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{ REPORT
No. 1417

GOVERNING THE EFFECTIVE DATES OF RATINGS AND AWARDS UNDER THE VETERANS' ADMINISTRATION REVISED SCHEDULE FOR RATING DISABILITIES, 1945

JUNE 4 (legislative day, MARCH 5), 1946.—Ordered to be printed

Mr. JOHNSON from Colorado, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H. R. 5149]

The Committee on Finance, to whom was referred the bill (H. R. 5149) to govern the effective dates of ratings and awards under the Veterans' Administration revised Schedule for Rating Disabilities, 1945, and for other purposes, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

BUDGET CLEARANCE AND COMMITTEE CONSIDERATION

As indicated in the report of the Veterans' Administration, this proposed legislation has the approval of the Bureau of the Budget. Your committee has carefully considered the bill in executive sessions. It has the recorded support of the American Legion, Veterans of Foreign Wars, and Disabled American Veterans.

BACKGROUND OF THIS LEGISLATION

The Schedule for Rating Disabilities, 1945, constitutes, in effect, a revision of an existing 1933 schedule promulgated under authority of law and which, in accordance with such law, has been revised from time to time by amendments known as extensions (Veterans Regulation 3 (a), U. S. C., title 38, ch. 12). The changes are based upon experience in applying the schedule. Appropriations of the Veterans' Administration are available to meet the costs of applying such revisions. However, under existing law increased ratings and awards cannot antedate the promulgation of the revision; those on the rolls entitled to increases under a revision receive them only from date of claim therefor or date of administrative action; and also under existing law simplified administration by way of use of a single schedule in practically all cases cannot be accomplished.

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Legislation is required to overcome these difficulties pertaining to the revised schedule, 1945.

PURPOSE OF THIS LEGISLATION

As set forth in more detail in the report of the Administrator of Veterans' Affairs, this bill will accomplish a threefold purpose: (1) Provide uniform effective dates for increased disability pension or compensation awards resulting from the changes in ratings provided in the revised Schedule for Rating Disabilities, 1945; (2) permit application of the revised schedule in pending and certain other initial claims over periods prior to April 1, 1946, which will remove the necessity for use of two rating schedules, and facilitate the training of rating officers; and (3) as to World War I veterans, eliminate the necessity for applying as many as three different schedules, and protect existing ratings and awards under the 1925 schedule. Under the bill the need of more than one schedule in practically all future ratings will be eliminated.

EXPLANATION OF ESTIMATE OF COST

The estimate of cost contained in the report of the Veterans' Administration recommending this proposed legislation reads as follows:

The cost of the proposed legislation is estimated as \$26,000,000 to make increases in awards running as of the date the schedule is made operative from the new effective date; however, if more than one-half the eligible veterans file claim for benefits to which they are entitled within 1 year, this cost will be reduced, and if all filed as of the new effective date, the cost would be nil. The cost, to rate claims pending initial adjudication as of the effective date solely under the new schedule, i. e., over retroactive periods will approximate \$1,500,000. To rate claims filed after the effective date, but requiring rating over prior periods, will be approximately \$2,500,000. These estimates of cost are necessarily dependent upon estimates of the rate of filing claims, and of the number of months of retroactive increases involved in each type. The gain in expedited adjudication and in the satisfaction on the part of veterans is believed to outweigh this cost.

Under existing law, revisions of the Schedule of Disability Rating, 1933, may be promulgated and additional cost resulting therefrom would be met by funds already appropriated or hereafter appropriated under existing authorization. However, because of the following reasons additional cost in excess of the foregoing will result from making the 1945 schedule effective from date of enactment of H. R. 5149:

Under existing law any increased rating authorized by the revision of the rating schedule could not be made effective as of the date of revision. This rule was established by two decisions rendered, the Comptroller General, October 2, 1926, and January 7, 1927 (6 Comp. Gen. 232 and 451), respectively, in the case of Edward L. Marthill. These decisions held that a new schedule for rating disabilities is applicable only prospectively from the time of issue, and that any increase in disability compensation by reason of rerating under a new schedule, if made on motion of the Veterans' Administration, would be effective from the date of administrative determination after issue of the schedule, or if rerated in response to a claim by the veteran, from the date of claim, or in accordance with any applicable statutory authority authorizing payment for a fixed period prior to the date of filing claim, but not prior to the date of issue of the new schedule.

There is no statutory authority which would authorize payment of increased benefits to those on the rolls for any period prior to the

date upon which administrative action may be taken, or prior to the date on which claim for such increased benefits is made. The bill would provide statutory authority to make all increased ratings and awards based thereon under the new schedule effective on the 1st day of April 1946, and authorize the use of the new schedule in making initial ratings for periods prior to or after the 1st day of April 1946. This will cost approximately \$26,000,000. It has been the experience of the Veterans' Administration that not more than half the persons entitled to increased benefits provided under laws administered by the Veterans' Administration file claim within the first year. This estimate is based upon an assumption that only one-half of the veterans on the rolls, entitled to increased ratings, will file claim within the first year after issue of the schedule. Of course, if more than one-half would file claim within the first year, increased benefits would be payable from the date of the claim, and the cost resulting from the bill would be proportionately less. If all filed claim on the effective date of the schedule, the cost of the bill would be nil as to those on the rolls.

As to those not on the rolls, section 17 of Public Law 144, Seventy-eighth Congress, approved July 13, 1943, provides: "Notwithstanding any other provision of law, pension payable for disability shall be payable from the date of discharge if claim therefor is filed within one year from discharge." Under existing law, those discharged prior to the issue of the new schedule and who file claim within 1 year of discharge would be rated under the 1933 schedule for the period from discharge to the issue of the new schedule and under the new schedule thereafter.

The bill would provide that in case of initial ratings, the 1945 schedule will be applicable for any period prior to the effective date of the schedule as well as subsequent periods. It is estimated that application of the new schedule to pending initial claims will cost approximately \$1,500,000 more than would be required by application of the 1933 schedule. It is also estimated that use of the new schedule in rating initial claims filed after issue of the new schedule, requiring ratings for periods prior to its issue will cost approximately \$2,500,000. These estimates will necessarily depend upon the estimates of the rate of filing claims and the number of months of retroactive increases involved in each type.

REPORT OF THE VETERANS' ADMINISTRATION

The report of the Administrator of Veterans' Affairs is as follows:

VETERANS' ADMINISTRATION,
Washington, D. C., January 11, 1946.

The PRESIDENT OF THE SENATE,

The Capitol, Washington, D. C.

SIR: There is transmitted herewith a draft of a bill to govern the effective dates of ratings and awards under the Veterans' Administration revised Schedule for Rating Disabilities, 1945, and for other purposes, with the request that it be referred to the appropriate committee of the House of Representatives, in order that it may be introduced and considered for enactment as soon as possible.

The Veterans' Administration has prepared a revised Schedule for Rating Disabilities, 1945, which it desires to issue and use as soon as practicable. The issue and use of the revised schedule will present three serious problems relating to its application unless legislation is secured to meet them.

The first problem relates to review and effective dates of ratings and awards heretofore made. The revised Schedule for Rating Disabilities, 1945, would require changes in such ratings and awards in many cases, which will increase the

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amount of pension payable. Such increases will not be effective from the date of promulgation of the revised schedule but from the date on which administrative action is taken in each individual case, or the date on which claim for such increase is filed with the Veterans' Administration. This will result in an avalanche of claims which the Veterans' Administration will be unable to handle for a considerable length of time. It will also result in great dissatisfaction on the part of those who failed to file claims and later learn that they are not entitled to the increased pension for the period prior to the time administrative action is taken.

Section 1 of the proposed bill provides that the effective date of increases provided by the revised schedule shall be the first day of the month following the date of its enactment.

The second problem relates to the necessity of rating claims pending at the time the revised schedule is issued and the many claims which will be filed within 1 year after the date of its issue and within 1 year after discharge. Most of such claims will be for benefits for a period of time both before and after the date the revised schedule becomes effective. The period of time prior to the issue of the revised schedule, under existing practice, would be rated under the 1933 schedule and the period of time after will be rated under the 1945 schedule. It is anticipated that 475,000 claims will have to be adjudicated, which will involve retroactive rating for periods prior to issue of the revised schedule. Section 1 of the proposed bill will authorize the use of the revised Schedule for Rating Disabilities, 1945, in rating disabilities for periods prior to its issue as well as later periods, thereby eliminating need of continuing to make ratings under both schedules. Such provision will facilitate the training of the many new rating officers by making it unnecessary to become familiar with the 1933 schedule.

The third problem relates only to World War I veterans. In this group, existing law requires that the veteran be given the benefit of a higher applicable rating under the 1925 schedule under the World War Veterans' Act, 1924, as amended, or the rating schedule issued pursuant to Public Law 2, Seventy-third Congress, March 20, 1933. This involves consideration under two schedules at the present time and, if this bill is not enacted, would in many cases involve application of three schedules when the revised schedule, 1945, is issued. This consumes an undue amount of time and will require new rating officers to familiarize themselves with and apply three rating schedules in the same case.

The revised Schedule for Rating Disabilities, 1945, overcomes many of the discrepancies between the 1925 schedule and the 1933 schedule except in cases where some occupational variation based on the veteran's prior occupational status cannot be eliminated. Section 2 of the proposed bill would protect existing ratings and awards under the 1925 schedule and provide that, except as to statutory awards and ratings provided under the World War Veterans' Act, 1924, as amended, future awards in all cases of World War I veterans shall be based upon the degree of disability determined in accordance with the revised schedule, 1945. This will eliminate the need of more than one schedule in practically all future ratings.

The cost of the proposed legislation is estimated as \$26,000,000 to make increases in awards running as of the date the schedule is made operative from the new effective date; however, if more than one-half the eligible veterans file claim for benefits to which they are entitled within 1 year, this cost will be reduced, and if all filed as of the new effective date, the cost would be nil. The cost, to rate claims pending initial adjudication as of the effective date solely under the new schedule, i. e., over retroactive periods will approximate \$1,500,000. To rate claims filed after the effective date, but requiring rating over prior periods will be approximately \$2,500,000. These estimates of cost are necessarily dependent upon estimates of the rate of filing claims, and of the number of months of retroactive increases involved in each type. The gain in expedited adjudication and in the satisfaction on the part of veterans is believed to outweigh this cost.

Because of the greatly increased number of claims which the Veterans' Administration will be forced to adjudicate in the near future, it is important that the proposed legislation be enacted as speedily as possible.

Advice has been received from the Bureau of the Budget that there would be no objection by that office to the submission of this proposed legislation to the Congress.

Respectfully,

OMAR N. BRADLEY,
General, United States Army, Administrator.