

TECHNICAL CORRECTIONS IN TITLE 38, UNITED STATES CODE

MAY 29, 1968.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 684]

The Committee on Finance, to which was referred the bill (H.R. 684) to amend title 38 of the United States Code in order to make certain technical corrections therein, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

EXPLANATION OF THE BILL

The committee bill amends title 38 of the United States Code (veterans' benefits) to make certain technical corrections, eliminate obsolete terms and references, and to correct misspelled words and typographical errors which have occurred in the various amendments to title 38 since the veterans' laws were codified in 1958. The bill makes no substantive changes in present law; it merely makes technical corrections. The Committee on Finance agrees with the Committee on Veterans' Affairs of the House as to the desirability of making these changes and has approved the House bill without amendment.

The specific changes made by the bill are fully explained in the report of the Veterans' Administration, which follows:

REPORT OF VETERANS' ADMINISTRATION

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., March 3, 1969.

HON. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for a report by the Veterans' Administration on H.R. 684, 91st Congress, an act to amend title 38 of the United States Code in order to make certain technical corrections therein, and for other purposes, as passed by the House of Representatives on February 17, 1969.

The purpose of H.R. 684 is to make certain technical changes in title 38, United States Code, in order to eliminate obsolete provisions contained therein, to provide for technical conformance of title 38 with other laws which have recently been enacted, to correct minor errors which have been discovered, and to repeal certain obsolete savings provisions which are no longer applicable.

The bill, as passed by the House, contained several amendments recommended by the Veterans' Administration.

We are enclosing, for the information of the committee, a section-by-section analysis of the bill.

In light of the above, we believe that H.R. 684 furthers the desirable effort of keeping title 38 current, and therefore recommend favorable consideration by your committee.

We were advised by the Bureau of the Budget in regard to our report to the House Committee on Veterans' Affairs on H.R. 684, as introduced, that there was no objection from the standpoint of the administration's program to the presentation of that report to that committee.

Sincerely,

W. J. DRIVER, *Administrator.*

SECTION-BY-SECTION ANALYSIS OF THE BILL

SECTION 1

Subsection (a) amends section 101(23) (A) of title 38 to change the reference therein to title 37 (pay and allowances of the uniformed services) from section 301 to 206. This change is necessitated by the recodification of title 37, contained in Public Law 87-649, and cites the applicable section of the recodification.

Subsection (b) amends section 101(25) (D) of title 38 to change the reference from Secretary of the Treasury to Secretary of Transportation. Public Law 89-670 transferred jurisdiction over the Coast Guard from the Department of the Treasury to the Department of Transportation and this change reflects the jurisdictional transfer authorized by that law.

Subsection (c) amends section 104(a) of title 38 to incorporate the present maximum age limit of 23 years on the granting of educational benefits to certain children as authorized by Public Law 89-311.

3

SECTION 2

This section transfers the authority presently granted the Administrator to employ the services of translators from section 232 of title 38 to section 213, a section which presently authorizes the Administrator to contract for various other services. Subsection (a) repeals the old section 232, with the net effect being to delete obsolete references to title 5 and incorporate the authority in section 213; subsection (b) deletes the reference to section 232 from the table of sections at the beginning of chapter 3; and subsection (c) inserts the language on the employment of the services of translators into section 213.

SECTION 3

This section amends section 351 of title 38 to insert the specific effective date of the authority given the Veterans' Administration by Public Law 87-825 to offset awards granted under section 351 against any judgments, compromises, or settlements awarded individuals as the result of litigation brought by them pursuant to title 28 (judiciary and judicial procedure), based upon the same incident.

SECTION 4

Subsection (a) amends section 401(1) of title 38 to change the references to title 37 (pay and allowances of the uniformed services) to make them conform with the present sections of recodified title 37. Specifically, it would amend section 401(1) of title 38 to cite section 201 (pay grades: assignment to; general rules) and section 203 (rates), and to cite certain other related sections dealing with basic pay matters.

Subsection (b) amends section 411(d)(3) of title 38 to change the reference to title 45 (railroads) from section 228c-1(i) to section 228c-1(h) based upon the redesignation of that section by Public Law 89-700.

SECTION 5

This section amends section 560(a) of title 38 to change the reference therein from the Department of the Treasury to the Department of Transportation. This revision reflects the change in jurisdiction over the Coast Guard from the Department of the Treasury to the Department of Transportation as provided for in Public Law 89-670.

SECTION 6

Subsection (a) amends section 625 of title 38 to substitute the title "magistrate" for "commissioner." This change reflects the abolition of the office of U.S. commissioner and the creation of the office of U.S. magistrate as provided in Public Law 90-578.

Subsection (b) amends section 631 of title 38 to delete obsolete references to the total of grants to the Republic of the Philippines in calendar years 1958 and 1959 for medical care for Philippine veterans.

Subsection (c) amends section 632(b) of title 38 to insert the effective date of September 30, 1966, which is applicable to the modification of certain agreements on hospital and medical care for Philippine veterans.

4

SECTION 7

This section amends section 904 of title 38 to delete language referring to time limitations on the filing of certain claims for burial benefits enacted in Public Law 88-3. These limitations have now expired and the language has become obsolete.

SECTION 8

This section amends section 1503(a) of title 38 to delete the obsolete reference to the 9-year period August 20, 1954, to August 20, 1963, on eligibility for vocational rehabilitation.

SECTION 9

Subsection (a) amends section 1701(a)(2) of title 38 to reflect the current age limitation of 23 years contained in Public Law 89-311 which is applicable to the granting of educational benefits to children other than those receiving benefits under the War Orphans' and Widows' Educational Assistance Act, as amended.

Subsection (b) amends section 1711(b)(1) of title 38 to correct the Code reference citation contained therein from section 1701(a)(10) to section 1701(a)(8).

Subsection (c) amends section 1765(c) of title 38 to insert the specific effective date of the savings provisions contained in that section.

SECTION 10

This section amends section 3203(d)(2) of title 38 to reflect the new minimum pension rate provided in Public Law 90-275 and eliminate reference to any specific dollar amount in view of any further rate changes which may be made in the future.

SECTION 11

This section amends section 3301(1) of title 38 to merely eliminate a grammatical error contained in present law.

SECTION 12

Subsection (a) amends section 3401 of title 38 to incorporate the exception contained in section 500 of title 5, United States Code (originally enacted as Public Law 89-322), allowing certain persons to act on behalf of claimants.

Subsection (b) amends section 3402(c) of title 38 to redesignate the references to title 18 (crimes and criminal procedures) to have them correspond to the redesignated sections provided for in Public Law 87-849. This subsection also reflects the incorporation of former section 99 of title 5 (Government organization and employees) into title 18 as provided by the recodification of title 5 set forth in Public Law 89-554.

SECTION 13

Subsection (a) amends section 3503(d) of title 38 to merely insert the effective date of Public Law 86-222 which limited the imposition of certain forfeitures for fraud.

Subsection (b) amends section 3504(c) of title 38 to insert the specific effective date of Public Law 86-222 in lieu of present language which merely cites "the date of enactment of this subsection."

SECTION 14

The first sentence of this section reserves to the Government the right to continue to claim any indebtedness which may be owed to the Government on the date of enactment of this bill under any of the laws repealed by this section.

Subsection (a) repeals subsection (a) of section 12 of Public Law 85-857 which contains obsolete savings clauses on time limitations for the training of World War II and Korean veterans.

Subsection (b) repeals section 2 of Public Law 86-236 which contains an obsolete savings clause which granted a full 5 years of educational training to certain children of Spanish-American War veterans.

Subsection (c) repeals section 5 of Public Law 86-785 which contains an obsolete savings clause which granted a full 5 years of educational training to certain children of veterans dying of disabilities incurred subsequent to the Korean conflict.

Subsection (d) repeals section 2 of Public Law 87-377 which contains an obsolete savings clause which granted 5 full years of educational training to certain children in the Philippines.

SECTION 15

This section amends section 1789 of title 38 to correct a printing error which occurred at the time of the enactment of the Veterans' Re-adjustment Act of 1966 (Public Law 89-358). The word "additional" contained in section 2 of that act is corrected to read "educational."

SECTION 16

This section amends section 101(3) of title 38 to insert the effective date of Public Law 87-674 which authorized the restoration of certain widows to the rolls.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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—VETERANS' BENEFITS

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PART I. GENERAL PROVISIONS

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Chapter 1—GENERAL

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§ 101. Definitions

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(3) The term “widow” means (except for purposes of chapter 19 of this title) a woman who was the wife of a veteran at the time of his death, and who lived with him continuously from the date of marriage to the date of his death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after [enactment of the 1962 amendment to this paragraph] *September 19, 1962*, lived with another man and held herself out openly to the public to be the wife of such other man.

* * * * *

(23) The term “inactive duty training” means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section [301] 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

In the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (ii) duty performed as a temporary member of the Coast Guard Reserve.

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(25) The term “Secretary concerned” means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of [the Treasury,] *Transportation*, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and
 (F) the Secretary of Commerce, with respect to matters concerning the Coast and Geodetic Survey.

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§104. Approval of educational institutions

(a) For the purpose of determining whether or not benefits are payable under this title (except chapter 35 of this title) for a child over the age of eighteen years and under the age of **twenty-one** *twenty-three* years who is attending a school, college, academy, seminary, technical institute, university, or other educational institution, the Administrator may approve or disapprove such educational institutions.

(b) The Administrator may not approve an educational institution under this section unless such institution has agreed to report to him the termination of attendance of any child. If any educational institution fails to report any such termination promptly, the approval of the Administrator shall be withdrawn.

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Chapter 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

SUBCHAPTER I—VETERANS' ADMINISTRATION

Sec.

201. Veterans' Administration an independent agency.
202. Seal of the Veterans' Administration.

SUBCHAPTER II—ADMINISTRATION OF VETERANS' AFFAIRS

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Reports to the Congress.
215. Publication of laws relating to veterans.
216. Research by Administrator; indemnification of contractors.
217. Studies of rehabilitation of disabled persons.

SUBCHAPTER III—VETERANS' ADMINISTRATION REGIONAL OFFICES; EMPLOYEES

230. Central and regional offices.
231. Placement of employees in military installations.
- 232. Employment of translators.**
233. Employees' apparel; school transportation; recreational equipment; visual exhibits; personal property; emergency transportation of employees.
234. Telephone service for medical officers.
235. Benefits to employees at oversea offices who are United States citizens.
236. Administrative settlement of tort claims arising in foreign countries.

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Subchapter II—Administrator of Veterans' Affairs

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§ 213. Contracts and personal services

The Administrator may, for purposes of all laws administered by the Veterans' Administration, accept uncompensated services, and enter into contracts or agreements with private or public agencies or

persons **[,]** (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as he may deem practicable. The Administrator may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in his judgment, such arrangements are in the interest of efficiency or economy.

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Subchapter III—Veterans' Administration Regional Offices; Employees

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[§ 232. Employment of translators

The Administrator may contract for the service of translators without regard to sections 39, 46, and 50 of title 5, and the Classification Act of 1949.]

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PART II. GENERAL BENEFITS

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Chapter 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

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Subchapter VI—General Compensation Provisions

§ 351. Benefits for persons disabled by treatment or vocational rehabilitation

Where any veteran shall have suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under chapter 31 of this title, awarded him under any of the laws administered by the Veterans' Administration, or as a result of having submitted to an examination under any such law, and not the result of his own willful misconduct, and such injury or aggravation results in additional disability to or the death of such veteran, disability or death compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded in the same manner as if such disability, aggravation, or death were service-connected. Where an individual is **[hereafter]**, *on or after December 1, 1962*, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28, United States Code, or **[hereafter]**, *on or after December 1, 1962*, enters into a settlement or compromise under section 2672 or 2677 of title 28, United States Code, by reason of a disability, aggravation, or death treated pursuant to this section as if it were service-connected, then no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability, aggravation, or death becomes final until the aggregate amount of benefits which would be paid but for this sentence

equals the total amount included in such judgment, settlement, or compromise.

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Chapter 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

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Subchapter I—General

§ 401. Definitions

As used in this chapter—

(1) The term “basic pay” means the monthly pay prescribed by sections **232(a), 232(e), or 308** 201, 202, 203, 204, 205, or 207 of Title 37, as may be appropriate, for a member of a uniformed service on active duty.

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Subchapter II—Dependency and Indemnity Compensation

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§ 411. Dependency and indemnity compensation to a widow

(a) Dependency and indemnity compensation shall be paid to a widow at a monthly rate equal to \$120 plus 12 per centum of the basic pay of her deceased husband.

(b) If there is a widow and two or more children below the age of eighteen of a deceased veteran, and—

(1) the total of the monthly benefits to which such widow and children are (or would be, upon the filing of an application) entitled on the basis of such deceased veteran’s status under the laws referred to in subsection (d);

is less than

(2) the amount described in subsection (e);

then the dependency and indemnity compensation paid monthly to the widow shall be increased by \$28 for each such child in excess of one; however, the total of increases under this subsection shall not exceed the difference between the amounts referred to in subparagraphs (1) and (2) of this subsection.

(c) If the amount determined under subsection (a), after increase (if any) under subsection (b), involves a fraction of a dollar, the amount payable shall be increased by the Administrator to the next higher dollar.

(d) The laws referred to in subsection (b)(1) are—

(1) section 412(a) of this title;

(2) section 402 of title 42 (including the reduction provisions of subsection (a) of section 403 of title 42, but without regard to the deduction provisions of section 403); and

(3) section 228e of title 45 (including the reduction provisions of section **228c-1(i)** 228c-1(h) and 228e(h) of title 45).

(e) The amount referred to in subsection (b)(2) is an amount equal to the total of the monthly benefits to which a widow and two children of a deceased fully and currently insured individual would be entitled under section 402 of title 42 (after reduction under subsection (a) of section 403 of title 42 but without regard to deduc-

tion provisions of section 403) if such deceased individual's average monthly wage had been \$160.

(f) The amount referred to in subsection (b)(1) shall be determined by the Secretary of Health, Education, and Welfare, or the Railroad Retirement Board, as the case may be, and shall be certified to the Administrator upon his request.

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**Chapter 15—PENSION FOR NON-SERVICE-CONNECTED
DISABILITY OR DEATH OR FOR SERVICE**

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**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,] *Transportation*, 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 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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**Chapter 17—HOSPITAL, DOMICILIARY, AND MEDICAL
CARE**

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**Subchapter III—Miscellaneous Provisions Relating to Hospital
Care and Medical Treatment of Veterans**

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§ 625. Arrests for crimes in hospital and domiciliary reservations

For the purpose of maintaining law and order and of protecting persons and property at hospitals and domiciliaries of the Veterans' Administration, the Administrator may designate at such hospitals and domiciliaries persons who shall have authority to make arrests for any crime or offense against the United States committed on the reservation of the hospital or domiciliary. Any person so arrested shall be taken forthwith before the nearest United States [commis-

sioner,] *magistrate*, within whose jurisdiction the hospital or domiciliary is located.

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Subchapter IV—Hospital and Medical Care for Commonwealth of the Philippines Army Veterans

§ 631. Grants to the Republic of the Philippines

The President, in accordance with the agreement entered into pursuant to the Act of July 1, 1948, respecting hospitals and medical care for Commonwealth Army veterans (63 Stat. 2593), is authorized to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans in need of such care and treatment for service-connected disabilities through grants to reimburse the Republic of the Philippines for expenditures incident to hospital care of Commonwealth Army veterans in need thereof for such disabilities. [The total of such grants shall not exceed \$1,500,000 for the calendar year 1958, and \$1 million for the calendar year 1959.]

§ 632. Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948

(a) The President, with the concurrence of the Republic of the Philippines, is authorized to modify the agreement between the United States and the Republic of the Philippines respecting hospitals and medical care for Commonwealth Army veterans (63 Stat. 2593) in either or both of the following respects:

(1) To provide that in lieu of any grants being made after July 1, 1958, under section 631 of this title, the Administrator may enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, under which the United States will pay for hospital care in the Republic of the Philippines of Commonwealth Army veterans determined by the Administrator to need such hospital care for service-connected disabilities. Such contract may be for a period of not more than ten consecutive fiscal years, beginning July 1, 1958, and shall provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; but the total of such payments plus any payments for authorized travel expenses in connection with such hospital care shall not exceed \$2,000,000 for any one fiscal year ending before July 1, 1963, nor \$500,000 for any one fiscal year beginning on or after such date. In addition, such modified agreement may provide that, during the period covered by such contract, medical services for Commonwealth Army veterans determined by the Administrator to be in need thereof for service-connected disabilities shall be provided either in Veterans' Administration facilities, or by contract, or otherwise, by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title.

(2) To provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans for service-connected disabilities, for hos-

pital care of other persons in the discretion of the Republic of the Philippines, subject to necessary provisions for veterans covered by any modified agreement which may be made pursuant to subsection (b) of this section. If such agreement is modified in accordance with this paragraph, such agreement (A) shall specify that priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans needing hospital care for service-connected disabilities, and (B) shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical service for persons eligible therefor from the Veterans' Administration.

In addition, such agreement may provide for the payment of travel expense pursuant to section 111 of this title for Commonwealth Army veterans in connection with hospital care or medical services furnished them. Such agreement may also provide that during the contract period specified in paragraph (1) of this section, payments for hospital care and for medical services provided to Commonwealth Army veterans or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator. The Administrator is authorized to furnish through the revolving supply fund, pursuant to section 5011 of this title, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments.

(b) Subject to the conditions set forth in subsection (c) of this section, such agreement may be further modified after [the effective date of this amendment] *September 30, 1966*, to authorize extension of the contract specified in paragraph (1) of subsection (a) for an additional period ending June 30, 1973, and may authorize expansion of such contract to include payments for hospital care at the Veterans Memorial Hospital of Commonwealth Army veterans determined by the Administrator to need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care. Such modified agreement may also provide for payments for hospital care, determined by the Administrator to be necessary, at the Veterans Memorial Hospital of new Philippine Scouts for service-connected disabilities, and for non-service-connected disabilities if they enlisted before July 4, 1946, and if they qualify as veterans of a war unable to defray the expenses of necessary hospital care. The total of such payments plus any payments for authorized travel expenses in connection with hospital care pursuant to any such modified agreement shall not exceed \$1,200,000 for fiscal year 1967, including payments for any period in that year prior to the modified agreement, nor \$2,000,000 for any one fiscal year thereafter. Such modified agreement may also provide that during the period covered by such contract medical services shall be continued as provided by the last sentence of paragraph (1) of subsection (a) for Commonwealth Army veterans for service-connected disabilities and medical services for new Philippine Scouts determined by the Administrator to be in need thereof for service-connected disabilities shall be provided as authorized for Commonwealth Army veterans.

(c) Any agreement or contract extended and modified pursuant to subsection (b) shall be conditioned on a commitment by the Re-

public of the Philippines and the Veterans Memorial Hospital that the equipment of such hospital will be replaced and upgraded as needed and that the existing physical plant and facilities of such hospital will be rehabilitated as soon as practicable to place the hospital on a sound and effective operating basis. It shall provide that failure to fulfill such commitment or to maintain the hospital in a well-equipped and effective operating condition, as determined by the Administrator, shall be a ground for stopping payments under the agreement upon reasonable notice as stipulated by the contract.

(d) To assist the Republic of the Philippines in replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Hospital, there is hereby authorized to be appropriated the sum of \$500,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for this purpose on such terms and conditions as the Administrator may prescribe. Any such appropriation shall remain available until expended.

(e) To further assure the effective care and treatment of patients in the Veterans Memorial Hospital, and having due regard for the special kinds of diseases from which these patients frequently suffer, there is hereby authorized to be appropriated for each fiscal year during the six years beginning with fiscal year 1967 the sum of \$100,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for medical research and the training of health service personnel at the hospital. Such grants shall be made on terms and conditions prescribed by the Administrator, including approval by him of all research protocols, principal investigators, and training programs.

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Chapter 23—BURIAL BENEFITS

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§ 904. Claims for reimbursement

Applications for payments under section 902 of this title must be filed within two years after the burial of the veteran. If the burial allowance was not payable at the death of the veteran because of the nature of his discharge from the service, but after his death his discharge has been corrected by competent authority so as to reflect a discharge from the service under conditions other than dishonorable, then the burial allowance may be paid if a claim is filed within two years from [whichever last occurs,] the date of correction of the discharge [or the date of enactment of this sentence]. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowances may be paid.

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PART III—READJUSTMENT AND RELATED BENEFITS

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Chapter 31—VOCATIONAL REHABILITATION

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§ 1503. Periods of eligibility

(a) Unless a longer period of eligibility is authorized pursuant to subsection (b) or (c) of this section, vocational rehabilitation may not be afforded to a veteran after nine years following his discharge or release; except vocational rehabilitation may be afforded to any person until [—

(1) August 20, 1963, if such person was discharged or released before August 20, 1954, or

(2) October 15, 1971, if such person is eligible for vocational rehabilitation by reason of a disability arising from service before October 15, 1962, but either after World War II, and before the Korean conflict, or after the Korean conflict.

(b) Where a veteran is prevented from entering, or having entered, from completing vocational rehabilitation training within the period of eligibility described in subsection (a) of this section because—

(1) he had not timely attained, retained, or regained medical feasibility for training because of disability;

(2) he had not timely met the requirement of a discharge or release under conditions other than dishonorable, but the nature of such discharge or release was later changed by appropriate authority; or

(3) he had not timely established the existence of a compensable service-connected disability,

such training may be afforded him during a period not to exceed four years beyond the period of eligibility otherwise applicable to him.

(c) A veteran who is found to be in need of vocational rehabilitation to overcome the handicap of blindness, or other serious disability, resulting from a service-connected disability which affords basic eligibility for vocational rehabilitation under section 1502 of this title may be afforded such vocational rehabilitation after the termination date otherwise applicable to him, but not beyond ten years after such termination date, or June 30, 1975, whichever date is the later, if—

(1) he had not previously been rehabilitated (that is, rendered employable) as the result of training furnished under this chapter, or

(2) such serious disability (whether blindness or otherwise) has developed from, or as a result of, the worsening of his service-connected disability since he was declared rehabilitated to the extent that it precludes his performing the duties of the occupation for which he was previously trained under this chapter.

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Chapter 35—WAR ORPHANS' AND WIDOWS' EDUCATIONAL ASSISTANCE

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Subchapter I—Definitions

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§ 1701. Definitions

(a) For the purposes of this chapter—

(1) The term “eligible person” means—

(A) a child of a person who—

(i) died of a service-connected disability, or

(ii) has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence.

(B) the widow of any person who died of a service-connected disability, or

(C) the wife of any person who has a total disability permanent in nature resulting from a service-connected disability, or the widow of a veteran who died while a disability so evaluated was in existence,

arising out of active military, naval, or air service after the beginning of the Spanish-American War, but only if such service did not terminate under dishonorable conditions. The standards and criteria for determining whether or not a disability arising out of such service is service connected shall be those applicable under chapter 11 of this title.

(2) The term "child" includes individuals who are married and individuals who are above the age of [twenty-one] *twenty-three* years.

(3) The term "duty with the Armed Forces" as used in section 1712 of this title means (A) active duty, (B) active duty for training for a period of six or more consecutive months, or (C) active duty for training required by section 511(d) of title 10.

(4) The term "guardian" includes a fiduciary legally appointed by a court of competent jurisdiction, or any person who is determined by the Administrator in accordance with section 3202 of this title to be otherwise legally vested with the care of the eligible person.

(5) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(6) The term "educational institution" means any public or private secondary school, vocational school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

(7) The term "special restorative training" means training furnished under subchapter V of this chapter.

(8) The term "total disability permanent in nature" means any disability rated total for the purposes of disability compensation which is based upon an impairment reasonably certain to continue throughout the life of the disabled person.

(b) If an eligible person has attained his majority and is under no known legal disability, all references in this chapter to "parent or guardian" shall refer to the eligible person himself.

(c) Any provision of this chapter which requires any action to be taken by or with respect to the parent or guardian of an eligible person who has not attained his majority, or who, having attained his majority, is under a legal disability, shall not apply when the Administrator determines that its application would not be in the best interest of the eligible person, would result in undue delay, or would not be administratively feasible. In such a case the Administrator, where necessary to protect the interest of the eligible person, may designate

some other person (who may be the eligible person himself) as the person by or with respect to whom the action so required should be taken.

(d) No eligible person may be afforded educational assistance under this chapter unless he was discharged or released after each period he was on duty with the Armed Forces under conditions other than dishonorable, or while he is on duty with the Armed Forces.

Subchapter II—Eligibility and Entitlement

* * * * *

§ 1711. Duration of educational assistance

(a) Each eligible person shall be entitled to educational assistance under this chapter for a period not in excess of thirty-six months (or to the equivalent thereof in part-time training).

(b) If any eligible person pursuing a program of education, or of special restorative training, under this chapter ceases to be an “eligible person” because—

- (1) the parent or spouse from whom eligibility is derived is found no longer to have a “total disability permanent in nature”, as defined in section 1701(a) [(10)](8) of this title, or
- (2) she, as an eligible person under section 1701(a)(1)(C) of this title, is divorced, without fault on her part, from the person upon whose disability her eligibility is based,

then such eligible person (if he or she has sufficient remaining entitlement) may, nevertheless, be afforded educational assistance under this chapter until the end of the quarter or semester for which enrolled if the educational institution in which he or she is enrolled is operated on a quarter or semester system, or if the educational institution is not so operated until the end of the course, or until nine weeks have expired, whichever first occurs.

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Subchapter VII—Philippine Commonwealth Army and Philippine Scouts

§ 1765. Children of certain Philippine veterans

BASIC ELIGIBILITY

(a) The term “eligible person” as used in section (170)(a)(11) of this title includes the children of those Commonwealth Army veterans and “New” Philippine Scouts who meet the requirements of service-connected disability or death, based on service as defined in section 1766.

ADMINISTRATIVE PROVISIONS

(b) The provisions of this chapter and chapter 36 shall apply to the educational assistance for children of Commonwealth Army veterans and “New” Philippine Scouts, except that—

- (1) educational assistance allowances authorized by section (1732 of this title and the special training allowance authorized by section 1742 of this title shall be paid at a rate in Philippine pesos equivalent to \$0.50 for each dollar, and

(2) any reference to a State approving agency shall be deemed to refer to the Administrator.

DELIMITING DATES

[(c) In the case of any individual who is an "eligible person" solely by virtue of subsection (a) of this section, and who is above the age of seventeen years and below the age of twenty-three years on the date of enactment of this section, the period referred to in section 1712 of this title shall not end until the expiration of the five-year period which begins on the date of enactment of such section.]

(c) In the case of any individual who is an eligible person solely by virtue of subsection (a) of this section, and who is above the age of seventeen years and below the age of twenty-three years on September 30, 1966, the period referred to in section 1712 of this title shall not end until the expiration of the five-year period which begins on September 30, 1966.

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Chapter 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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Subchapter II—Miscellaneous Provisions

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§1789. Institutions listed by Attorney General

The Administrator shall not approve the enrollment of, or payment of an [additional] *educational* assistance allowance to, any eligible veteran or eligible person under chapter 34 or 35 of this title in any course in an educational institution while it is listed by the Attorney General under section 12 of Executive Order 10450.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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Chapter 55—MINORS, INCOMPETENTS, AND OTHER WARDS

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§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1) Where any veteran having neither wife, child, nor dependent parent is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration any compensation or retirement pay otherwise payable shall continue without reduction until the first day of the seventh calendar month following the month of admission of such veteran for treatment or care. If treatment or care extends beyond that period, the compensation or retirement pay, if \$30 per month or less, shall continue without reduction, but if greater than \$30 per month, the compensation or retirement pay shall

not exceed 50 per centum of the amount otherwise payable or \$30 per month, whichever is greater. If such veteran is discharged from such treatment or care upon certification by the officer in charge of the hospital, institution, or home, that maximum benefits have been received or that release is approved, he shall be paid in a lump sum such additional amount as would equal the total sum by which his compensation or retirement pay has been reduced under this section. If treatment or care is terminated by the veteran against medical advice or as the result of disciplinary action the amount by which any compensation or retirement pay is reduced hereunder, shall be paid to him at the expiration of six months after such termination or, in the event of his prior death, as provided in paragraph (2) of this subsection; and the compensation or retirement pay of any veteran leaving against medical advice or as the result of disciplinary action shall, upon a succeeding readmission for treatment or care within six months from the date of such departure, be subject to reduction, as herein provided, from the date of such readmission, but if such subsequent treatment or care is continued until discharged therefrom upon certification, by the officer in charge of the hospital, institution, or home in which treatment or care was furnished, that maximum benefits have been received or that release is approved, the veteran shall be paid in a lump sum such additional amount as would equal the total sum by which his compensation or retirement pay has been reduced under this section after such readmission.

(2)(A) In the event of the death of any veteran subject to the provisions of this section, while receiving hospital treatment, institutional or domiciliary care, or before payment of any lump sum authorized herein, such lump sum shall be paid in the following order of precedence: First, to the spouse; second, if the decedent left no spouse, or if the spouse is dead at time of settlement, then to the children (without regard to their age or marital status) in equal parts; third, if no spouse or child, then to the dependent parents in equal parts. If there are no persons in the classes named to whom payment may be made under this paragraph, no payment shall be made, except there may be paid only so much of the lump sum as may be necessary to reimburse a person who bore the expenses of last sickness or burial, but no part of the lump sum shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of such veteran.

(B) No payment shall be made under the last two sentences of section 3202(d) of this title or under this paragraph (2) unless claim therefor is filed with the Veterans' Administration within 5 years after the death of the veteran, except that, if any person so entitled under the last two sentences of section 3202(d) of this title or under this paragraph is under legal disability at the time of death of the veteran, such 5-year period of limitation shall run from the termination or removal of the legal disability.

(b)(1) Where any veteran having neither wife, child, nor dependent parent is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration, and is rated by the Veterans' Administration in accordance with regulations as being incompetent by reason of mental illness, the compensation or retirement pay of such veterans shall be subject to the provisions of subsection (a) of this section; however, no payment of a lump sum herein

authorized shall be made to the veteran until after the expiration of 6 months following a finding of competency and in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(2) In any case in which such an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds \$1,500, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to \$500. The amount which would be payable but for this paragraph shall be paid to the veteran as provided for the lump sum in paragraph (1) of this subsection, but in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(3) Where any benefit is discontinued by reason of paragraph (2) of this subsection the Administrator may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (2) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of his pension, compensation, or retirement pay as equals the amount charged to the veteran for his current care and maintenance in the institution in which treatment or care is furnished him, but not more than the amount determined by the Administrator to be the proper charge as fixed by any applicable statute or valid administrative regulation.

(4) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Administrator, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

(c) Any veteran subject to the provisions of subsection (a) or (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than 1 year before receipt of satisfactory evidence showing such veteran as a wife, child, or dependent parent.

(d)(1) Where any veteran having neither wife nor child is being furnished hospital treatment, institutional, or domiciliary care by the Veterans' Administration, no pension in excess of \$30 per month shall be paid to or for the veteran for any period after (a) the end of the second full calendar month following the month of admission for treatment or care or (b) readmission for treatment or care within 6 months following termination of a period of treatment or care of not less than 2 full calendar months.

(2) The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a wife but whose pension is payable under section 521(b) of this title. In such a case, the Administrator may apportion and pay to the wife, upon an affirmative showing of hardship, all or any part of the amounts in excess of \$30 per month

which would be payable to the veteran while being furnished such care if pension were payable to him under section 521(c) of this title.] *the amount payable to the veteran while being furnished such care which would be payable to him if pension were payable under section 521(c) of this title.*

(e) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension, compensation, or retirement pay of any veteran for any part of the period during which he is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

(f) Where any veteran in receipt of an aid and attendance allowance described in section 314(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of his admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (l) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran's admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

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Chapter 57—RECORDS AND INVESTIGATIONS

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Subchapter I—Records

§ 3301. Confidential nature of claims

All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as follows:

(1) To a claimant or his duly authorized agent or representative as to matters concerning himself alone when, in the judgment of the Administrator, such disclosure would not be injurious to the physical or mental health of the claimant [. And] *and* to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

(2) When required by process of a United States court to be produced in any suit or proceeding therein pending.

(3) When required by any department or other agency of the United States Government.

(4) In all proceedings in the nature of an inquest into the mental competency of a claimant.

(5) In any suit or other judicial proceeding when in the judgment of the Administrator such disclosure is deemed necessary and proper.

(6) The amount of pension, compensation, or dependency and indemnity compensation of any beneficiary shall be made known to any person who applies for such information, and the Administrator, with the approval of the President, upon determination that the public interest warrants or requires, may, at any time and in any manner, publish any or all information of record pertaining to any claim.

(7) The Administrator in his discretion may authorize an inspection of Veterans' Administration records by duly authorized representatives of recognized organizations.

(8) The Administrator may release information, statistics, or reports to individuals or organizations when in his judgment such release would serve a useful purpose.

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Chapter 59—AGENTS AND ATTORNEYS

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§ 3401. Prohibition against acting as claims agent or attorney

[No] *Except as provided by section 500 of title 5, no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Veterans' Administration unless he has been recognized for such purposes by the Administrator.*

§ 3402. Recognition of representatives of organizations

(a) (1) The Administrator may recognize representatives of the American National Red Cross, the American Legion, the Disabled American Veterans, the United Spanish War Veterans, the Veterans of Foreign Wars, and such other organizations as he may approve, in the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration.

(2) The Administrator may, in his discretion, furnish, if available, space and office facilities for the use of paid full-time representatives of national organizations so recognized.

(b) No individual shall be recognized under this section—

(1) unless he has certified to the Administrator that no fee or compensation of any nature will be charged any individual for services rendered in connection with any claim; and

(2) unless, with respect to each claim, such individual has filed with the Administrator a power of attorney, executed in such manner and form as the Administrator may prescribe.

(c) Service rendered in connection with any such claim, while not on active duty, by any retired officer, warrant officer, or enlisted man of the Armed Forces recognized under this section shall not be a violation of **[**section 281 or 283 of title 18, or a violation of section 99 of title 5.**]** *sections 203, 205, 206, or 207 of title 18.*

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Chapter 61—PENAL AND FORFEITURE PROVISIONS

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§ 3503. Forfeiture for fraud

(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in any way procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Veterans' Administration (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Veterans' Administration (except laws pertaining to insurance benefits).

(b) Whenever a veteran entitled to disability compensation has forfeited his right to such compensation under this section, the compensation payable but for the forfeiture shall thereafter be paid to his wife, children, and parents. Payments made to a wife, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability. No wife, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection.

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of his death.

(d) After [the date of enactment of this subsection,] *September 1, 1959*, no forfeiture of benefits may be imposed under this section or section 3504 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (a), any forfeiture occurring before [the date of enactment of this subsection,] *September 1, 1959*, or (b) an act or acts which occurred in the Philippine Islands prior to July 4, 1946.

(e) No apportionment award under subsection (b) of this section shall be made in any case after [the date of enactment of this subsection,] *September 1, 1959*.

§ 3504. Forfeiture for treason

(a) Any person shown by evidence satisfactory to the Administrator be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Veterans' Administration.

(b) The Administrator, in his discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such person were dead.

(c) In the case of any forfeiture under this section there shall be no authority after [the date of enactment of this subsection,] *September 1, 1959* (1) to make an apportionment award pursuant to subsection

(b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense.

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SECTION 12 OF PUBLIC LAW 85-857, CODIFYING TITLE 38—
VETERANS' BENEFITS

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EFFECTIVE DATE AND SAVINGS PROVISIONS

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CONTINUATION OF CERTAIN RIGHTS AND BENEFITS

SEC. 12. [(a) The repeal of part VIII, and paragraphs 10 and 11 of part VII, of Veterans Regulation Numbered 1 (a), sections 3 and 4 of Public Law 16, Seventy-eighth Congress, and section 1507 of the Servicemen's Readjustment Act of 1944, shall not apply in the case of any veteran (1) who enlisted or reenlisted in a regular component of the Armed Forces after October 6 1945, and before October 7, 1946, or (2) whose discharge or dismissal is changed, corrected, or modified before February 1, 1965, pursuant to section 1552 or 1553 of title 10, United States Code, or by other corrective action by competent authority.]

(b) Nothing in this Act or any amendment or repeal made by it, shall affect any right, liability, penalty, authorization or requirement pertaining to World War adjusted compensation authorized or prescribed under the provisions of the World War Adjusted Compensation Act, or the Adjusted Compensation Payment Act, 1936, or any related Act, which was in effect on December 31, 1958.

(c) Nothing in this Act, or any amendment or repeal made by it, shall deprive any person of benefits under the Mustering-Out Payment Act of 1944 to which he would have been entitled if this Act had not been enacted.

(d) Nothing in this Act, or any amendment or repeal made by it, shall affect any right of any person based on a contract entered into before the effective date of this Act, or affect the manner in which such right could have been enforced or obtained but for this Act, or such amendment or repeal.

(e) Chapter 37 of title 38, United States Code, is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered to be an amendment to such title III.

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SECTION 2 OF THE ACT APPROVED SEPTEMBER 8, 1959 (73 STAT. 471)

[SEC. 2. In the case of any individual who is an eligible person within the meaning of section 1701(a)(1) of title 38, United States Code, solely by virtue of the amendments made by this Act, and who has reached his eighteenth birthday but has not reached his twenty-third birthday on the date of enactment of this Act, the period referred to in section 1712 of title 38, United States Code, shall not end with respect to such individual until the expiration of the five-year period which begins on the date of enactment of this Act.]

SECTION 5 OF THE ACT APPROVED SEPTEMBER 14, 1960 (74 STAT. 1024)

【SEC. 5. In the case of any individual who is an "eligible person" within the meaning of section 1701(a)(1) of title 38, United States Code, solely by virtue of the amendments made by this Act, and who is above the age of seventeen years and below the age of twenty-three years on the date of enactment of this Act, the period referred to in section 1712 of title 38, United States Code, shall not end with respect to such individual until the expiration of the five-year period which begins on the date of enactment of this Act.】

SECTION 2 OF THE ACT APPROVED OCTOBER 4, 1961 (75 STAT. 806)

【SEC. 2. The period referred to in section 1712 of title 38, United States Code, shall not end before June 18, 1963, with respect to pursuit of a program of education or special restorative training under chapter 35 of such title 38 by an eligible person who (1) had not reached his twenty-third birthday on June 29, 1956, and (2) resided in the Republic of the Philippines during all or part of the period June 29, 1956, through June 18, 1958.】

