

## VETERANS' COMPENSATION INCREASES

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OCTOBER 11 (legislative day, OCTOBER 1), 1965.—Ordered to be printed

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

### REPORT

[To accompany H.R. 168]

The Committee on Finance, to whom was referred the bill (H.R. 168) to amend title 38, United States Code, to provide increases in the rates of disability compensation, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

#### PURPOSE

The primary purpose of the bill is to provide increases, averaging about 10 percent, in the rates of service-connected disability compensation payable to wartime and peacetime veterans, including a 10-percent increase in the additional allowances payable where the veteran is 50 percent or more disabled and has a wife, child, or dependent parents. The bill also liberalizes the definition of the term "child" for the purpose of veterans' benefit laws and increases the additional allowance payable to a veteran 50 percent or more disabled where he has a child or children pursuing a course of instruction at an educational institution. Further, the bill would authorize certain higher statutory awards to service-connected totally blinded veterans where their blindness is associated with various degrees of deafness. Finally, the bill, as amended, would remove the 40-year age requirement for the special Medal of Honor pension of \$100 a month.

#### COMMITTEE AMENDMENTS

Section 4 of the bill as passed by the House proposes certain changes in the income levels used for determining entitlement of parents to dependency and indemnity compensation. The committee was advised that the Veterans' Administration has presently under exam-

ination the question of adequacy of income limitations, exclusions, and rates generally for beneficiaries under the dependency and indemnity compensation program. Accordingly, pending development of the details of any justifiable liberalization of this program, the committee has deleted section 4 in accordance with the Veterans' Administration's recommendation that the limited action provided by that section be deferred at this time.

Section 6 of the House bill proposed to confer certain veterans' preference status to certain persons who are disabled on their way to induction or other military service. This is, of course, a subject within the jurisdiction of the Committee on Post Office and Civil Service. Pursuant to the following request from the chairman of that committee, section 6 has been deleted.

U.S. SENATE,  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
*September 14, 1965.*

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

DEAR MR. CHAIRMAN: Thank you for your letter of September 10, 1965, concerning H.R. 168.

As you know, a bill containing similar language, H.R. 3413, is pending before the Senate Post Office and Civil Service Committee. These bills would entitle any person who is injured while en route to enrollment in the Armed Forces to veterans' preference. The Veterans' Preference Act now applies only to former members of the Armed Forces who have been honorably discharged after military service in designated zones of danger or conflict during peacetime.

Enactment of this legislation would result in persons who have never actually served in the Armed Forces receiving employment preference, while those who have actually served, but not in a zone of danger or conflict, will not receive preference. It would accord such disabled persons 10-point preference while those nondisabled veterans who served in a zone of danger or conflict would receive only 5-point preference.

In its report to the House Committee on Veterans' Affairs, the Civil Service Commission recommended against enactment. No official reports have been received by the Senate Post Office and Civil Service Committee on H.R. 3413, and no action is scheduled on the bill at this time.

Unless evidence is brought to the committee's attention indicating good reason for its enactment, I do not think it would be in the best interest of the Federal service to act favorably on the bill.

I appreciate your seeking my advice in this matter.

With kind regards, I am,

Sincerely yours,

A. S. MIKE MONRONEY, *Chairman.*

Section 7 of the House bill (now section 5 of the committee-amended bill) proposes to broaden the authority and functions of a Veterans' Administration office in Europe and as passed by the House provided that the head of such office, during his tenure in such position, shall be accorded by the Secretary of State the diplomatic designation of attaché. The Department of State advised the committee that it was opposed to this section, particularly with respect to the undesirable

precedent for a statutory mandate dealing with a diplomatic designation. The committee appreciates the principle involved in the Department's position; on the other hand, in view of the broad scope and range of the activities for which such office head is responsible, it is believed that such a designation should have been accorded by the Department long ago. Upon the firm assurance made to the committee by the Assistant Secretary of State for Congressional Relations that prompt administrative action will be taken to accord such diplomatic designation, the committee has deleted the objectionable language from section 5.

Sections 8 and 10, dealing with the medical program of the Veterans' Administration fall within the jurisdiction of the Committee on Labor and Public Welfare. In accordance with the following request of the chairman, Subcommittee on Veterans' Affairs, these sections have been deleted in order to afford his subcommittee an opportunity to give them further study and consideration.

U.S. SENATE, *October 8, 1965.*

HON. HARRY F. BYRD,  
*Chairman, Committee on Finance,  
Senate Office Building, Washington, D.C.*

MY DEAR MR. CHAIRMAN: The following remarks are submitted in response to your request of September 9, 1965, for the recommendations of the Subcommittee on Veterans' Affairs in regard to three sections of H.R. 168, a bill now pending before the Committee on Finance.

Upon consideration of section 8(a), section 9 (a) and (b), and section 10 of H.R. 168, I submit the following recommendations to the Committee on Finance:

1. Section 8(a): This section adds a new section 4116 to chapter 78, title 38, United States Code, Department of Medicine and Surgery, to provide protection to physicians, dentists, and nurses in the Department of Medicine and Surgery of the Veterans' Administration, in the event of malpractice suit brought against them. In effect, the Attorney General would defend any civil action brought against a physician, dentist, or nurse arising out of his employment. If successful, this would end the matter. If the Government should lose the case and a claim be approved by the courts in favor of the plaintiff, the Government would bear the cost of meeting the claim. This provision is modeled after the so-called Drivers' Liability Act, Public Law 87-258.

Since the Subcommittee on Veterans' Affairs has received no statement of position or report on this section of the bill from the several interested departments and agencies and since this amendment appears further to be of a controversial character it is my recommendation that this section be stricken from the bill as it is reported by the Committee on Finance. Such action by your committee will enable the Subcommittee on Veterans' Affairs to consider the section carefully in the future and reap the benefit which comes from a hearing of the views of all interested parties.

2. Section 9 (a) and (b): Section 9(a) repeals subsection 5033(c) of chapter 73, title 38, United States Code, relating to authorizations of appropriations for State home facilities for furnishing nursing home care, which prohibited any one State from receiving more than

10 percent of the annual maximum \$5 million appropriation. Section 9(b) also amends subsection 5034(1), chapter 73, title 38, United States Code, increasing the formula for the allocation of such nursing care construction funds from one-half to one and one-half beds per thousand war veteran population in the case of any State.

This amendment is a noncontroversial one and I believe that it will tend to encourage the States to participate in this program in a more acceptable and uniform manner. If section 9 (a) and (b) is included within the bill as reported by your committee the Subcommittee on Veterans' Affairs can exercise its proper oversight functions in order to firmly ascertain whether in fact this amendment serves to stimulate a greater interest by the States in the construction of nursing home facilities for veterans. Upon this basis I recommend that the Committee on Finance include section 9 (a) and (b) within the bill as it is reported to the Senate.

It has been brought to my attention that section 9(a) of the bill is in need of a minor technical amendment. Section 9(a) repeals subsection (c) of section 5033 of chapter 73, title 38, United States Code, which subsection prohibits any one State from receiving more than 10 percent of the annual maximum \$5 million appropriation. This 10 percent restriction appears again in paragraph (3) of section 5035(b) of title 38, United States Code. The purpose of the technical amendment which I propose and include herewith is to repeal paragraph (3) of section 5035(b) in accordance with the full intent of section 9(a) of H.R. 168. I therefore also recommend that the Committee on Finance amend section 9(a), H.R. 168 with this technical amendment, which I attach herewith.

3. Section 10(a): This section amends section 5001, chapter 81, title 38, United States Code, "Hospital and Domiciliary Facilities," to provide that the Administrator, subject to the approval of the President, is authorized to establish and operate not less than 125,000 hospital beds in facilities over which the Administrator has direct and exclusive jurisdiction for the care and treatment of eligible veterans who are tuberculosis, neuropsychiatric, medical, and surgical cases, and the nursing homes authorized by paragraph (3) shall be in addition to the hospital beds provided for in paragraph (2).

Because of the exact and apparently mandatory language utilized within this proposed amendment it is of a highly controversial character. Upon this basis it is my recommendation that this section be stricken from the bill as it is reported by the Committee on Finance. Such action by your committee will enable the Subcommittee on Veterans' Affairs to consider the section carefully and at length in the future and reap the benefit which comes from a hearing of the views of all interested parties.

I wish to extend to the Committee on Finance and to its distinguished chairman, Senator Harry F. Byrd, my sincere appreciation for the consideration shown in promptly submitting these three sections of H.R. 168 to the Subcommittee on Veterans' Affairs. It is my hope that our committees may continue their productive joint efforts in behalf of those most worthy citizens—the veterans of America.

Sincerely,

RALPH W. YARBOROUGH,  
*Chairman, Subcommittee on Veterans' Affairs.*

A new section (now sec. 7) has been added to the bill by the committee. This section provides that the increases under the Social Security Amendments of 1965 (Public Law 89-97) shall not be counted in determining the annual income of persons entitled to both pension and social security benefits for the month in which that act was enacted. This provision will prevent the untoward loss or reduction of pension which would otherwise result from the social security increase. The proposal will not affect the pensioner's right to have 10 percent of the major remaining portion of his social security excluded in the pension income determination.

Minor perfecting technical amendments have been made in section 2 and the former section 9 (now sec. 6).

GENERAL STATEMENT

The various increases authorized by sections 1 and 2 of the bill for the rates of veterans' disability compensation are shown in the following tables:

Veterans' disability compensation

Degree and paragraph	Wartime cases	Present wartime rates	Proposed wartime rates	Monthly increase above present rates	Peacetime cases	Present peacetime rates	Proposed peacetime rates	Monthly increase above present rates
10(a)-----	743, 516	\$20	\$21	\$1	62, 975	\$16	\$17	\$1
20(b)-----	280, 635	38	40	2	21, 097	30	32	2
30(c)-----	256, 579	58	60	2	19, 775	46	48	2
40(d)-----	152, 362	77	82	5	8, 900	62	65	3
50(e)-----	95, 348	107	113	6	7, 500	86	90	4
60(f)-----	83, 930	128	130	8	5, 700	102	109	7
70(g)-----	42, 216	149	161	12	3, 400	119	129	10
80(h)-----	25, 790	170	186	16	1, 400	136	149	13
90(i)-----	8, 237	191	209	18	400	153	167	14
100(j)-----	72, 971	250	300	50	11, 379	200	240	40
(l)-----	3, 543	340	400	60	368	272	320	48
(m)-----	2, 599	300	450	60	306	312	360	48
(n)-----	378	440	525	85	27	352	420	68
(o)-----	30	525	600	75	10	420	480	60
(p)-----	3, 192	525	600	75	290	420	480	60
(q)-----	54, 678				2, 653			
(r)-----	4, 965	200 (+525)	250 (+600)	50 (+75)	1, 100	160 + (420)	200 (+480)	40 (+60)
(s)-----	4, 582	290	350	60	520	232	280	48
Total..	1, 837, 691				147, 800			

PARAGRAPH NOTES

- (k) Anatomical loss, or loss of use of a creative organ, or 1 foot, or 1 hand, or both buttocks, or blindness of 1 eye, having only light perception, rates (a) to (j) increased monthly by \$47 additional to basic compensation paid monthly for veteran with these disabilities. (This \$47 rate unchanged.)
- Anatomical loss, or loss of use of a creative organ, or 1 foot, or 1 hand, or both buttocks, or blindness of 1 eye, having only light perception, in addition to requirement for any rates in (l) to (n), rate increased monthly for each loss or loss of use by \$47 additional to basic compensation paid monthly for veteran with these disabilities (this \$47 rate unchanged).
- (l) Anatomical loss, or loss of use of both hands, or both feet, or 1 hand and 1 foot, or blind 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, monthly compensation.
- (m) Anatomical loss, or loss of use of 2 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, monthly compensation.
- (n) Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthetic appliance, or suffered anatomical loss of both eyes, monthly compensation.
- (o) Suffered disability under conditions which would entitle him to 2 or more rates in (l) to (n), no condition being considered twice, or suffered total deafness in combination with total blindness with 5/200 visual acuity or less, monthly compensation.
- (p) In event disabled person's service-incurred disabilities exceed requirements for any of rates prescribed, Administrator, in his discretion, may allow next higher rate, or intermediate rate, but in no event in excess of \$600.
- (q) Minimum rate for arrested tuberculosis. (This \$67 monthly rate is unchanged)
- (r) If entitled to compensation under (o), or the maximum rate under (p), and in need of regular aid and attendance, while not hospitalized at Government expense, additional monthly aid and attendance allowance.
- (s) If totally disabled and (l) has additional disability independently rated at 60 percent or more, or, (2) is permanently housebound.

*Additional allowances for dependents*

Dependency status	Present allowance	Allowance proposed by H. R. 168	Cases affected and additional cost
Veteran totally disabled and has—			
(A) a wife but no child living.....	\$23	\$25	Cases: 303,000. Cost: \$11,555,000.
(B) a wife and 1 child living.....	39	43	
(C) a wife and 2 children living.....	50	55	
(D) a wife and 3 or more children living.....	<sup>1</sup> 62	<sup>2</sup> 68	
(E) no wife but 1 child living.....	15	17	
(F) no wife but 2 children living.....	27	30	
(G) no wife but 3 or more children living.....	<sup>1</sup> 39	<sup>2</sup> 43	
(H) 1 or 2 parents dependent upon him for support.....	<sup>3</sup> 19	<sup>3</sup> 21	

<sup>1</sup> Plus \$12 for each living child in excess of 3.

<sup>2</sup> Plus \$13 for each living child in excess of 3.

<sup>3</sup> Payable in addition to other dependency allowance to which veteran is entitled.

The committee has adopted the same increases as were approved by the House of Representatives. While they are somewhat more liberal from an overall standpoint than the increases proposed by the Veterans' Administration, the committee concluded that the bill as passed by the House embodies the basic principles as to which there is no opposition and that the specific rates are fully justified. The basic rate for wartime totally disabled would be increased from \$250 to \$300 per month. The maximum rate payable for the most seriously disabled veteran who is in need of regular aid and attendance would be raised from \$725 to \$850 per month. The estimated additional cost of the increase in rates for the first year is \$136 million for the basic rates and \$11.5 million for the additional allowances for dependents.

Section 2 of the bill extends from 21 to 23 years the age limitation for benefits to or on account of a "child" who has attained the age of 18 years but is pursuing a course of instruction at an approved educational institution. A higher rate of additional allowance is authorized for the veteran-father of such a child where the veteran is 50 percent or more service-connected disabled. The committee is informed that the median age of persons enrolled in the fourth year of college is about 23 years. Accordingly, it is believed that the proposed change in the age limitation is fully justified.

Section 3 provides that where a veteran has suffered total deafness in one ear as the result of service-connected disability and has suffered total deafness in the other ear as a result of non-service-connected disability (not the result of his own willful misconduct), the Administrator shall pay him the applicable rate of compensation as if such total deafness in both ears were the result of service-connected disability. This would be an extension of the principle of "paired organ" impairment which the Congress established in 1962 with respect to cases of blindness and severe kidney involvement (38 U.S.C. 360). This principle recognizes the additional disability attendant on the non-service-connected loss of function of a second paired organ when service connection has been established for the other organ and the committee believes constitutes a reasonable liberalization of existing law. This section would also provide higher statutory awards in the case of totally blind veterans who have suffered various degrees of deafness in combination with their blindness. In such cases there is a very considerable added handicap to the blind veteran whose hearing

impairment severely impairs his sense of direction as well as his ability to communicate with others. The number of veterans affected would be very small.

For a number of years there has been authorized a special pension for any person awarded a Medal of Honor for distinguishing himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty while so serving. Originally, the age requirement was 65. This requirement was lowered to 50 years in 1961 and to 40 years in 1964. The committee agrees that if any holder of this highest military honor feels a need for this special pension of \$100 a month, he should not be deprived of it solely on the basis of an arbitrary age requirement.

Section 7 of the House bill (now sec. 5 of the committee bill) enlarges the existing authority for a Veterans' Administration office in Europe to administer and operate veterans' programs in that area. The Veterans' Administration is in favor of this provision and, as noted above, under "Committee Amendments" it has been amended to meet the basic objection of the Department of State.

Section 9 of the House bill (now sec. 6 of the committee bill) deals with the program of matching grants to States to aid them in the construction of State nursing home facilities for war veterans which was established by Public Law 88-450. One limitation in that program (38 U.S.C. 5033(c)) is that not more than 10 percent of funds appropriated for this purpose for any fiscal year shall be used to assist in the construction of facilities in any one State. This limitation would be repealed by the bill. Another limitation (38 U.S.C. 5034(1)) is that, for the purposes of this grant-in-aid program, the number of beds deemed adequate to provide nursing home care to war veterans in any State shall not exceed one-half bed per thousand war veteran population in the State. Section 9(b) of the bill would increase the permissible limit to one and one-half beds per thousand veterans. The chairman, Subcommittee on Veterans' Affairs, Committee on Labor and Public Welfare, recommends approval of this provision for the reasons set forth in his letter to this committee which is included in this report.

The new section 7 is a committee amendment dealing with the problem of the recent social security increase adversely affecting certain veterans' pension rights and is discussed more fully under "Committee Amendments" above.

#### DEPARTMENTAL REPORT

VETERANS' ADMINISTRATION,  
October 7, 1965.

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. 168, 89th Congress.

The bill proposes a number of liberalizations of various veterans' benefit programs. They will be discussed hereinafter in the order in which they appear in the bill.

The first section proposes to increase, in varying amounts and percentages, the rates of service-connected disability compensation payable to wartime and peacetime veterans. We are enclosing a

chart reflecting the current rates of disability compensation and the increases proposed by this section. The chart also reflects the current rates of additional compensation for dependents payable to veterans who are 50 percent or more disabled and the increases in those rates proposed by section 2(a) of H.R. 168, discussed later in this report.

There are many factors that may be considered or employed in determining what constitutes an adequate system of compensation for service-connected disabilities. One such factor is a comparison of the increase in the rates of compensation for a given period with the rise in the cost of living for the same period. Over the years the increases in the rates of disability compensation have not kept pace with the rise in the cost of living. For example, since 1933 (when the current system of compensation was established), there has been a 146-percent rise in the cost of living and, generally speaking, a 126-percent increase in the rates of compensation. Similarly, since the end of World War II, the rates of compensation for the service disabled have increased 46 percent, while the cost of living has risen 62 percent. Again, the rates of compensation for the service disabled were last increased in September 1962 (Public Law 87-645) and the cost of living has increased about 3.8 percent since that time.

Data assembled several years ago in the study conducted by the President's Commission on Veterans' Pensions showed virtually no earnings by a substantial proportion of the 100-percent disabled veterans, whereas those veterans rated from 90 percent down to 10 percent were able to participate to a progressively greater extent in the labor market. Current evidence indicates that the totally disabled group are the least well compensated for the economic impairment resulting from their disabilities and are the most in need of additional assistance.

However, unlike the totally disabled group, currently available data do not furnish a basis for a definitive judgment as to the economic impairment flowing from percentage ratings less than total. These veterans retain an industrial capacity which may vary from that anticipated depending upon a complexity of factors such as diagnosis, experience, age, education, and rehabilitation training. The Veterans' Administration is currently engaged in a study designed to economically validate our schedule for rating disabilities. This study should furnish us valuable data on the average economic impairment flowing from each disability percentage level as well as the economic impairment resulting from the residuals of the various diseases and injuries. The results of this study, however, will not be available for quite some time.

Of those veterans whose disabilities are rated less than totally disabling, the 50-percent disability level is the critical level of severe disability. This is consistent with the concept established by the Congress in 1952 under which veterans rated at or above that level have been granted greater proportionate increases in their disability compensation rates than those veterans with 10 to 40 percent ratings. In any event, the rise in the cost of living has affected disabled veterans in varying degrees depending on their disability evaluations.

Over the years increases in rates payable for lesser percentages have been effected generally by means of an across-the-board percentage increase roughly equal to the increase in the cost of living since the preceding rate increase. This, coupled with the rounding off of rates to even dollar amounts, has tended to distort certain of



these rates. This is illustrated by the fact that since 1946 the rate of compensation payable for 10 percent disability has been increased by approximately 45 percent whereas the rate for 20 percent disability has risen only 38 percent.

In the light of the foregoing, we believe it would be desirable to maintain a uniform interval between ratings from 10 to 40 percent and to provide a similar—although greater—uniform interval between disability levels at or above the critical level of severe disability (i.e., 50 percent through 90 percent).

We do not recommend any increase in two existing rates. Subsections 314 (k) and (q) of title 38, United States Code, provide, respectively, \$47 monthly for certain anatomical and other losses or losses of use, and a \$67 minimum monthly rate for veterans whose active tuberculous disease has reached a condition of complete arrest. Since all veterans entitled to the \$47 statutory rate would be benefited by the basic rate increase, we do not believe that this additional statutory rate requires an increase. The same conclusion applies with respect to the \$67 monthly minimum rate for arrested tuberculosis. It is our belief that the provisions of law concerning veterans with this disease are already unusually liberal and that this minimum rate should not be increased.

On April 29, 1965, the Veterans' Administration furnished a report to the Committee on Veterans' Affairs, House of Representatives, with respect to a number of pending bills which proposed to increase, in varying amounts, the rates of compensation payable to wartime and peacetime veterans. Our report pointed out that H.R. 171, 89th Congress, recognized the fact that totally disabled veterans are clearly undercompensated by proposing to increase their compensation by \$600 annually; that it would preserve equal dollar intervals between ratings from 10 to 40 percent by increasing the amounts payable for 20, 30, and 40 percent ratings to bring them up to the percentage increase already granted the 10 percent category since the end of World War II; and that the bill would preserve the greater rate step to 50 percent disability and provide a uniform interval, where possible, between the more severe—50 percent through 90 percent—categories. Our report concluded that H.R. 171 would most acceptably provide necessary increases for the service disabled veterans and that we would have no objection to its favorable consideration.

The Veterans' Administration strongly supports legislation to provide reasonable and justifiable increases in the rates of veterans' disability compensation. For the reasons outlined above, we continue to believe that this can be adequately accomplished by the enactment of a bill such as H.R. 171, involving a first year's additional cost in such rates of \$91 million. The comparable cost of H.R. 168 would exceed \$136 million the first year.

Under all of the circumstances, the Veterans' Administration recommends that your committee amend H.R. 168 by substituting the rate increases proposed in the first section of H.R. 171. For your ready reference, we are enclosing a copy of the latter bill.

Subsection (b) of the first section of H.R. 168 would provide authority for the Administrator to adjust, administratively, consistent with the increases provided by the section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are receiving disability compensation

under laws other than chapter 11 of title 38, United States Code. A provision of this type will be necessary, if disability compensation rates are increased, in order to provide a comparable increase for some 50,000 veterans whose disability compensation payments were authorized by earlier laws as saved by the mentioned section 10.

Section 2(a) of H.R. 168 proposes to increase by approximately 10 percent the additional compensation for dependents payable to veterans who are 50 percent or more disabled. The cost of living has increased about 11.5 percent since August 1957 when these rates of additional compensation were last increased (Public Law 168, 85th Cong.). The Veterans' Administration believes that the modest increases in these allowances proposed by this section are fully justified by the rise in living cost and we therefore endorse the increase of such allowances.

There are set forth below estimates of the number of cases affected by sections 1 and 2(a) of this bill, if enacted, and the additional cost of these sections during the first year. In each case, it is estimated that during the succeeding 4 years the number affected and the additional cost would decrease slightly.

Basic rates		Dependents' allowances		Total cases	Total cost
Cases	Cost	Cases	Cost		
1,934,123	\$136,221,864	(303,000)	\$11,555,000	1,934,123	\$147,776,864

Subsection 2(c) of H.R. 168 proposes, for Veterans' Administration purposes generally, to amend the definition of "child" to extend the maximum age limit from age 21 to 23, and subsection 2(b) would increase to \$40 monthly the amount of additional compensation payable to a service-connected totally disabled veteran (with proportionate amounts for veterans rated 50 percent or more disabled) on account of each child who has successfully completed his secondary schooling or who has attained the age of 18 years and who is pursuing a course of instruction at an approved educational institution.

Under existing law, the term "child" is defined, generally, as an unmarried person under the age of 18 years. The age limit is extended to 21 years when the child is pursuing a course of instruction at an approved educational institution. Subject to this definition, monetary benefits may be paid to, or on account of, a veteran's children when eligibility requirements are otherwise met. These benefits include additional service-connected compensation for veterans who are 50 percent disabled, service-connected death compensation, dependency and indemnity compensation to children alone and non-service-connected disability or death pension.

As noted above, section 2(c) would extend the age limitations for the named benefits in the case of a child attending school from 21 years to 23 years.

The Veterans' Administration has consistently held the view that the Government should provide benefits for the period in the child's life when, if the father were living, he might be expected to contribute to the child's support. That view is equally applicable to a situation wherein the veteran is alive but severely disabled. In this connection, it seems generally recognized that the need for advanced education

and training to prepare children to take their place in society has increased. More and more young people are attending college. Greater are being made by more of our citizens to afford their children the opportunity of a college education, and appreciable assistance toward this goal has been extended by Federal, State, and local governments.

Moreover statistics issued by the Bureau of the Census reflect that the median age of persons enrolled in the fourth year of college as of April 1, 1960, was 22.7 years. Accordingly, it appears that the proposed change in the age limitation for a "child" would be reasonable and consonant with the indicated basis on which Veterans' Administration benefits have been previously granted because of individuals pursuing a course of instruction.

The additional compensation currently payable to totally disabled veterans on behalf of their children ranges from \$11 to \$16 monthly (as reflected in the attached rate chart) and proportionate amounts may be paid for veterans 50 percent or more disabled. Children attending school after completion of their secondary schooling are usually starting a 4-year college program. This entails substantial expense. The existing dependency allowance for these children is inadequate insofar as providing any substantial assistance to the veteran, and such help as it does provide now terminates at age 21—prior to the usual date for completion of a 4-year college course.

The individual who is not disabled and those veterans with minor disabilities are generally in a position to provide for the increased expenses incurred through their children's education. But the earning capacity of the seriously (50 percent or more) disabled veteran has usually been so greatly reduced as to preclude the buildup of a fund from which these increased expenses can now be withdrawn, and his current earnings are, in almost all cases, inadequate to meet the greater financial demand. As a result, the higher education of the children of these veterans can be accomplished only through extreme sacrifice and severe hardship on both the veteran concerned and his family.

Since this is a direct result of the veteran's service to our country, the Veterans' Administration believes that the Government should attempt to alleviate the problem. Subsection 2(b), by increasing the current rates for these children to \$40 monthly, would go a long way toward accomplishing this purpose. We accordingly endorse this provision and urge its favorable consideration by your committee.

It is estimated that the first year's additional cost of these subsections, if enacted, would be approximately \$28.5 million. It is believed that this cost would increase slightly in each of the succeeding 4 years.

Section 3 of H.R. 168 would provide that where a veteran has suffered total deafness in one ear as the result of service-connected disability and has suffered total deafness in the other ear as a result of non-service-connected disability (not the result of his own willful misconduct), the Administrator shall pay him the applicable rate of compensation as if such total deafness in both ears were the result of service-connected disability. This would be an extension of the principle of "paired organ" impairment which the Congress established in 1962 with respect to cases of blindness and severe kidney involvement (38 U.S.C. 360). This principle recognizes the additional disability attendant on the non-service-connected loss of function of a second paired organ when service connection has been established for

the other organ. We do not believe, in the light of this fact, that the proposal constitutes an unreasonable liberalization of existing law. Accordingly, and since the number of veterans affected would be very small, the Veterans' Administration would not object to its favorable consideration.

This section would also provide higher rates of disability compensation in the case of certain veterans who have service-connected blindness of both eyes, with 5/200 visual acuity or less, and who have suffered an impairment of their hearing. It would authorize payment to the veterans concerned of the several statutory rates of compensation provided by law or regulation, depending on the extent of the veteran's blindness and the degree of his hearing impairment. Under the bill, generally, a portion of the deafness could result from non-service-connected causes. This liberalization recognizes the very considerable added handicap to a blind veteran who has a hearing impairment which severely impairs his sense of direction as well as his ability to communicate with others. These provisions also would be applicable only to a very small group of veterans. In view of the major disabilities of those affected, the Veterans' Administration feels that this liberalization may well be warranted. Accordingly, we would not object to its enactment.

Under 38 U.S.C. 415, dependency and indemnity compensation is payable to parents of a veteran who died from a service-connected or compensable disability, based on a need concept. Such benefits are provided on a sliding scale based upon annual income.

Section 4 of the bill would increase from 14 percent to as much as 50 percent the income limitations applicable to eligible parents for dependency and indemnity compensation, which presently range from \$750 to \$2,400. The current rates of payment would be assigned to the increased income limitations.

Additionally, a sole surviving parent of a deceased veteran who remarries would be afforded an election to receive dependency and indemnity compensation at the rates provided for an only parent or the rates provided for two parents living together. In either event the total income of the parent and new spouse would be counted.

It is estimated that section 4 of H.R. 168 would cost an additional \$2.4 million the first year—representing an increase of \$1.4 million for those now on the rolls, and \$0.8 million for the new cases based on the proposed higher income limitations; and an estimated \$0.2 million by reason of the contemplated election to be afforded a sole remarried parent. It is anticipated that the costs would increase slightly in each of the succeeding 4 years.

We presently have under examination the question of adequacy of income limitations, exclusions, and rates for parents under the dependency and indemnity compensation program. The analysis will necessarily involve, among other aspects of the problem, consideration of the effects of the recently enacted Public Law 89-214. That law provides servicemen's group life insurance and a death gratuity program which will affect surviving parents. Pending development of the details of any liberalization of the dependency and indemnity compensation program, proper, which may be indicated, we believe that congressional action in this benefit area should be deferred. Under the circumstances, deletion of section 4 of H.R. 168 is recommended at this time.

Sections 560 to 562 of title 38, United States Code, provide for the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll, upon which is recorded, on written application to the Secretary of the Department concerned, the name of each surviving person who has served on active duty in the Armed Forces of the United States, who has attained the age of 40 years, and who has been awarded a Medal of Honor for distinguishing himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty while so serving.

Persons whose names are entered on the Medal of Honor Roll who express a desire to receive a special pension are paid \$100 a month for life by this agency, based on a certificate of entitlement from the Department concerned. The law provides that this special pension shall be paid in addition to all other payments under laws of the United States.

Section 5 of H.R. 168 would delete the age requirement from 38 U.S.C. 560(b).

It is estimated that the bill could benefit 23 persons the first year, at an additional cost of \$27,600. It is believed the cost would remain substantially the same for the succeeding 4 years.

The sole responsibility of the Veterans' Administration in connection with the special pension is to arrange for its payment to persons certified as entitled thereto by the Department concerned. Section 5 of H.R. 168 would not alter this function. Insofar as the Veterans' Administration is concerned, there is no objection to the favorable consideration of section 5.

Section 6 of this bill would amend section 106 of title 38, United States Code, to provide that individuals who incur a disability in line of duty during certain service shall be entitled to the employment rights, privileges, and benefits of the Veterans' Preference Act of 1944. This provision is similar in purpose to H.R. 3413 which passed the House of Representatives on May 17, 1965, and is currently pending before the Senate Committee on Post Office and Civil Service.

Since the Veterans' Preference Act is administered from a policy standpoint by the U.S. Civil Service Commission, rather than by the Veterans' Administration, we express no recommendation with respect to the merits of this provision, but rather defer to the views of the Commission.

Advice has been received from the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

W. J. DRIVER, *Administrator.*

*Chart of rates and increases proposed*

## DISABILITY COMPENSATION

Current percent disability	Rate	Proposed rate	Increase
10 percent.....	\$20	\$21	\$1
20 percent.....	38	40	2
30 percent.....	58	60	2
40 percent.....	77	82	5
50 percent.....	107	113	6
60 percent.....	128	136	8
70 percent.....	149	161	11
80 percent.....	170	186	16
90 percent.....	191	209	18
100 percent.....	250	300	50
Subpar. (k).....	47-525	600	-----
Subpar. (l).....	340	400	60
Subpar. (m).....	390	450	60
Subpar. (n).....	440	525	85
Subpar. (o).....	525	600	75
Subpar. (p).....	525	600	75
Subpar. (q).....	67	-----	-----
Subpar. (r).....	200	250	50
Subpar. (s).....	290	350	60

## ADDITIONAL COMPENSATION FOR DEPENDENTS

[For totally disabled veterans]

	Current rate	Proposed rate	Increase
Wife.....	\$23	\$25	\$2
Wife, 1 child.....	39	43	4
Wife, 2 children.....	50	55	5
Wife, 3 children.....	62	68	6
Each additional child.....	12	13	1
1 child.....	15	17	2
2 children.....	27	30	3
3 children.....	39	43	4
Each additional child.....	12	13	1
Parent, each.....	19	21	2

NOTE.—Proportionate rates are payable to veterans 50 to 90 percent disabled.

## 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, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE****PART I. GENERAL PROVISIONS****CHAPTER 1.—GENERAL**

\* \* \* \* \*

**§ 101. Definitions**

For the purposes of this title—

\* \* \* \* \*

(4) The term "child" means (except for purposes of chapter 19 of this title and section 5202 (b) of this title) a person who is unmarried and—

- (A) who is under the age of eighteen years;
  - (B) who, before attaining the age of eighteen years, became permanently incapable of self-support; or
  - (C) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of **[twenty-one]** *twenty-three* years), is pursuing a course of instruction at an approved educational institution;
- and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Administrator to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse within two years after the veteran's death or the date of enactment of this sentence; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward his support ~~from~~ some individual other than the veteran or his spouse, or from any public or private welfare organization which furnishes services or assistance for children.

\* \* \* \* \*

**CHAPTER 3.—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES**

\* \* \* \* \*

**Subchapter III.—Veterans' Administration Regional Offices; Employees**

**§ 230. Central and regional offices**

(a) The Central Office of the Veterans' Administration shall be in the District of Columbia. The Administrator may establish such regional offices and such other field offices within the United States, its Territories, Commonwealths, and possessions, as he deems necessary.

(b) The Administrator may exercise authority under this section in territory of the Republic of the Philippines until June 30, 1970.

(c) The Administrator **[is authorized to]** shall establish and maintain an office in Europe **[;** at such location as he deems appropriate **]**, to render technical advice and assistance in the administration of veterans' programs in that area **]**. *The head of such office shall be responsible for the performance of such duties as may be prescribed by the Administrator in the administration and operation of veterans' programs in that area.*

\* \* \* \* \*

## PART II. GENERAL BENEFITS

\* \* \* \* \*

### CHAPTER 11.—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

#### SUBCHAPTER I—GENERAL

**Sec.**

301. Definitions.  
302. Special provisions relating to widows.

#### SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

310. Basic entitlement.  
311. Presumption of sound condition.  
312. Presumptions relating to certain diseases.  
313. Presumptions rebuttable.  
314. Rates of wartime disability compensation.  
315. Additional compensation for dependents.

#### SUBCHAPTER III—WARTIME DEATH COMPENSATION

321. Basic entitlement.  
322. Rates of wartime death compensation.

#### SUBCHAPTER IV—PEACETIME DISABILITY COMPENSATION

331. Basic entitlement,  
332. Presumption of sound condition.  
333. Presumptions relating to certain diseases.  
334. Rates of peacetime disability compensation.  
335. Additional compensation for dependents.  
336. Conditions under which wartime rates payable.

#### SUBCHAPTER V—PEACETIME DEATH COMPENSATION

341. Basic entitlement.  
342. Rates of peacetime death compensation.  
343. Conditions under which wartime rates payable.

#### SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

351. Benefits for persons disabled by treatment or vocational rehabilitation.  
352. Persons heretofore having a compensable status.  
353. Aggravation.  
354. Consideration to be accorded time, place, and circumstances of service.  
355. Authority for schedule for rating disabilities.  
356. Minimum rating for arrested tuberculosis.  
357. Combination of certain ratings.  
358. Disappearance.  
359. Protection of service connection.  
360. Special consideration for certain cases of blindness or bilateral kidney involvement or bilateral deafness.

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#### § 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]~~ \$21;  
(b) if and while the disability is rated 20 per centum the monthly compensation shall be ~~[\$38]~~ \$40;  
(c) if and while the disability is rated 30 per centum the monthly compensation shall be ~~[\$58]~~ \$60;



(d) if and while the disability is rated 40 per centum the monthly compensation shall be ~~[\$77]~~ \$82;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be ~~[\$107]~~ \$113;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be ~~[\$128]~~ \$136;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be ~~[\$149]~~ \$161;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be ~~[\$170]~~ \$186;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be ~~[\$191]~~ \$209;

(j) if and while the disability is rated as total the monthly compensation shall be ~~[\$250]~~ \$300;

(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 has suffered complete organic aphonia with constant inability to communicate by speech, 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 has suffered complete organic aphonia with constant inability to communicate by speech, 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]~~ \$600 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]~~ \$400;

(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]~~ \$450;

(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]~~ \$525;

(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]** if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, in combination with total blindness with 5/200 visual acuity or less, the monthly compensation shall be **[\$525]** \$600;

(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]** \$600. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of \$600;

(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]** \$250 per month, subject to the limitations of section 3203(f) of this title. For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.<sup>1</sup>

(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]** \$350. For the purposes 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.

### § 315. Additional compensation for dependents

(a) Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 50 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

- (A) has a wife but no child living, **[\$23]** \$25;
- (B) has a wife and one child living, **[\$39]** \$43;
- (C) has a wife and two children living, **[\$50]** \$55;

(D) has a wife and three or more children living, **[\$62]** \$68 (plus **[\$12]** \$13 for each living child in excess of three);

(E) has no wife but one child living, **[\$15]** \$17;

(F) has no wife but two children living, **[\$27]** \$30;

(G) has no wife but three or more children living, **[\$39]** \$43 (plus **[\$12]** \$13 for each living child in excess of three); **[and]**

(H) has a mother or father, either or both dependent upon him for support, then, in addition to the above amounts, **[\$19]** \$21 for each parent so dependent**[.]**; and

*(I) notwithstanding the other provisions of this subsection, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be \$40 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this subsection.*

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**Subchapter VI.—General Compensation Provisions**

\* \* \* \* \*

**§ 360. Special consideration for certain cases of blindness or bilateral kidney involvement or bilateral deafness**

Where any veteran has suffered (1) blindness in one eye as a result of service-connected disability and has suffered blindness in the other eye as a result of non-service-connected disability not the result of his own willful misconduct, or (2) has suffered the loss or loss of use of one kidney as a result of service-connected disability, and has suffered severe involvement of the other kidney such as to cause total disability, as a result of non-service-connected disability not the result of his own willful misconduct, or (3) *has suffered total deafness in one ear as a result of service-connected disability and has suffered total deafness in the other ear as the result of non-service-connected disability not the result of his own willful misconduct*, the Administrator shall assign and pay to the veteran concerned the applicable rate of compensation under this chapter as if his blindness in both eyes or such bilateral kidney involvement or such total deafness in both ears were the result of service-connected disability.

**CHAPTER 13.—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS**

\* \* \* \* \*

**Subchapter II.—Dependency and Indemnity Compensation**

\* \* \* \* \*

**§ 414. Supplemental dependency and indemnity compensation to children**

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to him shall be increased by \$28.

(b) If dependency and indemnity compensation is payable monthly to a woman as a "widow" and there is a child (of her deceased hus-

band) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of \$77.

(c) If dependency and indemnity compensation is payable monthly to a woman as a "widow" and there is a child (of her deceased husband) who has attained the age of eighteen and who, while under the age of [twenty-one] *twent-three* is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of \$39.

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## CHAPTER 15.—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

\* \* \* \* \*

### Subchapter IV.—Army, Navy, Air Force, and Coast Guard Medal of Honor Roll

#### § 560. Medal of Honor Roll; persons eligible

(a) There shall be in the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Department of the Treasury, respectively, a roll designated as the "Army, Navy, Air Force, and Coast Guard Medal of Honor Roll".

(b) Upon written application to the Secretary concerned, the Secretary shall enter and record on such roll the name of each surviving person who has served on active duty in the armed forces of the United States [ ,who has attained the age of forty years, ] and who has been awarded a medal of honor for distinguishing himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty while so serving.

(c) Applications for entry on such roll shall be made in the form and under regulations prescribed by the Secretary concerned and shall indicate whether or not the applicant desires to receive the special pension provided by section 562 of this title. Proper blanks and instructions shall be furnished by the Secretary concerned, without charge upon the request of any person claiming the benefits of this subchapter.

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## PART VI. ACQUISITION AND DISPOSITION OF PROPERTY

\* \* \* \* \*

### CHAPTER 81.—ACQUISITION AND OPERATION OF HOSPI- TAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

\* \* \* \* \*

### Subchapter III.—State Home Facilities for Furnishing Nursing Home Care

\* \* \* \* \*

#### § 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1965, and a like sum for each of the four succeeding fiscal years. Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes of section 5032 of this title.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated.

[(c) Not more than 10 per centum of the funds appropriated pursuant to subsection (a) of this section for any fiscal year shall be used to assist in the construction of nursing home care facilities in any one State.]

#### § 5034. General regulations

Within six months after the date of enactment of this subchapter, the Administrator shall prescribe the following by regulation:

(1) The number of beds required to provide adequate nursing home care to war veterans residing in each State, which number shall not exceed [one-half bed] *one and one-half beds* per thousand war veteran population in the case of any State.

(2) General standards of construction, repairs, modernization, alteration, and equipment for facilities for furnishing nursing home care which are constructed with assistance received under this subchapter.

#### § 5035. Applications with respect to projects; payments

(a) After regulations have been prescribed by the Administrator under section 5034 of this title, any State desiring to receive assistance for a project for construction of State home facilities for furnishing nursing home care must submit to the Administrator an application. Such application shall set forth—

(1) the amount of the grant requested with respect to such project which may not exceed 50 per centum of the estimated cost of construction of such project,

(2) a description of the site for such project,

(3) plans and specifications for such project in accordance with regulations prescribed by the Administrator pursuant to section 5034(2) of this title,

(4) reasonable assurance that upon completion of such project the facilities will be used principally to furnish nursing home care to war veterans and that not more than 10 per centum of the bed occupancy at any one time will consist of patients who are not receiving nursing home care as war veterans.

(5) reasonable assurance that title to such site is or will be vested solely in the applicant, a State home, or another agency or instrumentality of the State,

(6) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when complete,

(7) reasonable assurance that the State will make such reports in such form and containing such information as the Administrator may from time to time reasonably require, and give the Administrator, upon demand, access to the records upon which such information is based; and

(8) reasonable assurance that the rates of pay for laborers and mechanics engaged in construction of the project will be not less than the prevailing local wage rates for similar work as determined in accordance with sections 276a through 276a-5 of title 40 (known as the Davis-Bacon Act).

(b) The Administrator shall approve any such application if he finds that—

(1) there are sufficient funds available to make the grant requested with respect to such project,

(2) such grant does not exceed 50 per centum of the estimated cost of construction of such project,

[(3)] (3) that such a grant would not result in more than 10 per centum of the funds appropriated for any fiscal year pursuant to section 5033(a) of this title being used to assist the construction of facilities in any one State,]

[(4)] (3) the application contains such reasonable assurance as to use, title, financial support, reports and access to records, and payment of prevailing rates of wages, as the Administrator may determine to be necessary, and

[(5)] (4) the plans and specifications for such project are in accord with regulations prescribed pursuant to section 5034(2) of this title and that the construction of such project, together with other projects under construction and other facilities, will not result in more than the number of beds prescribed by the Administrator pursuant to section 5034(1) of this title for the State in which such project is located being available for furnishing nursing home care to war veterans in such State.

(c) No application submitted to the Administrator under this section shall be disapproved until the Administrator has afforded the applicant an opportunity for a hearing.

(d) Upon approving an application under this section, the Administrator shall certify to the Secretary of the Treasury the amount of the grant requested with respect to such project in such application, but in no event an amount greater than 50 per centum of the estimated cost of construction of the project, and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment to the applicant or, if designated by the applicant, the State home for which such project is being constructed or any other agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of construction as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid under this section for the construction of an approved project shall be used solely for carrying out such project as so approved.

(e) Any amendment of any approved application shall be subject to approval in the same manner as an original application.