does not have any objection to the enactment of this legislation, as indicated in the report which follows.

The amendments suggested by the Veterans' Administration in its favorable report filed with the House Committee on Veterans' Affairs which is reproduced below were adopted by the House Committee on Veterans' Affairs.

JULY 12, 1961.

HON. OLIN E. TEAGUE,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. TEAGUE: We are pleased to furnish the following comments in response to your request for a report by the Veterans' Administration on H.R. 1098, 87th Congress.

The purpose of this bill, as stated by its title, is to amend section 901 of title 38, United States Code, to provide that a flag shall be furnished to drape the casket of each deceased veteran of Mexican border service. More specifically it would provide that for the purposes of furnishing of burial flags the term "veteran of any war" will include any veteran who served in the active military or naval service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto.

Eligibility for a burial flag requires that the deceased veteran have status as a "veteran of any war," have served at least one enlistment, or been discharged or released from service for a disability incurred in or aggravated in line of duty. Applying this to persons within the scope of this bill, all who completed a full enlistment, or were discharged for disability incurred or aggravated in line of duty, or had World War I service already have entitlement for a burial flag.

Presumably, most Regulars, if not discharged for disability, would have completed at least one full enlistment. Thus the principal beneficiaries of this bill would be members of the federalized National Guard who were mobilized for service on the border of Mexico pursuant to President Wilson's calls of May 9 and June 18, 1916. We cannot estimate precisely how many would be affected. However, we understand some 157,000 National Guardsmen served on the Mexican border, that a substantial number of these were demobilized prior to April 6, 1917 (the beginning of World War I), and that the average length of their service on the Mexican border was between 6 and 9 months. The best information we have indicates that approximately 75 percent of these National Guardsmen served in the World War I period and qualified for a burial flag by reason of their latter service.

Mexican border veterans are considered peacetime veterans for the purpose of the laws we administer unless their service extended beyond April 6, 1917. Peacetime veterans do not have eligibility for certain special benefits—as, for example, pension or hospital care for non-service-connected disorders upon showing of inability to pay—but they are entitled to all the benefits for disability or death resulting from service, including disability or death compensation and hospital care. They may also be eligible for burial allowances (not to exceed \$250).

We have opposed legislation which would make Mexican border service “war service” for the purpose of veterans’ benefits generally. Our opposition has been based upon the view that such legislation would be precedential and discriminatory, since it would confer special benefits upon a particular group of peacetime veterans and their dependents to the exclusion of persons who served in other recognized campaigns, expeditions, and occupations. On the other hand, we recognize that an award of a burial flag may be distinguished from other special benefits for war service, such as pensions. A flag is available to peacetime veterans who complete an enlistment.

The technique employed by H.R. 1098, however, of deeming veterans of Mexican border service to be “veterans of any war” for the purpose of eligibility for a burial flag does not sufficiently emphasize that the bill would not be a precedent for granting other, and exclusively, nonservice benefits. It would be preferable, therefore, if the bill were amended to read as follows:

“That section 901 of title 38, United States Code, is amended by—

“(1) Inserting after the phrase ‘veteran of any war’ in subsection (a) thereof, the phrase ‘or of Mexican border service’; and

“(2) Adding at the end thereof the following new subsection—

“(c) For the purpose of this section, the term ‘Mexican border service’ means active military, naval, or air service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto.’”

We cannot make a precise estimate of the cost of this legislation, if enacted. We have some information that indicates that approximately 25 percent of the some 157,000 National Guardsmen who served on the Mexican border pursuant to the calls of the President may have had no other military service. Assuming this potential reduced by mortality rates the cost might approximate \$160,000.

Under all the circumstances, we would have no objection to favorable consideration of this bill if it were amended as suggested above.

We are advised by the Bureau of the Budget that there would be no objection from the standpoint of the administration’s program to the presentation of this report to the committee.

Sincerely,

J. S. GLEASON, Jr., *Administrator.*

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in

black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 901, TITLE 38, U.S. CODE

§ 901. Flags

(a) The Administrator shall furnish a flag to drape the casket of each deceased veteran who—

(1) was a veteran of any war *or of Mexican border service*;

(2) had served at least one enlistment; or

(3) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty.

(b) After the burial of the veteran the flag so furnished shall be given to his next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

(c) *For the purpose of this section, the term "Mexican border service" means active military, naval or air service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto.*

