

DEAFNESS OF BOTH EARS

APRIL 25, 1963.—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. 199]

The Committee on Finance, to whom was referred the bill (H.R. 199) to amend title 38 of the United States Code to provide additional compensation for veterans having the service-connected disability of deafness of both ears, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

H.R. 199 authorizes the payment of additional compensation in the amount of \$47 per month to a veteran who has a service-incurred disability of deafness of both ears, with absence of air and bone conduction.

GENERAL STATEMENT

The Congress has long maintained a system of statutory awards for compensating veterans who have specified service-connected disabilities, the award being in addition to the basic rate of compensation. For example, a veteran who has lost an arm above the elbow could be rated at 80 percent resulting in the monthly payment of basic compensation in the amount of \$170. In addition to this amount he would receive as a result of the statutory award law, \$47, making his total monthly compensation \$217.

Under the current schedule for rating disabilities, total deafness is ratable at 80-percent disabling, which results in compensation for wartime cases of \$170 monthly. This present 80-percent rate is a reduction ordered at the discretion of the Administrator from the previous 100-percent rating. The passage of this legislation would result in the veteran who suffers from total deafness receiving \$170 monthly for his wartime disability, plus \$47, to make a total of \$217.

The Veterans' Administration estimates that there are approximately 1,200 cases who would be eligible for this statutory award at a minimum additional cost of \$666,000 the first year. There would be a slight increase each year for the succeeding 4 years.

The full text of the report from the Veterans' Administration follows:

APRIL 12, 1963.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The following comments are furnished, as requested, on H.R. 199 and H.R. 214, 88th Congress.

H.R. 199 proposes to add "deafness of both ears, having absence of air and bone conduction" to the other types of service-connected disabilities specified in the section quoted below, for which an additional award of disability compensation in the amount of \$47 monthly is provided. H.R. 214, similarly, would add "complete organic aphonia with constant inability to communicate by speech" to the quoted section and thus authorize an additional \$47 monthly award for that disability.

Section 314(k) of title 38, United States Code, provides as follows:

"(k) if the veteran, as the result of service-incurred disability, has suffered the anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, the rate of compensation therefor shall be \$47 per month independent of any other compensation provided in subsections (a) through (j) of this section; and in the event of anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by \$47 per month for each such loss or loss of use, but in no event to exceed \$525 per month."

Under the current "Schedule for Rating Disabilities," total deafness is ratable as 80 percent disabling, for which compensation is payable in wartime cases at \$170 monthly. If a person is unemployable because of such disability, a rating of 100 percent is authorized and compensation is payable at \$250 monthly. No special award is authorized for deafness, except where total deafness is found in combination with total blindness (as provided in sec. 314(o) of title 38, United States Code), in which case the monthly wartime rate of compensation is \$525. The current schedule provides that complete organic aphonia with constant inability to communicate by speech will be rated as 100 percent disabling, with wartime cases thus compensated at \$250 monthly. With respect to both disabilities, comparable peacetime cases are compensated at 80 percent of the wartime rates.

The basic rates of compensation for service-connected disability are based generally on the theory that the amount of compensation payable should be proportionate to the degree of disability resulting from injury or disease. The degree of disability represents the average impairment in earning capacity resulting from such disability in civil occupations. The instrument used in determining the degree of a given veteran's loss of earning capacity is the "Schedule for Rating Disabilities."

Over the years the Veterans' Administration has made adjustments in the rating schedule on numerous occasions based on the cumulative experience of the agency in rating cases; in the light of social, economic, and medical progress; and on the recommendations of eminent medical consultants. The schedule, however, has never been factually or scientifically validated. Toward that end, the Veterans' Administration, employing the facilities of the Bureau of the Census, has recently begun a pilot study designed to develop techniques for use in a contemplated full-scale study which will test whether the schedule accurately represents the degree of average economic impairment resulting from disability.

The Veterans' Administration, of course, recognizes that human life has values outside the economic sphere, and that an equitable, comprehensive, and well-balanced system of disability compensation should compensate veterans for such noneconomic factors as shortened longevity, loss of physical integrity, and social inadaptability, as well as the loss of earning capacity, the factor of primary importance. When the mentioned economic validation study has been completed and we are thus assured a sound basic schedule to compensate for the average economic loss, the Veterans' Administration plans to undertake an extensive study looking toward the development, for submission to the Congress, of a program to establish supplemental awards which will make equitable provision for noneconomic factors such as those mentioned above. The losses named in H.R. 199 and H.R. 214 (deafness of both ears and complete organic aphonia), all of the losses presently mentioned in 38 U.S.C. 314(k), and other similar losses, would all be encompassed within the "loss of physical integrity" phase of such study. However, the completion of this study and the preliminary economic validation study will require a period of several years.

It is estimated that enactment of H.R. 199 would provide increases for approximately 1,200 cases at a minimum additional cost of \$666,000 the first fiscal year. The additional cost would increase slightly each year for the succeeding 4 years. This estimate is based on the number of veterans shown to have as their major disability maximum impairment of hearing acuity, as classified under the modified "1945 Schedule for Rating Disabilities." It is not known how many additional veterans currently entitled to other statutory awards under 38 U.S.C. 314 (l) through (n) would be eligible for an additional allowance under the bill, but it is assumed that the number would be negligible. With respect to H.R. 214, there are currently on the compensation rolls some 20 cases involving complete organic aphonia with constant inability to communicate by speech. It is estimated that the cost of this bill, if enacted, would approximate \$11,000 the first year and remain at about this figure for each of the succeeding 4 years.

Advice was received from the Bureau of the Budget with respect to the submission of a similar report on these bills to the Committee on Veterans' Affairs, House of Representatives, that since these bills involve payment of additional compensation for noneconomic factors, their enactment would be inconsistent with the administration's objectives, pending the completion of the comprehensive review of the

appropriateness of noneconomic factors in the veterans' disability compensation program.

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 italic; existing law in which no change is proposed is shown in roman):

SECTION 314(k), TITLE 38, UNITED STATES CODE

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be \$20;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be \$38;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be \$58;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be \$77;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be \$107;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be \$128;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be \$149;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be \$170;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be \$191;

(j) if and while the disability is rated as total the monthly compensation shall be \$250;

(k) if the veteran, as the result of service-connected disability has suffered the anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or *deafness of both ears, having absence of air and bone conduction*, the rate of compensation therefor shall be \$47 per month independent of any other compensation provided in subsections (a) through (j) of this section; and in the event of anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or *deafness of both ears, having absence of air and bone conduction*, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by \$47 per month for each such loss or loss of use, but in no event to exceed \$525 per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or both feet, or of one hand and one foot, or is blind in both eyes,

with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be \$340;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering him so helpless as to be in need of regular aid and attendance, the monthly compensation shall be \$390;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or has suffered the anatomical loss of both eyes, the monthly compensation shall be \$440;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle him to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or has suffered total deafness in combination with total blindness with 5/200 visual acuity or less, the monthly compensation shall be \$525;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator, in his discretion, may allow the next higher rate or an intermediate rate, but in no event in excess of \$525; and

(q) if the veteran is shown to have had a service-connected disability resulting from an active tuberculous disease, which disease in the judgment of the Administrator has reached a condition of complete arrest, the monthly compensation shall be not less than \$67.

(r) If any veteran, otherwise entitled to the compensation authorized under subsection (o), or the maximum rate authorized under subsection (p), is in need of regular aid and attendance, he shall be paid, in addition to such compensation, a monthly aid and attendance allowance at the rate of \$200 per month for all periods during which he is not hospitalized at Government expense. For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of his service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be \$290. For the purpose of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to his house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout his lifetime.

