

## VETERANS' COMPENSATION INCREASES

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OCTOBER 21, 1965.—Ordered to be printed  
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Mr. TEAGUE of Texas, from the committee of conference, submitted the following

### CONFERENCE REPORT

[To accompany H. R. 168]

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 168) to amend title 38 of the United States Code to provide increases in the rates of disability compensation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6 and 11.

That the Senate recede from its disagreement to the amendments of the House to the amendments of the Senate numbered 5, 7, 9, 10, and 12, and agree to the same.

Amendment numbered 8:

That the Senate recede from its disagreement to the amendment of the House to Senate amendment numbered 8, and agree to the same with an amendment as follows:

In lieu of the action proposed by Senate amendment numbered 8, as amended by the House, strike out line 1 on page 9 of the House engrossed bill and all that follows down through line 12 on page 11, and insert in lieu thereof the following:

*Sec. 6. (a) Chapter 73 of title 38, United States Code, is amended by adding at the end thereof the following new section:*

**“§ 4116. Defense of certain malpractice and negligence suits**

*“(a) The remedy by suit against the United States as provided by section 1346(b) of title 28 for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Medicine and Surgery shall here-*

after be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Administrator.

"(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment in or for the Department of Medicine and Surgery at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect."

(b) The analysis of chapter 73 of title 38, United States Code, is amended by adding at the end thereof the following:

"4116. Defense of certain malpractice and negligence suits."

(c) The amendments made by this section shall take effect on the first day of the first calendar month which begins more than one hundred and eighty days after the date of enactment of this Act, but, in the case of an act or omission which occurred before such effective date, such amendments shall apply only if no suit or civil action has been commenced before such effective date with respect to such act or omission.

And the House agree to the same.

OLIN E. TEAGUE,  
W. J. BRYAN DORN,  
JAMES A. HALEY,  
E. ROSS ADAIR,  
WILLIAM H. AYRES,

Managers on the Part of the House.

HARRY F. BYRD,  
RUSSELL B. LONG,  
GEORGE SMATHERS,  
JOHN WILLIAMS,  
FRANK CARLSON,

Managers on the Part of the Senate.

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (H.R. 168) to amend title 38 of the United States Code to provide increases in the rates of disability compensation, and for other purposes, submit the following statement in explanation of the effect of the action agree upon by the conferees and recommended in the accompanying conference report:

The amendment of the Senate No. 8 struck from the House bill all of section 8 which would have provided for defense by the United States of certain malpractice and negligence suits against physicians, dentists, and nurses in the Department of Medicine and Surgery of the Veterans' Administration for their acts or omissions while in the exercise of their duties. The House amendment to the amendment of the Senate No. 8 would have restored that section with a change in the section number.

Under the conference agreement the section has been restored to the bill as section 6 and additional personnel carrying out duties in and for the Department of Medicine and Surgery are brought within the group made eligible to have the United States defend malpractice and negligence suits arising out of their acts or omissions occurring while in the exercise of their duties.

The Senate receded from its amendments Nos. 6 and 11 and receded from its disagreement to the amendments of the House to the amendments of the Senate Nos. 5, 7, 9, 10, and 12.

On October 19, 1965, the House concurred in amendments of the Senate Nos. 1, 2, 3, 4, and 13.

OLIN E. TEAGUE,  
W. J. BRYAN DORN,  
JAMES A. HALEY,  
E. ROSS ADAIR,  
WILLIAM H. AYRES,

*Managers on the Part of the House.*