

VETERANS PENSION ACT OF 1966

OCTOBER 18, 1966.—Ordered to be printed

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

REPORT

[To accompany H.R. 17488]

The Committee on Finance, to which was referred the bill (H.R. 17488) to amend title 38 of the United States Code so as to increase the rates of pension payable to certain veterans and their widows, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. BRIEF EXPLANATION OF THE COMMITTEE BILL

The bill would provide the following in the non-service-connected pension field:

(1) A cost-of-living rate increase for all veterans alone, veterans with dependents, widows alone, widows with children, and children alone who are now receiving a pension under Public Law 86-211, as amended (current pension program).

(2) A substantially greater increase for widows and widows with children in the lowest income categories (approximately 8½ percent).

(3) A \$5-per-month rate increase for approximately 56,427 Spanish-American and prior war widows, whose average age is 84 and who is now receiving the monthly pension of \$65.

(4) An increase of \$5 per month in the "housebound" allowance under current law for veterans, from \$35 to \$40 per month.

(5) A special aid-and-attendance allowance of \$50 per month for widows receiving pension under Public Law 86-211, and widows of veterans of the Spanish-American War and prior wars, who are found in need of aid and attendance.

(6) Presumption of permanent and total disability for pension purposes on attainment of age 65.

(7) Presumption of need for regular aid and attendance for pensioners who are being furnished nursing care in public or private nursing homes.

(8) Reduction of the 5-year alternative marriage requirement for widows to 1 year (any period if there is a child born to the parties to the marriage). These liberalizations also apply to the service-connected death programs.

(9) Exclusion from income for pension purposes of amounts equal to the amount paid by a wife for the last illness of the veteran prior to his death.

(10) Exclusion from income for pension purposes of amounts equal to the amount paid by a widow or a wife for the last illness and burial of the veteran's child.

In the medical field it would provide for the furnishing of any type of therapeutic or rehabilitative device, medical equipment and supplies (except medicine) when medically indicated to pensioners entitled to pension based on need for regular aid and attendance unrelated to individual need for an invalid lift.

II. COMMITTEE AMENDMENTS

The Committee on Finance amended the House version of the bill to delete provisions which would have enlarged benefits under the so-called old pension law. It was of the opinion that this liberalization of the old pension program would be inconsistent with the stated intent of Congress that the old pension program should be ultimately phased out and replaced by the current pension program (Public Law 86-211).

By this amendment the committee limited the new \$50 monthly benefit for widows requiring aid and attendance to:

(a) Those widows receiving pension benefits under the current pension law; and

(b) Spanish American War widows and widows of prior wars.

These benefits would not be available to widows who are receiving benefits under the old pension law.

It also deleted section 11 of the bill which provides a \$100 monthly benefit to (house-bound) veterans covered under the old pension program. This \$100 monthly payment would have been in lieu of their regular pension payment.

These amendments were recommended to the committee by the Veterans' Administration.

III. BACKGROUND OF NON-SERVICE-CONNECTED PENSION PROGRAMS

The Veterans' Administration spent \$1,905,328,000 in fiscal year 1966 on non-service-connected pension programs for veterans, widows, and children of the Spanish-American War, World War I, World War II, and the Korean conflict and for a few thousand individuals with eligibility accruing from wars prior to the Spanish-American War.

The following summary sets forth the total number of VA pensioners and the monthly amounts received by them under the various pension programs:

Non-service-connected pension programs, Spanish-American War and prior wars

Veterans:	Widows: alone:
53, at \$67.73	1,073, at \$75
7,792, at \$101.59	55,513, at \$65
1,657, at \$135.45	36, at \$40.64
1,811, at \$75 to \$215	Widows with children: 584, at \$73 to \$105

1 Public Law 86-211 cases.

"Old law" pension cases

June 1966:

Veterans:	
12,865, at \$66.15:	
Korean conflict.....	1,497
World War II.....	11,156
World War I.....	212
421,359, at \$78.75:	
Korean conflict.....	525
World War II.....	14,466
World War I.....	406,368
12,270, at \$135.45:	
Korean conflict.....	231
World War II.....	2,399
World War I.....	9,640

Widows:

202,669, at \$50.40: Widow only.
 9,974, at \$63 to \$115.92: Widow with 1 child, at \$63, with \$7.56 for each additional child.

Children: 585, at \$27.30 to \$99.96: 1 child, at \$27.30; 2 children, at \$40.95; 3 children, at \$54.00; with \$7.50 each additional child, equally divided.

Total "old law" pension cases:

Veterans.....	446,494
Widows.....	213,228
Children only.....	585

Total..... 660,307

"New law" pension cases

June 1966:

Veterans:

Nonhousebound.....	736,764
Veteran alone.....	230,135
Veteran with dependents.....	506,629
Housebound.....	12,088
Veteran alone.....	4,023
Veteran with dependents.....	8,065
Aid and attendance.....	45,935
Veteran alone.....	15,744
Veteran with dependents.....	30,191
Hospitalized veterans.....	(1)
Total "new law" veteran cases.....	748,852

Widows:

Widows only.....	368,280
Widows with dependents.....	127,795

Total, widows..... 496,075

Children alone..... 206,332

Total "new law" cases..... 1,453,068

1 Not available.

Summary: all pension cases

Veterans:	
Spanish-American War and prior wars.....	11, 311
“Old law”.....	455, 996
“New law”.....	750, 661
Total, veterans.....	1, 206, 657
Widows:	
Spanish-American War and prior wars.....	57, 205
“Old law”.....	213, 228
“New law”.....	496, 075
Total, widows.....	766, 508
Children alone (no widow receiving pension):	
Spanish-American War and prior wars.....	1, 571
“Old law”.....	585
“New law”.....	206, 332
Total, children.....	208, 488
Total, all pension cases.....	2, 181, 653

Prior to enactment of Public Law 86-211, which became effective July 1, 1960, the non-service-connected pension program for veterans of World War I, World War II, and the Korean conflict was based on annual income limits of \$1,400 for the single person and \$2,700 for the veteran or widow with dependents. A widow alone was paid \$50.40 monthly and veterans with or without dependents received \$78.75, or \$135.45 per month if in need of aid and attendance. A few veterans younger than 65 years of age received \$66.15. These rates were payable regardless of whether the veteran or widow had little or no other income or had income near the maximum allowable limitations of \$1,400 and \$2,700. No consideration was given to dependency. A single veteran received as much pension as a married veteran or a married veteran with several dependents.

The program was considered deficient, since as indicated it gave no consideration to veterans with little or no income, and none to the dependency status of the veteran. It gave little consideration to the health status of the veteran, in that the only additional rate payable for health problems was the \$135.45 rate for aid and attendance.

Other disparities existed in that railroad retirees and certain civil service annuitants were allowed to waive, or in some cases, not count their retirement benefit as income for pension purposes, while this privilege was withheld from most other annuitants, whether covered by a public or private retirement system. Also, there were no benefit restrictions gaged by the wife's income or the amount of a veteran's wealth. In fact, investigation disclosed the growing practice of veterans shifting income-producing assets to their wives to qualify for a pension where the veteran was otherwise ineligible.

Public Law 86-211 was recommended by the committee after lengthy study of the problem. This new pension program was specifically designed to remedy the deficiencies which had developed

under the old pension law. The new pension program under Public Law 86-211—

- (1) Established the principle of higher payments to those most in need because of low income.
- (2) Made additional rates payable for dependency.
- (3) Gave additional assistance for serious health problems by raising the aid and attendance allowance substantially and making aid and attendance pensioners eligible for invalid lifts.
- (4) Discontinued special privileges for groups such as railroad retirees and civil service annuitants.
- (5) Established a corpus of estate, or net worth test, and required the wife's income to be included in the veterans' income report.

The substantial effect of the changes brought about by Public Law 86-211 and subsequent amendments and additional programs recommended by the committee and enacted into law has been that the non-service-connected pension program has become more responsive to the needs of the individual growing out of low income, serious health problems, or dependency of others. Under this philosophy, hundreds of thousands of sick and needy veterans and widows have received substantially increased payments. Certain others, considerably more fortunate, with some significant amounts of outside income, receive less.

All of the pensioners under the old pension law at the effective date of Public Law 86-211 were given the right to elect the higher benefits of Public Law 86-211, and hundreds of thousands did elect these higher rates. Veterans' Administration reports that there are still approximately 100,000 persons receiving benefits under the old pension law who could by their own choice receive higher benefits under Public Law 86-211 if they would make an election. On the other hand, in many cases they chose not to make an election because their income or net worth could act to reduce their present benefits.

Effective January 1, 1965, Public Law 88-664, recommended by the committee and enacted by the Congress, granted a cost of living increase to all classes of pensioners under the new pension law. Those veterans in the lowest income categories received substantially more increase than the cost of living, and the aid and attendance allowance was raised from \$70 to \$100. Further, additional consideration was extended to the more seriously disabled by (a) creation of a "housebound" rate of \$35 per month in addition to regular pension; and (b) establishment of an outpatient drug program for aid and attendance cases. (Previously, in the same Congress, Public Law 88-450 made therapeutic or rehabilitative devices available to aid and attendance pensioners who are eligible for invalid lifts.) A provision was included in Public Law 88-664 granting a 10-percent exclusion of public and private retirement income.

IV. COMMITTEE BILL

Under the committee's recommendation, 1,819,031 veterans, widows and children would benefit from increases, at an additional first year cost of \$97,969,986. The committee amendments deleting the proposed increases under the old pension law reduce the overall first

year cost of the House bill approximately \$3.5 million. A section-by-section summary of the bill and attendant costs follows:

H. R. 17488 (as amended)				Cases	1st year cost
SEC. 2					
Liberalize definition of widow:					
Reduce 5-year marriage requirement for widows to 1 year cohabitation or any period if there is a child born to the parties to the marriage (extends also to deemed valid marriage).....				(1)	(1)
SEC. 3(a)					
Presume permanent and total disability at age 65:					
Presume permanent total disability for pension purposes on attainment of age 65 without need for medical evidence and rating decision.....				(1)	(1)
SEC. 3(b)					
Presume need for aid and attendance:					
Presume need for regular aid and attendance for pensioners while being furnished nursing care in public or private nursing home.....				(1)	(1)
SEC. 4(a)					
Income exclusion:					
Of amounts equal to the amount paid by a spouse for the last illness of the veteran prior to his death.....				(1)	(1)
SEC. 4(b)					
Income exclusion:					
Of the amounts equal to the amount paid by a widow, or a spouse prior to the veteran's death, for the last illness and burial of the veteran's child.....				(1)	(1)
SEC. 5 (a & b)					
Veteran alone:					
0 to \$800.....	\$100.00	\$4.00	\$104		
\$800 to \$1,200.....	75.00	4.00	79		
\$1,200 to \$1,800.....	43.00	2.00	45		
Veteran and dependent:					
0 to \$1,000.....	105-110-115.00	4.00	109-114-119		
\$1,000 to \$2,000.....	80.00	4.00	84		
\$2,000 to \$3,000.....	48.00	2.00	50		
Total.....				900,100	\$45,032,000
SEC. 5(c)					
Housebound veterans.....	35.00	5.00	40	20,545	1,233,000
SEC. 6					
SAW and prior laws widows only.....	65.00	5.00	70	66,427	8,386,000
SEC. 7(a, b & c)					
Widows only:					
0 to \$800.....	64.00	6.00	70		
\$800 to \$1,200.....	48.00	3.00	51		
\$1,200 to \$1,800.....	27.00	2.00	29		
Widows with child:					
0 to \$1,000.....	80.00	6.00	86		
\$1,000 to \$2,000.....	64.00	3.00	67		
\$2,000 to \$3,000.....	43.00	2.00	45		
Each additional child.....	15.00	1.00	16		
Total.....				579,260	33,878,000
SEC. 8					
Children, no widow—1st child or child alone: 0 to \$1,800.....					
	38.00	2.00	40	92,200	2,213,000
Each additional child: 0 to \$1,800.....					
	18.00	1.00	16	118,700	5,404,000
Total.....				210,900	7,617,000
SEC. 9					
Special pension of \$50 monthly for widows in need of aid and attendance:					
\$50 monthly in addition to current basic pension rate to widows * * * current pension law * * * SAW and prior wars * * * who are in need of aid and attendance.....				2,630	1,578,000

H.R. 17488 (as amended)	Cases	1st year cost
SEC. 10		
Therapeutic or rehabilitative devices for pensioners: Furnish any type of therapeutic or rehabilitative device, medical equipment and supplies (except medicine) when medically indicated to pensioners entitled to pension based on need for regular aid and attendance unrelated to individual need for an invalid lift.....	49,169	\$5,246,060
Grand total.....	1,819,031	97,969,986

† Insignificant.

The chart below shows the pension rates and income limits originally enacted by Public Law 86-211, the changes made by Public Law 88-664, and the changes proposed by the committee's recommendation. It should be noted that in every instance the pension increases under the bill exceed the 4.1-percent rise in the cost of living since January 1, 1965 (the date of the last cost-of-living increase). It should be noted that under the committee's recommendation all veterans would receive an average increase of 4.4 percent, all widows an average of 8.2 percent, widows with children an average of 6.4 percent, with all pensioners—veterans, widows, and children—receiving an average increase of 5.4 percent and with the "housebound" veterans receiving an increase of 14.3 percent. Under the bill, pensioners who have been on the rolls since July 1, 1960, will have received an average increase of 15.5 percent since the current pension program was initiated in 1960.

Pensioner	Increment	Public Law 211 rate	Public Law 664 rate	H. R. 17488 (as amended)	Percent of increase		
					Public Law 664	H. R. 17488 (as amended)	Over Public Law 211 if enacted
Single veteran.....	0-\$600	\$85	\$100	\$104	17.6	4.0	22.4
Do.....	\$600-1,200	70	75	79	7.1	5.3	12.9
Do.....	1,200-1,800	40	43	45	7.0	4.6	12.5
Total, single veterans.....					13.7	4.4	18.7
Married veterans.....	0-1,000	90	105	109	16.7	3.8	21.1
Do.....	1,000-2,000	75	80	84	6.7	5.0	12.0
Do.....	2,000-3,000	45	48	50	6.7	4.2	11.1
Total, married veterans.....					11.3	4.3	16.2
Total, all veterans.....					12.0	4.4	16.9
Widow alone.....	0-600	60	64	70	6.7	9.4	16.7
Do.....	600-1,200	45	48	51	6.7	6.3	13.3
Do.....	1,200-1,800	25	27	29	8.0	7.4	16.0
Total, widow alone.....					6.8	8.2	15.5
Widow with child.....	0-1,000	75	80	86	6.7	7.5	14.7
Do.....	1,000-2,000	60	64	67	6.7	4.7	11.7
Do.....	2,000-3,000	40	43	45	7.5	4.7	12.5
Total, widow with child.....					6.7	6.4	13.6
Total, all widows.....					6.8	7.6	14.9
No widow, 1 child.....	0-1,800	35	38	40	8.6	5.3	14.3
No widow, 2 children.....	0-1,800	50	53	55	6.0	5.7	12.0
No widow, 3 children.....	0-1,800	65	68	72	4.6	5.9	10.8
Total, children.....					6.4	5.6	12.3
Veterans and widows.....					10.3	5.4	16.3
All pensioners.....					9.6	8.4	15.5
Housebound.....			85	40		14.3	

The table below shows pension rates correlated to the cost of living:

Pension rates correlated to cost of living

Law	Effective date	Monthly rates, veteran and 3 dependents, minimal income	Consumer Price Index	Percent of change in monthly pension rate over July 1933 rate	Percent of change in cost of living index over that for July 1933
Veterans Regulation 1(a).....	July 1, 1933.....	\$30.00	45.6	-----	-----
Public Law 801, 77th Cong.....	June 10, 1942.....	40.00	56.7	33½	24.3
Public Law 313, 78th Cong.....	May 27, 1944.....	50.00	61.0	60½	33.7
Public Law 662, 79th Cong.....	Sept. 1, 1946.....	60.00	71.2	100.0	56.1
Public Law 356, 82d Cong.....	July 1, 1952.....	63.00	93.0	110.0	103.9
Public Law 666, 83d Cong.....	Oct. 1, 1964.....	66.15	93.3	120.5	104.6
Public Law 84-211.....	July 1, 1965.....	100.00	108.2	233.3	126.3
Public Law 88-664.....	Jan. 1, 1966.....	115.00	108.9	283.3	138.9
	Jan. 1, 1966, to July 1, 1966.....	115.00	112.9	283.3	147.6
Proposal.....	Jan. 1, 1967.....	119.00	-----	296.7	-----

Recently, the President of the United States called for an overall increase in social security benefits for social security recipients in order for them to meet the rise in the cost of living and to maintain their purchasing power. Further, just this year the administration supported cost of living increases for the military, for civil servants, and for private industry employees where these increases were in keeping with the rising cost of living pattern.

In like manner the committee recognizes that the need of veteran pensioners is equally acute and urgent and therefore recommends passage of the pension increase now in order to maintain the purchasing power of these pensioners whose benefit dollars are shrinking because of the rise in the cost of living. Postponement of such action now will merely necessitate consideration of this same pressing need next Congress.

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

* * * * *

§ 103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by a woman as the widow of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that she, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter [cohabitated with him for five or more years immediately before his death,] *cohabited with him for one year or more immediately before his death, or for any period of time if a child was born of the purported marriage or was born to them before such marriage,* the purported marriage shall be deemed to be a valid marriage, but only if no claim

has been filed by a legal widow of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a widow has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirements as to date of marriage has been met.

(c) In determining whether or not a woman is or was the wife of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Veterans' Administration according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(d) The remarriage of the widow of a veteran shall not bar the furnishing of benefits to her as the widow of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(e) The marriage of a child of a veteran shall not bar recognition of such child as the child of the veteran for benefit purposes if the marriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

* * * * *

§ 302. Special provisions relating to widows

(a) No compensation shall be paid to the widow of a veteran under this chapter unless she was married to him—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

[(2) for five or more years; or

[(3) for any period of time if a child was born of the marriage.]

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage or, was born to them before the marriage.

(b) Subsection (a) shall not be applicable to any widow who with respect to date of marriage, could have qualified as a widow for death compensation under any law administered by the Veterans' Administration in effect on December 31, 1957.

* * * * *

§ 404. Special provisions relating to widows

No dependency and indemnity compensation shall be paid to the widow of a veteran dying after December 31, 1956, unless she was married to him—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

[(2) for five or more years; or

[(3) for any period of time if a child was born of the marriage.]

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

* * * * *

SUBCHAPTER III — PENSIONS TO WIDOWS AND CHILDREN

Wars before World War I

- 531. Widows of Mexican War veterans.
- 532. Widows of Civil War veterans.
- 533. Children of Civil War veterans.
- 534. Widows of Indian War veterans.
- 535. Children of Indian War veterans.
- 536. Widows of Spanish-American War veterans.
- 537. Children of Spanish-American War veterans.

World War I, World War II, and the Korean conflict

- 541. Widows of World War I, World War II, or Korean conflict veterans.
- 542. Children of World War I, World War II, or Korean conflict veterans.
- 543. Net worth limitation.

Widows of veterans of all periods of war

- 544. Aid and attendance allowance.

§ 502. Determinations with respect to disability

(a) For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if he is *sixty-five years of age or older* or suffering from—

(1) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the disabled person; or

(2) any disease or disorder determined by the Administrator to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.

(b) For the purposes of this chapter, a person shall be considered to be in need of regular aid and attendance if he is (1) *a patient in a nursing home* or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(c) For the purposes of this chapter, 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 disability or disabilities which it is reasonably certain will remain throughout his lifetime.

§ 503. Determinations with respect to annual income

In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

- (1) payments of the six-months' death gratuity;
- (2) donations from public or private relief or welfare organizations;
- (3) payments under this chapter, and chapters 11 and 13 (except section 412(a)) of this title;

(4) payments under policies of United States Government life insurance or National Service Life Insurance, and payments of servicemen's indemnity;

(5) lump sum death payments under subchapter II of chapter 7 of title 42;

(6) 10 per centum of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs;

(7) amounts equal to amounts paid by *a wife of a veteran for the expenses of his last illness, and by a widow or child for a deceased veteran for—*

(A) his just debts,

(B) the expenses of his last illness, and

(C) the expenses of his burial to the extent such expenses are not reimbursed under chapter 23 of this title;

(8) proceeds of fire insurance policies.

(9) Amounts equal to amounts paid (A) by a veteran for the last illness and burial of his deceased spouse or child or (B) by a widow or a wife of a deceased veteran for the last illness and burial of a child of such veteran;

(10) profit realized from the disposition of real or personal property other than in the course of a business;

(11) payments received for discharge of jury duty or obligatory civic duties;

(12) payments of educational assistance allowance or special training allowance under chapter 35 of this title;

(13) payments of bonus or similar cash gratuity by any State based on service in the Armed Forces.

* * * * *

NON-SERVICE-CONNECTED DUSABILITY PENSION

§ 521. Veterans of World War I, World War II, or the Korean conflict

(a) The Administrator shall pay to each veteran of World War I, World War II, or the Korean conflict, who meets the service requirements of this section, and who is permanently and toally disabled from non-service-connected disability not the result of the veteran's willful misconduct or vicious habits, pension at the rate prescribed by this section.

(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid at the monthly rate set forth in column II of the following table opposite the veteran's annual income as shown in column I:

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Column I		Column II
Annual income		
More than—	Equal to or but less than—	
\$600	\$600	[\$100] \$104
1, 200	1, 200	[75] 79
	1, 800	[43] 45

(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pensions shall be paid at the monthly rate set forth in columns II, III, or IV of the following table opposite the veteran's annual income as shown in column I:

Column I		Column II	Column III	Column IV
Annual income				
More than—	but Equal to or less than—	One dependent	Two dependents	Three or more dependents
\$1, 000	\$1, 000	\$105	\$110	\$115
2, 000	2, 000	80	80	80
	3, 000	48	48	48

Column I		Column II	Column III	Column IV
Annual income				
More than—	but Equal to or less than—	One dependent	Two dependents	Three or more dependents
\$1, 000	\$1, 000	\$109	\$114	\$119
2, 000	2, 000	84	84	84
	3, 000	50	50	50

(d) If the veteran is in need of regular aid and attendance, the monthly rate payable to him under subsection (b) or (c) shall be increased by \$100.

(e) If the veteran has a disability rated as permanent and total, and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of his disability or disabilities, is permanently housebound but does not qualify for the aid

and attendance rate under subsection (d) of this section, the monthly rate payable to him under subsection (b) or (c) shall be increased by **[\$35] \$40.**

(f) For the purposes of this section—

(1) in determining annual income, where a veteran is living with his spouse, all income of the spouse which is reasonably available to or for the veteran in excess of whichever is the greater, \$1,200 or the total earned income of the spouse, shall be considered as the income of the veteran, unless in the judgment of the Administrator to do so would work a hardship upon the veteran;

(2) a veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

(g) A veteran meets the service requirements of this section if he served in the active military, naval, or air service—

(1) for ninety days or more during either World War I, World War II, or the Korean conflict;

(2) during World War I, World War II, or the Korean conflict, and was discharged or released from such service for a service-connected disability;

(3) for a period of ninety consecutive days or more and such period ended during World War I, or began or ended during World War II or the Korean conflict; or

(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.

* * * * *

Subchapter III—Pensions to widows and children

WARS BEFORE WORLD WAR I

§ 531. Widows of Mexican War veterans

The Administrator shall pay to the widow of each veteran of the Mexican War, who is on the pension rolls on December 31, 1958, under any public law, a pension at the monthly rate of **[\$65] 70.**

§ 532. Widows of Civil War veterans

(a) The Administrator shall pay to the widow of each Civil War veteran who met the service requirements of this section a pension at the following monthly rate:

(1) \$40.64 if she is below seventy years of age; or

(2) **[\$65] 70** if she is seventy years of age or older;

unless she was the wife of the veteran during his service in the Civil War, in which case the monthly rate shall be \$75.

(b) If there is a child of the veteran, the rate of pension paid to the widow under subsection (a) shall be increased by \$8.13 per month for each such child.

(c) A veteran met the service requirements of this section if he served for ninety days or more in the active military or naval service during the Civil War, as heretofore defined under public laws administered by the Veterans' Administration, or if he was discharged or released from such service upon a surgeon's certificate of disability.

(d) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

(1) before June 27, 1905; or

[(2) for five or more years; or

[(3) for any period of time if a child was born of the marriage.]

- (2) *for one year or more; or*
 (3) *for any period of time if a child was born of the marriage, or was born to them before the marriage.*

§ 533. Children of Civil War veterans

Whenever there is no widow entitled to pension under section 532 of this title, the Administrator shall pay to the children of each Civil War veteran who met the service requirements of section 532 of this title a pension at the monthly rate of \$73.13 for one child, plus \$8.13 for each additional child, with the total amount equally divided.

§ 534. Widows of Indian War veterans

(a) The Administrator shall pay to the widow of each Indian War veteran who met the service requirements of section 511 of this title a pension at the following monthly rate:

- (1) \$40.64 if she is below seventy years of age; or
 (2) ~~[\$65]~~\$70 if she is seventy years of age or older;

unless she was the wife of the veteran during his service in one of the Indian Wars, in which case the monthly rate shall be \$75.

(b) If there is a child of the veteran, the rate of pension paid to the widow under subsection (a) shall be increased by \$8.13 per month for each such child.

(c) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

- (1) before March 4, 1917; or

~~[(2) for five or more years; or~~

~~[(3) for any period of time if a child was born of the marriage.]~~

~~(2) for one year or more; or~~

~~(3) for any period of time if a child was born of the marriage, or was born to them before the marriage~~

* * * * *

§ 536. Widows of Spanish-American War Veterans

(a) The Administrator shall pay to the widow of each Spanish-American War veteran who met the service requirements of section 512(a) of this title a pension at the monthly rate of ~~[\$65]~~ \$70, unless she was the wife of the veteran during his service in the Spanish-American War in which case the monthly rate shall be \$75.

(b) If there is a child of the veteran, the rate of pension paid to the widow under subsection (a) shall be increased by \$8.13 per month for each such child.

(c) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

- (1) before January 1, 1938; or

~~[(2) for five or more years; or~~

~~[(3) for any period of time if a child was born of the marriage.]~~

~~(2) for one year or more; or~~

~~(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.~~

* * * * *

WORLD WAR I, WORLD WAR II, AND THE KOREAN CONFLICT

§ 541. Widows of World War I, World War II, or Korean conflict veterans

(a) The Administrator shall pay to the widow of each veteran of World War I, World War II, or the Korean conflict who met the service requirements of section 521 of this title, or who at the time of his death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the rate prescribed by this section.

(b) If there is no child, pension shall be paid at the monthly rate set forth in column II of the following table opposite the widow's annual income as shown in column I:

Column I		Column II
Annual income		
More than—	Equal to or but less than—	
\$600	\$600	[\$64] \$70
1,200	1,200	[48] 51
	1,800	[27] 29

(c) If there is a widow and one child, pension shall be paid at the monthly rate set forth in column II of the following table opposite the widow's annual income as shown in column I:

Column I		Column II
Annual income		
More than—	Equal to or but less than—	
\$1,000	\$1,000	[\$80] \$86
2,000	2,000	[64] 67
	3,000	[43] 45

(d) If there is a widow and more than one child, the monthly rate payable under subsection (c) shall be increased by **[\$15]** \$16 for each additional child.

(e) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

(1) before (A) December 14, 1944, in the case of a widow of a World War I veteran, or (B) January 1, 1957, in the case of a widow of a World War II veteran, or (C) February 1, 1965, in the case of a widow of a Korean conflict veteran; or

[(2) for five or more years; or

[(3) for any period of time if a child was born of the marriage.]

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

§ 542. Children of World War I, World War II, or Korean conflict veterans

(a) Whenever there is no widow entitled to pension under section 541 of this title, the Administrator shall pay to the child or children of each veteran of World War I, World War II, or the Korean conflict who met the service requirements of section 521 of this title, or who at the time of his death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the monthly rate of **[\$38]** \$40 for one child, and **[\$15]** \$16 for each additional child.

(b) Pension prescribed by this section shall be paid to eligible children in equal shares.

(c) No pension shall be paid under this section to a child whose annual income, excluding earned income, exceeds \$1,800.

§ 543. Net worth limitation

The Administrator shall deny or discontinue payment of pension under sections 541 or 542 of this title to a widow or child when the corpus of the estate of the survivor concerned is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for the survivor's maintenance.

WIDOWS OF VETERANS OF ALL PERIODS OF WAR

§ 544. Aid and attendance allowance

If any widow who is entitled to pension under this subchapter is in need of regular aid and attendance, the monthly rate of pension payable to her under this subchapter or such provisions, as the case may be, shall be increased by \$50.

* * * * *

§ 617. Invalid lifts and other devices for pensioners

(a) The Administrator may furnish an invalid lift, if medically indicated, to any veteran in receipt of pension under chapter 15 of this title based on the need of regular aid and attendance.

(b) The Administrator may furnish any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated, **[to any veteran who is eligible to receive an invalid lift under subsection (a) of this section, or who would be so eligible, but for the fact that he has such a lift.]** *to any veteran in receipt of pension under chapter 15 of this title based on need of regular aid and attendance.*

* * * * *

APPENDIX

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., September 28, 1966.

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

DEAR MR. CHAIRMAN: We are pleased to respond to your request for a report on H.R. 17488, 89th Congress, as passed by the House of Representatives on September 19, 1966.

The bill primarily proposes increases in pension rates under chapter 15, title 38, United States Code, for veterans of World War I, World War II, and the Korean conflict, and their widows and children, and for widows of veterans of prior wars. Additional proposed substantive liberalizations relate to eligibility requirements for all widows for payment of all Veterans' Administration monthly death benefits. The measure would be effective on January 1, 1967.

As you are aware, the pension program relating to World War I and later war periods was the subject of extensive study by the executive and legislative branches, culminating in enactment of Public Law 86-211, effective July 1, 1960. The revision incorporated more effective tests of need for the payment of pension, providing benefits on a sliding scale of three annual income levels for veterans and their widows, giving the greatest amount of pension to those in the greatest need. Certain liberalizations in this program, including increased rates, were provided by Public Law 88-664, effective January 1, 1965.

A savings provision of Public Law 86-211 permits persons on the pension rolls on June 30, 1960, the day before the effective date of the new program, to continue to receive pension under the provisions of the old program.

For veterans unmarried and without a child, or widows without a child, the present income maximums are \$600, \$1,200, and \$1,800 annually; with respective monthly rates of \$100, \$75, and \$43, for veterans, and \$64, \$48, and \$27, for widows. For veterans married or with a child, or widows with a child, the income maximums are \$1,000, \$2,000, and \$3,000 annually. For veterans within the \$1,000 income level, the monthly rates are \$105, \$110, and \$115 for one, two, or three or more dependents, respectively. For veterans within the \$2,000 and \$3,000 income levels, the respective monthly rates are \$80 and \$48 for one or more dependents. Higher rates are provided for those who are permanently housebound or in need of regular aid and attendance. The monthly rates for widows with one child are \$80, \$64, and \$43 (plus \$15 for each additional child) related to the \$1,000, \$2,000, and \$3,000 income levels. For children of a veteran, where there is no eligible widow, the current pension rates are \$38 for the first child and \$15 for each additional child, in equal shares, subject to a limitation of \$1,800 respecting unearned income.

A flat pension rate of \$65 per month is presently provided for widows of Mexican War veterans. For Civil War and Indian war widows, three rates are provided: (a) \$40.64 per month if the widow is below 70 years of age; (b) \$65 if 70 or older; or (c) \$75 if she was the wife during service. Spanish-American War widow pension rates are: (a) basically \$65 per month; or (b) \$75 if the widow was married to the veteran during his service in the Spanish-American War.

The definition of widow in the Veterans Benefits Code (38 U.S.C. 101(3)) provides in substance that a woman must have been the wife of a veteran at the time of his death, have lived with him continuously from the date of their marriage, and not have remarried. In addition, under other provisions of law (38 U.S.C. 302(a), 404, 532(d), 534(e), 536(c), and 541(e)) death compensation, dependency, and indemnity compensation, or death pension may be paid to a veteran's widow only if she was married to him (1) before a particular date depending on the period of service; or (2) for 5 or more years; or (3) for any period of time if a child was born of the marriage. For purposes of the latter alternative requirement the term "child born of the marriage" means a child born after the marriage of the veteran and the claimant.

The basic purpose of monetary benefits for widows of veterans is to replace in some measure the loss of support resulting from the deaths of the veterans. It appears that marriage delimiting-date requirements generally have been maintained through the years to preclude payment where marriage is consummated for the purpose of securing benefits incident to anticipated death of a sick or infirm veteran. This safeguard was continued in the alternative length of marriage provisions which avoided the necessity for repeated extensions of the marriage dates.

In cases where an otherwise qualified widow was not married to the veteran before the applicable marriage delimiting date and no child was born of the marriage, the 5-year limitation has had the harsh result of requiring denial of benefits solely because of a condition beyond her control—death of the veteran before expiration of this arbitrary 5-year period. We believe that, consistent with the basic concept of the law, benefits should in general be provided to a widow as defined in 38 U.S.C. 101(3) who was the wife of the veteran at the time of his death, without regard to the date or length of marriage; subject of course to a reasonable safeguard precluding payment in cases of so-called deathbed marriages. Reduction of the 5-year period to 1 year, as proposed by section 2(a) of the bill, would provide an adequate safeguard for the Government and at the same time authorize a just and reasonable liberalization better serving the intended purpose of benefits for widows.

The other section 2(a) amendment would consider a child born to the claimant and the veteran before their marriage to be a basis for qualifying a widow for benefits to the same extent as the current provision relating to a child born of the marriage. This is an extension of the equitable principle of the current provision. It would obviate certain harsh results under the present limitation which, for example, requires disallowance of a widow's claim where the child was born 1 day before the marriage but which would have permitted allowance if the child had been born 1 day after the marriage.

Section 2(b) is concerned with the provision of law (38 U.S.C. 103(a)) authorizing gratuitous death benefits based on so-called deemed valid marriages. If it is established by evidence satisfactory

to the Administrator that without knowledge of any legal impediment, a woman entered into a marriage with a veteran which, but for a legal impediment would have been valid, and thereafter cohabited with him for 5 or more years immediately before his death, the purported marriage is deemed to be a valid marriage under that provision, but only if no claim has been filed by a legal widow of such veteran who is found to be entitled to such benefits.

The legislative history indicates that the 5-year cohabitation requirement in the deemed valid marriage provision was set to conform with the 5-year alternative length-of-marriage provision respecting valid marriages. Section 2(b) of the bill would appropriately reduce the required cohabitation period for deemed valid marriages to 1 year, consonant with the change in the alternative requirement for valid marriages proposed by section 2(a). Further, in our view, the same equitable considerations justifying the birth-of-a-child provision as an alternative requirement in claims based on valid marriages, are equally applicable to justify adoption of such an alternative to the length-of-cohabitation requirement in cases involving deemed valid marriages. Section 2(b) of the proposal also would provide such an alternative for deemed valid cases.

Age is considered in association with disability and unemployability in determining permanent and total disability for payment of pension to veterans of World War I and later war periods. For example, at age 65, such rating will be assigned to a veteran with a permanent 10-percent disability if he is unable to follow substantially gainful employment by reason of the disability.

Section 3(a) of this bill would permit the payment of pension to otherwise eligible veterans 65 years of age or older without any requirement of disability and related unemployability. Experience has shown that substantially all veterans in this age group whose income is within authorized limits have been found to be permanently and totally disabled for pension purposes based on determination of a disability of 10 percent with resulting unemployability. Such experience would indicate no substantial effect on benefit costs from this amendment.

Under current provisions, \$100 per month is paid in addition to the basic pension rate, to veterans of World War I and later war periods who are found to be in need of regular aid and attendance. Section 3(b) of this measure would equate the status of a veteran as "a patient in a nursing home" with a need for regular aid and attendance. This specification merely amounts to a restatement of existing Veterans' Administration practice in making regular aid and attendance determinations.

Consistent with the underlying philosophy of need, with certain limited exceptions income from all sources is considered in determining income for pension purposes. Further, pension is not paid under the current program if the corpus of the claimant's estate (net worth) is such that under all the circumstances, it is reasonable that some part of the corpus be consumed for the claimant's maintenance.

Two of the income exclusions under the current pension program embrace (a) amounts equal to amounts paid by a widow or child of a deceased veteran for his just debts, expenses of last illness, and expenses of burial; and (b) amounts equal to amounts paid by a veteran for the last illness and burial of his deceased spouse or child.

There have been appealing cases wherein the Veterans' Administration has been required to disallow income exclusions requested by a widow, because the specified expenses of the deceased veteran's last illness were paid before the veteran's death—when the claimant was a wife rather than a widow. Section 4(a) of the bill would authorize such an exclusion respecting expenses of a veteran's last illness where paid by a wife. Section 4(b) would extend the present exclusion regarding expenses of the last illness and burial of the veteran's child to cover such amounts paid by the wife or widow of the veteran. We favor these proposed equitable amplifications of current law.

Sections 5, 7, and 8 of the bill would provide varying increases in the basic pension rates currently provided for veterans of World War I, World War II, and the Korean conflict, and their widows and children. A comparative table is attached. Section 5(c) would increase to \$40 the present "housebound" rate of \$35 payable in addition to basic pension to certain seriously disabled veterans who cannot meet the "regular aid and attendance" standard.

Since it was established by Public Law 86-211 on July 1, 1960, the graduated pension system has been the subject of continuing study by the Congress, culminating in the enactment on October 13, 1964, of Public Law 88-664, which provided certain liberalizations in the pension program effective January 1, 1965. Under that later law the most needy veterans, comprising 45 percent of all veterans on the Public Law 86-211 pension rolls, received increases ranging from 15 percent to 17.6 percent. All other pensioners received increases of not less than 6.7 percent. The overall average increase under that law was 10 percent. From the inception of the Public Law 86-211 program through July 1966, there were increases of 5.5 percent in the cost of living before the effective date of the Public Law 88-664 rate increases and 4.1 percent since then. Over the entire period, the increase was 9.9 percent. Comparison of the foregoing 10 percent and 9.9 percent figures clearly reveals the currently liberal nature of the Public Law 88-664 rate increases. If the rate liberalizations proposed by H.R. 17488 were adopted, the overall average increase in pension since the effective date of Public Law 86-211 would exceed 15 percent.

In the light of the recent generous action of the Congress, we believe the current pension rates for World War I and later war periods continue to be adequate. Moreover, it must be remembered that the intent of the pension program is to serve as an income supplement and not as a means of full support.

Section 6 would increase to \$70 the \$65 per month non-service-connected death pension rates payable to certain widows of veterans of wars prior to World War I. The standards for payment of pension to such widows are already more liberal than those relating to widows of later war periods in that there are no tests of need: income limitations or corpus of estate requirements. Additionally, widows of earlier wars to whom this section relates who are without a child presently receive \$1 more per month than the highest rate, \$64, available to any widow of a later war period without a child. To receive that current \$64 rate, a widow's corpus of estate must meet the statutory test and her income must be not in excess of \$600 per year. Approval of section 6 would further increase the indicated disparity.

Section 9 of the measure would provide a new benefit for certain widows, irrespective of the particular period of war in which their veteran husbands served. It would authorize an additional payment of \$50 per month to each widow entitled to basic pension who is determined to be in need of regular aid and attendance. This provision would primarily benefit widows of the Spanish-American War and earlier wars who because of advanced age (average of 84 years) are generally more in need of aid and attendance than widows of later wars.

Section 11 proposes a rate of \$100 per month for veterans remaining under the old pension program who meet the current "housebound" standard, to be paid in lieu of the pension of \$66.15 or \$78.75 otherwise payable.

The proposal in section 9 for an additional pension benefit for widows who are in need of regular aid and attendance appears to be a desirable extension of the existing principle to provide greater benefits for veterans who are most severely disabled. We do not believe, however, that this new benefit should be extended to widows under the old pension program in effect on June 30, 1960, relating to World War I and later war periods.

Such a liberalization of the standards of the old program would be inconsistent with the intent of Congress that said program should ultimately be superseded by the current graduated pension program established by Public Law 86-211. For the same reason we do not feel that a housebound rate should be provided for veterans receiving pension under the former program, as proposed by section 11 of the bill.

Section 10 of the bill is concerned with our medical program. The section works a logical and, we think, a meritorious extension of the existing program under 38 U.S.C. 617(b), which authorizes the furnishing of therapeutic and rehabilitative devices as well as other supplies and equipment, as medically indicated, to a limited class of veterans who are receiving pension under both the old and new pension programs based on the need for regular aid and attendance.

As it now exists, this authorization is restricted to a small group of severely disabled veterans, receiving the increased aid and attendance rate of pension, who qualify for an invalid lift under subsection (a) of the same section of the code. This has the effect of excluding the majority of aid and attendance pensioners who are not bedridden and do not require an invalid lift but do have a pronounced need for various types of devices and equipment to cope medically with their severe disabilities. There is no really sound justification for thus restricting this program which offers considerable assistance on an outpatient basis to veteran recipients in overcoming the handicaps of extreme disablement and minimizing the need for hospitalization. We do not regard this proposed liberalization as setting a pattern for extending the outpatient and prosthetics program, which is basically for service-connected patients, on a wide basis to others with less disabling non-service-connected conditions.

It is estimated that the first-year cost of H.R. 17488 if enacted would be \$101 million and that its cost for the fifth year would approximate \$102 million. A detailed analysis of the bill's cost is enclosed.

In view of the foregoing, I am unable to recommend the enactment of sections 5, 6, 7, 8, and 11 of the bill. I believe, however, that the

proposals set forth in sections 2, 3, 4, 9 (if limited as suggested), and 10 have such merit as to warrant favorable consideration by your committee.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

W. J. DRIVER, *Administrator.*

Comparison of basic monthly pension rates increased by sections 5, 7, and 8 of the bill with rates under present law

VETERAN WITHOUT DEPENDENT

Annual income		Proposed rate	Present rate
More than—	Equal to but or less than—		
\$600	\$600	\$104	\$100
1,200	1,200	79	75
	1,800	45	43

VETERAN WITH DEPENDENTS

Annual income		Proposed rate			Present rate		
More than—	Equal to but or less than—	1 dependent	2 dependents	3 or more dependents	1 dependent	2 dependents	3 or more dependents
\$1,000	\$1,000	\$109	\$114	\$119	\$105	\$110	\$115
2,000	2,000	84	84	84	80	80	80
2,000	3,000	50	50	50	48	48	48

WIDOW WITHOUT CHILD

Annual income		Proposed rate	Present rate
More than—	Equal to but or less than—		
\$600	\$600	\$70	\$64
1,200	1,200	51	48
	1,800	29	27

WIDOW WITH CHILD

Annual income		Proposed rate ¹	Present rate ²
More than—	Equal to but or less than—		
\$1,000	\$1,000	\$86	\$80
2,000	2,000	67	64
2,000	3,000	45	43

¹ Plus \$16 for each child in excess of 1.

² Plus \$15 for each child in excess of 1.

CHILDREN (no widow)

	Proposed rate	Present rate
1 child.....	\$40	\$38
Each additional child.....	16	15

DETAILED COST ANALYSIS

	1st year	2d year	3d year	4th year	5th year	Total
Sec. 2 ¹						
Sec. 3 ¹						
Sec. 4 ¹						
Sec. 5.....	\$45,032,000	\$44,217,000	\$43,431,000	\$42,721,000	\$42,080,000	\$217,481,000
Sec. 5.....	1,233,000	1,260,000	1,260,000	1,260,000	1,260,000	6,273,000
Sec. 6.....	3,396,000	3,150,000	3,036,000	2,862,000	2,688,000	15,122,000
Sec. 7.....	33,878,000	35,111,000	36,164,000	37,176,000	38,193,000	180,522,000
Sec. 8.....	7,617,000	8,489,000	7,947,000	7,225,000	7,044,000	38,322,000
Sec. 9.....	2,496,000	2,496,000	2,496,000	2,496,000	2,496,000	12,480,000
Sec. 10.....	5,246,000	5,670,000	6,184,000	6,734,000	7,148,000	30,982,000
Sec. 11.....	2,545,000	2,067,000	1,757,000	1,395,000	1,034,000	8,798,000
Grand total.....	101,433,000	102,460,000	102,275,000	101,869,000	101,943,000	509,980,000

¹ Not significant.

