Public Law 95-588
95th Congress

An Act

Nov. 4, 1978
[H.R. 10173]

To amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war, and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' and Survivors' Pension Improvement Act of 1978".

Veterans' and Survivors' Pension Improvement Act of 1978.
38 USC 101 note.

TITLE I—PENSION FOR VETERANS AND SURVIVORS

DEFINITION OF "PERIOD OF WAR"

SEC. 101. Section 501 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) The term 'period of war' means the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.".

INCOME EXCLUSIONS

SEC. 102. (a) Subsection (a) of section 503 of title 38, United States Code, is amended by—

(1) striking out clause (1);

(2) redesignating clause (2) as clause (1);

(3) redesignating clause (3) as clause (2) and striking out the comma and "and chapters 11 and 13 (except section 412(a)) of this title" in such clause;

(4) striking out clauses (4), (5), and (6);

(5) redesignating clause (7) as clause (3);

(6) inserting after such clause the following new clause:

"(4) amounts equal to amounts paid—

"(A) by a veteran for the last illness and burial of such veteran's deceased spouse or child, or

"(B) by the spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such veteran;";

(7) redesignating clause (8) as clause (5);

(8) striking out clause (9);

(9) redesignating clause (10) as clause (6);

(10) striking out clauses (11), (12), (13), and (14);

(11) redesignating clause (15) as clause (7);

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(12) striking out clauses (16) and (17); and

(13) adding at the end of such subsection the following new clauses:

"(8) amounts equal to amounts paid by a veteran, veterans' spouse, or surviving spouse or by or on behalf of a veteran's child for unreimbursed medical expenses, to the extent that such amounts exceed 5 per centum of the maximum annual rate of pension (including any amount of increased pension payable on account of family members but not including any amount of pension payable because a person is in need of regular aid and attendance or because a person is permanently housebound) payable to such veteran, surviving spouse, or child;

"(9) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including (A) amounts paid for tuition, fees, books, and materials, and (B) in the case of such a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course of education or vocational rehabilitation or training, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available); and

"(10) in the case of a child, any current-work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of—

"(A) the lowest amount of gross income for which an income tax return is required under section 6012(a) of the Internal Revenue Code of 1954, to be filed by an individual who is not married (as determined under section 143 of such Code), is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

26 USC 6012.

26 USC 143.

26 USC 2.

"(B) if the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by such child for such course of education or vocational rehabilitation or training, including the amount paid for tuition, fees, books, and materials.".

Repeal.

(b) Subsection (c) of such section is repealed.

INCOME AND NET WORTH REPORTS

SEC. 103. Subsection (a) of section 506 of title 38, United States Code, is amended to read as follows:

Condition.

Post, pp. 2500, 2503, 2504.

"(a) As a condition of granting or continuing pension under section 521, 541, or 542 of this title, the Administrator—

"(1) may require from any person who is an applicant for or a recipient of pension such information, proofs, and evidence as the Administrator determines to be necessary in order to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive increased pension (such a child is hereinafter in this subsection referred to as a 'dependent child'), and, in the case of a child applying for or in receipt of pension under section 542 of this title (hereinafter in this subsection referred to

as a 'surviving child'), of any person with whom such child is residing who is legally responsible for such child's support;

"(2) shall require that any such applicant or recipient file each year with the Veterans' Administration (on such form as may be prescribed for such purpose by the Administrator) a report showing—

"(A) the annual income which such applicant or recipient (and any such spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or recipient (and of any such spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support;

"(B) such applicant's or recipient's estimate for the then current year of the annual income such applicant or recipient (and any such spouse or dependent child) expects to receive and of any expected increase in the value of the corpus of the estate of such applicant or recipient (and for any such spouse or dependent child); and

"(C) in the case of a surviving child, an estimate for the then current year of the annual income of any person with whom such child is residing who is legally responsible for such child's support and of any expected increase in the value of the corpus of the estate of such person;

"(3) shall require that any such applicant or recipient promptly file a revised report whenever there is a material change in the estimated annual income of such applicant or recipient (or of any such spouse or dependent child) or a material change in such applicant's or recipient's estimate of the value of the corpus of the estate of such applicant or recipient (or of any such spouse or dependent child), and in the case of a surviving child, a material change in the estimated annual income or value of the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support; and

"(4) shall require that any such applicant or recipient applying for or in receipt of increased pension on account of a person who is a spouse or child of such applicant or recipient promptly notify the Administrator if such person ceases to meet the applicable definition of spouse or child.". Notification.

FREQUENCY OF PAYMENT OF PENSION BENEFITS

SEC. 104. (a) Chapter 15 of title 38, United States Code, is amended by inserting after section 507 the following new section: 38 USC 501.

"§ 508. Frequency of payment of pension benefits 38 USC 508.

"(a) Except as provided under subsection (b) of this section, benefits under sections 521, 541, and 542 of this title shall be paid monthly. *Post*, pp. 2500, 2503, 2504.

"(b) Under regulations which the Administrator shall prescribe, benefits under sections 521, 541, and 542 of this title may be paid less frequently than monthly if the amount of the annual benefit is less than 4 per centum of the maximum annual rate payable to a veteran under section 521(b) of this title.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 507 a new item as follows:

"508. Frequency of payment of pension benefits.".

PENSION FOR SPANISH-AMERICAN WAR VETERANS

SEC. 105. Paragraph (3) of section 512(a) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "(except the rate provided under subsection (g) of such section)" after "of this title";

(B) by striking out "World War I" and inserting in lieu thereof "a period of war"; and

(C) by striking out the comma and "except as provided in subparagraph (B)" in the second sentence of such subparagraph; and

Regulations.

(2) in subparagraph (B), by striking out "if such veteran" and all that follows in the first sentence and inserting in lieu thereof a comma and "as in effect on December 31, 1978, under regulations which the Administrator shall prescribe.".

PENSION OF VETERANS OF A PERIOD OF WAR

SEC. 106. (a) Section 521 of title 38, United States Code, is amended to read as follows:

"§ 521. Veterans of a period of war

"(a) The Administrator shall pay to each veteran of a period of war who meets the service requirements of this section (as prescribed in subsection (j) of this section) and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title.

"(b) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of such veteran's spouse) and there is no child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, and unless the veteran is entitled to pension at the rate provided by subsection (d)(1) or (e) of this section, pension shall be paid to the veteran at the annual rate of $3,550, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or if there is a child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, pension shall be paid to the veteran at the annual rate of $4,651, unless the veteran is entitled to pension at the rate provided by subsection (d)(2), (e), or (f) of this section. If the veteran has two or more such family members, such annual rate shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

"(d)(1) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $5,680, reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (c) of this section shall be $6,781. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of

the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

"(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 a disability or disabilities, is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $4,340 and the annual rate of pension payable to the veteran under subsection (c) of this section shall be $5,441. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the annual income of such family members.

"(f)(1) If two veterans are married to one another and each meets the disability and service requirements prescribed in subsections (a) and (j), respectively, of this section, the annual rate of pension payable to such veterans shall be a combined annual rate of $4,651.

"(2) If either such veteran is in need of regular aid and attendance, the annual rate provided by paragraph (1) of this subsection shall be $6,781. If both such veterans are in need of regular aid and attendance, such rate shall be $8,911.

"(3) If either such veteran would be entitled (if not married to a veteran) to pension at the rate provided by subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $5,441. If both such veterans would be entitled (if not married to one another) to such rate, such rate shall be $6,231.

"(4) If one such veteran is in need of regular aid and attendance and the other would be entitled (if not married to a veteran) to the rate provided for under subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $7,571.

"(5) The annual rate provided by paragraph (1), (2), (3), or (4) of this subsection, as appropriate, shall (A) be increased by $600 for each child of such veterans (or of either such veteran) who is in the custody of either or both such veterans or to whose support either such veteran is, or both such veterans are, reasonably contributing, and (B) be reduced by the amount of the annual income of both such veterans and, subject to subsection (h)(1) of this section, the annual income of each such child.

"(g) The annual rate of pension payable under subsection (b), (c), (d), (e), or (f) of this section to any veteran who is a veteran of a period of war shall be increased by $800 if veterans of such period of war were not provided educational benefits or home loan benefits similar to those provided to veterans of later periods of war under chapters 34 and 37, respectively, of this title or under prior corresponding provisions of law. 38 USC 1651, 1801.

"(h) For the purposes of this section:

"(1) In determining the annual income of a veteran, if there is a child of the veteran who is in the custody of the veteran or to whose support the veteran is reasonably contributing, that portion of the annual income of the child that is reasonably available to or for the veteran shall be considered to be income of the veteran, unless in the judgment of the Administrator to do so would work a hardship on the veteran.

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

"(i) If the veteran is entitled under this section to pension on the basis of such veteran's own service and is also entitled to pension on the basis of any other person's service, the Administrator shall pay such veteran only the greater benefit.

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

"(1) for ninety days or more during a period of war;

"(2) during a period of war 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 began or ended during a period of war; 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.".

(b) The item relating to section 521 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

38 USC 501.

"521. Veterans of a period of war.".

VETERANS' NET WORTH LIMITATION

SEC. 107. Section 522 of title 38, United States Code, is amended to read as follows:

"§ 522. Net worth limitation

Pension payments, denial or discontinuation. *Ante*, p. 2500.

"(a) The Administrator shall deny or discontinue the payment of pension to a veteran under section 521 of this title when the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse is such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.

"(b) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), (e), or (f) of section 521 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the veteran's and spouse's income, and the income of the veteran's children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the veteran's child for purposes of this chapter.".

PENSION FOR SURVIVING SPOUSES OF SPANISH-AMERICAN WAR VETERANS

SEC. 108. Subsection (d) of section 536 of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "World War I" and inserting in lieu thereof "a period of war"; and

(B) by striking out the comma and "except as provided in paragraph (2)" in the second sentence of such paragraph; and

(2) in paragraph (2)—

(A) by inserting a comma and "as in effect on December 31, 1978" after "of this title" both places it appears; and

(B) by inserting a comma and "as in effect on such date" after "such section 544".

PENSION FOR SURVIVING SPOUSES OF VETERANS OF A PERIOD OF WAR

SEC. 109. (a) Section 541 of title 38, United States Code, is amended to read as follows:

"§ 541. Surviving spouses of veterans of a period of war

"(a) The Administrator shall pay to the surviving spouse of each veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title.

Ante, p. 2500.

"(b) If no child of the veteran is in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $2,379, reduced by the amount of the surviving spouse's annual income.

"(c) If there is a child of the veteran in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $3,116. If the surviving spouse has custody of two or more such children, the annual pension rate shall be increased by $600 for each such child in excess of one. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

"(d)(1) If a surviving spouse who is entitled to pension under subsection (b) of this section is in need of regular aid and attendance, the annual rate of pension payable to such surviving spouse shall be $3,806, reduced by the amount of the surviving spouse's annual income.

"(2) If a surviving spouse who is entitled to pension under subsection (c) of this section is in need of regular aid and attendance, the annual rate of pension payable to the surviving spouse shall be $4,543. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

"(e)(1) If the surviving spouse is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to such surviving spouse under subsection (b) of this section shall be $2,908 and the annual rate of pension payable to such surviving spouse under subsection (c) of this section shall be $3,645. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the income of any child of the veteran for whom the surviving spouse is receiving increased pension.

"(2) For purposes of paragraph (1) of this subsection, the requirement of 'permanently housebound' shall be met when the surviving spouse is substantially confined to such surviving spouse's house (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities reasonably certain to remain throughout such surviving spouse's lifetime.

"Permanently housebound."

"(f) No pension shall be paid under this section to a surviving spouse of a veteran unless the spouse was married to the veteran—

"(1) before (A) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, (B) January 1, 1957, in the case of a surviving spouse of a World War II veteran, (C) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, or (D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran;

"(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.

"(g) In determining the annual income of a surviving spouse for the purposes of this section, if there is a child of the veteran in the custody of the surviving spouse, that portion of the annual income of the child that is reasonably available to or for the surviving spouse shall be considered to be income of the surviving spouse, unless in the judgment of the Administrator to do so would work a hardship on the surviving spouse.

"Veteran."

"(h) As used in this section and section 542 of this title, the term 'veteran' includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.".

38 USC 501.

(b) The item relating to section 541 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"541. Surviving spouses of veterans of a period of war.".

PENSION FOR CHILDREN OF VETERANS OF A PERIOD OF WAR

SEC. 110. (a) Section 542 of title 38, United States Code, is amended to read as follows:

"§ 542. Children of veterans of a period of war

"The Administrator shall pay to each child (1) who is the child of a deceased veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, and (2) who is not in the custody of a surviving spouse eligible for pension under section 541 of this title, pension at the annual rate of $600, as increased from time to time under section 3112 of this title and reduced by the amount of such child's annual income; or, if such child is residing with a person who is legally responsible for such child's support, at an annual rate equal to the amount by which the appropriate annual rate provided under section 541(c) of this title exceeds the sum of the annual income of such child and such person, but in no event may such annual rate of pension exceed the amount by which $600, as increased from time to time under section 3112 of this title, exceeds the annual income of such child. The appropriate annual rate under such section 541(c) for the purposes of the preceding sentence shall be determined in accordance with regulations which the Administrator shall prescribe.".

Ante, p. 2500.

(b) The item relating to section 542 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"542. Children of veterans of a period of war.".

SURVIVORS' NET WORTH LIMITATION

SEC. 111. Section 543 of title 38, United States Code, is amended to read as follows:

"§ 543. Net worth limitation

"(a)(1) The Administrator shall deny or discontinue payment of pension to a surviving spouse under section 541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the income of the surviving spouse and the income of any child from whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of such estate be consumed for the surviving spouse's maintenance.

Pension payments, denial or discontinuation.
Ante, p. 2503.

"(2) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), or (e) of section 541 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the income of the surviving spouse and such child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the surviving spouse's child for purposes of this chapter.

"(b) The Administrator shall deny or discontinue payment of pension to a child under section 542 of this title when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom such child is residing who is legally responsible for such child's support, and the corpus of the estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance.".

Ante, p. 2504.

CONFORMING AMENDMENT RELATING TO SURVIVING SPOUSES' PENSION

SEC. 112. (a)(1) Section 544 of title 38, United States Code, is repealed.

Repeal.

(2) Chapter 15 of such title is amended by striking out the heading below section 543 of such chapter.

38 USC 501.

(b) The table of sections at the beginning of chapter 15 of such title is amended by striking out the item below the item relating to section 543 and by striking out the item relating to section 544.

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

SEC. 201. (a)(1) Paragraph (1) of subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, the monthly rate of dependency and indemnity compensation paid to such parent shall be $163, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$3,770" and inserting in lieu thereof "$4,038, as increased from time to time under section 3112 of this title".

(3) The first sentence of paragraph (4) of such subsection is amended by striking out "the formula of paragraph (1) of this sub-

section or under the formula in subsection (d), whichever is the greater" and inserting in lieu thereof "paragraph (1) of this subsection or under subsection (d) of this section, whichever will result in the greater amount of such compensation being paid to such parent".

(b)(1) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, the monthly rate of dependency and indemnity compensation paid to each such parent shall be $115, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$3,770" and inserting in lieu thereof "$4,038, as increased from time to time under section 3112 of this title".

(c)(1) Paragraph (1) of subsection (d) of such section is amended to read as follows:

"(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, the monthly rate of dependency and indemnity compensation paid to such parent shall be $109, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of the combined annual income of the parents or the parent and the parent's spouse, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$5,070" and inserting in lieu thereof "$5,430, as increased from time to time under section 3112 of this title".

(d) Subsection (h) of such section is amended by striking out "$79" and inserting in lieu thereof "$85, as increased from time to time under section 3112 of this title,".

TITLE III—MISCELLANEOUS PROVISIONS AND CONFORMING AMENDMENTS

DEFINITION OF "PENSION"

SEC. 301. Paragraph (15) of section 101 of title 38, United States Code, is amended by inserting "or other periodic" after "monthly".

INCOME LIMITATION FOR RECEIPT OF DRUGS AND MEDICINES

SEC. 302. The second sentence of section 612(h) of title 38, United States Code, is amended by striking out "$500" and inserting in lieu thereof "$1,000".

EFFECTIVE DATES FOR CHANGES IN INCOME

SEC. 303. Clause (4) of section 3012(b) of title 38, United States Code, is amended to read as follows:

"(4) by reason of—

"(A) change in income shall (except as provided in section 3112 of this title) be the last day of the month in which the change occurred; and

"(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;".

CONFORMING AMENDMENT RELATING TO PROHIBITION ON CONCURRENT PENSIONS

SEC. 304. Paragraph (1) of section 3104(b) of title 38, United States Code, is amended by inserting "of this subsection and in section 521(i) of this title" after "(2) and (3)".

ANNUAL COST-OF-LIVING ADJUSTMENTS

SEC. 305. (a) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates 38 USC 3112.

"(a) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective on the date of such increase in benefit amounts, increase each maximum annual rate of pension under sections 521, 541, and 542 of this title and the rate of increased pension paid under such sections 521 and 541 on account of children, as such rates were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased. 42 USC 401. 42 USC 415.

"(b)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective on the date of such increase in benefit amounts, increase the maximum monthly rates of dependency and indemnity compensation for parents payable under subsections (b), (c), and (d), and the monthly rate provided in subsection (h), of section 415 of such title and the annual income limitations prescribed in subsections (b)(3), (c)(3), and (d)(3) of such section, as such rates and limitations were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

"(2)(A) Whenever there is an increase under paragraph (1) of this subsection in such rates and annual income limitations, the Administrator shall, effective on the date of such increase in such rates and limitations, adjust (as provided in subparagraph (B) of this paragraph) the rates of dependency and indemnity compensation payable under subsection (b)(1) or (c)(1) of section 415 of this title to any parent whose annual income is more than $800 but not more than the annual income limitation in effect under subsection (b)(3) or (c)(3) of such section, as appropriate, and adjust the rates of such compensation payable under subsection (d)(1) of such section to any parent whose annual income is more than $1,000 but not more than the annual income limitation in effect under subsection (d)(3) of such section.

"(B) The adjustment in rates of dependency and indemnity compensation referred to in subparagraph (A) of this paragraph shall be made by the Administrator in accordance with regulations which the Administrator shall prescribe. Regulations.

"(c)(1) Whenever there is an increase under subsection (a) in benefit rates payable under sections 521, 541, and 542 of this title and an increase under subsection (b) in benefit rates and annual income limitations under section 415 of this title, the Administrator shall publish such rates and limitations (including those rates adjusted by the Administrator under subsection (b)(2) of this section), as increased Publication in Federal Register.

pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act is published by reason of a determination under section 215 (i) of such Act.

42 USC 415.

"(2) Whenever such rates and income limitations are so increased, the Administrator may round such rates and income limitations in such manner as the Administrator considers equitable and appropriate for ease of administration.".

(b) The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof a new item as follows:

38 USC 3101.

"3112. Annual adjustment of certain benefit rates.".

SAVINGS PROVISIONS FOR PERSONS ENTITLED TO PENSION AS OF DECEMBER 31, 1978

38 USC 521 note.

SEC. 306. (a)(1)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, may elect to receive pension under such section as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Administrator may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

(2) Any person eligible to make an election under paragraph (1) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 521, 541, or 542, as appropriate, of title 38, United States Code, as in effect on December 31, 1978, except that—

(A) pension may not be paid to such person if such person's annual income (determined in accordance with section 503 of title 38, United States Code, as in effect on December 31, 1978) exceeds $4,038, in the case of a veteran or surviving spouse without dependents, $5,430, in the case of a veteran or surviving spouse with one or more dependents, or $3,299, in the case of a child; and

(B) the amount prescribed in subsection (f)(1) of section 521 of such title (as in effect on December 31, 1978) shall be $1,285;

as each such amount is increased from time to time under paragraph (3).

(3) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator of Veterans' Affairs shall, effective on the date of such increase under such section 3112, increase—

(A) the annual income limitations in effect under paragraph (2); and

(B) the amount of income of a veteran's spouse excluded from the annual income of such veteran under section 521(f)(1) of such title, as in effect on December 31, 1978;

by the same percentage as the percentage by which such maximum annual rates under such sections 521, 541, and 542 are increased.

(b)(1) Effective January 1, 1979, section 9 of the Veterans' Pension Act of 1959 (Public Law 86-211) is repealed.

Repeal.
38 USC 521 note.

(2)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 9(b) of the Veterans' Pension Act of 1959 may elect to receive pension under section 521, 541, or 542 of title 38, United States Code, as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Administrator of Veterans' Affairs may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

(3) Any person eligible to make an election under paragraph (2) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 9(b) of the Veterans' Pension Act of 1959, as in effect on December 31, 1978, except that pension may not be paid to such person if such person's annual income (determined in accordance with the applicable provisions of law, as in effect on December 31, 1978) exceeds $3,534, in the case of a veteran or surviving spouse without dependents or in the case of a child, or $5,098, in the case of a veteran or surviving spouse with one or more dependents, as each such amount is increased from time to time under paragraph (4).

(4) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator shall, effective on the date of such increase under such section 3112, increase the annual income limitations in effect under paragraph (3) by the same percentage as the percentage by which the maximum annual rates under such sections 521, 542, and 543 are increased.

(c) Any case in which—

(1) a claim for pension is pending in the Veterans' Administration on December 31, 1978;

(2) a claim for pension is filed by a veteran after December 31, 1978, and within one year after the date on which such veteran became totally and permanently disabled, if such veteran became totally and permanently disabled before January 1, 1979; or

(3) a claim for pension is filed by a surviving spouse or by a child after December 31, 1978, and within one year after the date of death of the veteran through whose relationship such claim is made, if the death of such veteran occurred before January 1, 1979;

shall be adjudicated under title 38, United States Code, as in effect on December 31, 1978. Any benefits determined to be payable as the result of the adjudication of such a claim shall be subject to the provisions of subsection (a).

(d) In any case in which any person who as of December 31, 1978, is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, elects (in accordance with subsection (a)(1) or (b)(2), as appropriate) before October 1, 1979, to receive pension under such section as in effect after December 31, 1978, the Administrator of Veter-

ans' Affairs shall pay to such person an amount equal to the amount by which the amount of pension benefits such person would have received had such election been made on January 1, 1979, exceeds the amount of pension benefits actually paid to such person for the period beginning on January 1, 1979, and ending on the date preceding the date of such election.

Publication in Federal Register.

(e) Whenever there is an increase under subsections (a)(3) and (b)(4) in the annual income limitations with respect to persons being paid pension under subsections (a)(2) and (b)(3), the Administrator of Veterans' Affairs shall publish such annual income limitations, as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act is published by reason of a determination under section 215(i) of such Act.

42 USC 415.

AMENDMENTS CONCERNING PENSION FOR CERTAIN INSTITUTIONALIZED VETERANS

SEC. 307. Paragraph (1) of section 3203(a) of title 38, United States Code, is amended to read as follows:

"(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care.

"(B) Where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care.

"(C) No pension in excess of $60 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Veterans' Administration if such veteran is readmitted within six months of a period of care of not less than two full calendar months.".

STUDY OF PENSION BENEFITS PAID TO PERSONS OVERSEAS

38 USC 521 note.

SEC. 308. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of State, shall carry out a comprehensive study of the income characteristics of veterans of a period of war (as defined in section 101(11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia, including those who are receiving pension benefits under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, as in effect on the date of the enactment of this Act. The Administrator shall include in such study (1) an analysis of the issues involved in the payment of non-service-connected pension benefits to such persons, (2) analyses of such aspects of the economy of each foreign country and each territory, possession, and commonwealth of the United States in which a substantial number of such persons reside as are relevant to such issues, such as the rate of inflation, the standard of living, and subsistence levels in such foreign country or such territory, possession, or commonwealth, and (3) estimates of the present and future costs of the payment of pension benefits to such persons.

38 USC 3101.

38 USC 521 note.

(b) The Administrator of Veterans' Affairs shall transmit a report to the Congress and to the President, not later than February 1, 1980, on the results of such study, together with the Administrator's recommendations as to the desirability of modifying the Veterans' Administration non-service-connected pension program for veterans of a period of war (as defined in section 101(11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia.

Report, transmittal to the President and Congress.

TITLE IV—EFFECTIVE DATE

SEC. 401. The amendments made by this Act to title 38, United States Code, shall become effective on January 1, 1979.

38 USC 101 note.

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1225 (Comm. on Veterans' Affairs) and No. 95-1768 (Comm. of Conference).

SENATE REPORTS: No. 95-1016 accompanying S. 2384 (Comm. on Veterans' Affairs) and No. 95-1329 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 28, considered and passed House.

July 31, considered and passed Senate, amended, in lieu of S. 2384.

Oct. 12, Senate agreed to conference report.

Oct. 14, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 6, Presidential statement.