

## Public Law 85-857

## AN ACT

To consolidate into one Act all of the laws administered by the Veterans' Administration, and for other purposes.

September 2, 1958  
[H. R. 9700]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws relating to veterans' benefits are revised, codified, and enacted as title 38, United States Code, "Veterans' Benefits", as follows:

Veterans' Benefits.  
Enactment as  
Title 38, U. S.  
Code.  
Ante, p. 936.

## TITLE 38

## VETERANS' BENEFITS

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## PART I. GENERAL PROVISIONS

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### CHAPTER 1—GENERAL

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#### § 101. Definitions

For the purposes of this title—

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term "widow" means (except for purposes of chapter 19 of this title) a woman who was the wife of a veteran at the time of his death, and who lived with him continuously from the date of marriage to the date of his death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife) and who has not remarried (unless the purported remarriage is void).

(4) The term "child" means (except for purposes of chapter 19 of this title and section 5202 (b) of this title) a person who is unmarried and—

(A) who is under the age of eighteen years;

(B) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(C) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-one years), is pursuing a course of instruction at an approved educational institution;

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Administrator to be the father of such child.

(5) The term "parent" means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time

before his entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service.

(6) The term "Spanish-American War" (A) means the period beginning on April 21, 1898, and ending on July 4, 1902, (B) includes the Philippine Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

(7) The term "World War I" (A) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

(8) The term "World War II" means (except for purposes of chapters 31 and 37 of this title) the period beginning on December 7, 1941, and ending on December 31, 1946.

(9) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on January 31, 1955.

(10) The term "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

(11) The term "period of war" means the Spanish-American War, World War I, World War II, the Korean conflict, and the period beginning on the date of any future declaration of war by the Congress and ending on a date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(12) The term "veteran of any war" means any veteran who served in the active military, naval, or air service during a period of war.

(13) The term "compensation" means a monthly payment made by the Administrator to a veteran because of service-connected disability, or to a widow, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957.

(14) The term "dependency and indemnity compensation" means a monthly payment made by the Administrator to a widow, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a widow, child, or parent, in the case of such a death occurring before January 1, 1957.

(15) The term "pension" means a monthly payment made by the Administrator to a veteran because of service, age, or non-service-connected disability, or to a widow or child of a veteran because of the non-service-connected death of the veteran.

(16) The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(17) The term "non-service-connected" means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(18) The term "discharge or release" includes retirement from the active military, naval, or air service.

(19) The term "State home" means a home established by a State (other than a possession) for veterans of any war (including the Indian Wars) disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living.

(20) The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(21) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (a) while on transfer to one of the Armed Forces, or (b) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (c) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law; and

(D) authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(23) The term "inactive duty training" means—

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

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

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

70A Stat. 605.  
32 USC 316, 502-505.

63 Stat. 826.  
37 USC 301.

32 USC 316, 502-505.

(24) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

(25) The term "Secretary concerned" means—

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

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

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

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

(E) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the Coast and Geodetic Survey.

(26) The term "Reserves" means members of a reserve component of one of the Armed Forces.

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) the Army Reserve;

(B) the Naval Reserve;

(C) the Marine Corps Reserve;

(D) the Air Force Reserve;

(E) the Coast Guard Reserve;

(F) the National Guard of the United States; and

(G) the Air National Guard of the United States.

### § 102. Dependent parents and dependent husbands

(a) (1) Dependency of a parent, which may arise before or after the death of a veteran, shall be determined in accordance with regulations prescribed by the Administrator.

(2) Except for purposes of chapter 33 of this title, dependency of a parent shall not be denied (A) solely because of remarriage, or (B) in any case in any State where the monthly income for a mother or father, not living together, is not more than \$105, or where the monthly income for a mother and father living together, is not more than \$175, plus, in either case, \$45, for each additional member of the family whom the father or mother is under a moral or legal obligation to support, as determined by the Administrator.

(3) For the purposes of this subsection in determining monthly income the Administrator shall not consider any payments under laws administered by the Veterans' Administration because of disability or death or payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(b) For the purposes of this title (except chapters 19 and 33), (1) the term "wife" includes the husband of any female veteran if such husband is incapable of self-maintenance and is permanently incapable of self-support due to mental or physical disability; and (2) the term "widow" includes the widower of any female veteran if such widower is incapable of self-maintenance and was permanently incapable of self-support due to physical or mental disability at the time of the veteran's death.

### § 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, 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 requirement 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.

#### § 104. Approval of educational institutions

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

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

#### § 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was the result of his own willful misconduct. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring him to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the service, or by absenting himself without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

#### § 106. Certain service deemed to be active service

(a) (1) Service as a member of the Women's Army Auxiliary Corps for ninety days or more by any woman who before October 1, 1943, was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the Women's Army Auxiliary Corps or the Women's Army

Corps shall be considered active duty for the purposes of all laws administered by the Veterans' Administration.

(2) Any person entitled to compensation or pension by reason of this subsection and to employees' compensation based upon the same service under the Federal Employees' Compensation Act must elect which benefit she will receive.

39 Stat. 742.  
5 USC 751 note.

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of his local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and

who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-connection of a disability under chapter 17 of this title, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

(c) For the purposes of this title, whenever an individual is discharged or released after December 31, 1956, from a period of active duty he shall be deemed to continue on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to be required for him to proceed to his home by the most direct route, and in any event, until midnight of the date of such discharge or release.

(d) For the purposes of this title, any individual—

(1) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) who is disabled or dies from an injury incurred after December 31, 1956, by him while proceeding directly to or returning directly from such active duty for training or inactive duty training, as the case may be;

shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not he was disabled or died from injury so incurred, the Administrator shall take into account the hour on which he began so to proceed or to return; the hour on which he was scheduled to arrive for, or on which he ceased to perform, such duty; the method of travel employed; his itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

### § 107. Certain service deemed not to be active service

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent

3 CFR, Cum.  
Supp. p. 1307.

authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the Armed Forces, except benefits under—

(1) contracts of National Service Life Insurance entered into before February 18, 1946;

(2) the Missing Persons Act; and

(3) chapters 11, 13 (except section 412), and 23 of this title.

56 Stat. 143.  
50 USC app.  
1001 note.

Payments under such chapters shall be made at the rate of one peso for each dollar otherwise authorized, and where annual income is a factor in entitlements to benefits, the dollar limitations in the law specifying such annual income shall apply at the rate of one Philippine peso for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that his service was not service in the Armed Forces or any component thereof within the meaning of any such law.

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall not be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Veterans' Administration except—

59 Stat. 543.

(1) with respect to contracts of National Service Life Insurance entered into (A) before May 27, 1946, (B) under section 620 or 621 of the National Service Life Insurance Act of 1940, or (C) under section 722 of this title; and

(2) chapters 11 and 13 (except section 412) of this title.

65 Stat. 36.  
38 USC 821, 822.

Payments under such chapters shall be made at the rate of one peso for each dollar otherwise authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at the rate of one Philippine peso for each dollar.

#### § 108. Seven-year absence presumption of death

(a) No State law providing for presumption of death shall be applicable to claims for benefits under laws administered by the Veterans' Administration.

(b) If evidence satisfactory to the Administrator is submitted establishing the continued and unexplained absence of any individual from his home and family for seven or more years, and establishing that after diligent search no evidence of his existence after the date of disappearance has been found or received, the death of such individual as of the date of the expiration of such period shall be considered as sufficiently proved.

(c) Except in a suit brought pursuant to section 784 of this title, the finding of death made by the Administrator shall be final and conclusive.

#### § 109. Benefits for discharged members of allied forces

(a) (1) In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such

nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans' Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Administrator, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Veterans' Administration as reimbursement for such services shall be credited to the current appropriation of the Veterans' Administration from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces he served.

#### § 110. Preservation of total disability ratings

A rating of total disability or permanent total disability which has been made for compensation, pension, or insurance purposes under laws administered by the Veterans' Administration, and which has been continuously in force for twenty or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud.

#### § 111. Travel expenses

(a) Under regulations prescribed by the President, the Administrator may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation, counseling required by the Administrator pursuant to chapter 33 or 35 of this title, or for the purpose of examination, treatment, or care.

(b) Mileage may be paid under this section in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, before the completion of travel.

(c) When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(d) The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility.

## CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

### SUBCHAPTER I—VETERANS' ADMINISTRATION

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## Subchapter I—Veterans' Administration

### § 201. Veterans' Administration an independent agency

The Veterans' Administration is an independent establishment in the executive branch of the Government, especially created for or concerned in the administration of laws relating to the relief and other benefits provided by law for veterans, their dependents, and their beneficiaries.

### § 202. Seal of the Veterans' Administration

The seal of the Veterans' Administration shall be judicially noticed. Copies of any public documents, records, or papers belonging to or in the files of the Veterans' Administration, when authenticated by the seal and certified by the Administrator or by any employee of the Veterans' Administration to whom proper authority shall have been delegated in writing by the Administrator, shall be evidence equal with the originals thereof.

## Subchapter II—Administrator of Veterans' Affairs

### § 210. Appointment and general authority of Administrator

(a) The Administrator of Veterans' Affairs is the head of the Veterans' Administration. He is appointed by the President, by and with the advice and consent of the Senate. He shall receive a salary of \$21,000 a year, payable monthly.

(b) The Administrator, under the direction of the President, is responsible for the proper execution and administration of all laws administered by the Veterans' Administration and for the control, direction, and management of the Veterans' Administration. Except to the extent inconsistent with law, he may consolidate, eliminate, abolish, or redistribute the functions of the bureaus, agencies, offices, or activities in the Veterans' Administration, create new bureaus, agencies, offices, or activities therein, and fix the functions thereof and the duties and powers of their respective executive heads.

(c) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith,

including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards.

### **§ 211. Decisions by Administrator; opinions of Attorney General**

(a) Except as provided in sections 784, 1661, 1761, and as to matters arising under chapter 37 of this title, the decisions of the Administrator on any question of law or fact concerning a claim for benefits or payments under any law administered by the Veterans' Administration shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision.

(b) The Administrator may require the opinion of the Attorney General on any question of law arising in the administration of the Veterans' Administration.

### **§ 212. Delegation of authority and assignment of duties**

(a) The Administrator may assign duties, and delegate authority to act and to render decisions, with respect to all laws administered by the Veterans' Administration, to such officers and employees as he may find necessary. Within the limitations of such delegations or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

(b) There shall be included on the technical and administrative staff of the Administrator such staff officers, experts, inspectors, and assistants (including legal assistants), as the Administrator may prescribe.

### **§ 213. Contracts and personal services**

The Administrator may, for purposes of all laws administered by the Veterans' Administration, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons, for such necessary services (including personal services) as he may deem practicable.

### **§ 214. Reports to the Congress**

The Administrator shall make annually, at the close of each fiscal year, a report in writing to the Congress, giving an account of all moneys received and disbursed by the Veterans' Administration, describing the work done, and stating the activities of the Veterans' Administration for such fiscal year.

### **§ 215. Publication of laws relating to veterans**

The Administrator may compile and publish all Federal laws relating to veterans' relief, including such laws as are administered by the Veterans' Administration as well as by other agencies of the Government, in such form as he deems advisable for the purpose of making currently available in convenient form for the use of the Veterans' Administration and full-time representatives of the several service organizations an annotated, indexed, and cross-referenced statement of the laws providing veterans' relief. The Administrator may maintain such compilation on a current basis either by the publication, from time to time, of supplementary documents or by complete revision of the compilation. The distribution of the compilation to the representatives of the several service organizations shall be as determined by the Administrator.

### § 216. Research by Administrator

(a) The Administrator shall conduct research in the field of prosthesis, prosthetic appliances, orthopedic appliances, and sensory devices.

(b) In order that the unique investigative materials and research data in the possession of the Government may result in improved prosthetic appliances for all disabled persons, the Administrator may make available to any person the results of his research.

(c) There is authorized to be appropriated annually \$1,000,000, to remain available until expended, to carry out this section.

### § 217. Studies of rehabilitation of disabled persons

(a) The Administrator may make or have made studies, investigations, and reports relative to the rehabilitation of disabled persons, the relative abilities, aptitudes, and capacities of the several groups of the variously handicapped, and how their potentialities can best be developed and their services best utilized in gainful and suitable employment including the rehabilitation programs of foreign nations.

(b) In carrying out this section, the Administrator may cooperate with such public and private agencies as he may deem advisable, and may employ consultants who shall receive a reasonable per diem, as prescribed by the Administrator, for each day actually employed, plus necessary travel and other expenses.

## Subchapter III—Veterans' Administration Regional Offices; Employees

### § 230. Central and regional offices

(a) The Central Office of the Veterans' Administration shall be in the District of Columbia. The Administrator may establish such regional offices and such other field offices within the United States, its Territories, Commonwealths, and possessions, as he deems necessary.

(b) The Administrator may exercise authority under this section in territory of the Republic of the Phillipines until June 30, 1960.

### § 231. Placement of employees in military installations

The Administrator may place officers and employees of the Veterans' Administration in such Army, Navy, and Air Force installations as may be deemed advisable for the purpose of adjudicating disability claims of, and giving aid and advice to, members of the Armed Forces who are about to be discharged or released from active military, naval, or air service.

### § 232. Employment of translators

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

### § 233. Employees' apparel; school transportation; recreational equipment; visual exhibits

The Administrator, subject to such limitations as he may prescribe, may—

(1) furnish and launder such wearing apparel as may be prescribed for employees in the performance of their official duties;

(2) transport children of Veterans' Administration employees located at isolated stations to and from school in available Government-owned automotive equipment;

(3) provide recreational facilities, supplies, and equipment for the use of patients in hospitals, and employees in isolated installations; and

(4) provide for the preparation, shipment, installation, and display of exhibits, photographic displays, moving pictures and other visual educational information and descriptive material. For the purposes of subparagraph (4), the Administrator may purchase or rent equipment.

#### § 234. Telephone service for medical officers

The Administrator may pay for official telephone service and rental in the field whenever incurred in case of official telephones for medical officers of the Veterans' Administration where such telephones are installed in private residences or private apartments or quarters, when authorized under regulations established by the Administrator.

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### CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

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## Subchapter I—General

## § 301. Definitions

For the purposes of this chapter—

(1) The term “veteran” includes a person who died in the active military, naval, or air service.

(2) The term “period of war” includes, in the case of any veteran—

(A) any period of service performed by him after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and

(B) any period of continuous service performed by him after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

(3) The term “chronic disease” includes—

Anemia, primary

Arteriosclerosis

Arthritis

Atrophy, progressive muscular

Brain hemorrhage

Brain thrombosis

Bronchiectasis

Calculi of the kidney, bladder, or gallbladder

Cardiovascular-renal disease, including hypertension

Cirrhosis of the liver

Coccidioidomycosis

Diabetes mellitus

Encephalitis lethargica residuals

Endocarditis

Endocrinopathies

Epilepsies

Hodgkin's disease

Leprosy

Leukemia

Myasthenia gravis

Myelitis

Myocarditis

Nephritis

Organic diseases of the nervous system

Osteitis deformans (Paget's disease)

Osteomalacia

Palsy, bulbar

Paralysis agitans

Psychoses

Purpura idiopathic, hemorrhagic

Raynaud's disease

Sarcoidosis

Scleroderma

Sclerosis, amyotrophic lateral

Sclerosis, multiple

Syringomyelia

Thromboangiitis obliterans (Buerger's disease)

Tuberculosis, active

Tumors, malignant, or of the brain or spinal cord or peripheral nerves

Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Administrator may add to this list;

## (4) The term "tropical disease" includes—

Amebiasis  
Blackwater fever  
Cholera  
Dracontiasis  
Dysentery  
Filiariasis  
Leishmaniasis, including kala-azar  
Leprosy  
Loiasis  
Malaria  
Onchocerciasis  
Oroya fever  
Pinta  
Plague  
Schistosomiasis  
Yaws  
Yellow fever

and such other tropical diseases as the Administrator may add to this list.

**§ 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 ten 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.

(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.

**Subchapter II—Wartime Disability Compensation****§ 310. Basic entitlement**

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is the result of the veteran's own willful misconduct.

**§ 311. Presumption of sound condition**

For the purposes of section 310 of this title, every veteran shall be taken to have been in sound condition when examined, accepted, and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance, and enrollment, or where clear and unmistakable evidence demonstrates that the injury or disease existed before acceptance and enrollment and was not aggravated by such service.

**§ 312. Presumptions relating to certain diseases**

For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculous disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 per centum degree of disability or more within two years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

**§ 313. Presumptions rebuttable**

(a) Where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases within the purview of section 312 of this title, has been suffered between the date of separation from service and the onset of any such diseases, or the disability is due to the veteran's own willful misconduct, service-connection pursuant to section 312 of this title will not be in order.

(b) Nothing in section 312 of this title or subsection (a) of this section shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

**§ 314. Rates of wartime disability compensation**

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be \$19;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be \$36;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be \$55;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be \$73;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be \$100;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be \$120;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be \$140;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be \$160;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be \$179;

(j) if and while the disability is rated as total the monthly compensation shall be \$225;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, the rate of compensation therefor shall be \$47 per month independent of any other compensation provided in subsections (a) through (j) of this section; and in the event of anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by \$47 per month for each such loss or loss of use, but in no event to exceed \$450 per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be \$309;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering him so helpless as to be in need of regular aid and attendance, the monthly compensation shall be \$359;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or has suffered the anatomical loss of both eyes, the monthly compensation shall be \$401;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle him to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or has suffered total deafness in combination with total blindness with 5/200 visual acuity or less, the monthly compensation shall be \$450;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator, in his discretion, may allow the next higher rate or an intermediate rate, but in no event in excess of \$450; and

(q) if the veteran is shown to have had a service-connected disability resulting from an active tuberculous disease, which disease in the judgment of the Administrator has reached a condition of complete arrest, the monthly compensation shall be not less than \$67.

### § 315. Additional compensation for dependents

(a) Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 50 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a wife but no child living, \$23;

(B) has a wife and one child living, \$39;

(C) has a wife and two children living, \$50;

(D) has a wife and three or more children living, \$62;

(E) has no wife but one child living, \$15;

(F) has no wife but two children living, \$27;

(G) has no wife but three or more children living, \$39; and

(H) has a mother or father, either or both dependent upon him for support, then, in addition to the above amounts, \$19 for each parent so dependent.

(2) If and while rated partially disabled, but not less than 50 per centum, in an amount having the same ratio to the amount specified in paragraph (1) as the degree of his disability bears to total disability. The amounts payable under this paragraph shall be adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

(b) The additional compensation for a dependent or dependents provided by this section shall not be payable to any veteran during any period he is in receipt of an increased rate of subsistence allowance or education and training allowance on account of a dependent or dependents under any other law administered by the Veterans' Administration.

The veteran may elect to receive whichever is the greater.

### Subchapter III—Wartime Death Compensation

#### § 321. Basic entitlement

The surviving widow, child or children, and dependent parent or parents of any veteran who died before January 1, 1957 (or after April 30, 1957, under the circumstances described in section 417 (a) of this title) as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during a period of war, shall be entitled to receive compensation at the monthly rates specified in section 322 of this title.

#### § 322. Rates of wartime death compensation

The monthly rates of death compensation shall be as follows:

(1) Widow but no child, \$87;

(2) Widow with one child, \$121 (with \$29 for each additional child);

(3) No widow but one child, \$67;

(4) No widow but two children, \$94 (equally divided);

(5) No widow but three children, \$122 (equally divided) (with \$23 for each additional child, total amount to be equally divided);

(6) Dependent mother or father, \$75;

(7) Dependent mother and father, \$40 each.

### Subchapter IV—Peacetime Disability Compensation

#### § 331. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is the result of the veteran's own willful misconduct.

#### § 332. Presumption of sound condition

For the purposes of section 331 of this title, every person employed in the active military, naval, or air service for six months or more shall be taken to have been in sound condition when examined,

accepted and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance and enrollment, or where evidence or medical judgment is such as to warrant a finding that the disease or injury existed before acceptance and enrollment.

### § 333. Presumptions relating to certain diseases

(a) For the purposes of section 331 of this title, and subject to the provisions of subsections (b) and (c) of this section, any veteran who served for six months or more and contracts a tropical disease or a resultant disorder or disease originating because of therapy administered in connection with a tropical disease, or as a preventative thereof, shall be deemed to have incurred such disability in the active military, naval, or air service when it is shown to exist within one year after separation from active service, or at a time when standard and accepted treatises indicate that the incubation period thereof commenced during active service.

(b) Service-connection shall not be granted pursuant to subsection (a), in any case where the disease or disorder is shown by clear and unmistakable evidence to have had its inception before or after active military, naval, or air service.

(c) Nothing in this section shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

### § 334. Rates of peacetime disability compensation

For the purposes of section 331 of this title, the compensation payable for the disability shall be equal to 80 per centum of the compensation payable for such disability under section 314 of this title, adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

### § 335. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 334 of this title, and whose disability is rated not less than 50 per centum, shall be entitled to additional monthly compensation for dependents equal to 80 per centum of the additional compensation for dependents provided in section 315 of this title, and subject to the limitations thereof. The amounts payable under this section shall be adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

### § 336. Conditions under which wartime rates payable

Any veteran otherwise entitled to compensation under the provisions of this subchapter shall be entitled to receive the rate of compensation provided in section 314 and 315 of this title, if the disability of such veteran resulted from an injury or disease received in line of duty (1) as a direct result of armed conflict, (2) while engaged in extrahazardous service, including such service under conditions simulating war, or (3) after December 31, 1946, and before July 26, 1947.

## Subchapter V—Peacetime Death Compensation

### § 341. Basic entitlement

The surviving widow, child or children, and dependent parent or parents of any veteran who died before January 1, 1957 (or after April 30, 1957, under the circumstances described in section 417 (a) of this title), as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during other than a period of war, shall be entitled to receive compensation as hereinafter provided in this subchapter.

**§ 342. Rates of peacetime death compensation**

For the purposes of section 341 of this title, the monthly rates of death compensation payable shall be equal to 80 per centum of the rates prescribed by section 322 of this title, adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

**§ 343. Conditions under which wartime rates payable**

The dependents of any deceased veteran otherwise entitled to compensation under the provisions of this subchapter shall be entitled to receive the rate of compensation provided in section 322 of this title, if the death of such veteran resulted from an injury or disease received in line of duty (1) as a direct result of armed conflict, (2) while engaged in extrahazardous service, including such service under conditions simulating war, or (3) after December 31, 1946, and before July 26, 1947, or (4) while the United States was engaged in any war before April 21, 1898.

**Subchapter VI—General Compensation Provisions****§ 351. Benefits for persons disabled by treatment or vocational rehabilitation**

Where any veteran shall have suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under chapter 31 of this title, awarded him under any of the laws administered by the Veterans' Administration, or as a result of having submitted to an examination under any such law, and not the result of his own willful misconduct, and such injury or aggravation results in additional disability to or the death of such veteran, disability or death compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded in the same manner as if such disability, aggravation, or death were service-connected; except that no benefits shall be awarded unless application be made therefor within two years after such injury or aggravation was suffered, or such death occurred.

**§ 352. Persons heretofore having a compensable status**

The death and disability benefits of this chapter shall, notwithstanding the service requirements thereof, be granted to persons heretofore recognized by law as having a compensable status, including persons whose claims are based on war or peacetime service rendered before April 21, 1898.

**§ 353. Aggravation**

A preexisting injury or disease will be considered to have been aggravated by active military, naval, or air service, where there is an increase in disability during such service, unless there is a specific finding that the increase in disability is due to the natural progress of the disease.

**§ 354. Consideration to be accorded time, place and circumstances of service**

(a) The Administrator shall include in the regulations pertaining to service-connection of disabilities, additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of his service as shown by his service record, the official history of each organization in which he served, his medical records, and all pertinent medical and lay evidence.

(b) In the case of any veteran who engaged in combat with the enemy in active service with a military, naval, or air organization of the United States during a period of war, campaign, or expedition, the Administrator shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service-connection in each case shall be recorded in full.

#### **§ 355. Authority for schedule for rating disabilities**

The Administrator shall adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations. The schedule shall be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 per centum, 20 per centum, 30 per centum, 40 per centum, 50 per centum, 60 per centum, 70 per centum, 80 per centum, 90 per centum, and total, 100 per centum. The Administrator shall from time to time readjust this schedule of ratings in accordance with experience.

#### **§ 356. Minimum rating for arrested tuberculosis**

Any veteran shown to have active tuberculosis which is compensable under this chapter, who in the judgment of the Administrator has reached a condition of complete arrest, shall be rated as totally disabled for a period of two years following such date of arrest, as 50 per centum disabled for an additional period of four years, and 30 per centum for a further five years. Following far advanced active lesions the permanent rating shall be 30 per centum, and following moderately advanced lesions, the permanent rating, after eleven years, shall be 20 per centum, provided there is continued disability, dyspnea on exertion, impairment of health, and so forth; otherwise the rating shall be zero per centum. The total disability rating herein provided for the two years following a complete arrest may be reduced to 50 per centum for failure to follow prescribed treatment or to submit to examination when requested. This section shall not be construed as requiring a reduction of compensation authorized under any other provision of this chapter.

#### **§ 357. Combination of certain ratings**

The Administrator shall provide for the combination of ratings and pay compensation at the rates prescribed in subchapter II of this chapter to those veterans who served during a period of war and during any other time, who have suffered disability in line of duty in each period of service.

#### **§ 358. Disappearance**

Where an incompetent veteran receiving compensation under this chapter disappears, the Administrator, in his discretion, may pay the compensation otherwise payable to the veteran to his wife, children, and parents. Payments made to a wife, child, or parent under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability.

## CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

### SUBCHAPTER I—GENERAL

Sec.

- 401. Definitions.
- 402. Computation of basic pay.
- 403. Coverage of members of Reserve Officers' Training Corps.
- 404. Special provisions relating to widows.

### SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

- 410. Deaths entitling survivors to dependency and indemnity compensation.
- 411. Dependency and indemnity compensation to a widow.
- 412. Benefits in certain cases of in-service or service-connected deaths.
- 413. Dependency and indemnity compensation to children.
- 414. Supplemental dependency and indemnity compensation to children.
- 415. Dependency and indemnity compensation to parents.
- 416. Dependency and indemnity compensation in cases of prior deaths.
- 417. Restriction on payments under this chapter.

### SUBCHAPTER III—CERTIFICATIONS

- 421. Certifications with respect to basic pay.
- 422. Certifications with respect to social security entitlement.
- 423. Certifications by Administrator.

## Subchapter I—General

### § 401. Definitions

As used in this chapter—

- 37 USC 232, 308.
- (1) The term "basic pay" means the monthly pay prescribed by sections 232 (a), 232 (e), or 308 of Title 37, as may be appropriate, for a member of a uniformed service on active duty.
  - (2) The term "veteran" includes a person who died in the active military, naval, or air service.

### § 402. Computation of basic pay

(a) With respect to a veteran who died in the active military, naval, or air service, his basic pay shall be that prescribed on January 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service as that of the deceased veteran at the time of his death.

(b) With respect to a veteran who did not die in the active military, naval, or air service, his basic pay shall be that prescribed on January 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service as that of the deceased veteran—

(1) at the time of his last discharge or release from active duty under conditions other than dishonorable; or

(2) at the time of his discharge or release from any period of active duty for training or inactive duty training, if his death results from service-connected disability incurred during such period and if he was not thereafter discharged or released under conditions other than dishonorable from active duty.

(c) (1) The basic pay of any veteran described in section 106 (b) of this title shall be that to which he would have been entitled upon final acceptance or entry upon active duty.

(2) The basic pay of any person not otherwise described in this section, but who had a compensable status on the date of his death under laws administered by the Veterans' Administration, shall be determined by the head of the department under which such person performed the services by which he obtained such status (taking into consideration his duties, responsibilities, and years of service) and certified to the Administrator. For the purposes of this chapter, such person shall be deemed to have been on active duty while performing such services.

**§ 403. Coverage of members of Reserve Officers' Training Corps**

For the purposes of this chapter and section 722 of this title, annual training duty to which ordered for a period of fourteen days or more by a member of a Reserve Officers' Training Corps, and authorized travel to or from such duty, shall be deemed to be active military, naval, or air service. The basic pay of any such member shall be considered to be the monthly pay of a person having the rank and years of service of those members of a uniformed service to which such member's pay is assimilated.

**§ 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.

**Subchapter II—Dependency and Indemnity Compensation****§ 410. Deaths entitling survivors to dependency and indemnity compensation**

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to his widow, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b) Dependency and indemnity compensation shall not be paid to the widow, children, or parents of any veteran dying after December 31, 1956, unless he (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing his death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

**§ 411. Dependency and indemnity compensation to a widow**

(a) Dependency and indemnity compensation shall be paid to a widow at a monthly rate equal to \$112 plus 12 per centum of the basic pay of her deceased husband.

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

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

is less than

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

then the dependency and indemnity compensation paid monthly to the widow shall be increased by \$25 for each such child in excess of one; however, the total of increases under this subsection shall not exceed the difference between the amounts referred to in subparagraphs (1) and (2) of this subsection.

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

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

(1) section 412 of this title;

42 USC 402, 403.

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

45 USC 228e,  
228c-1.

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

(e) The amount referred to in subsection (b) (2) is an amount equal to the total of the monthly benefits to which a widow and two children of a deceased fully and currently insured individual would be entitled under section 402 of title 42 (after reduction under subsection (a) of section 403 of title 42 but without regard to deduction provisions of section 403) if such deceased individual's average monthly wage had been \$160.

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

#### § 412. Benefits in certain cases of in-service or service-connected deaths

In the case of any veteran—

42 USC 414.

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 414 of title 42) at the time of his death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 402 of title 42 on the basis of his wages and self-employment income but who would, upon application therefor, be entitled to such benefits if he had been fully and currently insured at the time of his death;

the Administrator shall pay for such month benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under subchapter II of chapter 7 of title 42, if such veteran had been both fully and currently insured at the time of his death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Administrator.

42 USC 401 et  
seq.

#### § 413. Dependency and indemnity compensation to children

Whenever there is no widow of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) One child, \$70.

(2) Two children, \$100.

(3) Three children, \$130.

(4) More than three children, \$130, plus \$25 for each child in excess of three.

#### § 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to him shall be increased by \$25.

(b) If dependency and indemnity compensation is payable monthly to a woman as a "widow" and there is a child (of her deceased husband) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of \$70.

(c) If dependency and indemnity compensation is payable monthly to a woman as a "widow" and there is a child (of her deceased husband) who has attained the age of eighteen and who, while under the age of twenty-one, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of \$35.

#### § 415. Dependency and indemnity compensation to parents

(a) Dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

(b) Except as provided in subsection (d), if there is only one parent, dependency and indemnity compensation shall be paid to him at a monthly rate equal to the amount under column II of the following table opposite his total annual income as shown in column I:

Column I		Column II
Total annual income		
More than—	but Equal to or less than—	
\$750	\$750	\$75.
\$1,000	\$1,000	\$60.
\$1,250	\$1,250	\$45.
\$1,500	\$1,500	\$30.
\$1,750	\$1,750	\$15.
	-----	No amount payable.

(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each at a monthly rate equal to the amount under column II of the following table opposite the total annual income of each as shown in column I:

Column I		Column II
Total annual income		
More than—	but Equal to or less than—	
\$750	\$750	\$50.
\$1,000	\$1,000	\$40.
\$1,250	\$1,250	\$30.
\$1,500	\$1,500	\$20.
\$1,750	\$1,750	\$10.
	-----	No amount payable.

(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent at a monthly rate equal to the amount under column II of the following table opposite the total combined annual income of the parents, or of the parent and his spouse, as the case may be, as shown in column I:

Column I		Column II
Total combined annual income		
More than—	Equal to or but less than—	
\$1,000	\$1,000	\$50.
\$1,350	\$1,350	\$40.
\$1,700	\$1,700	\$30.
\$2,050	\$2,050	\$20.
\$2,400	\$2,400	\$10.
	-----	No amount payable.

(e) The Administrator shall require as a condition of granting or continuing dependency and indemnity compensation to a parent that such parent file each year with him (on the form prescribed by him) a report showing the total income which such parent expects to receive in that year and the total income which such parent received in the preceding year. The parent or parents shall file with the Administrator a revised report whenever there is a material change in the estimated annual income.

(f) If the Administrator ascertains that there have been overpayments to a parent under this section, he shall deduct such overpayments (unless waived) from any future payments made to such parent under this section.

(g) (1) In determining income under this section, all payments of any kind or from any source shall be included, except—

(A) payments of the six-months' death gratuity;

(B) donations from public or private relief or welfare organizations;

(C) payments under this chapter (except section 412) and chapter 11 of this title;

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

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

(2) The Administrator may provide by regulation for the exclusion from income under this section of amounts paid by a parent for unusual medical expenses.

#### § 416. Dependency and indemnity compensation in cases of prior deaths

(a) (1) Any person who is eligible as a widow or child for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor.

(2) Any person who is eligible as a parent, or, but for his annual income, would be eligible as a parent, for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor; however, the annual income limitations established by section 415 of this title shall apply to each such parent.

(b) (1) Whenever the widow of a veteran has been granted dependency and indemnity compensation by reason of this section, payments to her and to the children of the veteran shall thereafter be made under this chapter, and shall not thereafter be made to them by reason of the death of the veteran under (A) other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or (B) the Federal Employees' Compensation Act.

39 Stat. 742.  
5 USC 751 note.

(2) Whenever the child or parent of any veteran is granted dependency and indemnity compensation, payments shall not thereafter be made to such child or parent by reason of the death of the veteran under (A) other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or (B) the Federal Employees' Compensation Act.

(c) If children of a deceased individual are receiving death compensation, and all such children have not applied for dependency and indemnity compensation, (1) dependency and indemnity compensation paid to each child who has applied therefor shall not exceed the amounts which would be paid if the application had been made by, or on behalf of, all such children, and (2) benefits paid under other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or under the Federal Employees' Compensation Act, to each child who has not so applied therefor shall not exceed the amounts which would be paid to him if no such application had been made.

(d) If there are two parents of a deceased individual eligible for benefits by reason of subsection (a), and an application for dependency and indemnity compensation is not made by both parents, (1) dependency and indemnity compensation paid to the parent who applies therefor shall not exceed the amounts which would be paid to him if both parents had so applied, and (2) benefits paid under other provisions of law administered by the Veterans' Administration providing for the payment of compensation, or under the Federal Employees' Compensation Act, to the parent who has not so applied therefor shall not exceed the amounts which would be paid to him if no such application had been made.

(e) (1) Except as provided in paragraphs (3) and (4), no person who, on January 1, 1957, was a principal or contingent beneficiary of any payments under the Servicemen's Indemnity Act of 1951 may receive any such payments based upon the death giving rise to such payments after he has been granted dependency and indemnity compensation based upon that death. No principal or contingent beneficiary who has assigned his interest in payments under the Servicemen's Indemnity Act of 1951 after June 28, 1956, may receive any payments under this chapter based upon the death giving rise to such payments until the portion of the indemnity so assigned is no longer payable to any person.

65 Stat. 33.  
38 USC 851 note.

(2) Where a beneficiary is barred from the receipt of payments under the Servicemen's Indemnity Act of 1951 by virtue of the first sentence of paragraph (1), no payments of the portion of indemnity in which such beneficiary had an interest shall be made to any other beneficiary.

65 Stat. 33.  
38 USC 851 note.

(3) In the case of a child who has applied for dependency and indemnity compensation pursuant to this section or prior corresponding provisions of law, and who is or becomes a beneficiary under the Servicemen's Indemnity Act of 1951 by reason of the death giving rise to his eligibility for dependency and indemnity compensation, the Administrator shall determine and pay to such child for each month, or part thereof, payments under this chapter or under such Act, whichever payment he determines to be the greater amount.

(4) Notwithstanding paragraph (2), where a child receives dependency and indemnity compensation under this chapter, and thereafter dies, the portion of servicemen's indemnity in which such child had an interest may be paid (subject to paragraph (3)) to another child of the person by reason of whose death such servicemen's indemnity was payable.

**§ 417. Restriction on payments under this chapter**

(a) No dependency and indemnity compensation shall be paid to the widow, children, or parents of any veteran dying after April 30, 1957, having in effect at the time of death a policy of United States Government life insurance or National Service Life Insurance under waiver of premiums under section 724 of this title, unless waiver of premiums on such policy was granted pursuant to the first proviso of section 622 (a) of the National Service Life Insurance Act of 1940, and the death occurs before the veteran's return to military jurisdiction or within one hundred and twenty days thereafter. Where dependency and indemnity compensation is not payable by reason of the preceding sentence, death compensation may be paid under section 321 or 341 of this title, as applicable.

(b) No person eligible for dependency and indemnity compensation by reason of any death occurring after December 31, 1956, shall be eligible by reason of such death for any payments under (1) provisions of law administered by the Veterans' Administration providing for the payment of death compensation or death pension, or (2) the Federal Employees' Compensation Act.

38 USC 823.

39 Stat. 742.  
5 USC 751 note.

**Subchapter III—Certifications**

**§ 421. Certifications with respect to basic pay**

(a) The Secretary concerned shall, at the request of the Administrator, certify to him the basic pay, considering rank or grade and cumulative years of service for pay purposes, of deceased persons with respect to whose deaths applications for benefits are filed under this chapter. The certification of the Secretary concerned shall be binding upon the Administrator.

(b) Whenever basic pay (as defined in section 401 of this title) is increased or decreased, basic pay determined pursuant to this chapter shall increase or decrease accordingly.

**§ 422. Certifications with respect to social security entitlement**

(a) Determinations required by section 412 of this title (other than a determination required by section 412 (2) of this title) as to whether any survivor described in section 412 (3) of this title of a deceased individual would be entitled to benefits under section 402 of title 42 for any month and as to the amount of the benefits which would be paid for such month, if the deceased veteran had been a fully and currently insured individual at the time of his death, shall be made by the Secretary of Health, Education, and Welfare, and shall be certified by him to the Administrator upon request of the Administrator.

(b) Upon the basis of estimates made by the Secretary of Health, Education, and Welfare after consultation with the Administrator, the Administrator shall pay to the Secretary an amount equal to the costs which will be incurred in making determinations and certifications under subsection (a). Such payments shall be made with respect to the costs incurred during such period (but not shorter than a calendar quarter) as the Secretary and the Administrator may prescribe. The amount payable for any period shall be increased or reduced to compensate for any underpayment or overpayment, as the case may be, of the costs incurred in any preceding period.

42 USC 402.

(c) Except with respect to determinations made under subsection (a) of this section, the Administrator shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 412 of this title.

### § 423. Certifications by Administrator

Whenever the Administrator determines on the basis of a claim for benefits filed with him that a death occurred under the circumstances referred to in section 1476 (a) of title 10, or section 321 (b) of title 32, he shall certify that fact to the Secretary concerned. In all other cases, he shall make the determination referred to in such section 1476 (a) or 321 (b) at the request of the Secretary concerned.

70A Stat. 606.  
32 USC 321.

## CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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Sec.

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### SUBCHAPTER II—VETERANS' PENSIONS

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- 560. Medal of honor roll; persons eligible.
- 561. Certificate entitling holder to pension.
- 562. Special provisions relating to pension.

## Subchapter I—General

### § 501. Definitions

For the purposes of this chapter—

(1) The term “Indian Wars” means the campaigns, engagements, and expeditions of the United States military forces against Indian tribes or nations, service in which has been recognized heretofore as pensionable service.

(2) The term “World War I” includes, in the case of any veteran, any period of service performed by him after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

(3) The term “Civil War veteran” includes a person who served in the military or naval forces of the Confederate States of America during the Civil War, and the term “active military or naval service” includes active service in those forces.

### § 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 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 a regular aid and attendance if he is helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

### § 503. Items not considered in determining income

For the purposes of this chapter, in determining annual income, the Administrator shall not consider—

(1) payments under laws administered by the Veterans' Administration because of disability or death;

(2) payments of mustering-out pay;

(3) payments of the six months' death gratuity;

(4) annuities under chapter 73 of title 10;

(5) payments of adjusted compensation; and

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

### § 504. Persons heretofore having a pensionable status

The pension benefits of subchapters II and III of this chapter shall, notwithstanding the service requirements of such subchapters, be granted to persons heretofore recognized by law as having a pensionable status.

### § 505. Payment of pension during confinement in penal institutions

(a) No pension under public or private laws administered by the Veterans' Administration shall be paid to or for an individual who has been imprisoned in a Federal, State, or local penal institution as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after his imprisonment begins and ending when his imprisonment ends.

(b) Where any veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may apportion and pay to his wife or children the pension which such veteran would receive for that period but for this section.

(c) Where any widow or child of a veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may (1) if the widow is so disqualified, pay to the child, or children, the pension which would be payable if there were no such widow or (2) if a child is so disqualified, pay to the widow or other children, as applicable, the pension which would be payable if there were no such child.

## Subchapter II—Veterans' Pensions

### SERVICE PENSION

#### § 510. Confederate forces veterans

The Administrator shall pay to each person who served in the military or naval forces of the Confederate States of America during the Civil War a monthly pension in the same amounts and subject to the same conditions as would have been applicable to such person under the laws in effect on December 31, 1957, if his service in those forces had been service in the military or naval service of the United States.

#### § 511. Indian War veterans

(a) The Administrator shall pay to each veteran of the Indian Wars who meets the service requirements of this section a pension at the following monthly rate:

- (1) \$101.59; or
- (2) \$135.45 if the veteran is in need of regular aid and attendance.

(b) A veteran meets the service requirements of this section if he served in one of the Indian Wars—

- (1) for thirty days or more; or
- (2) for the duration of such Indian War;

in any military organization, whether or not such service was the result of regular muster into the service of the United States, if such service was under the authority or by the approval of the United States or any State.

#### § 512. Spanish-American War veterans

(a) (1) The Administrator shall pay to each veteran of the Spanish-American War who meets the service requirements of this subsection a pension at the following monthly rate:

- (A) \$101.59; or
- (B) \$135.45 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if he served in the active military or naval service—

(A) for ninety days or more during the Spanish-American War;

(B) during the Spanish-American War and was discharged or released from such service for a service-connected disability; or

(C) for a period of ninety consecutive days or more and such period began or ended during the Spanish-American War.

(b) (1) The Administrator shall pay to each veteran of the Spanish-American War who does not meet the service requirements of subsection (a), but who meets the service requirements of this subsection, a pension at the following monthly rate:

(A) \$67.73; or

(B) \$88.04 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if he served in the active military or naval service—

(A) for seventy days or more during the Spanish-American War; or

(B) for a period of seventy consecutive days or more and such period began or ended during the Spanish-American War.

#### NON-SERVICE-CONNECTED DISABILITY 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 totally disabled from non-service-connected disability not the result of the veteran's willful misconduct or vicious habits, a pension at the following monthly rate:

(1) \$66.15; or

(2) \$78.75 if (A) the veteran is sixty-five years of age or older, or (B) the veteran has been rated as permanently and totally disabled for a continuous period of ten years and he has been in receipt of pension throughout such period; or

(3) \$135.45 if the veteran is in need of regular aid and attendance.

(b) 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; or

(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.

### § 522. Income limitations

(a) No pension shall be paid under section 521 of this title to any unmarried veteran whose annual income exceeds \$1,400, or to any married veteran or any veteran with children whose annual income exceeds \$2,700.

(b) As a condition of granting or continuing pension under section 521 of this title, the Administrator may require from any veteran applying for, or in receipt of, pension under such sections such information, proofs, or evidence as he desires in order to determine the annual income of such veteran.

### § 523. Combination of ratings

(a) The Administrator shall provide that, for the purpose of determining whether or not a veteran is permanently and totally disabled, ratings for service-connected disabilities may be combined with ratings for non-service-connected disabilities.

(b) Where a veteran, by virtue of subsection (a), is found to be entitled to a pension under section 521 of this title, and is entitled to compensation for a service-connected disability, the Administrator shall pay him the greater benefit.

**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.

**§ 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 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.

**§ 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 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.

**§ 535. Children of Indian War veterans**

Whenever there is no widow entitled to pension under section 534 of this title, the Administrator shall pay to the children of each Indian War veteran who met the service requirements of section 511 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.

### § 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, 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.

### § 537. Children of Spanish-American War veterans

Whenever there is no widow entitled to pension under section 536 of this title, the Administrator shall pay to the children 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 \$73.13 for one child, plus \$8.13 for each additional child, with the total amount equally divided.

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

### § 541. Widows of World War I veterans

(a) The Administrator shall pay to the widow of each veteran of World War I 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 based upon a service-connected disability, a pension at the following monthly rate:

- (1) Widow, no child, \$50.40;
- (2) Widow, one child, \$63, with \$7.56 for each additional child.

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

- (1) before December 14, 1944; or
- (2) for five or more years; or
- (3) for any period of time if a child was born of the marriage.

### § 542. Children of World War I veterans

(a) Whenever there is no widow entitled to pension under section 541 of this title, the Administrator shall pay to the children of each veteran of World War I 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 based upon a service-connected disability, a pension at the following monthly rate:

- (1) One child, \$27.30;
- (2) Two children, \$40.95; and
- (3) Three children, \$54.60, with \$7.56 for each additional child.

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

### § 543. Widows of World War II or Korean conflict veterans

(a) The Administrator shall pay to the widow of each veteran of World War II or of the Korean conflict—

- (1) who met the service requirements of section 521 of this title, and at the time of his death had a service-connected disability for which compensation would have been payable if 10 per centum or more in degree disabling; or

(2) who, at the time of his death, was receiving (or entitled to receive) compensation or retirement pay based upon a service-connected disability;

a pension at the rate prescribed by section 541 of this title for the widow of a veteran of World War I.

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

(1) before January 1, 1957, in the case of a widow of a veteran of World War II, or before February 1, 1965, in the case of a widow of a veteran of the Korean conflict; or

(2) for five or more years; or

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

#### § 544. Children of World War II or Korean conflict veterans

Whenever there is no widow entitled to pension under section 543 of this title, the Administrator shall pay to the children of each veteran of World War II or of the Korean conflict described in paragraph (1) or (2) of section 543 (a) of this title a pension at the rate prescribed by section 542 of this title for the children of a veteran of World War I.

#### § 545. Income limitations

(a) No pension shall be paid under sections 541-544 of this title to any widow without child, or to or on account of any child, whose annual income exceeds \$1,400, or to a widow (with a child) whose annual income exceeds \$2,700.

(b) Where pension is not payable to a widow because of this section, payments to children shall be made as though there were no widow.

### Subchapter IV—Army, Navy, and Air Force Medal of Honor Roll

#### § 560. Medal of Honor Roll; persons eligible

(a) There shall be in the Department of the Army, the Department of the Navy, and the Department of the Air Force, respectively, a roll designated as the "Army, Navy, and Air Force Medal of Honor Roll".

(b) Upon written application to the Secretary concerned, the Secretary shall enter and record on such roll the name of each surviving person who has served in the active military, naval, or air service of the United States in any war, who has attained the age of sixty-five years, and who has been awarded a medal of honor for having in action involving actual conflict with an enemy distinguished himself conspicuously by gallantry or intrepidity, at the risk of his life, above and beyond the call of duty, and who was honorably discharged from service by muster out, resignation, or otherwise.

(c) Applications for entry on such roll shall be made in the form and under regulations prescribed by the Secretary concerned. Proper blanks and instructions shall be furnished by the Secretary concerned, without charge upon the request of any person claiming the benefits of this subchapter.

#### § 561. Certificate entitling holder to pension

(a) The Secretary concerned shall determine whether or not each applicant is entitled to the benefits of this subchapter. If the official award of the Medal of Honor to the applicant, or the official notice to him thereof, shows that the Medal of Honor was awarded to the applicant for an act described in section 560 of this title, such award or notice shall be sufficient to entitle the applicant to special pension under this subchapter without further investigation; otherwise all official correspondence, orders, reports, recommendations, requests, and other evidence on file in any public office or department shall be considered.

(b) Each person whose name is entered on the Army, Navy, and Air Force Medal of Honor roll shall be furnished a certificate of service and of the act of heroism, gallantry, bravery, or intrepidity for which the medal of honor was awarded, of enrollment on such roll, and of his right to special pension.

(c) The Secretary concerned shall deliver to the Administrator a certified copy of each certificate which he issues under this subchapter. Such copy shall authorize the Administrator to pay to the person named in the certificate the special pension provided for in this subchapter.

### § 562. Special provisions relating to pension

(a) The Administrator shall pay monthly to each person whose name has been entered on the Army, Navy, and Air Force Medal of Honor roll a special pension at the rate of \$10, beginning as of the date of application therefor under section 560 of this title.

(b) The receipt of special pension shall not deprive any person of any other pension or other benefit, right, or privilege to which he is or may hereafter be entitled under any existing or subsequent law. Special pension shall be paid in addition to all other payments under laws of the United States.

(c) Special pension shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

(d) If any person has been awarded more than one medal of honor, he shall not receive more than one special pension.

## CHAPTER 17—HOSPITAL, DOMICILIARY, AND MEDICAL CARE

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### Subchapter I—General

#### § 601. Definitions

For the purposes of this chapter—

- (1) The term “disability” means a disease, injury, or other physical or mental defect.
- (2) The term “veteran of any war” includes any veteran of the Indian Wars.
- (3) The term “period of war” includes each of the Indian Wars.
- (4) The term “Veterans’ Administration facilities” means—
  - (A) facilities over which the Administrator has direct and exclusive jurisdiction;
  - (B) Government facilities for which the Administrator contracts; and
  - (C) private facilities for which the Administrator contracts in order to provide hospital care (i) in emergency cases for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air service; (ii) for women veterans of any war; or (iii) for veterans of any war in a Territory, Commonwealth, or possession of the United States.
- (5) The term “hospital care” includes medical services rendered in the course of hospitalization and transportation and incidental expenses for veterans who are in need of treatment for a service-connected disability or are unable to defray the expense of transportation.
- (6) The term “medical services” includes, in addition to medical examination and treatment, dental and surgical services, and dental appliances, wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies as the Administrator determines to be reasonable and necessary.
- (7) The term “domiciliary care” includes transportation and incidental expenses for veterans who are unable to defray the expense of transportation.

#### § 602. Presumption relating to psychosis

For the purposes of this chapter, any veteran of World War II or of the Korean conflict who developed an active psychosis (1) within two years after his discharge or release from the active military, naval, or air service, and (2) before July 26, 1949, in the case of a veteran of World War II, or February 1, 1957, in the case of a veteran of the Korean conflict, shall be deemed to have incurred such disability in the active military, naval, or air service.

### Subchapter II—Hospital or Domiciliary Care and Medical Treatment

#### § 610. Eligibility for hospital and domiciliary care

(a) The Administrator, within the limits of Veterans’ Administration facilities, may furnish hospital care which he determines is needed to—

- (1) a veteran of any war for a service-connected disability incurred or aggravated during a period of war, or for any other disability if such veteran is unable to defray the expenses of necessary hospital care;
- (2) a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty; and

- (3) a person who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.
- (b) The Administrator, within the limits of Veterans' Administration facilities, may furnish domiciliary care to—
- (1) a veteran who was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or a person who is in receipt of disability compensation, when he is suffering from a permanent disability or tuberculosis or neuropsychiatric ailment and is incapacitated from earning a living and has no adequate means of support; and
  - (2) a veteran of any war who is in need of domiciliary care, if he is unable to defray the expenses of necessary domiciliary care.

**§ 611. Hospitalization during examinations and in emergencies**

- (a) The Administrator may furnish hospital care incident to physical examinations where such examinations are necessary in carrying out the provisions of other laws administered by him.
- (b) The Administrator may furnish hospital care as a humanitarian service in emergency cases, but he shall charge for such care at rates prescribed by him.

**§ 612. Eligibility for medical treatment**

- (a) Except as provided in subsection (b), the Administrator, within the limits of Veterans' Administration facilities, may furnish such medical services for a service-connected disability as he finds to be reasonably necessary to a veteran of any war, to a veteran discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or to a person who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation. Veterans eligible under this subsection by reason of discharge or release for disability incurred or aggravated in line of duty may also be furnished medical services for that disability, even though it is not a service-connected disability for the purposes of this chapter.
- (b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—
- (1) which is service-connected and compensable in degree;
  - (2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service and (B) if application for treatment is made within one year after such discharge or release;
  - (3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;
  - (4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service; or
  - (5) from which a veteran of the Spanish-American War is suffering.
- (c) Dental services and related appliances for a dental condition or disability described in clause (2) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

(d) Dental appliances, wheelchairs, artificial limbs, trusses, special clothing, and similar appliances to be furnished by the Administrator under this section may be procured by him either by purchase or by manufacture, whichever he determines may be advantageous and reasonably necessary.

(e) Any disability of a veteran of the Spanish-American War, upon application for the benefits of this section or outpatient medical services under section 624 of this title, shall be considered for the purposes thereof to be a service-connected disability incurred or aggravated in a period of war.

#### § 613. Fitting and training in use of prosthetic appliances

Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, in the use of such appliance as may be necessary, whether in a Veterans' Administration facility or other training institution, or by outpatient treatment, including such service under contract, and including necessary travel expenses to and from his home to such hospital or training institution.

#### § 614. Seeing-eye dogs

The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and he may pay all necessary travel expenses to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness.

#### § 615. Tobacco for hospitalized veterans

The Administrator may furnish tobacco to veterans receiving hospital or domiciliary care.

#### § 616. Hospital care by other agencies of the United States

When so specified in an appropriation or other Act, the Administrator may make allotments and transfers to the Departments of Health, Education, and Welfare (Public Health Service), the Army, Navy, Air Force, or Interior, for disbursement by them under the various headings of their appropriations, of such amounts as are necessary for the care and treatment of veterans entitled to hospitalization from the Veterans' Administration under this chapter. The amounts to be charged the Veterans' Administration for care and treatment of veterans in hospitals shall be calculated on the basis of a per diem rate approved by the Bureau of the Budget.

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

#### § 621. Power to make rules and regulations

The Administrator shall prescribe—

- (1) such rules and procedure governing the furnishing of hospital and domiciliary care as he may deem proper and necessary;
- (2) limitations in connection with the furnishing of hospital and domiciliary care; and
- (3) such rules and regulations as he deems necessary in order to promote good conduct on the part of persons who are receiving hospital or domiciliary care in Veterans' Administration facilities.

**§ 622. Statement under oath**

For the purposes of section 610 (a) (1), section 610 (b) (2), and section 624 (c) of this title, the statement under oath of an applicant on such form as may be prescribed by the Administrator shall be accepted as sufficient evidence of inability to defray necessary expenses.

**§ 623. Furnishing of clothing**

The Administrator shall not furnish clothing to persons who are in Veterans' Administration facilities, except (1) where the furnishing of such clothing to indigent persons is necessary to protect health or sanitation, and (2) where he furnishes veterans with special clothing made necessary by the wearing of prosthetic appliances.

**§ 624. Hospital care and medical services abroad**

(a) Except as provided in subsections (b) and (c), the Administrator shall not furnish hospital or domiciliary care or medical services outside the continental limits of the United States, or a Territory, Commonwealth, or possession of the United States.

(b) The Administrator may furnish necessary hospital care and medical services for any service-connected disability—

- (1) if incurred during a period of war, to any veteran who is a citizen of the United States temporarily sojourning or residing abroad except in the Republic of the Philippines; or
- (2) whenever incurred, to any otherwise eligible veteran in the Republic of the Philippines.

(c) Within the limits of those facilities of the Veterans Memorial Hospital at Manila, Republic of the Philippines, for which the Administrator may contract, he may furnish necessary hospital care to a veteran of any war for any non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital care. The Administrator may enter into contracts to carry out this section.

**§ 625. Arrests for crimes in hospital and domiciliary reservations**

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

**§ 626. Reimbursement for loss of personal effects by fire**

The Administrator shall, under regulations which he shall prescribe, reimburse veterans in Veterans' Administration hospitals and domiciliaries for any loss of personal effects sustained by fire while such effects were stored in designated locations in Veterans' Administration hospitals or domiciliaries.

**§ 627. Persons eligible under prior law**

Persons who have a status which would, under the laws in effect on December 31, 1958, entitle them to the medical services, hospital and domiciliary care, and other benefits, provided for in this chapter, but who do not meet the service requirements contained in this chapter, shall be entitled to such benefits notwithstanding failure to meet such service requirements.

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

#### § 631. Grants to the Republic of the Philippines

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

62 Stat. 1210.

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

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

(1) To provide that in lieu of any grants being made after July 1, 1958, under section 631 of this title, the Administrator may enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, under which the United States will pay for hospital care in the Republic of the Philippines of Commonwealth Army veterans determined by the Administrator to need such hospital care for service-connected disabilities. Such contract may be for a period of not more than five consecutive fiscal years beginning July 1, 1958, and shall provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; but the total of such payments plus any payments for authorized travel expenses in connection with such hospital care shall not exceed \$2,000,000 for any one fiscal year. In addition, such modified agreement may provide that, during the period covered by such contract, medical services for Commonwealth Army veterans determined by the Administrator to be in need thereof for service-connected disabilities shall be provided either in Veterans' Administration facilities, or by contract, or otherwise, by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title.

(2) To provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines. If such agreement is modified in accordance with this paragraph, such agreement (A) shall specify that priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans needing hospital care for service-connected disabilities, and (B) shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

In addition, such agreement may provide for the payment of travel expenses pursuant to section 111 of this title for Commonwealth Army veterans in connection with hospital care or medical services furnished them.

### § 633. Supervision of program by the President

The President, or any officer of the United States to whom he may delegate his authority under this section, may from time to time prescribe such rules and regulations and impose such conditions on the receipt of financial aid as may be necessary to carry out this subchapter.

### § 634. Definitions

For the purposes of this subchapter—

(1) The term "Commonwealth Army veterans" means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

(2) The term "service-connected disabilities" means disabilities determined by the Administrator under laws administered by the Veterans' Administration to have been incurred in or aggravated by the service described in paragraph (1) in line of duty.

## Subchapter V—Payments to State Homes

### § 641. Criteria for payment

(a) The Administrator shall pay each State at the annual rate of \$700 for each veteran of any war cared for in a State home (whether or not he is receiving hospitalization or domiciliary care therein) in such State who is eligible for such care in a Veterans' Administration facility; however, such payment shall not be more, in any case, than one-half of the cost of such veteran's maintenance in such State home.

(b) The amount payable on account of any State home pursuant to subsection (a) for any veteran cared for therein shall be reduced—

(1) by one-half of any amounts retained by such home from any payments of pension or compensation made to such veteran; and

(2) unless the widows or wives of veterans of any war are admitted and maintained in such State home, by any other amounts collected in any manner from such veteran to be used for the support of such State home.

(c) No amounts shall be paid on account of any State home under this section if a bar or canteen is maintained therein where intoxicating liquors are sold.

### § 642. Inspections of such homes; restrictions on beneficiaries

(a) The Administrator may inspect any State home at such times as he deems necessary.

(b) The Administrator may ascertain the number of persons on account of whom payments may be made under this subchapter on account of any State home, but shall have no authority over the management or control of any State home.

## § 643. Applications

Payments on account of any veteran of any war cared for in a State home shall be made under this subchapter only from the date the Administrator receives a request for determination of such veteran's eligibility; however, if such request is received by the Administrator within ten days after care of such veteran begins, payments shall be made on account of such veteran from the date care began.

## CHAPTER 19—INSURANCE

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## Subchapter I—National Service Life Insurance

### § 701. Definitions

For the purposes of this subchapter—

- (1) The term "insurance" means National Service Life Insurance.
- (2) The terms "widow" or "widower" mean a person who was the lawful spouse of the insured at the maturity of the insurance.
- (3) The term "child" means a legitimate child, an adopted child, and, if designated as beneficiary by the insured, a stepchild or an illegitimate child.
- (4) The terms "parent", "father", and "mother" mean a father, mother, father through adoption, mother through adoption, persons who have stood in loco parentis to a member of the military or naval forces at any time before entry into active service for a period of not less than one year, and a stepparent, if designated as beneficiary by the insured.

### § 702. Premium rates and policy values

Premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at the rate of 3 per centum per annum. All cash, loan, paid-up, and extended values, and all other calculations in connection with insurance, shall be based upon said American Experience Table of Mortality and interest at the rate of 3 per centum per annum.

### § 703. Amount of insurance

Insurance shall be issued in any multiple of \$500 and the amount of insurance with respect to any one person shall be not less than \$1,000 or more than \$10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of \$10,000 at any one time.

### § 704. Plans of insurance

Insurance may be issued on the following plans: Five-year level premium term, ordinary life, twenty-payment life, thirty-payment life, twenty-year endowment, endowment at age sixty, and endowment at age sixty-five. Level premium term insurance may be converted as of the date when any premium becomes or has become due, or exchanged as of the date of the original policy, upon payment of the difference in reserve, at any time while such insurance is in force and within the term period to any of the foregoing permanent plans of insurance, except that conversion to an endowment plan may not be made while the insured is totally disabled.

### § 705. Renewal

All level premium term policies, except as otherwise provided in this section, shall cease and terminate at the expiration of the term period. At the expiration of any term period any five-year level premium term policy which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal will be effected in cases where the policy is lapsed only if the lapse occurred not earlier than two months before the expiration of the term period, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator. In any case in which the insured is shown by evidence satisfactory to the Administrator to be totally disabled at the expiration of the level premium term period of his insurance under conditions which would entitle him to continued insurance protection but for such expiration, his insurance, if subject

to renewal under this section, shall be automatically renewed for an additional period of five years at the premium rate for the then attained age, unless the insured has elected insurance on some other available plan.

#### § 706. Policy provisions

Provisions for cash, loan, paid-up, and extended values, dividends from gains and savings, refund of unearned premiums, and such other provisions as may be found to be reasonable and practicable may be provided for in the policy of insurance from time to time by regulations promulgated by the Administrator.

#### § 707. Dividends to pay premiums

Until and unless the Veterans' Administration has received from the insured a request in writing for payment in cash, any dividend accumulations and unpaid dividends shall be applied in payment of premiums becoming due on insurance subsequent to the date the dividend is payable after January 1, 1952.

#### § 708. Premium payments

The Administrator shall, by regulations, prescribe the time and method of payment of the premiums on insurance, but payments of premiums in advance shall not be required for periods of more than one month each, and may at the election of the insured be deducted from his active-service pay or be otherwise made. An amount equal to the first premium due under a National Service Life Insurance policy may be advanced from current appropriations for active-service pay to any person in the active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, which amount shall constitute a lien upon any service or other pay accruing to the person for whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance. Any amount so advanced in excess of available service or other pay shall constitute a lien on the policy within the provisions of section 3101 (b) of this title.

#### § 709. Effective date of insurance

Insurance may be made effective, as specified in the application, not later than the first day of the calendar month following the date of application therefor, but the United States shall not be liable thereunder for death occurring before such effective date.

#### § 710. Incontestability

Subject to the provisions of section 711 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issue, reinstatement, or conversion except for fraud, nonpayment of premium, or on the ground that the applicant was not a member of the military or naval forces of the United States. However, in any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Administrator shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Veterans' Administration to issue, reinstate, or convert such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

**§ 711. Forfeiture**

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to National Service Life Insurance. No insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States; but the cash surrender value, if any, of such insurance on the date of such death shall be paid to the designated beneficiary, if living, or otherwise to the beneficiary or beneficiaries within the permitted class in accordance with the order specified in section 716 (b) of this title.

**§ 712. Total disability waiver**

(a) Upon application by the insured and under such regulations as the Administrator may promulgate, payment of premiums on insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if such disability began (1) after the date of his application for insurance, (2) while the insurance was in force under premium-paying conditions, and (3) before the insured's sixtieth birthday.

(b) The Administrator, upon any application made after August 1, 1947, shall not grant waiver of any premium becoming due more than one year before the receipt in the Veterans' Administration of application for the same, except as provided in this section. Any premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming benefits under this section, and may deny benefits for failure to cooperate. If it is found that an insured is no longer totally disabled, the waiver of premiums shall cease as of the date of such finding and the policy of insurance may be continued by payment of premiums as provided in said policy. In any case in which the Administrator finds that the insured's failure to make timely application for waiver of premiums or his failure to submit satisfactory evidence of the existence or continuance of total disability was due to circumstances beyond his control, the Administrator may grant waiver or continuance of waiver of premiums.

(c) If the insured dies without filing application for waiver, the beneficiary, within one year after the death of the insured, or, if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file application for waiver with evidence of the insured's right to waiver under this section. Premium rates shall be calculated without charge for the cost of waiver of premiums provided in this section and no deduction from benefits otherwise payable shall be made on account thereof.

**§ 713. Death before six months' total disability**

Whenever premiums are not waived under section 712 of this title solely because the insured died prior to the continuance of total disability for six months, and proof of such facts, satisfactory to the Administrator, is filed by the beneficiary with the Veterans' Administration within one year after the insured's death, his insurance shall be deemed to be in force at the date of his death, and the unpaid premiums shall become a lien against the proceeds of his insurance. If the beneficiary is insane or a minor, proof of such facts may be filed within one year after removal of such legal disability.

**§ 714. Statutory total disabilities**

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the total loss of hearing of both ears, or the organic loss of speech, shall be deemed total disability for insurance purposes.

**§ 715. Total disability income provision**

The Administrator shall, upon application by the insured and proof of good health satisfactory to the Administrator and payment of such extra premium as the Administrator shall prescribe, include in any National Service Life Insurance policy on the life of the insured (except a policy issued under section 620 of the National Service Life Insurance Act of 1940, or section 722 of this title) provisions whereby an insured who is shown to have become totally disabled for a period of six consecutive months or more commencing after the date of such application and before attaining the age of sixty and while the payment of any premium is not in default, shall be paid monthly disability benefits from the first day of the seventh consecutive month of and during the continuance of such total disability of \$10 for each \$1,000 of such insurance in effect when such benefits become payable. The total disability provision authorized under this section shall not be added to a policy containing the total disability coverage heretofore issued under section 602 (v) of the National Service Life Insurance Act of 1940, except upon surrender of such total disability coverage, proof of good health satisfactory to the Administrator, and payment of such extra premium as the Administrator shall determine is required in such cases. Participating policies containing additional provisions for the payment of disability benefits may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such benefit.

38 USC 821.

38 USC 802.

**§ 716. Insurance which matured before August 1, 1946**

(a) Insurance which matured before August 1, 1946, is payable in the following manner:

(1) If the beneficiary to whom payment is first made was under thirty years of age at the time of maturity, in two hundred and forty equal monthly installments.

(2) If the beneficiary to whom payment is first made was thirty or more years of age at the time of maturity, in equal monthly installments for one hundred and twenty months certain, with such payments continuing during the remaining lifetime of such beneficiary.

(3) If elected by the insured or a beneficiary entitled to make such an election under prior provisions of law, as a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary. A refund life income optional settlement is not available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months. If the mode of payment is changed to a refund life income in accordance with prior provisions of law, after payment has commenced, payment of monthly installments will be adjusted as of the date of maturity of such policy with credit being allowed for payments previously made on the insurance.

(b) Such insurance shall be payable only to a widow, widower, child, parent, brother or sister of the insured. Any installments certain of such insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the following classes, and in the order named, unless designated by the insured in a different order:

(1) To the widow or widower of the insured, if living.

(2) If no widow or widower, to the child or children of the insured, if living, in equal shares.

(3) If no widow, widower, or child, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(4) If no widow, widower, child, or parent, to the brothers and sisters of the insured, if living, in equal shares.

(c) The provisions of this section shall not be construed to enlarge the classes of beneficiaries heretofore authorized under section 632

38 USC 802.

(d) of the National Service Life Insurance Act of 1940, for payment of gratuitous insurance.

(d) If no beneficiary of insurance which matured before August 1, 1946, was designated by the insured or if the designated beneficiary did not survive the insured, the beneficiary shall be determined in accordance with the order specified in subsection (b) and the insurance shall be payable in equal monthly installments in accordance with subsection (a). The right of any beneficiary to payment of any installments of such insurance shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as provided in subsection (b).

(e) No installments of insurance which matured before August 1, 1946, shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made, except that if the reserve of a contract of converted National Service Life Insurance, together with dividends accumulated thereon, less any indebtedness under such contract, exceeds the aggregate amount paid to beneficiaries, the excess shall be paid to the estate of the insured unless the estate of the insured would escheat under the laws of his place of residence, in which event no payment shall be made. When the amount of an individual monthly payment of such insurance is less than \$5, such amount may, in the discretion of the Administrator, be allowed to accumulate without interest and be disbursed annually.

(f) Any payments of insurance made to a person, represented by the insured to be within the permitted class of beneficiaries, shall be deemed to have been properly made and to satisfy fully the obligation of the United States under such insurance policy to the extent of such payments.

#### § 717. Insurance maturing on or after August 1, 1946

(a) The insured shall have the right to designate the beneficiary or beneficiaries of insurance maturing on or after August 1, 1946, and shall, subject to regulations, at all times have the right to change the beneficiary or beneficiaries of such insurance without the consent of such beneficiary or beneficiaries.

(b) Insurance maturing on or after August 1, 1946, shall be payable in accordance with the following optional modes of settlement:

(1) In one sum.

(2) In equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve.

(3) In equal monthly installments for one hundred and twenty months certain with such payments continuing during the remaining lifetime of the first beneficiary.

(4) As a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary; however, such optional settlement shall not be available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months.

(c) Unless the insured elects some other mode of settlement, such insurance shall be payable to the designated beneficiary or beneficiaries in thirty-six equal monthly installments. The first beneficiary may elect to receive payment under any option which provides for payment over a longer period of time than the option elected by the insured, or if no option has been elected by the insured, in excess of thirty-six months. If the option selected requires payment to any one beneficiary of monthly installments of less than \$10, the amount payable to such beneficiary shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than \$10. If the present value of the amount payable at the time any person initially becomes entitled to payment thereof is not sufficient to pay at least twelve monthly installments of not less than \$10 each, such amount shall be payable in one sum. Options (3) and (4) shall not be available if any firm, corporation, legal entity (including the estate of the insured), or trustee is beneficiary, or in any case in which an endowment contract matures by reason of the completion of the endowment period.

(d) If the beneficiary of such insurance is entitled to a lump-sum settlement but elects some other mode of settlement and dies before receiving all the benefits due and payable under such mode of settlement, the present value of the remaining unpaid amount shall be payable to the estate of the beneficiary. If no beneficiary is designated by the insured, or if the designated beneficiary does not survive the insured, or if a designated beneficiary not entitled to a lump-sum settlement survives the insured, and dies before receiving all the benefits due and payable, then the commuted value of the remaining unpaid insurance (whether accrued or not) shall be paid in one sum to the estate of the insured. In no event shall there be any payment to the estate of the insured or of the beneficiary of any sums unless it is shown that any sums paid will not escheat.

### § 718. Assignments

Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Veterans' Administration before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser.

### § 719. National Service Life Insurance appropriation

(a) The National Service Life Insurance appropriation is continued and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter and the provisions heretofore prescribed in the National Service Life Insurance Act of 1940, or related Acts, for the payment of liabilities under National Service Life Insurance. Payment from this appropriation shall be made upon and in accordance with awards by the Administrator.

54 Stat. 1008.  
38 USC 801-823.

(b) All premiums heretofore and hereafter paid on insurance issued or reinstated under subsections 602 (c) (2) and 602 (v) (1) of the National Service Life Insurance Act of 1940 where the requirement of good health was waived under such subsections because of a service-incurred injury or disability shall be credited directly to the National Service Life Insurance appropriation and any payments of benefits heretofore and hereafter made on such insurance shall be made directly from such appropriation.

38 USC 802.

### § 720. National Service Life Insurance Fund

(a) The National Service Life Insurance Fund heretofore created in the Treasury is continued as a permanent trust fund. Except as otherwise provided in this chapter, all premiums paid on account of National Service Life Insurance shall be deposited and covered into the Treasury to the credit of such fund, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance, including payment of dividends and refunds of unearned premiums. Payments from this fund shall be made upon and in accordance with awards by the Administrator.

(b) The Administrator is authorized to set aside out of such fund such reserve amounts as may be required under accepted actuarial principles to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest such fund, or any part thereof, in interest-bearing obligations of the United States or in obligations guaranteed as to principal and interest by the United States, and to sell such obligations for the purposes of such fund.

### § 721. Extra hazard costs

(a) The United States shall bear the excess mortality cost and the cost of waiver of premiums on account of total disability traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator.

(b) Whenever benefits under insurance become payable because of the death of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator, the liability for payment of such benefits shall be borne by the United States in an amount which, when added to the reserve of the policy at the time of death of the insured will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits of insurance heretofore or hereafter matured, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of 3 per centum per annum. The Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(c) Whenever the premiums under insurance are waived because of the total disability of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator, the premiums so

waived shall be paid by the United States and the Administrator shall transfer from time to time an amount equal to the amount of such premiums from the National Service Life Insurance appropriation to the National Service Life Insurance Fund.

(d) Whenever benefits under the total disability income provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States, and the Administrator shall transfer from the National Service Life Insurance appropriation to the National Service Life Insurance Fund from time to time any amounts which become, or have become, payable to the insured on account of such total disability, and to transfer from the National Service Life Insurance Fund to the National Service Life Insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability, and is then entitled to continue protection under the total disability income provision, the Administrator shall transfer to the National Service Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(e) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

56 Stat. 1066.  
34 USC 853c-6.

#### § 722. Service disabled veterans' insurance

(a) Any person who is released from active military, naval, or air service, under other than dishonorable conditions on or after April 25, 1951, and is found by the Administrator to be suffering from a disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator, shall, upon application in writing made within one year from the date service-connection of such disability is determined by the Veterans' Administration and payment of premiums as provided in this subchapter, be granted insurance by the United States against the death of such person occurring while such insurance is in force. If such a person is shown by evidence satisfactory to the Administrator to have been mentally incompetent during any part of the one-year period, application for insurance under this section may be filed within one year after a guardian is appointed or within one year after the removal of such disability as determined by the Administrator, whichever is the earlier date. If the guardian was appointed or the removal of the disability occurred before January 1, 1959, application for insurance under this section may be made within one year after that date. Insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of  $2\frac{1}{4}$  per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based upon the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of  $2\frac{1}{4}$  per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of  $2\frac{1}{4}$  per centum per annum; (4) insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited

38 USC 802.

directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized. As to insurance issued under this section, waiver of premiums pursuant to section 602 (n) of the National Service Life Insurance Act of 1940 and section 712 of this title shall not be denied on the ground that the service-connected disability became total before the effective date of such insurance.

38 USC 821.

(b) (1) Any person who, on or after April 25, 1951, was otherwise qualified for insurance under the provisions of section 620 of the National Service Life Insurance Act of 1940, or under subsection (a) of this section, but who did not apply for such insurance and who is shown by evidence satisfactory to the Administrator (A) to have been mentally incompetent from a service-connected disability, (i) at the time of release from active service, or (ii) during any part of the one-year period from the date the service connection of a disability is first determined by the Veterans' Administration, or (iii) after release from active service but is not rated service-connected disabled by the Veterans' Administration until after death; and (B) to have remained continuously so mentally incompetent until date of death; and (C) to have died before the appointment of a guardian, or within one year after the appointment of a guardian; shall be deemed to have applied for and to have been granted such insurance, as of the date of death, in an amount which, together with any other United States Government or National Service life insurance in force, shall aggregate \$10,000. The date to be used for determining whether such person was insurable according to the standards of good health established by the Administrator, except for the service-connected disability, shall be the date of release from active service or the date the person became mentally incompetent, whichever is the later.

(2) Payments of insurance granted under subsection (b) (1) of this section shall be made only to the following beneficiaries and in the order named—

(A) to the widow or widower of the insured, if living and while unmarried;

(B) if no widow or widower entitled thereto, to the child or children of the insured, if living, in equal shares;

(C) if no widow or widower or child entitled thereto, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(3) No application for insurance payments under this subsection shall be valid unless filed in the Veterans' Administration within two years after the date of death of the insured or before January 1, 1961, whichever is the later, and the relationship of the applicant shall be proved as of the date of death of the insured by evidence satisfactory to the Administrator. Persons shown by evidence satisfactory to the Administrator to have been mentally or legally incompetent at the time the right to apply for death benefits expires, may make such application at any time within one year after the removal of such disability.

(4) Notwithstanding the provisions of section 717 of this title, insurance under this subsection shall be payable at the election of the first beneficiary in 240 equal monthly installments or under the options specified in section 717 (b) (3) or (4) of this title. Any installments certain of insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the classes specified in subsection (b) (2) of this section and in the order named.

(5) The right of any beneficiary to payment of any installments shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as provided in subsection (b) (2) of this section. No installments of such insurance shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made.

### § 723. Veterans' special term insurance

(a) Insurance heretofore granted under the provisions of section 621 of the National Service Life Insurance Act of 1940, against the death of the policyholder occurring while such insurance is in force, is subject to the same terms and conditions as are contained in standard policies of National Service Life Insurance on the five-year level premium term plan except (1) such insurance may not be exchanged for or converted to insurance on any other plan; (2) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of  $2\frac{1}{4}$  per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of  $2\frac{1}{4}$  per centum per annum; (4) such insurance and any total disability provision added thereto shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited to a revolving fund in the Treasury of the United States and the payments on such term insurance and any total disability provision added thereto shall be made directly from such fund. Appropriations to such fund are hereby authorized.

38 USC 822.

(b) The Administrator is authorized to invest in, and the Secretary of the Treasury is authorized to sell and retire, special interest-bearing obligations of the United States for the account of the revolving fund with a maturity date as may be agreed upon by the Administrator and Secretary. The rate of interest on such obligations shall be fixed by the Secretary of the Treasury at a rate not exceeding the average interest rate on all marketable obligations of the United States Treasury outstanding as of the end of the month preceding the date of issue of this special obligation.

### § 724. In-service waiver of premiums

(a) Waiver of all premiums on five-year level premium term insurance and that portion of any permanent insurance premiums representing the cost of the pure insurance risk, as determined by the Administrator, granted on National Service Life Insurance or United States Government life insurance under section 622 of the National Service Life Insurance Act of 1940 and in effect on January 1, 1959, shall, unless canceled, continue in effect according to the provisions of such section for the remainder of the insured's continuous active service and for one hundred and twenty days thereafter. Such premium waiver renders the contract of insurance nonparticipating during the period the waiver is in effect.

38 USC 823.

(b) Whenever benefits become payable because of the maturity of such insurance while under the premium waiver continued by this section, liability for payment of such benefits shall be borne by the United States in an amount which, when added to any reserve of the policy at the time of maturity, will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits, the calculation of such

38 USC 821, 822.

liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of  $2\frac{1}{4}$  per centum per annum as to insurance issued under sections 620 and 621 of the National Service Life Insurance Act of 1940, at the rate of 3 per centum per annum as to other National Service Life Insurance, and  $3\frac{1}{2}$  per centum per annum as to United States Government life insurance. The Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

## Subchapter II—United States Government Life Insurance

### § 740. Definition

For the purposes of this subchapter, the term "insurance" means United States Government life insurance.

### § 741. Amount of insurance

United States Government life insurance shall be issued against death or total permanent disability in any multiple of \$500 and not less than \$1,000 or more than \$10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of \$10,000 at any one time.

### § 742. Plans of insurance

Regulations shall provide for the right to convert insurance on the five-year level premium term plan into ordinary life, twenty-payment life, endowment maturing at age sixty-two, and into other usual forms of insurance as may be prescribed by the Administrator. Provision shall be made for reconversion of any such policies to a higher premium rate or, upon proof of good health satisfactory to the Administrator, to a lower premium rate, in accordance with regulations to be issued by the Administrator. No reconversion shall be made to a five-year level premium term policy.

### § 743. Premiums

The premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at  $3\frac{1}{2}$  per centum per annum. Regulations shall prescribe the time and method of payment of premiums, but payments of premiums in advance shall not be required for periods of more than one month each, and may be deducted from the pay or deposit of the insured or be otherwise made at his election.

### § 744. Policy provisions

(a) Provisions for maturity at certain ages, for continuous installments during the lifetime of the insured or beneficiaries, or both, for refund of premiums, cash, loan, paid-up and extended values, dividends from gains and savings, and such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable may be provided for in insurance contracts or from time to time by regulations.

(b) All calculations on insurance shall be based upon the American Experience Table of Mortality and interest at  $3\frac{1}{2}$  per centum per annum, except that no deduction shall be made for continuous installments during the life of the insured in case his total and permanent disability continues more than two hundred and forty months.

(c) On and after July 19, 1939, the rate of interest charged on any loan secured by a lien on insurance shall not exceed 5 per centum per annum.

#### § 745. Renewal

(a) Effective July 23, 1953, at the expiration of any term period any insurance policy issued on the five-year level premium term plan which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, on and after such date renewal shall be effected in cases where the policy is lapsed only if the lapse occurred not earlier than two months before the expiration of the term period, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator. In any case where the five-year level premium term period expired between July 23, 1953, and December 31, 1953, both dates inclusive, under the conditions set forth in the preceding sentence, the insured, notwithstanding the expiration of an intervening five-year period, shall have not less than six months following the date of enactment of this title within which to meet the terms and conditions prescribed by the Administrator under the preceding sentence.

(b) This section shall take effect on the date of enactment of this title.

#### § 746. Dividends to pay premiums

Until and unless the Veterans' Administration has received from the insured a request in writing for payment of dividends in cash or that the dividends be placed on deposit in accordance with the provisions of his policy, any regular annual dividends shall be applied in payment of premiums becoming due on insurance after the date the dividend is payable on or after December 31, 1958.

#### § 747. Incontestability

Subject to the provisions of section 754 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issuance, reinstatement, or conversion, except for fraud, nonpayment of premiums, or on the ground that the applicant was not a member of the military or naval forces of the United States. The insured under such contract or policy may, without prejudicing his rights, elect to make claim to the Veterans' Administration or to bring suit under section 784 of this title on any prior contract or policy, and if found entitled thereto, shall, upon surrender of any subsequent contract or policy, be entitled to payments under the prior contract or policy. In any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Administrator shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Veterans' Administration to issue, reinstate, or convert such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

#### § 748. Total disability provision

The Administrator shall include in United States Government life insurance policies provision whereby an insured, who is totally disabled as a result of disease or injury for a period of four consecutive months or more before attaining the age of sixty-five years and before

default in payment of any premium, shall be paid disability benefits at the rate of \$5.75 monthly for each \$1,000 of insurance in force when total disability benefits become payable. The amount of such monthly payment under the provisions of this section shall not be reduced because of payment of permanent and total disability benefits under the insurance policy. Such payments shall be effective as of the first day of the fifth consecutive month, and shall be made monthly during the continuance of such total disability. Such payments shall be concurrent with or independent of permanent and total disability benefits under the insurance policy. In addition to the monthly disability benefits the payment of premiums on the life insurance and for the total disability benefits authorized by this section shall be waived during the continuance of such total disability. Regulations shall provide for reexaminations of beneficiaries under this section; and, in the event that it is found that an insured is no longer totally disabled, the waiver of premiums and payment of benefits shall cease and the insurance policy, including the total disability provision, may be continued by payment of premiums as provided in said policy and the total disability provision. Neither the dividends nor the amount payable in any settlement under any United States Government life insurance policy shall be decreased because of disability benefits granted under the provisions of this section. The payment of total disability benefits shall not prejudice the right of any insured, who is totally and permanently disabled, to permanent and total disability benefits under his insurance policy. The provision authorized by this section shall not be included in any United States Government life insurance policy heretofore or hereafter issued, except upon application, payment of premium by the insured, and proof of good health satisfactory to the Administrator. The benefit granted under this section shall be on the basis of multiples of \$500, and not less than \$1,000 or more than the amount of insurance in force at time of application. The Administrator shall determine the amount of the monthly premium to cover the benefits of this section, and in order to continue such benefits in force the monthly premiums shall be payable until the insured attains the age of sixty-five years or until the prior maturity of the policy. In all other respects such monthly premium shall be payable under the same terms and conditions as the regular monthly premium on the United States Government life insurance policy.

#### **§ 749. Change of beneficiary**

Subject to regulations, the insured shall at all times have the right to change the beneficiary or beneficiaries of a United States Government life insurance policy without the consent of such beneficiary or beneficiaries.

#### **§ 750. Payment to estates**

If no beneficiary of insurance is designated by the insured, either in his lifetime or by his last will and testament, or if the designated beneficiary does not survive the insured, then there shall be paid to the estate of the insured the present value of the remaining unpaid monthly installments. If the designated beneficiary survives the insured and dies before receiving all of the installments of insurance payable and applicable, then there shall be paid to the estate of such beneficiary the present value of the remaining unpaid monthly installments. No payments shall be made to any estate which under the laws of the residence of the insured or the beneficiary, as the case may be, would escheat, but same shall escheat to the United States and be credited to the United States Government Life Insurance Fund.

**§ 751. Payment of insurance**

United States Government life insurance, except as provided in this subchapter, shall be payable in two hundred and forty equal monthly installments. When the amount of an individual monthly payment is less than \$5, such amount may in the discretion of the Administrator be allowed to accumulate without interest and be disbursed annually.

**§ 752. Optional settlement**

The Administrator may provide in insurance contracts for optional settlements, to be selected by the insured, whereby such insurance may be made payable either in one sum or in installments for thirty-six months or more. A provision may also be included in such contracts authorizing the beneficiary to elect to receive payment of the insurance in installments for thirty-six months or more, but only if the insured has not exercised his right of election as provided in this subchapter. Even though the insured may have exercised his right of election the beneficiary may elect to receive such insurance in installments spread over a greater period of time than that selected by the insured.

**§ 753. Assignments**

Any person to whom United States Government life insurance shall be payable may assign his interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

**§ 754. Forfeiture**

No yearly renewable term insurance or United States Government life insurance shall be payable for death inflicted as a lawful punishment for crime or military offense, except when inflicted by the enemy. In such cases the cash surrender value of United States Government life insurance, if any, on the date of such death shall be paid to the designated beneficiary if living, or if there be no designated beneficiary alive at the death of the insured the said value shall be paid to the estate of the insured.

**§ 755. United States Government Life Insurance Fund**

(a) All premiums paid on account of United States Government life insurance shall be deposited and covered into the Treasury to the credit of the United States Government Life Insurance Fund and shall be available for the payment of losses, dividends, refunds, and other benefits provided for under such insurance, including such liabilities as shall have been or shall hereafter be reduced to judgment in a district court of the United States or the United States District Court for the District of Columbia. Payments from this fund shall be made upon and in accordance with awards by the Administrator.

(b) The Administrator is authorized to set aside out of the funds so collected such reserve funds as may be required, under accepted actuarial principles, to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest the said United States Government Life Insurance Fund, or any part thereof, in interest-bearing obligations of the United States or bonds of the Federal farm-loan banks and to sell said obligations of the United States or the bonds of the Federal farm-loan banks for the purposes of such Fund.

**§ 756. Military and naval insurance appropriation**

All sums heretofore or hereafter appropriated for the military and naval insurance appropriation and all premiums collected for yearly renewable term insurance deposited and covered into the Treasury to the credit of this appropriation shall be made available to the Veterans' Administration. All premiums that may hereafter be collected for yearly renewable term insurance shall be deposited and covered into the Treasury for the credit of this appropriation. Such sum is made available for the payment of the liabilities of the United States incurred under contracts of yearly renewable term insurance. Payments from this appropriation shall be made upon and in accordance with the awards by the Administrator.

**§ 757. Extra hazard costs**

(a) The United States shall bear the excess mortality and disability cost resulting from the hazards of war on United States Government life insurance.

(b) Whenever benefits under United States Government life insurance become, or have become, payable because of total permanent disability of the insured or because of the death of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States. In such cases the Administrator shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum which, together with the reserve of the policy at the time of maturity by total permanent disability or death, will equal the then value of such benefits. When a person receiving total permanent disability benefits under a United States Government life insurance policy recovers from such disability and is then entitled to continue a reduced amount of insurance, the Administrator shall transfer to the military and naval insurance appropriation all of the loss reserve to the credit of such policy claim except a sum sufficient to set up the then required reserve on the reduced amount of the insurance that may be continued, which sum shall be retained in the United States Government Life Insurance Fund for the purpose of such reserve.

(c) Whenever benefits under the total disability provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States, and the Administrator shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund from time to time any amounts which become or have become payable to the insured on account of such total disability, and shall transfer from the United States Government Life Insurance Fund to the military and naval insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability and is then entitled to continued protection under the total disability provision, the Administrator shall transfer to the United States Government Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(d) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

**§ 758. Statutory total permanent disability**

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the loss of hearing of both ears, or the organic loss of speech, shall be deemed total permanent disability for insurance purposes. This section shall be deemed to be in effect on and after April 6, 1917, and shall apply only to automatic insurance, yearly renewable term insurance, and United States Government life insurance issued prior to December 15, 1936.

**§ 759. Waiver of disability for reinstatement**

(a) In the event that all provisions of the rules and regulations other than the requirements as to the physical condition of the applicant have been complied with, an application for reinstatement, in whole or in part, of lapsed United States Government life insurance may be approved if made within two years after the date of lapse and if the applicant's disability is the result of an injury or disease, or of an aggravation thereof, suffered or contracted in the active military or naval service during the period beginning April 6, 1917, and ending July 2, 1921, and the applicant during his lifetime submits proof satisfactory to the Administrator showing that he is not totally and permanently disabled. As a condition to the acceptance of an application for reinstatement under this section, the applicant shall be required to pay all the back monthly premiums which would have become payable if such insurance had not lapsed, together with interest at the rate of 5 per centum per annum, compounded annually, on each premium from the date said premium is due by the terms of the policy.

(b) Premium liens established under the provisions of section 304 of the World War Veterans' Act, 1924, shall continue to bear interest at the rate of 5 per centum per annum, compounded annually, and will be deducted from any settlement of insurance to which they are attached.

38 USC 515.

**§ 760. Waiver of premium payments on due date**

(a) The Administrator is authorized to provide by regulations for waiving the payment of premiums on United States Government life insurance on the due date thereof and the insurance may be deemed not to lapse in the cases of the following persons: (1) those who are confined in hospital under the Veterans' Administration for a compensable disability during the period while they are so confined; (2) those who are rated as temporarily totally disabled by reason of any injury or disease entitling them to compensation during the period of such total disability and while they are so rated; (3) those who, while mentally incompetent and for whom no legal guardian had been or has been appointed, allowed or may allow their insurance to lapse during the period for which they have been or hereafter may be rated mentally incompetent, or until a guardian has notified the Veterans' Administration of his qualification, but not later than six months after appointment of a guardian. In mentally incompetent cases the waiver is to be made without application and retroactive when necessary. Relief from payment of premiums on the due date thereof shall be for full calendar months, beginning with the month in which said confinement to hospital, the temporary total disability rating, or the mental incompetency began or begins and ending with that month during the half or major fraction of which such persons are no longer entitled to waiver as provided above.

(b) All premiums the payment of which when due is waived as provided in this section shall bear interest at the rate of 5 per centum per annum, compounded annually, from the due date of each premium, and if not paid by the insured shall be deducted from the insurance in any settlement thereunder, or when the same matures either because of permanent total disability or death. In the event any lien or other indebtedness established by this section or prior corresponding provision of law exists against any policy of United States Government life insurance in excess of the then cash surrender value thereof at the time of the termination of such policy of insurance for any reason other than by death or total permanent disability the Administrator is authorized to transfer and pay from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum equal to the amount such lien or indebtedness exceeds the then cash surrender value.

### Subchapter III—General

#### § 781. Replacement of surrendered and expired insurance

(a) Any person who surrendered a policy of National Service Life Insurance or United States Government life insurance on a permanent plan for its cash value while in the active service after April 24, 1951, and before January 1, 1957, who was entitled on December 31, 1958, to reinstate or replace such insurance under section 623 of the National Service Life Insurance Act of 1940, may, upon application in writing made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, be granted, without medical examination, permanent plan insurance on the same plan not in excess of the amount surrendered for cash, or may reinstate such surrendered insurance upon payment of the required reserve and the premium for the current month. Waiver of premiums and total disability income benefits otherwise authorized under this chapter shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section or the prior corresponding provision of law in which it is shown to the satisfaction of the Administrator that total disability of the applicant began before the date of application. The cost of the premiums waived and total disability income benefits paid by virtue of the preceding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to reimburse the funds for such costs.

(b) Any person who had United States Government life insurance or National Service Life Insurance on the five-year level premium term plan, the term of which expired while he was in the active service after April 25, 1951, or within one hundred and twenty days after separation from such active service, and in either case before January 1, 1957, who was entitled on December 31, 1958, to replace such insurance under section 623 of the National Service Life Insurance Act of 1940, shall, upon application made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, payment of premiums and evidence of good health satisfactory to the Administrator, be granted an equivalent amount of insurance on the five-year level premium term plan at the premium rate for his then attained age.

70 Stat. 880.  
38 USC 824.

38 USC 824.

**§ 782. Administrative cost**

The United States shall bear the cost of administration in connection with this chapter, including expenses for medical examinations, inspections when necessary, printing and binding, and for such other expenditures as are necessary in the discretion of the Administrator.

**§ 783. Settlements for minors or incompetents**

When an optional mode of settlement of National Service Life Insurance or United States Government life insurance heretofore or hereafter matured is available to a beneficiary who is a minor or incompetent, such option may be exercised by his fiduciary, person qualified under section 14 of title 25, or person recognized by the Administrator as having custody of the person or the estate of such beneficiary, and the obligation of the United States under the insurance contract shall be fully satisfied by payment of benefits in accordance with the mode of settlement so selected.

25 USC 14.

**§ 784. Suits on insurance**

(a) In the event of disagreement as to claim, including claim for refund of premiums, under contract of National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance between the Veterans' Administration and any person or persons claiming thereunder an action on the claim may be brought against the United States either in the United States District Court for the District of Columbia or in the district court of the United States in and for the district in which such person or any one of them resides, and jurisdiction is conferred upon such courts to hear and determine all such controversies. All persons having or claiming to have an interest in such insurance may be made parties to such suit, and such as are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct. In all cases where the Veterans' Administration acknowledges the indebtedness of the United States upon any such contract of insurance and there is a dispute as to the person or persons entitled to payment, a suit in the nature of a bill of interpleader may be brought at the request of the Veterans' Administration in the name of the United States against all persons having or claiming to have any interest in such insurance in the United States District Court for the District of Columbia or in the district court in and for the district in which any such claimant resides; however, no less than thirty days before instituting such suit the Veterans' Administration shall mail a notice of such intention to each of the persons to be made parties to the suit. The courts of appeals for the several circuits, including the District of Columbia, shall respectively exercise appellate jurisdiction and, except as provided in section 1254 of title 28, the decrees of such courts of appeals shall be final.

28 USC 1254.

(b) No suit on yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made. For the purposes of this section it shall be deemed that the right accrued on the happening of the contingency on which the claim is founded. The limitation of six years is suspended for the period elapsing between the filing in the Veterans' Administration of the claim sued upon and the denial of said claim: *Provided*, That in any case in which a claim is timely filed the claimant shall have not less than ninety days from the date of mailing of notice of denial within which to file suit. After June 28, 1936, notice of denial of the claim under a contract of insurance shall be by registered mail directed to

the claimant's last address of record. Infants, insane persons, or persons under other legal disability, or persons rated as incompetent or insane by the Veterans' Administration shall have three years in which to bring suit after the removal of their disabilities. If suit is seasonably begun and fails for defect in process, or for other reasons not affecting the merits, a new action, if one lies, may be brought within a year though the period of limitation has elapsed. No State or other statute of limitations shall be applicable to suits filed under this section.

(c) In any suit, action, or proceeding brought under the provisions of this section subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district: *Provided*, That no writ of subpoena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the court being first had upon proper application and cause shown. The word "district" and the words "district court" as used herein shall be construed to include the District of Columbia and the United States District Court for the District of Columbia.

(d) Attorneys of the Veterans' Administration, when assigned to assist in the trial of cases, and employees of the Veterans' Administration when ordered in writing by the Administrator to appear as witnesses, shall be paid the regular travel and subsistence allowance paid to other employees when on official travel status.

(e) Part-time and fee-basis employees of the Veterans' Administration, in addition to their regular travel and subsistence allowance, when ordered in writing by the Administrator to appear as witnesses in suits under this section, may be allowed, within the discretion and under written orders of the Administrator, a fee in an amount not to exceed \$50 per day.

(f) Employees of the Veterans' Administration who are subpoenaed to attend the trial of any suit, under the provisions of this section, as witnesses for a party to such suit shall be granted court leave or authorized absence, as applicable, for the period they are required to be away from the Veterans' Administration in answer to such subpoenas.

(g) Whenever a judgment or decree shall be rendered in an action brought under the provisions of this section, the court, as a part of its judgment or decree, shall determine and allow reasonable fees for the attorneys of the successful party or parties and apportion same if proper, said fees not to exceed 10 per centum of the amount recovered and to be paid by the Veterans' Administration out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each of such payments until paid; except that, in a suit brought by or on behalf of an insured during his lifetime for waiver of premiums on account of total disability, the court, as part of its judgment or decree, shall determine and allow a reasonable fee to be paid by the insured to his attorney.

(h) The term "claim" as used in this section means any writing which uses words showing an intention to claim insurance benefits; and the term "disagreement" means a denial of the claim, after consideration on its merits, by the Administrator or any employee or organizational unit of the Veterans' Administration heretofore or hereafter designated therefor by the Administrator.

(i) The Attorney General of the United States is authorized to agree to a judgment to be rendered by the chief judge of the United States court having jurisdiction of the case, pursuant to compromise approved by the Attorney General upon the recommendation of the United States attorney charged with the defense, upon such terms and for sums within the amount claimed to be payable, in any suit

brought under the provisions of this section, on a contract of yearly renewable term insurance, and the Administrator shall make payments in accordance with any such judgment. The Comptroller General of the United States shall allow credit in the accounts of disbursing officers for all payments of insurance made in accordance with any such judgment. All such judgments shall constitute final settlement of the claim and no appeal therefrom shall be authorized.

#### § 785. Decisions by the administrator

Except in the event of suit as provided in section 784 of this title, or other appropriate court proceedings, all decisions rendered by the Administrator under the provisions of this chapter shall be final and conclusive on all questions of law or fact, and no other official of the United States shall have jurisdiction to review any such decisions.

#### § 786. Deposits in and disbursements from trust funds

All cash balances in the United States Government Life Insurance Fund and the National Service Life Insurance Fund on January 1, 1959, together with all moneys thereafter accruing to such funds, including premiums, appropriated moneys, the proceeds of any sales of investments which may be necessary to meet current expenditures, and interest on investments, shall be available for disbursement for meeting all expenditures and making investments authorized to be made from such funds.

#### § 787. Penalties

(a) Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in anywise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any application for insurance or reinstatement thereof, waiver of premiums or claim for benefits under National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance for himself or any other person, shall be fined not more than \$1,000, or be imprisoned for not more than one year, or both.

(b) Whoever in any claim for National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance makes any sworn statement of a material fact knowing it to be false, shall be guilty of perjury and shall be fined not more than \$5,000, or be imprisoned for not more than two years, or both.

#### § 788. Savings provision

Nothing in this title or any amendment or repeal made by the Act enacting this title shall affect any right, remedy, liability, authorization or requirement pertaining to Government insurance, the respective insurance funds, or the insurance appropriations, authorized or prescribed under the provisions of the War Risk Insurance Act, the World War Veterans' Act, 1924, the National Service Life Insurance Act of 1940, or any related Act, which was in effect on December 31, 1958.

38 USC 287, 357,  
502, 575, 421-574  
passim, 801-824.

### CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

Sec.

801. Veterans eligible for assistance.

802. Limitations on assistance furnished.

803. Furnishing of plans and specifications.

804. Benefits additional to benefits under other laws.

805. Nonliability of United States.

**§ 801. Veterans eligible for assistance**

The Administrator is authorized, under such regulations as he may prescribe, to assist any veteran, who is entitled to compensation under chapter 11 of this title, based on service after April 20, 1898, for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor. The regulations of the Administrator shall include, but not be limited to, provisions requiring findings that (1) it is medically feasible for such veteran to reside in the proposed housing unit and in the proposed locality; (2) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and (3) the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

**§ 802. Limitations on assistance furnished**

The assistance authorized by section 801 of this title shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran but shall not exceed \$10,000 in any one case—

(1) where the veteran elects to construct a housing unit on land to be acquired by him, the Administrator shall pay not to exceed 50 per centum of the total cost to the veteran of (A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the veteran elects to construct a housing unit on land acquired by him prior to application for assistance under this chapter, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 per centum of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (B) 50 per centum of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost to the veteran of the land necessary for such housing unit;

(3) where the veteran elects to remodel a dwelling, which is not adapted to the requirements of his disability, acquired by him prior to application for assistance under this chapter, the Administrator shall pay not to exceed the total of (A) 50 per centum of the cost to the veteran of such remodeling, plus (B) the smaller of the following sums: (i) 50 per centum of the cost to the veteran of such dwelling and the necessary land upon which it is situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(4) where the veteran has acquired a suitable housing unit, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 per centum of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

**§ 803. Furnishing of plans and specifications**

The Administrator is authorized to furnish to veterans eligible for assistance under this chapter, without cost to the veterans, model plans and specifications of suitable housing units.

**§ 804. Benefits additional to benefits under other laws**

Any veteran who accepts the benefits of this chapter shall not by reason thereof be denied the benefits of chapter 37 of this title; however, the assistance authorized by this chapter shall not be available to any veteran more than once.

**§ 805. Nonliability of United States**

The Government of the United States shall have no liability in connection with any housing unit, or necessary land therefor, acquired under the provisions of this chapter.

**CHAPTER 23—BURIAL BENEFITS**

Sec.

901. Flags.

902. Funeral expenses.

903. Death in Veterans' Administration facility.

904. Claims for reimbursement.

905. Persons eligible under prior law.

**§ 901. Flags**

(a) The Administrator shall furnish a flag to drape the casket of each deceased veteran who—

- (1) was a veteran of any war;
- (2) had served at least one enlistment; or
- (3) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty.

(b) After the burial of the veteran the flag so furnished shall be given to his next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

**§ 902. Funeral expenses**

(a) Where a veteran dies who—

- (1) was a veteran of any war;
- (2) had been discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or
- (3) was in receipt of, or but for the receipt of retirement pay would have been entitled to, disability compensation;

the Administrator, in his discretion having due regard to the circumstances in each case, may pay a sum not exceeding \$250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of his death, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States or of a State, the employer of the deceased veteran, or a burial association. No claim shall be allowed for more than the difference between the entire amount of the expenses incurred, and the amount paid by any or all of the foregoing. The Administrator shall not deny or reduce the amount of the burial allowance otherwise payable because of a cash contribution made by a burial association to any person other than the person rendering burial and funeral services. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

**§ 903. Death in Veterans' Administration facility**

(a) Where death occurs in a Veterans' Administration facility to which the deceased was properly admitted for hospital or domiciliary care under authority of section 610 or 611 (a) of this title, the Administrator shall pay the actual cost (not to exceed \$250) of the burial and funeral.

(b) In addition to the foregoing, when such a death occurs in the continental United States, the Administrator shall transport the body to the place of burial in the United States, or to the place of burial within Alaska if the deceased was a resident of Alaska who had been brought to the United States as a beneficiary of the Veterans' Administration for hospital or domiciliary care. Where such a death occurs in a Territory, a Commonwealth, or a possession of the United States, the Administrator shall transport the body to the place of burial within such Territory, Commonwealth, or possession.

(c) Within the limits prescribed in subsection (a), the Administrator may make contracts for burial and funeral services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration.

**§ 904. Claims for reimbursement**

Applications for payments under section 902 of this title must be filed within two years after the burial of the veteran. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowance may be paid.

**§ 905. Persons eligible under prior law**

The death of any person who had a status which would, under the laws in effect on December 31, 1957, afford entitlement to the burial benefits and other benefits provided for in this chapter, but who did not meet the service requirements contained in this chapter, shall afford entitlement to such benefits, notwithstanding the failure of such person to meet such service requirements.

## PART III—READJUSTMENT AND RELATED BENEFITS

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### CHAPTER 31—VOCATIONAL REHABILITATION

Sec.
1501. Definitions.
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1505. Leaves of absence.
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1509. Books, supplies, and equipment.
1510. Vocational rehabilitation for hospitalized persons.

**§ 1501. Definitions**

For the purposes of this chapter—

(1) The term "World War II" means the period beginning on September 16, 1940, and ending on July 25, 1947.

(2) The term "vocational rehabilitation" means training (including educational and vocational counseling and other necessary incidental services) for the purpose of restoring employability, to the extent consistent with the degree of disablement, lost by virtue of a handicap due to service-connected disability.

**§ 1502. Basic entitlement**

(a) Every World War II or Korean conflict veteran who has a service-connected disability arising out of service during World War II or the Korean conflict which is, or but for receipt of retirement pay would be, compensable under chapter 11 of this title, who is in need thereof on account of such disability shall be furnished such vocational rehabilitation as may be prescribed by the Administrator.

(b) Unless a longer period is prescribed by the Administrator, no course of vocational rehabilitation may exceed four years.

(c) (1) Vocational rehabilitation may not be afforded after July 25, 1960, to a veteran on account of World War II service, and may be afforded him after July 25, 1956, only if such veteran was prevented from entering, or having entered, from completing such training before July 26, 1956, because—

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

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

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

(2) Vocational rehabilitation may not be afforded a veteran on account of Korean conflict service—

(A) after August 20, 1963, if he was discharged or released before August 20, 1954; or

(B) after nine years following his discharge or release (but in no event after January 31, 1964), if he was discharged or released after August 19, 1954.

Notwithstanding the preceding provisions of this paragraph, where a veteran is prevented from entering, or having entered, from completing vocational rehabilitation training, because of one of the reasons set forth in subparagraphs (A) through (C) of paragraph (1), such training may be afforded him during a period of not to exceed four years beyond the period otherwise applicable to him.

(3) Vocational rehabilitation may not be afforded outside of a State to a veteran on account of Korean conflict service if the veteran, at the time of his service during the Korean conflict, was not a citizen of the United States.

(d) Vocational rehabilitation may be afforded a veteran under this chapter on account of Korean conflict service, notwithstanding the fact that vocational rehabilitation, or education and training under part VIII of Veterans Regulation Numbered 1 (a), may have been previously afforded him on account of World War II service.

38 USC ch. 12A.

**§ 1503. Training and training facilities**

The Administrator shall prescribe and provide vocational rehabilitation to veterans eligible therefor. For such purpose, the Administrator may—

- (1) employ additional personnel and experts, as he deems necessary;
- (2) utilize and extend Veterans' Administration facilities;
- (3) utilize facilities of any agency of the United States, or any facilities maintained by joint Federal and State contributions;
- (4) provide, by agreement or contract with public or private institutions or establishments, for such additional training facilities as may be suitable and necessary;
- (5) cooperate with and employ the facilities of other governmental and State employment agencies for the purpose of placing in gainful employment persons who have received vocational rehabilitation.

#### § 1504. Subsistence allowances

(a) While pursuing a course of vocational rehabilitation training and for two months after his employability is determined, each veteran shall be paid a subsistence allowance as prescribed in this section.

(b) If a veteran has no dependent, his subsistence allowance each month shall equal \$65, increased by an amount which bears the same ratio to \$10 as the institutional part of the veterans' training course bears to a course of full-time institutional training. In no event shall the veterans' subsistence allowance be an amount less than an amount which, when added to any compensation or other benefit payable to him, will equal \$105 monthly if his service-connected disability is less than 30 per centum, or \$115 monthly if his service-connected disability is 30 per centum or more.

(c) If a veteran has one dependent, his subsistence allowance each month shall equal \$90, increased by an amount which bears the same ratio to \$15 as the institutional part of the veterans' training course bears to a course of full-time training. If a veteran has more than one dependent, his subsistence allowance each month shall equal \$90, increased by an amount which bears the same ratio to \$30 as the institutional part of the veterans' training course bears to a course of full-time training. In no event shall the veteran's subsistence allowance be an amount less than an amount which, when added to any compensation or other benefit payable to him, will equal—

(1) if his service-connected disability is less than 30 per centum, \$115, plus the following amounts for additional dependents: (A) \$10 for one child and \$7 for each additional child, plus (B) \$15 for a dependent parent; or

(2) if his service-connected disability is 30 per centum or more, \$135, plus the following amounts for additional dependents: (A) \$20 for one child and \$15 for each additional child, plus (B) \$15 for a dependent parent.

(d) Where the course of vocational rehabilitation training consists of training on the job by an employer, such employer shall be required to submit monthly to the Administrator a statement in writing showing any wage, compensation, or other income paid by him to the veteran during the month, directly or indirectly. Based upon such written statements, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just.

#### § 1505. Leaves of absence

The Administrator shall prescribe such regulations as he deems necessary for granting leaves of absence to veterans pursuing a course of vocational rehabilitation training. Such leaves of absence shall not be granted to any veteran in excess of thirty days in any consecu-

tive twelve months, except in exceptional circumstances. During authorized leaves of absence, a veteran shall be considered as pursuing his course of vocational rehabilitation training.

#### § 1506. Medical care for trainees

The Administrator may furnish veterans receiving vocational rehabilitation such medical care, treatment, hospitalization, and prosthesis as may be necessary to accomplish the purposes of this chapter, whether or not such medical care, treatment, hospitalization, or prosthesis is otherwise authorized under chapter 17 of this title.

#### § 1507. Loans to trainees

The revolving fund which was established pursuant to part VII of Veterans Regulation Numbered 1 (a) is continued in effect, and may be used by the Administrator, under regulations prescribed by him, for making advances, not in excess of \$100 in any case, to veterans commencing or undertaking courses of vocational rehabilitation. Such advances, and advances heretofore made, shall bear no interest and shall be repaid in such installments as may be determined by the Administrator, by proper deductions from future payments of subsistence allowance, compensation, pension, or retirement pay.

38 USC ch. 12A.

#### § 1508. Regulations to promote good conduct

The Administrator shall prescribe such rules and regulations as he deems necessary in order to promote good conduct and cooperation on the part of veterans who are receiving vocational rehabilitation. Penalties for the breach of such rules and regulations may extend to (1) forfeiture by the offender for three months of subsistence allowance otherwise payable, and (2) permanent disqualification for further vocational rehabilitation.

#### § 1509. Books, supplies, and equipment

(a) Any books, supplies, or equipment furnished a veteran under this chapter shall be deemed released to him, except that if, because of fault on his part, he fails to complete the course of vocational rehabilitation, he may be required by the Administrator to return any or all of such books, supplies, or equipment not actually expended, or to repay the reasonable value thereof.

(b) Returned books, supplies, and equipment may be turned in to educational or training institutions for credit under such terms as may be approved by the Administrator, or may be disposed of in such other manner as he may approve.

#### § 1510. Vocational rehabilitation for hospitalized persons

Vocational rehabilitation may be afforded under this chapter to any person who is hospitalized pending final discharge from the active military, naval, or air service, if he is qualified for such vocational rehabilitation in every respect except for discharge. No subsistence allowance shall be payable to any person while he is receiving vocational rehabilitation solely by reason of this section.

## CHAPTER 33—EDUCATION OF KOREAN CONFLICT VETERANS

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## Subchapter I—Definitions

### § 1601. Definitions

(a) For the purpose of this chapter—

(1) The term "basic service period" means the Korean conflict, except that with respect to persons on active duty on January 31, 1955, such term means the period commencing on June 27, 1950, and ending on the date of the person's first discharge or release from such active duty after January 31, 1955.

(2) The term "eligible veteran" means any veteran who is not on active duty and who—

(A) served on active duty at any time during the Korean conflict;

(B) was discharged or released therefrom under conditions other than dishonorable; and

(C) served on active duty for ninety days or more (exclusive of any period he was assigned by the Armed Forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as cadet or midshipman at one of the service academies), or was discharged or released from a period of active duty, any part of which occurred during the Korean conflict, for an actual service-connected disability.

(3) The term "program of education or training" means any single unit course or subject, any curriculum, or any combination of unit courses or subjects, which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(4) The term "course" means an organized unit of subject matter in which instruction is offered within a given period of time or which covers a specific amount of related subject matter for which credit toward graduation or certification is usually given.

(5) The term "dependent" means—

(A) a child of an eligible veteran;

(B) a parent of an eligible veteran, if the parent is in fact dependent upon the veteran; and

(C) the wife of an eligible veteran, or, in the case of an eligible veteran who is a woman, her husband if he is in fact dependent upon her.

(6) The term "educational institution" means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers college, college, normal school, professional school, university, scientific or technical institution, or other institution furnishing education for adults.

(7) The term "training establishment" means any business or other establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprentice committee, or the Bureau of Apprenticeship established in accordance with chapter 4C of title 29, or any agency of the Federal Government authorized to supervise such training.

29 USC 50-50b.

(8) The term "State" includes the Canal Zone.

(9) The term "Commissioner" means the United States Commissioner of Education.

(b) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the Coast and Geodetic Survey, or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title II of the Veterans' Readjustment Assistance Act of 1952.

66 Stat. 663.  
38 USC 911-984.

(c) The Congress of the United States hereby declares that the veterans' education and training program created by this chapter is for the purpose of providing vocational readjustment and restoring lost educational opportunities to those service men and women whose educational or vocational ambitions have been interrupted or impeded by reason of active duty during the Korean conflict and for the purpose of aiding such persons in attaining the educational and training status which they might normally have aspired to and obtained had they not served their country.

## Subchapter II—Eligibility

### § 1610. Entitlement to education or training generally

Each eligible veteran shall, subject to the provisions of this chapter, be entitled to the education or training provided under this chapter.

### § 1611. Duration of veteran's education or training

(a) Each eligible veteran shall be entitled to education or training under this chapter for a period equal to one and a half times the duration of his service on active duty during his basic service period (or to the equivalent thereof in part-time training), except that—

(1) in computing the duration of such service, there shall be excluded a period equal to any period he was assigned by the Armed Forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians or served as a cadet or midshipman at one of the service academies;

(2) the period of education or training to which an eligible veteran shall be entitled under this chapter shall not, except as provided in subsection (b), exceed thirty-six months reduced by a period equivalent to any period of educational assistance afforded him under chapter 35 of this title; and

(3) the period of education or training to which an eligible veteran shall be entitled under this chapter together with education or training received under chapter 31 of this title, part VIII of Veterans Regulation Numbered 1 (a), and section 12 (a) of the Act enacting this title shall not, except as provided in subsection (b), exceed forty-eight months in the aggregate.

(b) Whenever the period of entitlement to education or training under this chapter of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester and after a major part of such semester or quarter has expired, such period shall be extended to the termination of such unexpired quarter or semester. In all other courses offered by educational institutions, whenever the period of eligibility ends after a major portion of the course is completed such period may be extended to the end of the course or for nine weeks, whichever is the lesser period.

(c) In the case of any eligible veteran who is pursuing any program of education or training exclusively by correspondence, one-fourth of the elapsed time in following such program of education or training shall be charged against the veteran's period of entitlement.

### § 1612. Commencement; time limitations

(a) No eligible veteran shall be entitled to initiate a program of education or training under this chapter after three years after his discharge or release from active duty. Notwithstanding the preceding sentence, any otherwise eligible veteran whom the Administrator determines to have been prevented from initiating a program of education or training under this chapter within the period prescribed by this subsection because he had not met the nature of discharge requirements of section 1601 (a) (2) (B) of this title before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, shall be permitted to initiate a program of education or training under this chapter within three years after whichever is later, September 1, 1958, or the date his discharge or dismissal was so changed, corrected, or modified.

38 USC ch. 12A.

70A Stat. 116.  
10 USC 1552.

(b) The program of education and training of an eligible veteran under this chapter shall, on and after the delimiting date for the veteran to initiate his program, be pursued continuously until completion, except that an eligible veteran may suspend the pursuit of his program for periods of not more than 12 consecutive months, and may suspend the pursuit of such program for longer periods if the Administrator finds that the suspension for each such period was due to conditions beyond the control of the eligible veteran.

(c) If an eligible veteran returned to active duty before February 1, 1955, his date of discharge or release shall, for the purposes of this section and section 1613 of this title, be the date of his discharge or release from his last period of active duty which began before February 1, 1955.

#### **§ 1613. Expiration of all education and training**

No education or training shall be afforded an eligible veteran under this chapter beyond eight years after either his discharge or release from active duty or the end of his basic service period, whichever is earlier, except that any veteran who is eligible to initiate a program of education or training by reason of the second sentence of section 1612 (a) of this title shall be permitted to pursue, subject to the other provisions of this chapter, such program for a period of not more than five years after the date of initiation thereof; but in no event shall education or training be afforded under this chapter after January 31, 1965.

### **Subchapter III—Enrollment**

#### **§ 1620. Selection of program**

Subject to the provisions of this chapter, each eligible veteran may select a program of education or training to assist him in attaining an educational, professional, or vocational objective at any educational institution or training establishment selected by him, whether or not located in the State in which he resides, which will accept and retain him as a student or trainee in any field or branch of knowledge which such institution or establishment finds him qualified to undertake or pursue. Notwithstanding the foregoing provisions of this section, an eligible veteran may not pursue a program of education or training at an educational institution or training establishment which is not located in a State, unless such program is pursued at an approved educational institution of higher learning. The Administrator in his discretion may deny or discontinue the enrollment under this chapter of any veteran in a foreign educational institution if he finds that such enrollment is not for the best interest of the veteran or the Government.

#### **§ 1621. Applications; approval**

Any eligible veteran who desires to initiate a program of education or training under this chapter shall submit an application to the Administrator which shall be in such form, and contain such information, as the Administrator shall prescribe. The Administrator shall approve such application unless he finds that such veteran is not eligible for or entitled to the education or training applied for or that his program of education or training fails to meet any of the requirements of this chapter, or that the eligible veteran is already qualified, by reason of previous education and training, for the educational, professional, or vocational objective for which the courses of the program of education or training are offered. The Administrator shall notify the eligible veteran of the approval or disapproval of his application.

**§ 1622. Change of program**

(a) Subject to the provisions of section 1621 of this title, each eligible veteran (except an eligible veteran whose program has been interrupted or discontinued due to his own misconduct, his own neglect, or his own lack of application) may, at any time before the end of the period during which he is entitled to initiate a program of education or training under this chapter, make not more than one change of program of education or training.

(b) Each eligible veteran, who has not made a change of program of education or training before the expiration of the period during which he is entitled to initiate a program of education or training under this chapter, may make not more than one change of program of education or training with the approval of the Administrator. The Administrator shall approve such a change if he finds that—

(1) the eligible veteran is not making satisfactory progress in his present program and that the failure is not due to his own misconduct, his own neglect, or his own lack of application, and if the program to which the eligible veteran desires to change is more in keeping with his aptitude or previous education and training; or

(2) the program to which the eligible veteran desires to change, while not a part of the program currently pursued by him, is a normal progression from such program.

**§ 1623. Disapproval of enrollment in certain courses**

(a) The Administrator shall not approve the enrollment of an eligible veteran in any bartending course, dancing course, or personality development course.

(b) The Administrator shall not approve the enrollment of an eligible veteran—

(1) in any photography course or entertainment course; or

(2) in any music course—instrumental or vocal—public speaking course, or course in sports or athletics such as horseback riding, swimming, fishing, skiing, golf, baseball, tennis, bowling, sports officiating, or other sport or athletic courses, except courses of applied music, physical education, or public speaking which are offered by institutions of higher learning for credit as an integral part of a program leading to an educational objective; or

(3) in any other type of course which the Administrator finds to be avocational or recreational in character;

unless the eligible veteran submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.

(c) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any nonaccredited course below the college level offered by a proprietary profit or proprietary non-profit educational institution for any period during which the Administrator finds that more than eighty-five per centum of the students enrolled in the course are having all or any part of their tuition, fees, or other charges paid to or for them by the educational institution or the Veterans' Administration under this chapter, chapter 31 of this title, or section 12 (a) of the Act enacting this title.

**§ 1624. Discontinuance for unsatisfactory progress**

The Administrator shall discontinue the education and training allowance of an eligible veteran if, at any time, he finds that, according to the regularly prescribed standards and practices of the educational institution or training establishment, the conduct or progress of such veteran is unsatisfactory.

**§ 1625. Period of operation for approval**

(a) The Administrator shall not approve the enrollment of an eligible veteran in any course offered by an educational institution when such course has been in operation for less than two years.

(b) Subsection (a) shall not apply to—

(1) any course to be pursued in a public or other tax-supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality; or

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree.

**§ 1626. Institutions listed by Attorney General**

The Administrator shall not approve the enrollment of, or payment of an education and training allowance to, any eligible veteran in any course in an educational institution or training establishment while it is listed by the Attorney General under section 3 of part III of Executive Order 9835, as amended.

5 USC 631 note.

**Subchapter IV—Payments to Veterans****§ 1631. Education and training allowance**

(a) The Administrator shall pay to each eligible veteran who is pursuing a program of education or training under this chapter, and who applies therefor, an education and training allowance to meet in part the expenses of his subsistence, tuition, fees, supplies, books, and equipment.

(b) The education and training allowance for an eligible veteran shall be paid, as provided in section 1632 of this title, only for the period of the veteran's enrollment as approved by the Administrator, but no allowance shall be paid—

(1) to any veteran enrolled in an institutional course which leads to a standard college degree or a course of institutional on-farm training for any period when the veteran is not pursuing his course in accordance with the regularly established policies and regulations of the institution and the requirements of this chapter;

(2) to any veteran enrolled in an institutional course which does not lead to a standard college degree or in a course of apprentice or other training on the job for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays established by Federal or State law during which the institution or establishment is not regularly in session or operation; or

(3) to any veteran pursuing his program of education exclusively by correspondence for any period during which no lessons were serviced by the institution.

(c) No education and training allowance shall be paid to an eligible veteran for any period until the Administrator shall have received—

(1) from the eligible veteran (A) in the case of an eligible veteran enrolled in an institutional course which leads to a standard college degree or a course of institutional on-farm training,

a certification that he was actually enrolled in and pursuing the course as approved by the Administrator, or (B) in the case of an eligible veteran enrolled in an institutional course which does not lead to a standard college degree or a course of apprentice or other training on the job, a certification as to actual attendance during such period, or (C) in the case of an eligible veteran enrolled in a program of education or training by correspondence, a certification as to the number of lessons actually completed by the veteran and serviced by the institution; and

(2) from the educational institution or training establishment, a certification, or an endorsement on the veteran's certificate, that such veteran was enrolled in and pursuing a course of education or training during such period, and, in the case of an institution furnishing education or training to a veteran exclusively by correspondence, a certification, or an endorsement on the veteran's certificate, as to the number of lessons completed by the veteran and serviced by the institution.

Education and training allowances shall, insofar as practicable, be paid within twenty days after receipt by the Administrator of the certifications required by this subsection.

### § 1632. Computation of education and training allowances

(a) The education and training allowance of an eligible veteran who is pursuing a program of education or training in an educational institution and is not entitled to receive an education and training allowance under subsection (b), (c), (d), (e), or (f) shall be computed as follows:

(1) If such program is pursued on a full-time basis, such allowance shall be computed at the rate of \$110 per month, if the veteran has no dependent, or at the rate of \$135 per month, if he has one dependent, or at the rate of \$160 per month, if he has more than one dependent.

(2) If such program is pursued on a three-quarters time basis, such allowance shall be computed at the rate of \$80 per month, if the veteran has no dependent, or at the rate of \$100 per month, if he has one dependent, or at the rate of \$120 per month, if he has more than one dependent.

(3) If such program is pursued on a half-time basis, such allowance shall be computed at the rate of \$50 per month, if the veteran has no dependent, or at the rate of \$60 per month, if he has one dependent, or at the rate of \$80 per month, if he has more than one dependent.

(b) The education and training allowance of an eligible veteran who is pursuing a full-time program of education and training which consists of institutional courses and on-the-job training, with the on-the-job training portion of the program being strictly supplemental to the institutional portion, shall be computed at the rate of (1) \$90 per month, if he has no dependent, or (2) \$110 per month, if he has one dependent, or (3) \$130 per month, if he has more than one dependent.

(c) The education and training allowance of an eligible veteran pursuing apprentice or other training on the job shall be computed at the rate of (1) \$70 per month, if he has no dependent, or (2) \$85 per month, if he has one dependent, or (3) \$105 per month, if he has more than one dependent; except that his education and training allowance shall be reduced at the end of each four-month period as his program progresses by an amount which bears the same ratio to the basic education and training allowance as four months bears to the total duration of his apprentice or other training on the job; but in no case shall the Administrator pay an education and training allow-

ance under this subsection in an amount which, when added to the compensation to be paid to the veteran, in accordance with his approved training program, for productive labor performed as a part of his course, would exceed the rate of \$310 per month. For the purpose of computing allowances under this subsection, the duration of the training of an eligible veteran shall be the period specified in the approved application as the period during which he may receive an education and training allowance for such training, plus such additional period, if any, as is necessary to make the number of months of such training a multiple of four.

(d) The education and training allowance of an eligible veteran pursuing institutional on-farm training shall be computed at the rate of (1) \$95 per month, if he has no dependent, or (2) \$110 per month, if he has one dependent, or (3) \$130 per month, if he has more than one dependent; except that his education and training allowance shall be reduced at the end of the third, and each subsequent, four-month period as his program progresses by an amount which bears the same ratio to \$65 per month, if the veteran has no dependent, or \$80 per month, if he has one dependent, or \$100 per month, if he has more than one dependent, as four months bears to the total duration of such veteran's institutional on-farm training reduced by eight months. For the purpose of computing allowances under this subsection, the duration of the training of an eligible veteran shall be the period specified in the approved application as the period during which he may receive an education and training allowance for such training, plus such additional period, if any, as is necessary to make the number of such months of such training a multiple of four.

(e) The education and training allowance of an eligible veteran pursuing a program of education or training exclusively by correspondence shall be computed on the basis of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran and serviced by the institution, as certified by the institution.

(f) The education and training allowance of an eligible veteran who is pursuing a program of education or training under this chapter in an educational institution on a less-than-half-time basis shall be computed at the rate of (1) the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same course to pay, or (2) \$110 per month for a full-time course, whichever is the lesser.

(g) Each eligible veteran who is pursuing an approved course of flight training shall be paid an education and training allowance to be computed at the rate of 75 per centum of the established charge which similarly circumstanced nonveterans enrolled in the same flight course are required to pay for tuition for the course. If such veteran's program of education or training consists exclusively of flight training, he shall not be paid an education and training allowance under one of the preceding subsections of this section; if his program of education or training consists of flight training and other education or training, the allowance payable under this subsection shall be in addition to any education and training allowance payable to him under one of the preceding subsections of this section for education or training other than flight training. Such allowance shall be paid monthly upon receipt of certification from the eligible veteran and the institution as to the actual flight training received by the veteran. In each such case the eligible veteran's period of entitlement shall be charged (in addition to any charge made against his entitlement by reason of education or training other than flight training) with one day for

each \$1.25 which is paid to the veteran as an education and training allowance for such course.

(h) No eligible veteran shall be paid an education and training allowance under this chapter for any period during which (1) he is enrolled in and pursuing a course of education or training paid for by the United States under any provision of law other than this chapter, where the payment of such allowance would constitute a duplication of benefits paid to the veteran from the Federal Treasury, or (2) he is pursuing a course of apprentice or other training on the job, a course of institutional on-farm training, or a course of education and training described in subsection (b) on a less than full-time basis.

#### § 1633. Measurement of courses

(a) For the purposes of this chapter, (1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with not more than two and one-half hours of rest periods per week allowed, (2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction is required, and (3) an institutional undergraduate course offered by a college or university on a quarter or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required.

(b) The Administrator shall define full-time training in the case of all types of courses of education or training other than institutional on-farm training and the types of courses referred to in subsection (a); except that, the Administrator shall not define full-time apprentice training for a particular establishment other than that established as the standard workweek through bona fide collective bargaining between employers and employees.

#### § 1634. Overcharges by educational institutions

The Administrator may, if he finds that an institution has charged or received from any eligible veteran any amount in excess of the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same course to pay, disapprove such educational institution for the enrollment of any veteran not already enrolled therein, except that, in the case of a tax-supported public educational institution which does not have established charges for tuition and fees which it requires nonveteran residents to pay, such institution may charge and receive from each eligible veteran who is a resident an amount equal to the estimated cost of teaching personnel and supplies for instruction attributable to such veteran, but in no event to exceed the rate of \$10 per month for a full-time course.

### Subchapter V—State Approving Agencies

#### § 1641. Designation

(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the "State approving agency" for his State for the purposes of this chapter.

(b) (1) If any State fails or declines to create or designate a State approving agency, the provisions of this chapter which refer to the

State approving agency shall, with respect to such State, be deemed to refer to the Administrator.

(2) In the case of courses subject to approval by the Administrator under section 1642 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the Administrator.

#### § 1642. Approval of courses

(a) An eligible veteran shall receive the benefits of this chapter while enrolled in a course of education or training offered by an educational institution or training establishment only if such course is approved by the State approving agency for the State where such educational institution or training establishment is situated or by the Administrator. Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Administrator with a current list of educational institutions and training establishments, specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Administrator as it and the Administrator may determine to be necessary to carry out the purposes of this chapter. Each State approving agency shall notify the Administrator of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b) The Administrator shall be responsible for the approval of courses of education or training offered by any agency of the Federal Government authorized under other laws to supervise such education or training. The Administrator may approve any course in any other educational institution or training establishment in accordance with the provisions of this chapter.

#### § 1643. Cooperation

(a) The Administrator and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Administrator and each State approving agency under the veterans' educational programs. To assure that such programs are effectively and efficiently administered, the cooperation of the Administrator and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions and training establishments, and particular attention should be given to the enforcement of approval standards, enforcement of wage and income limitations, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions and training establishments in which veterans are enrolled under this chapter.

(b) The Administrator will furnish the State approving agencies with copies of such Veterans' Administration informational material as may aid them in carrying out this chapter.

#### § 1644. Use of Office of Education and other Federal agencies

(a) In carrying out his functions under this chapter, the Administrator may utilize the facilities and services of any other Federal department or agency. The Administrator shall utilize the services of the Office of Education in developing cooperative agreements between the Administrator and State and local agencies relating to the approval of courses of education or training as provided for in section 1645 of this title, in reviewing the plan of operations of State approving agencies under such agreements, and in rendering technical assistance to such State and local agencies in developing and

improving policies, standards, and legislation in connection with their duties under this chapter.

(b) Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall (except in the case of the Office of Education) be made either in advance or by way of reimbursement, as may be provided in such agreement. Funds necessary to enable the Office of Education to carry out its functions under this chapter are authorized to be appropriated directly to such Office.

#### § 1645. Reimbursement of expenses

The Administrator is authorized to enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies in (1) rendering necessary services in ascertaining the qualifications of educational institutions and training establishments for furnishing courses of education or training to eligible veterans under this chapter, and in the supervision of such educational institutions and training establishments, and (2) furnishing, at the request of the Administrator, any other services in connection with this chapter. Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of this chapter.

### Subchapter VI—Approval of Courses of Education and Training

#### § 1651. Apprentice or other training on the job

(a) Apprentice or other training on the job shall consist of courses offered by training establishments whenever such courses of training are furnished in accordance with the provisions of this section. Any training establishment desiring to furnish a course of apprentice or other training on the job shall submit to the appropriate State approving agency a written application setting forth the course of training for each job for which an eligible veteran is to be trained. The written application covering the course of training shall include the following:

- (1) Title and description of the specific job objective for which the eligible veteran is to be trained;
- (2) The length of the training period;
- (3) A schedule listing various operations for major kinds of work or tasks to be learned and showing for each, job operations or work, tasks to be performed, and the approximate length of time to be spent on each operation or task;
- (4) The wage or salary to be paid at the beginning of the course of training, at each successive step in the course, and at the completion of training;
- (5) The entrance wage or salary paid by the establishment to employees already trained in the kind of work for which the veteran is to be trained; and
- (6) The number of hours of supplemental related instruction required.

(b) The appropriate State approving agency may approve a course of apprentice or other training on the job specified in an application submitted by a training establishment in accordance with subsection (a) if such training establishment is found upon investigation to have met the following criteria:

- (1) The training content of the course is adequate to qualify the eligible veteran for appointment to the job for which he is to be trained.

(2) There is reasonable certainty that the job for which the eligible veteran is to be trained will be available to him at the end of the training period.

(3) The job is one in which progression and appointment to the next higher classification are based upon skills learned through organized training on the job and not on such factors as length of service and normal turnover.

(4) The wages to be paid the eligible veteran for each successive period of training are not less than those customarily paid in the training establishment and in the community to a learner in the same job who is not a veteran.

(5) The job customarily requires a period of training of not less than three months and not more than two years of full-time training, except that this provision shall not apply to apprentice training.

(6) The length of the training period is no longer than that customarily required by the training establishment and other training establishments in the community to provide an eligible veteran with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the eligible veteran will need to learn in order to become competent on the job for which he is being trained.

(7) Provision is made for related instruction for the individual eligible veteran who may need it.

(8) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

(9) Adequate records are kept to show the progress made by each eligible veteran toward his job objective.

(10) Appropriate credit is given the eligible veteran for previous training and job experience, whether in the military service or elsewhere, his beginning wage adjusted to the level to which such credit advances him, and his training period shortened accordingly, and provision is made for certification by the training establishment that such credit has been granted and the beginning wage adjusted accordingly. No course of training will be considered bona fide if given to an eligible veteran who is already qualified by training and experience for the job objective.

(11) A signed copy of the training agreement for each eligible veteran, including the training program and wage scale as approved by the State approving agency, is provided to the veteran and to the Administrator and the State approving agency by the employer.

(12) Upon completion of the course of training furnished by the training establishment the eligible veteran is given a certificate by the employer indicating the length and type of training provided and that the eligible veteran has completed the course of training on the job satisfactorily.

(13) That the course meets such other criteria as may be established by the State approving agency.

#### § 1652. Institutional on-farm training

(a) An eligible veteran shall be entitled to the benefits of this chapter while enrolled in a course of full-time institutional on-farm training which has been approved by the appropriate State approving agency in accordance with the provisions of this section.

(b) The State approving agency may approve a course of institutional on-farm training when it satisfies the following requirements:

(1) The course combines organized group instruction in agricultural and related subjects of at least two hundred hours per year (and of at least eight hours each month) at an educational institution, with supervised work experience on a farm or other agricultural establishment.

(2) The eligible veteran will perform a part of such course on a farm or other agricultural establishment under his control.

(3) The course is developed with due consideration to the size and character of the farm or other agricultural establishment on which the eligible veteran will receive his supervised work experience and to the need of such eligible veteran, in the type of farming for which he is training, for proficiency in planning, producing, marketing, farm mechanics, conservation of resources, food conservation, farm financing, farming management, and the keeping of farm and home accounts.

(4) The eligible veteran will receive not less than one hundred hours of individual instruction per year, not less than fifty hours of which shall be on such farm or other agricultural establishment (with at least two visits by the instructor to such farm each month). Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction and shall include instruction and home-study assignments in the preparation of budgets, inventories, and statements showing the production, use on the farm, and sale of crops, livestock, and livestock products.

(5) The eligible veteran will be assured of control of such farm or other agricultural establishment (whether by ownership, lease, management agreement, or other tenure arrangement) until the completion of his course.

(6) Such farm or other agricultural establishment shall be of a size and character which (A) will, together with the group-instruction part of the course, occupy the full time of the eligible veteran, (B) will permit instruction in all aspects of the management of the farm or other agricultural establishment of the type for which the eligible veteran is being trained, and will provide the eligible veteran an opportunity to apply to the operation of his farm or other agricultural establishment the major portion of the farm practices taught in the group instruction part of the course, and (C) will assure him a satisfactory income for a reasonable living under normal conditions at least by the end of his course.

(7) Provision shall be made for certification by the institution and the veteran that the training offered does not repeat or duplicate training previously received by the veteran.

(8) The institutional on-farm training meets such other fair and reasonable standards as may be established by the State approving agency.

### § 1653. Approval of accredited courses

(a) A State approving agency may approve the courses offered by an educational institution when—

(1) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

(2) credit for such course is approved by the State department of education for credit toward a high school diploma;

(3) such courses are conducted under sections 11-28 of title 20; or

(4) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree.

For the purposes of this chapter the Commissioner shall publish a

list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by an educational institution and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin.

(b) As a condition to approval under this section, the State approving agency must find that adequate records are kept by the educational institution to show the progress of each eligible veteran. The State approving agency must also find that the educational institution maintains a written record of the previous education and training of the veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the veteran and the Administrator so notified.

#### § 1654. Approval of nonaccredited courses

(a) No course of education or training (other than a course of institutional on-farm training) which has not been approved by a State approving agency pursuant to section 1653 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the veteran and the Administrator so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the veteran upon enrollment.

(6) Upon completion of training, the veteran is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the veteran fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that the amount charged to the veteran for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

(14) Such additional criteria as may be deemed necessary by the State approving agency.

#### § 1655. Notice of approval of courses

The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, will issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter, and will furnish an official copy of such letter and any subsequent amendments to the Administrator. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

- (1) date of letter and effective date of approval of courses;
  - (2) proper address and name of each educational institution or training establishment;
  - (3) authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution;
  - (4) name of each course approved;
  - (5) where applicable, enrollement limitations such as maximum numbers authorized and student-teacher ratio;
  - (6) signature of responsible official of State approving agency;
- and
- (7) such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency.

#### § 1656. Disapproval of courses and discontinuance of allowances

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution or training establishment which has its courses disapproved by a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(b) The Administrator may discontinue the education and training allowance of any eligible veteran if he finds that the course of education or training in which such veteran is enrolled fails to meet any of the requirements of this chapter or if he finds that the educational institution or training establishment offering such course has violated any provisions of this chapter or fails to meet any of its requirements.

(c) Each State approving agency shall notify the Administrator of each course which it has disapproved under this section. The Administrator shall notify the State approving agency of his disapproval of any educational institution or training establishment under chapter 31 of this title.

### Subchapter VII—Miscellaneous Provisions

#### § 1661. Authority and duties of Administrator

(a) Payments under this chapter shall be subject to audit and review by the General Accounting Office as provided by the Budget and Accounting Act of 1921 and the Budget and Accounting Procedures Act of 1950.

42 Stat. 20; 64  
Stat. 832.  
31 USC 1,2 note.

(b) The Administrator may arrange for educational and vocational counseling to persons eligible for education and training under this chapter. At such intervals as he deems necessary, he shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent he deems practicable.

#### § 1662. Advisory Committee

(a) There shall be an Advisory Committee formed by the Administrator, which shall be composed of persons who are eminent in their respective fields of education, labor, and management, and of representatives of the various types of institutions and establishments furnishing education and training to veterans enrolled under this chapter. The Commissioner and the Director, Bureau of Apprenticeship, Department of Labor shall be ex officio members of the Advisory Committee. The Administrator shall advise and consult with the committee from time to time with respect to the administration of this chapter and the committee may make such reports and recommendations as it deems desirable to the Administrator and to the Congress.

(b) The Administrator may advise and consult with the committee from time to time with respect to the administration of chapters 31 and 35 of this title.

#### § 1663. Control by agencies of United States

No department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, State educational agency, or State apprenticeship agency, or any educational institution or training establishment. Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or training establishment, or to prevent the furnishing of education or training under this chapter in any institution or establishment over which supervision or control is exercised by such other department, agency, or officer under authority of existing provisions of law.

#### § 1664. Conflicting interests

(a) Every officer or employee of the Veterans' Administration, or of the Office of Education, who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible veteran was pursuing a course of education or training under this chapter shall be immediately dismissed from his office or employment.

(b) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while he was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which an eligible veteran was pur-

suings a course of education or training under this chapter, he shall discontinue making payments under section 1645 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person and such payments shall not be resumed while such person is an officer or employee of the State approving agency, or State Department of Veterans Affairs or State Department of Education.

(c) A State approving agency shall not approve any course offered by an educational institution operated for profit and, if any such course has been approved, shall disapprove each such course, if it finds that any officer or employee of the Veterans' Administration, the Office of Education, or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, such institution.

(d) The Administrator may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Veterans' Administration, of the Office of Education, or of a State approving agency, if he finds that no detriment will result to the United States or to eligible veterans by reason of such interest or connection of such officer or employee.

#### **§ 1665. Reports by institutions**

(a) Educational institutions and training establishments shall, without delay, report to the Administrator in the form prescribed by him, the enrollment, interruption, and termination of the education or training of each eligible veteran enrolled therein under this chapter.

(b) The Administrator shall pay to each educational institution which is required to submit reports and certifications to the Administrator under this chapter, an allowance at the rate of \$1 per month for each eligible veteran enrolled in and attending such institution under the provisions of this chapter to assist the educational institution in defraying the expense of preparing and submitting such reports and certifications. Such allowances shall be paid in such manner and at such times as may be prescribed by the Administrator, except that if any institution fails to submit reports or certifications to the Administrator as required by this chapter, no allowance shall be paid to such institution for the month or months during which such reports or certifications were not submitted as required by the Administrator.

#### **§ 1666. Overpayments to veterans**

Whenever the Administrator finds that an overpayment has been made to a veteran as the result of (1) the willful or negligent failure of the educational institution or training establishment to report, as required by this chapter and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the veteran or (2) false certification by the educational institution or training establishment, the amount of such overpayment shall constitute a liability of such institution or establishment, and may be recovered in the same manner as any other debt due the United States. Any amount so collected shall be reimbursed if the overpayment is recovered from the veteran. This section shall not preclude the imposition of any civil or criminal liability under this or any other law.

#### **§ 1667. Examination of records**

The records and accounts of educational institutions and training establishments pertaining to eligible veterans who received education or training under this chapter shall be available for examination by duly authorized representatives of the Government.

### § 1668. False or misleading statements

The Administrator shall not make any payments under this chapter to any person found by him to have willfully submitted any false or misleading claims. In each case where the Administrator finds that an educational institution or training establishment has willfully submitted a false or misleading claim, or where a veteran, with the complicity of an educational institution or training establishment, has submitted such a claim, he shall make a complete report of the facts of the case to the appropriate State approving agency and where deemed advisable to the Attorney General of the United States for appropriate action.

### § 1669. Information furnished by Federal Trade Commission

The Federal Trade Commission shall keep all State approving agencies advised of any information coming to its attention which would be of assistance to such agencies in carrying out their duties under this chapter.

## CHAPTER 35—WAR ORPHANS' EDUCATIONAL ASSISTANCE

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### Subchapter I—Definitions

#### § 1701. Definitions

(a) For the purposes of this chapter—

(1) The term “eligible person” means a child of a person who died of a service-connected disability arising out of active military, naval, or air service during World War I, World War II, or the Korean conflict, but only if such service did not terminate under dishonorable conditions. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(2) The term “child” includes individuals who are married and individuals who are above the age of twenty-one years.

(3) The term “duty with the Armed Forces” as used in section 1712 of this title means (A) active duty, (B) active duty for training for a period of six or more consecutive months, or (C) active duty for training required by section 1013 (c) (1) of title 50.

50 USC 1013.

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

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

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

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

(8) The term “State” includes the Canal Zone.

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

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

(d) The Congress hereby declares that the educational program established by this chapter is for the purpose of providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the death of a parent from a disease or injury incurred or aggravated in the Armed Forces during World War I, World War II, or the Korean conflict, and for the purpose of aiding such children in attaining the educational status which they might normally have aspired to and obtained but for the death of such parent.

## Subchapter II—Eligibility and Entitlement

### § 1710. Eligibility and entitlement generally

Each eligible person shall, subject to the provisions of this chapter, be entitled to receive educational assistance.

### § 1711. Duration of educational assistance

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

(b) The period of entitlement of an eligible person under this chapter shall be reduced by a period equivalent to any period of education or training received by him under chapter 31 or 33 of this title.

(c) If an eligible person is entitled to educational assistance under this chapter and also to vocational rehabilitation under chapter 31 of this title, he must elect whether he will receive educational assistance or vocational rehabilitation. If an eligible person is entitled to educational assistance under this chapter and is not entitled to such vocational rehabilitation, but after beginning his program of education or special restorative training becomes entitled (as determined by the Administrator) to such vocational rehabilitation, he must elect whether to continue to receive educational assistance or whether to receive such vocational rehabilitation. If he elects to receive vocational rehabilitation, the program of education or special restorative training pursued under this chapter shall be utilized to the fullest extent practicable in determining the character and duration of vocational rehabilitation to be furnished him.

### § 1712. Periods of eligibility

(a) The educational assistance to which an eligible person is entitled under section 1711 of this title or subchapter V of this chapter may be afforded him during the period beginning on his eighteenth birthday, or on the successful completion of his secondary schooling, whichever first occurs, and ending on his twenty-third birthday, except that—

(1) if he is above the age of compulsory school attendance under applicable State law, and the Administrator determines that his best interests will be served thereby, such period may begin before his eighteenth birthday;

(2) if he has a mental or physical handicap, and the Administrator determines that his best interests will be served by pursuing a program of special restorative training or a specialized course of vocational training approved under section 1737 of this title, such period may begin before his eighteenth birthday, but not before his fourteenth birthday;

(3) if he had not reached his twenty-third birthday on June 29, 1956, and—

(A) he had reached his eighteenth birthday on such date;

or

(B) he serves on duty with the Armed Forces as an eligible person before his twenty-third birthday and on or after such date; or

(C) the death of the parent from whom eligibility was derived occurs after such date and after his eighteenth birthday but before his twenty-third birthday;

then such period shall end five years after such date, his first discharge or release after such date from duty with the Armed Forces if such duty began before his twenty-third birthday, or the death of such parent, whichever occurs last, except that in

no event shall such period be extended beyond his thirty-first birthday by reason of this paragraph; and

(4) (A) if he is enrolled in an educational institution regularly operated on a quarter or semester system and such period ends during the last half of a quarter or semester, such period shall be extended to the end of the quarter or semester; or

(B) if he is enrolled in an educational institution operated other than on a quarter or semester system and such periods ends during the last half of the course, such period shall be extended to the end of the course, or until nine weeks have expired, whichever first occurs.

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

### § 1713. Application

The parent or guardian of a person for whom educational assistance is sought under this chapter shall submit an application to the Administrator which shall be in such form and contain such information as the Administrator shall prescribe. If the Administrator finds that the person on whose behalf the application is submitted is an eligible person, he shall approve the application provisionally. The Administrator shall notify the parent or guardian of his provisional approval, or of his disapproval of the application.

### § 1714. Processing of applications

(a) Further processing of an application for educational assistance and the award of such assistance shall be pursuant to the requirements of subchapters III and IV of this chapter unless the parent or guardian requests special restorative training for the eligible person, in which case the application will be processed under subchapter V of this chapter.

(b) If the request for special restorative training is approved, educational assistance will be afforded pursuant to the terms of subchapter V of this chapter. If the request for special restorative training is disapproved, or if approved the restorative training is completed or discontinued, any educational assistance subsequently afforded will be in accordance with subchapters III and IV of this chapter.

## Subchapter III—Program of Education

### § 1720. Development of educational plan

Upon provisional approval of an application for educational assistance, the Administrator shall arrange for, and the eligible person shall take advantage of, educational or vocational counseling to assist the parent or guardian and the eligible person in selecting his educational, vocational, or professional objective and in developing his program of education. During, or after, such counseling, the parent or guardian shall prepare for the eligible person an educational plan which shall set forth the selected objective, the proposed program of education, a list of the educational institutions at which such program would be pursued, an estimate of the sum which would be required for tuition and fees in completion of such program, and such other information as the Administrator shall require. This educational plan shall be signed by the parent or guardian and shall become an integral part of the application for educational assistance under this chapter.

### § 1721. Final approval of application

The Administrator shall finally approve an application if he finds (1) that section 1720 of this title has been complied with, (2) that the proposed program of education constitutes a "program of education" as that term is defined in this chapter, (3) that the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the courses of the program of education are offered, and (4) that it does not appear that the pursuit of such program would violate any provision of this chapter.

### § 1722. Change of program

An eligible person, with the concurrence of his parent or guardian, may request changes in his program. The Administrator shall approve an initial change of program, and may approve not more than one additional change, if he finds that—

(1) the program of education which the eligible person proposes to pursue is suitable to his aptitudes, interests, and abilities; and

(2) in any instance where the eligible person has interrupted, or failed to progress in, his program due to his own misconduct, his own neglect, or his own lack of application, there exists a reasonable likelihood with respect to the program which the eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

### § 1723. Disapproval of enrollment in certain courses

(a) (1) The Administrator shall not approve the enrollment of an eligible person in any bartending course, dancing course, or personality development course.

(2) The Administrator shall not approve the enrollment of an eligible person—

(A) in any photography course or entertainment course; or

(B) in any music course—instrumental or vocal—public speaking course, or course in sports or athletics such as horseback riding, swimming, fishing, skiing, golf, baseball, tennis, bowling, sports officiating, or other sport or athletic courses, except courses of applied music, physical education, or public speaking which are offered by institutions of higher learning for credit as an integral part of a program leading to an educational objective; or

(C) in any other type of course which the Administrator finds to be avocational or recreational in character;

unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.

(b) The Administrator shall not approve the enrollment of an eligible person in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible person is seeking.

(c) The Administrator shall not approve the enrollment of an eligible person in any course of apprentice or other training on the job, any course of institutional on-farm training, any course to be pursued by correspondence, television, or radio, or any course to be pursued at an educational institution not located in a State or in the Republic of the Philippines.

(d) The Administrator shall not approve the enrollment of an eligible person in any course which is to be pursued as a part of his regular secondary school education, but this subsection shall not prevent the enrollment of an eligible person in a course to be pursued

below the college level if the Administrator finds that such person has ended his secondary school education (by completion or otherwise) and that such course is a specialized vocational course pursued for the purpose of qualifying in a bona fide vocational objective.

#### § 1724. Discontinuance for unsatisfactory progress

The Administrator shall discontinue the educational assistance allowance on behalf of an eligible person if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution he is attending, his conduct or progress is unsatisfactory. The Administrator may renew the payment of the educational assistance allowance only if he finds that—

- (1) the cause of the unsatisfactory conduct or progress of the eligible person has been removed; and
- (2) the program which the eligible person now proposes to pursue (whether the same or revised) is suitable to his aptitudes, interests, and abilities.

#### § 1725. Period of operation for approval

(a) The Administrator shall not approve the enrollment of an eligible person in any course offered by an educational institution when such course has been in operation for less than two years.

(b) Subsection (a) shall not apply to—

- (1) any course to be pursued in a public or other tax-supported educational institution;
- (2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;
- (3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality; or
- (4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree.

#### § 1726. Institutions listed by Attorney General

The Administrator shall not approve the enrollment of, or payment of an educational assistance allowance to, any eligible person in any course in an educational institution while it is listed by the Attorney General under section 3 of part III of Executive Order 9835, as amended.

5 USC 631 note.

### Subchapter IV—Payments to Eligible Persons

#### § 1731. Educational assistance allowance

(a) The Administrator shall pay to the parent or guardian of each eligible person who is pursuing a program of education under this chapter, and who applies therefor on behalf of such eligible person, an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(b) The educational assistance allowance on behalf of an eligible person shall be paid, as provided in section 1732 of this title, only for the period of his enrollment as approved by the Administrator, but no allowance shall be paid—

- (1) on behalf of any person enrolled in a course which leads to a standard college degree for any period when such person is not pursuing his course in accordance with the regularly established policies and regulations of the educational institution and the requirements of this chapter; or

(2) on behalf of any person enrolled in a course which does not lead to a standard college degree for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session.

(c) No educational assistance allowance shall be paid on behalf of an eligible person for any period until the Administrator shall have received—

(1) from the eligible person (A) in the case of an eligible person enrolled in a course which leads to a standard college degree, a certification that he was actually enrolled in and pursuing the course as approved by the Administrator, or (B) in the case of an eligible person enrolled in a course which does not lead to a standard college degree, a certification as to actual attendance during such period; and

(2) from the educational institution a certification, or an endorsement on the eligible person's certificate, that he was enrolled in and pursuing a course of education during such period. Educational assistance allowances shall, insofar as practicable, be paid within twenty days after receipt by the Administrator of the certifications required by this subsection.

#### § 1732. Computation of educational assistance allowance

(a) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (1) \$110 per month if pursued on a full-time basis, (2) \$80 per month if pursued on a three-quarters time basis, and (3) \$50 per month if pursued on a half-time basis.

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of \$90 per month.

(c) No educational assistance allowance shall be paid on behalf of an eligible person for any period during which he is enrolled in and pursuing an institutional course on a less than half-time basis, or any course described in subsection (b), on a less than full-time basis.

#### § 1733. Measurement of courses

(a) For the purposes of this chapter, (1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed, (2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction is required, and (3) an institutional undergraduate course offered by a college or university on a quarter or semester hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required.

(b) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define

full-time and part-time training in the cases of all other types of courses pursued under this chapter.

#### § 1734. Overcharges by educational institutions

(a) If the Administrator finds that an educational institution has charged or received from any eligible person pursuing a course of education under this chapter any amount in excess of the charges for tuition and fees which such institution requires similarly circumstanced students, not receiving educational assistance under this chapter, who are enrolled in the same course to pay, he may disapprove such educational institution for the enrollment of any eligible person not already enrolled therein under this chapter and any eligible veteran not already enrolled therein under chapter 31 or 33 of this title.

(b) Any educational institution which has been disapproved under section 1634 of this title shall be deemed to be disapproved for the enrollment under this chapter of any eligible person not already enrolled therein.

#### § 1735. Approval of courses

(a) An eligible person shall receive the benefits of this subchapter while enrolled in a course of education offered by an educational institution only if such course (1) is approved in accordance with the provisions of this section, or (2) is approved for the enrollment of the particular individual under the provisions of section 1737 of this title.

(b) Any course offered by an educational institution (as defined in this chapter) shall be considered approved for the purposes of this chapter if it is approved under either section 1653 or section 1654 of this title before the date for the expiration of all education and training under chapter 33 of this title, and has not been disapproved under section 1656 of this title.

(c) After the date for the expiration of all education and training under chapter 33 of this title, the Administrator shall be responsible for the approval of any additional courses for the purposes of this chapter. In approving such a course, the criteria of sections 1653 and 1654 of this title shall be applicable to approvals under this subsection and the Administrator may utilize the services of State educational agencies in connection therewith.

#### § 1736. Discontinuance of allowances

The Administrator may discontinue the educational assistance allowance of any eligible person if he finds that the course of education in which the eligible person is enrolled fails to meet any of the requirements of this chapter or any of the standards and criteria of sections 1653 and 1654 of this title or if he finds that the educational institution offering such course has violated any provision of this chapter or fails to meet any of its requirements.

#### § 1737. Specialized vocational training courses

Notwithstanding the provisions of subsections (b) and (c) of section 1735 of this title, the Administrator may approve a specialized course of vocational training leading to a predetermined vocational objective for the enrollment of an eligible person under this subchapter if he finds that such course, either alone or when combined with other courses, constitutes a program of education which is suitable for that person and is required because of a mental or physical handicap.

### Subchapter V—Special Restorative Training

#### § 1740. Purpose

The purpose of special restorative training is to overcome, or lessen, the effects of a manifest physical or mental disability which would handicap an eligible person in the pursuit of a program of education.

#### § 1741. Entitlement to special restorative training

(a) The Administrator at the request of the parent or guardian of an eligible person is authorized—

(1) to determine whether such person is in need of special restorative training; and

(2) where need is found to exist, to prescribe a course which is suitable to accomplish the purposes of this chapter.

Such a course, at the discretion of the Administrator, may contain elements that would contribute toward an ultimate objective of a program of education.

(b) In no event shall the total period of educational assistance under this subchapter and other subchapters of this chapter exceed the amount of entitlement as established in section 1711 of this title.

#### § 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on his behalf a special training allowance computed at the basic rate of \$110 per month. If the charges for tuition and fees applicable to any such course are more than \$35 per calendar month the basic monthly allowance may be increased by the amount that such charges exceed \$35 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each \$3.60 that the special training allowance paid exceeds the basic monthly allowance.

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purpose of this section shall be determined by the Administrator with respect to the capacities of the individual trainee.

#### § 1743. Special administrative provisions

(a) In carrying out his responsibilities under this chapter the Administrator may by agreement arrange with public or private educational institutions or others to provide training arrangements as may be suitable and necessary to accomplish the purposes of this subchapter. In any instance where the Administrator finds that a customary tuition charge is not applicable, he may agree on the fair and reasonable amounts which may be charged the parent or guardian for the training provided to an eligible person.

(b) The Administrator shall make such rules and regulations as he may deem necessary in order to promote good conduct on the part of the persons who are following courses of special restorative training and otherwise to carry out the purposes of this chapter.

### Subchapter VI—Miscellaneous Provisions

#### § 1761. Authority and duties of Administrator

(a) Payments under this chapter shall be subject to audit and review by the General Accounting Office, as provided by the Budget and Accounting Act of 1921, and the Budget and Accounting Procedures Act of 1950.

(b) The Administrator may provide the educational and vocational counseling required under section 1720 of this title, and may provide or require additional counseling if he deems it to be necessary to accomplish the purposes of this chapter.

(c) In carrying out his functions under this chapter, the Administrator may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(d) Where any provision of this chapter authorizes or requires any function, power, or duty to be exercised by a State, or by any officer or agency thereof, such function, power, or duty shall, with respect to the Republic of the Philippines, be exercised by the Administrator.

#### § 1762. Nonduplication of benefits

(a) The commencement of a program of education or special restorative training under this chapter shall be a bar (1) to subsequent payments of compensation, dependency and indemnity compensation, or pension based on the death of a parent to an eligible person over the age of eighteen by reason of pursuing a course in an educational institution, or (2) to increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person.

(b) No educational assistance allowance or special training allowance shall be paid on behalf of any eligible person under this chapter for any period during which such person is enrolled in and pursuing a course of education or training paid for by the United States under any provision of law other than this chapter, where the payment of an allowance would constitute a duplication of benefits paid from the Federal Treasury to the eligible person or to his parent or guardian in his behalf.

#### § 1763. Control by agencies of the United States

No department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution. Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or to prevent the furnishing of education under this chapter in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of law.

#### § 1764. Conflicting interests

(a) Every officer or employee of the Veterans' Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible person was pursuing a course of education under this chapter shall be immediately dismissed from his office or employment.

(b) The Administrator may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Veterans' Administration, if he finds that no detriment will result to the United States or to eligible persons by reason of such interest or connection of such officer or employee.

**§ 1765. Reports by institutions**

(a) Educational institutions shall, without delay, report to the Administrator in the form prescribed by him, the enrollment, interruption, and termination of the education of each eligible person enrolled therein under this chapter.

(b) The Administrator shall pay to each educational institution which is required to submit reports and certifications to the Administrator under this chapter, an allowance at the rate of \$1 per month for each eligible person enrolled in and attending such institution under the provisions of this chapter to assist the educational institution in defraying the expense of preparing and submitting such reports and certifications. Such allowances shall be paid in such manner and at such times as may be prescribed by the Administrator, except that in the event any institution fails to submit reports or certifications to the Administrator as required by this chapter, no allowance shall be paid to such institution for the month or months during which such reports or certifications were not submitted as required by the Administrator.

**§ 1766. Overpayments to eligible persons**

Whenever the Administrator finds that an overpayment has been made to an eligible person as the result of (1) the willful or negligent failure of an educational institution to report, as required by this chapter and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the eligible person, or (2) false certification by an educational institution, the amount of such overpayment shall constitute a liability of such institution, and may be recovered in the same manner as any other debt due the United States. Any amount so collected shall be reimbursed if the overpayment is recovered from the eligible person. This section shall not preclude the imposition of any civil or criminal liability under this or any other law.

**§ 1767. Examination of records**

The records and accounts of educational institutions pertaining to eligible persons who received education under this chapter shall be available for examination by duly authorized representatives of the Government.

**§ 1768. False or misleading statements**

The Administrator shall not make any payments under this chapter to any person found by him to have willfully submitted any false or misleading claims. Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a person, with the complicity of an educational institution, has submitted such a claim, he shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

## CHAPTER 37—HOME, FARM, AND BUSINESS LOANS

## SUBCHAPTER I—GENERAL

Sec.

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- 1802. Basic entitlement.
- 1803. Basic provisions relating to loan guaranty.
- 1804. Restrictions on loans.
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## SUBCHAPTER II—LOANS

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- 1812. Purchase of farms and farm equipment.
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- 1814. Loans to refinance delinquent indebtedness.
- 1815. Insurance of loans.
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- 1820. Powers of Administrator.
- 1821. Incontestability.
- 1822. Recovery of damages.
- 1823. Direct loan revolving fund.
- 1824. Waiver of discharge requirements for hospitalized persons.

## Subchapter I—General

## § 1801. Definitions

(a) For the purposes of this chapter—

(1) The term "World War II" (A) means the period beginning on September 16, 1940, and ending on July 25, 1947, and (B) includes, in the case of any veteran who enlisted or reenlisted in a Regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, the period of the first such enlistment or reenlistment.

(2) The term "veteran" includes the widow of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability, but only if such widow is not eligible for benefits under this chapter on the basis of her own active duty. The active duty of her husband shall be deemed to have been active duty by such widow for the purposes of this chapter.

(b) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the Coast and Geodetic Survey, or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title III of the Servicemen's Readjustment Act of 1944.

58 Stat. 291.  
38 U.S.C. 694-  
694o.

## § 1802. Basic entitlement

(a) Each veteran who served on active duty at any time during World War II or the Korean conflict and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II or the Korean conflict, for a service-connected disability, shall be eligible for the benefits of this chapter. Entitlement derived from service during the Korean conflict (1) shall cancel any unused entitlement derived from service during World War II, and (2) shall be reduced by the amount by which entitlement from service during World War II, has been used to obtain a direct, guaranteed, or insured loan—

(A) on real property which the veteran owns at the time of application; or

(B) as to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment

of such liability by the Administrator the resulting indebtedness of the veteran to the United States has been paid in full.

(b) In computing the aggregate amount of guaranty or insurance entitlement available to a veteran under this chapter—

(1) the Administrator may exclude the initial use of the veteran's entitlement for any loan with respect to which the security has been (A) taken (by condemnation or otherwise) by the United States or any State, or by any local government agency for public use, (B) destroyed by fire or other natural hazard, or (C) disposed of because of other compelling reasons devoid of fault on the part of the veteran; and

(2) the Administrator shall exclude the amount of guaranty or insurance entitlement previously used for any guaranteed or insured home loan which has been repaid in full, and with respect to which the real property which served as security for the loan has been disposed of because the veteran, while on active duty, was transferred by the service department with which he was serving.

Entitlement restored under this subsection may be used at any time before February 1, 1965.

(c) An honorable discharge shall be deemed to be a certificate of eligibility to apply for a guaranteed loan. Any veteran who does not have a discharge certificate, or who received a discharge other than honorable, may apply to the Administrator for a certificate of eligibility. Upon making a loan guaranteed or insured under this chapter, the lender shall forthwith transmit to the Administrator a report thereon in such detail as the Administrator may, from time to time, prescribe. Where the loan is guaranteed, the Administrator shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. He shall also endorse on the veteran's discharge, or eligibility certificate, the amount and type of guaranty used, and the amount, if any, remaining. Nothing in this chapter shall preclude the assignment of any guaranteed loan or the security therefor.

(d) Loans will be automatically guaranteed under this chapter only if made (1) by any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, or (2) by any State. Any loan proposed to be made to a veteran pursuant to this chapter by any lender not of a class specified in the preceding sentence may be guaranteed by the Administrator if he finds that it is in accord otherwise with the provisions of this chapter.

(e) The Administrator may at any time upon thirty days' notice require loans to be made by any lender or class of lenders to be submitted to him for prior approval. No guaranty or insurance liability shall exist with respect to any such loan unless evidence of guaranty or insurance is issued by the Administrator.

(f) Any loan at least 20 per centum of which is guaranteed under this chapter may be made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company, organized or authorized to do business in the District of Columbia. Any such loan may be so made without regard to the limitations and restrictions of any other law relating to—

- (1) ratio of amount of loan to the value of the property;
- (2) maturity of loan;
- (3) requirement for mortgage or other security;
- (4) dignity of lien; or
- (5) percentage of assets which may be invested in real estate loans.

### § 1803. Basic provisions relating to loan guaranty

(a) (1) Any loan made to a World War II veteran, if made before July 26, 1960 (or, in the case of a veteran described in section 1801 (a) (1) (B) of this title, before the expiration of thirteen years after World War II is deemed to have ended with respect to him), or to a Korean conflict veteran, if made before February 1, 1965, for any of the purposes, and in compliance with the provisions, specified in this chapter, is automatically guaranteed by the United States in an amount not more than 60 per centum of the loan if the loan is made for any of the purposes specified in section 1810 of this title and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title.

(2) If a loan report or an application for loan guaranty relating to a loan under this chapter to a World War II veteran whose entitlement would otherwise expire on July 25, 1960, has been received by the Administrator before July 26, 1960, such loan may be guaranteed or insured under the provisions of this chapter before July 26, 1961.

(b) Except as provided in sections 1810 and 1811 of this title, the aggregate amount guaranteed shall not be more than \$2,000 in the case of non-real-estate loans, nor \$4,000 in the case of real-estate loans, or a prorated portion thereof on loans of both types or combination thereof. The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c) (1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Administrator issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Administrator, with the approval of the Secretary of the Treasury, may from time to time find the loan market demands, but the rate of interest so prescribed by the Administrator shall not exceed at any time the rate of interest (exclusive of premium charges for insurance, and service charges if any), established by the Federal Housing Commissioner under section 203 (b) (5) of the National Housing Act, less one-half of 1 per centum per annum; except that such rate shall in no event exceed 4¾ per centum per annum.

12 USC 1709.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

38 USC 693 note.

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Administrator before April 1, 1958.

(d) (1) The maturity of any non-real-estate loan shall not be more than ten years. The maturity of any real-estate loan (other than a loan on farm realty) shall not be more than thirty years, and in the case of a loan on farm realty, shall not be more than forty years.

(2) Any loan for a term of more than five years shall be amortized in accordance with established procedure.

(3) Any real-estate loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. Any non-real-estate loan (other than for working or other capital, merchandise, goodwill, and other intangible assets) shall be secured by personalty to the extent legal and practicable.

**§ 1804. Restrictions on loans**

(a) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the property meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Administrator; however, this subsection shall not apply to a loan for the purchase of residential property on which construction is fully completed more than one year before such loan is made.

(b) The Administrator may refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person identified with housing previously sold to veterans under this chapter as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or as to which it is ascertained that the type of contract of sale or the methods or practices pursued in relation to the marketing of such properties were unfair or unduly prejudicial to veteran purchasers.

(c) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the veteran applicant, at the time that he applies for the loan, and also at the time that the loan is closed, certifies in such form as the Administrator may require, that he intends to occupy the property as his home. No loan for the repair, alteration, or improvement of residential property shall be financed through the assistance of the provisions of this chapter unless the veteran applicant, at the time that he applies to the lender for the loan, and also at the time that the loan is closed, certifies, in such form as may be required by the Administrator, that he occupies the property as his home. For the purposes of this chapter the requirement that the veteran recipient of a guaranteed or direct home loan must occupy or intend to occupy the property as his home means that the veteran as of the date of his certification actually lives in the property personally as his residence or actually intends upon completion of the loan and acquisition of the dwelling unit to move into the property personally within a reasonable time and to utilize such property as his residence.

(d) Whenever the Administrator finds with respect to guaranteed or insured loans that any lender or holder has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government, he may refuse either temporarily or permanently to guarantee or insure any loans made by such lender or holder and may bar such lender or holder from acquiring loans guaranteed or insured under this chapter; however, the Administrator shall not refuse to pay a guaranty or insurance claim on loans theretofore entered into in good faith between a veteran and such lender.

**§ 1805. Warranties**

(a) The Administrator shall require that in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is approved for guaranty or insurance before the beginning of construction, the seller or builder, and such other person as may be required by the Administrator to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Administrator) on which the Administrator based his valuation of the dwelling. The Adminis-

trator shall deliver to the builder, seller, or other warrantor his written approval (which shall be conclusive evidence of such approval) of any amendment of, or change or variation in, such plans and specifications which the Administrator deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications. Such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided in this section, by the Administrator) as to which the purchaser or home owner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Administrator on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a commitment therefor made before October 1, 1954.

(b) The Administrator shall permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided in this section) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, home owner, or warrantor during such hours or periods of time as the Administrator may determine to be reasonable.

## Subchapter II—Loans

### § 1810. Purchase or construction of homes

(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

- (1) To purchase or construct a dwelling to be owned and occupied by him as a home.
- (2) To purchase a farm on which there is a farm residence to be owned and occupied by him as his home.
- (3) To construct on land owned by him a farm residence to be occupied by him as his home.
- (4) To repair, alter, or improve a farm residence or other dwelling owned by him and occupied by him as his home.

If there is an indebtedness which is secured by a lien against land owned by the veteran, the proceeds of a loan guaranteed under this section or made under section 1811 of this title for construction of a dwelling or farm residence on such land may be used also to liquidate such lien, but only if the reasonable value of the land is equal to or greater than the amount of the lien.

(b) No loan may be guaranteed under this section or made under section 1811 of this title unless—

- (1) the proceeds of such loan will be used to pay for the property purchased, constructed, or improved;
- (2) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price or the construction cost bear a proper relation to the veteran's present and anticipated income and expenses;
- (3) the veteran is a satisfactory credit risk;
- (4) the nature and condition of the property is such as to be suitable for dwelling purposes;

(5) the price paid or to be paid by the veteran for such property, or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined by the Administrator; and

(6) if the loan is for repair, alteration, or improvement of property, such repair, alteration, or improvement substantially protects or improves the basic livability or utility of such property.

(c) The amount of guaranty entitlement available to a veteran under this section shall not be more than \$7,500 less such entitlement as may have been used previously under this section and other sections of this chapter.

### § 1811. Direct loans to veterans

(a) The Congress finds that housing credit under section 1810 of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

(b) Whenever the Administrator finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed under section 1810 of this title, he shall designate such rural area or small city or town as a "housing credit shortage area". He shall make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes listed in section 1810 (a) in such area.

(c) No loan may be made under this section to a veteran unless he shows to the satisfaction of the Administrator that—

(1) he is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans, a loan for such purpose for which he is qualified under section 1810 of this title; and

(2) he is unable to obtain a loan for such purpose from the Secretary of Agriculture under sections 1000-1029 of title 7 or under sections 1471-1483 of title 42.

(d) (1) Loans made under this section shall bear interest at a rate determined by the Administrator, not to exceed the rate authorized for guaranteed home loans, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

(2) The original principal amount of any loan made under this section shall not exceed an amount which bears the same ratio to \$13,500 as the amount of guaranty to which the veteran is entitled under section 1810 of this title at the time the loan is made bears to \$7,500; and the guaranty entitlement of any veteran who heretofore or hereafter has been granted a loan under this section shall be charged with an amount which bears the same ratio to \$7,500 as the amount of the loan bears to \$13,500.

(3) No veteran may obtain loans under this section aggregating more than \$13,500.

(e) Loans made under this section shall be repaid in monthly installments, except that in the case of any such loan made for any of the purposes described in paragraphs (2), (3), or (4) of section 1810 (a) of this title, the Administrator may provide that such loan shall be repaid in quarterly, semiannual, or annual installments.

(f) In connection with any loan under this section, the Administrator may make advances in cash to pay taxes and assessments on the real estate, to provide for repairs, alterations, and improvements, and to meet the incidental expenses of the transaction. The Adminis-

trator shall determine the expenses incident to origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) The Administrator may sell, and shall offer for sale, to any person or entity approved for such purpose by him, any loan made under this section at a price not less than par; that is, the unpaid balance plus accrued interest, and shall guarantee any loan thus sold subject to the same conditions, terms, and limitations which would be applicable were the loan guaranteed under section 1810 of this title.

(h) No loan may be made under this section after July 25, 1960, except pursuant to commitments issued by the Administrator before that date.

(i) (1) If any builder or sponsor proposes to construct one or more dwellings in a housing credit shortage area, the Administrator may enter into commitment with such builder or sponsor, under which funds available for loans under this section will be reserved for a period not in excess of three months, or such longer period as the Administrator may authorize to meet the needs in any particular case, for the purpose of making loans to veterans to purchase such dwellings. Such commitment may not be assigned or transferred except with the written approval of the Administrator. The Administrator shall not enter into any such commitment unless such builder or sponsor pays a nonrefundable commitment fee to the Administrator in an amount determined by the Administrator, not to exceed 2 per centum of the funds reserved for such builder or sponsor.

(2) Whenever the Administrator finds that a dwelling with respect to which funds are being reserved under this subsection has been sold, or contracted to be sold, to a veteran eligible for a direct loan under this section, the Administrator shall enter into a commitment to make the veteran a loan for the purchase of such dwelling. With respect to any loan made to an eligible veteran under this subsection, the Administrator may make advances during the construction of the dwelling, up to a maximum in advances of (A) the cost of the land plus (B) 80 per centum of the value of the construction in place.

(3) After the Administrator has entered into a commitment to make a veteran a loan under this subsection, he may refer the proposed loan to the Voluntary Home Mortgage Credit Committee, in order to afford a private lender the opportunity to acquire such loan subject to guaranty as provided in subsection (g) of this section. If, before the expiration of sixty days after the loan made to the veteran by the Administrator is fully disbursed, a private lender agrees to purchase such loan, all or any part of the commitment fee paid to the Administrator with respect to such loan may be paid to such private lender when such loan is so purchased. If a private lender has not purchased or agreed to purchase such loan before the expiration of sixty days after the loan made by the Administrator is fully disbursed, the commitment fee paid with respect to such loan shall become a part of the special deposit account referred to in subsection (c) of section 1823 of this title. If a loan is not made to a veteran for the purchase of a dwelling, the commitment fee paid with respect to such dwelling shall become a part of such special deposit account.

(4) The Administrator may exempt dwellings constructed through assistance provided by this subsection from the minimum land planning and subdivision requirements prescribed pursuant to subsection (a) of section 1804 of this title, and with respect to such dwellings may prescribe special minimum land planning and subdivision requirements which shall be in keeping with the general housing facilities in the locality but shall require that such dwellings meet minimum requirements of structural soundness and general acceptability.

(j) (1) The Administrator shall commence the processing of any application for a loan under this section upon the receipt of such application, and shall continue such processing notwithstanding the fact that the assistance of the Voluntary Home Mortgage Credit Committee has been requested by the Administrator for the purpose of ascertaining whether or not such loan can be placed with a private lender.

(2) If the assistance of such Committee has been requested by the Administrator in connection with any such application, and the Administrator is not notified by such Committee within twenty working days after such assistance has been requested that it has been successful in enabling the applicant to place such loan with a private lender or expects to do so within ten additional working days, the Administrator shall proceed forthwith to complete any part of the processing of such application remaining unfinished, and to grant or deny the application in accordance with the provisions of this section.

(3) As used in this subsection, the term "working days" means calendar days exclusive of Saturdays, Sundays, and legal holidays.

(k) Without regard to any other provision of this chapter, the Administrator may take or cause to be taken such action as in his judgment may be necessary or appropriate for or in connection with the custody, management, protection, and realization or sale of investments under this section, may determine his necessary expenses and expenditures, and the manner in which the same shall be incurred, allowed and paid, may make such rules, regulations, and orders as he may deem necessary or appropriate for carrying out his functions under this section and section 1823 of this title and, except as otherwise expressly provided in this chapter, may employ, utilize, compensate, and, to the extent not inconsistent with his basic responsibilities under this chapter, delegate any of his functions under this section and section 1823 of this title to such persons and such corporate or other agencies, including agencies of the United States, as he may designate.

### § 1812. Purchase of farms and farm equipment

(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To purchase any lands, buildings, livestock, equipment, machinery, supplies or implements, or to repair, alter, construct, or improve any land, equipment, or building, including a farmhouse, to be used in farming operations conducted by the veteran involving production in excess of his own needs.

(2) For working capital requirements necessary for such farming operations.

(3) To purchase stock in a cooperative association where the purchase of such stock is required by Federal law as an incident to obtaining the loan.

(b) No loan may be guaranteed under this section unless—

(1) the proceeds of the loan will be used for one of the purposes listed in subsection (a) in connection with bona fide farming operations conducted by the veteran;

(2) such property will be useful in and reasonably necessary for efficiently conducting such operations;

(3) the ability and experience of the veteran, and the nature of the proposed farming operations to be conducted by him, are such that there is a reasonable likelihood that such operations will be successful; and

(4) the price paid or to be paid by the veteran for such property, or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined by the Administrator.

(c) For the purpose of encouraging the construction and improvement of farm housing, the Administrator may guarantee a loan for the construction or improvement of a farmhouse which loan is secured by a first lien on a portion of the farm suitable in size and location as an independent home site, and may permit payment out of the proceeds of such loan any sum required to obtain the release of such site from existing indebtedness. The Administrator may, in his discretion, except any loan for the construction or improvement of a farmhouse from the first lien requirement imposed by section 1803 (d) (3) of this title.

### § 1813. Purchase of business property

(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To be used for the purpose of engaging in business or pursuing a gainful occupation.

(2) For the cost of acquiring for such purpose land, buildings, supplies, equipment, machinery, tools, inventory, or stock in trade.

(3) For the cost of the construction, repair, alteration, or improvement of any realty or personalty used for such purpose.

(4) To provide the funds needed for working capital for such purpose.

(b) No loan may be guaranteed under this section unless—

(1) the proceeds of such loan will be used by the veteran for any of the specified purposes in connection with bona fide pursuit of a gainful occupation by the veteran;

(2) such property will be useful in and reasonably necessary for the efficient and successful pursuit of such business or occupation;

(3) the ability and experience of the veteran, and the conditions under which he proposes to pursue such business or occupation, are such that there is a reasonable likelihood that he will be successful in the pursuit of such business or occupation; and

(4) the price paid or to be paid by the veteran for such property, or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined by the Administrator.

### § 1814. Loans to refinance delinquent indebtedness

(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To refinance any indebtedness of the veteran which is secured of record on property to be used or occupied by him as a home or for farming purposes.

(2) To refinance any indebtedness incurred by him in the pursuit of a gainful occupation which he is pursuing or which he proposes in good faith to pursue.

(3) To pay any delinquent taxes or assessments on such property or business.

(b) No loan may be guaranteed under this section unless—

(1) such refinancing will aid the veteran in his economic readjustment;

(2) the amount of the loan does not exceed the reasonable value of the property or business as determined by the Administrator; and

(3) such loan became in default or the delinquency occurred (A) before July 26, 1960, in the case of a World War II veteran (or, in the case of a veteran described in section 1801 (a) (1) (B) of this title, before the expiration of thirteen years after World War II is deemed to have ended with respect to him), or (B) before February 1, 1965, in the case of a Korean conflict veteran.

#### § 1815. Insurance of loans

(a) Any loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by an agency of the United States or of any State may, in lieu of such guaranty, be insured by the Administrator under an agreement whereby he will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

(b) Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Administrator may prescribe within the limitations set forth in this chapter. The Administrator may fix the maximum rate of interest payable on any class of non-real-estate loans insured under this section at a figure not in excess of a 3 per centum discount rate or an equivalent straight interest rate on nonamortized loans.

#### § 1816. Procedure on default

In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Administrator who shall thereupon pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed, and shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty. Before suit or foreclosure the holder of the obligation shall notify the Administrator of the default, and within thirty days thereafter the Administrator may, at his option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forbearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Administrator. The Administrator may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

#### § 1817. Release from liability under guaranty

Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct loan obtained by him, the Administrator, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving him of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Administrator has determined, after such investigation as he may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) has obligated himself by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if he were a veteran eligible under section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which he has assumed liability.

### Subchapter III—Administrative Provisions

#### § 1820. Powers of Administrator

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Administrator may—

(1) sue and be sued in his official capacity in any court of competent jurisdiction, State or Federal;

(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed or insured under this chapter;

(3) pay, or compromise, any claim on, or arising because of, any such guaranty or insurance;

(4) pay, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

(5) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to, property, real, personal or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of any such property; and

(6) complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to this chapter. The acquisition of any such property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction of, on, or over such property (including power to tax) or impair the rights under the State or local law of any persons on such property.

(b) The powers granted by this section may be exercised by the Administrator without regard to any other provision of law not enacted expressly in limitation of this section, which otherwise would govern the expenditure of public funds; however, section 5 of title 41 shall apply to any contract for services or supplies on account of any property acquired pursuant to this section if the amount of such contract exceeds \$1,000.

41 USC 5.

(c) The financial transactions of the Administrator incident to, or arising out of, the guaranty or insurance of loans pursuant to this chapter, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities and pursuant to this section, shall be final and conclusive upon all officers of the Government.

(d) The right to redeem provided for by section 2410 (c) of title 28 shall not arise in any case in which the subordinate lien or interest of the United States derives from a guaranteed or insured loan.

28 USC 2410.

#### § 1821. Incontestability

Any evidence of guaranty or insurance issued by the Administrator shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Administrator from establishing, as against the original lender, defenses based on fraud or material misrepresentation. The Administrator shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

**§ 1822. Recovery of damages**

(a) Whoever knowingly makes, effects, or participates in a sale of any property to a veteran for a consideration in excess of the reasonable value of such property as determined by the Administrator, shall, if the veteran pays for such property in whole or in part with the proceeds of a loan guaranteed by the Veterans' Administration under section 1810, 1812, or 1813 of this title, be liable for three times the amount of such excess consideration irrespective of whether such person has received any part thereof.

(b) Actions pursuant to the provisions of this section may be instituted by the veteran concerned, in any United States district court, which court may, as a part of any judgment, award costs and reasonable attorneys' fees to the successful party. If the veteran does not institute an action under this section within thirty days after discovering he has overpaid, or having instituted an action shall fail diligently to prosecute the same, or upon request by the veteran, the Attorney General, in the name of the Government of the United States, may proceed therewith, in which event one-third of any recovery in said action shall be paid over to the veteran and two-thirds thereof shall be paid into the Treasury of the United States.

(c) The remedy provided in this section shall be in addition to any and all other penalties imposed by law.

**§ 1823. Direct loan revolving fund**

(a) For the purposes of section 1811 of this title, the revolving fund heretofore established by section 513 of the Servicemen's Readjustment Act of 1944 is continued in effect. For the purposes of further augmenting the revolving fund, the Secretary of the Treasury is authorized and directed to advance to the Administrator from time to time after December 31, 1958, and until June 30, 1960, such sums (not in excess of \$150,000,000 in any one fiscal year, including prior advancements in fiscal year 1959) as the Administrator may request, except that the aggregate so advanced in any one quarter annual period shall not exceed the sum of \$50,000,000, less that amount which has been returned to the revolving fund during the preceding quarter annual period from the sale of loans pursuant to section 1811 (g) of this title. In addition the Secretary is authorized and directed to make available to the Administrator for this purpose from time to time as he may request the amount of any funds which may have been deposited to the credit of miscellaneous receipts under this subsection or subsection (c) of this section, except that no sums may be made available after July 25, 1960. After the last day on which the Administrator may make loans under section 1811 of this title, he shall cause to be deposited with the Treasurer of the United States, to the credit of miscellaneous receipts, that part of all sums in such revolving fund, and all amounts thereafter received, representing unexpended advances or the repayment or recovery of the principal of direct home loans, retaining, however, a reasonable reserve for making loans with respect to which he has entered into commitments with veterans before such last day.

(b) On advances to such revolving fund by the Secretary of the Treasury, less those amounts deposited in miscellaneous receipts under subsections (a) and (c) the Administrator shall pay semiannually to the Treasurer of the United States interest at the rate or rates determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the advance.

(c) In order to make advances to such revolving fund, as authorized by law to effectuate the purposes and functions authorized in section 1811 of this title, the Secretary of the Treasury may use, as a public

debt transaction, the proceeds of the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act include such purposes. Such sums, together with all receipts under this section and section 1811 of this title, shall be deposited with the Treasurer of the United States, in a special deposit account, and shall be available, respectively, for disbursement for the purposes of section 1811 of this title. Except as otherwise provided in subsection (a) of this section, the Administrator shall from time to time cause to be deposited into the Treasury of the United States, to the credit of miscellaneous receipts, such of the funds in such account as in his judgment are not needed for the purposes for which they were provided, including the proceeds of the sale of any loans, and not later than June 30, 1961, he shall cause to be so deposited all sums in such account and all amounts received thereafter in repayment of outstanding obligations, or otherwise, except so much thereof as he may determine to be necessary for purposes of liquidation of loans made from the revolving fund.

31 USC 774.

#### § 1824. Waiver of discharge requirements for hospitalized persons

The benefits of this chapter may be afforded to any person who is hospitalized pending final discharge from active duty, if he is qualified therefor in every respect except for discharge.

### CHAPTER 39—AUTOMOBILES FOR DISABLED VETERANS

Sec.

1901. Veterans eligible for assistance.

1902. Limitation on types of assistance furnished and veterans otherwise entitled.

1903. Limitation on amounts paid by United States.

1904. Prohibition against duplication of benefits.

1905. Applications.

#### § 1901. Veterans eligible for assistance

(a) The Administrator, under such regulations as he may prescribe, shall provide or assist in providing an automobile or other conveyance by paying not to exceed \$1,600 on the purchase price, including equipment with such special attachments and devices as the Administrator may deem necessary, for each veteran who is entitled to compensation under chapter 11 of this title for any of the following due to disability incurred in or aggravated by active military, naval, or air service during World War II or the Korean conflict:

- (1) Loss or permanent loss of use of one or both feet;
- (2) Loss or permanent loss of use of one or both hands;
- (3) Permanent impairment of vision of both eyes of the following status: Central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees in the better eye.

(b) For the purposes of this section, the term "World War II" includes, in the case of any veteran, any period of continuous service performed by him after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

**§ 1902. Limitation on types of assistance furnished and veterans otherwise entitled**

No payment shall be made under this chapter for the repair, maintenance, or replacement of any such automobile or other conveyance and no veteran shall be given an automobile or other conveyance until it is established to the satisfaction of the Administrator that such veteran will be able to operate such automobile or other conveyance in a manner consistent with his own safety and the safety of others and will be licensed to operate such automobile or other conveyance by the State of his residence or other proper licensing authority; however, a veteran who cannot qualify to operate a vehicle shall nevertheless be entitled to the payment of not to exceed \$1,600 on the purchase price of an automobile or other conveyance, as provided in section 1901 of this title, to be operated for him by another person, but only if such veteran meets the other eligibility requirements of this chapter.

**§ 1903. Limitation on amounts paid by United States**

The furnishing of such automobile or other conveyance, or the assisting therein, shall be accomplished by the Administrator paying the total purchase price, if not in excess of \$1,600, or the amount of \$1,600, if the total purchase price is in excess of \$1,600, to the seller from whom the veteran is purchasing under sales agreement between the seller and the veteran.

**§ 1904. Prohibition against duplication of benefits**

No veteran shall be entitled to receive more than one automobile or other conveyance under the provisions of this chapter.

**§ 1905. Applications**

The benefits provided in this chapter shall not be available to any veteran who has not made application for such benefits to the Administrator within five years after the date of the veteran's discharge or release from active military, naval, or air service; except that in the case of any veteran whose loss or permanent loss of use of one or both feet, or one or both hands, or permanent impairment of vision, as specified in section 1901 of this title, shall have occurred after his discharge or release from active military, naval, or air service, application may be made within three years after the occurrence of such disability. Notwithstanding the foregoing time limits, no otherwise eligible veteran shall be denied the benefits of this chapter who makes application within one year from the date on which his entitlement to compensation for loss or permanent loss of use of one or both feet, or one or both hands, or permanent impairment of vision, as specified in section 1901 of this title, shall have been determined.

**CHAPTER 41—UNEMPLOYMENT BENEFITS FOR VETERANS**

**SUBCHAPTER I—UNEMPLOYMENT COMPENSATION**

Sec.

- 2001. Compensation for veterans under State agreements.
- 2002. Unemployment compensation in absense of State agreements.
- 2003. Payments to States.
- 2004. Information.
- 2005. Penalties.
- 2006. Regulations.
- 2007. Definitions.
- 2008. Nonduplication of benefits.
- 2009. Terminations.

**SUBCHAPTER II—EMPLOYMENT SERVICE FOR VETERANS**

- 2010. Purpose.
- 2011. Assignment of veterans' employment representative.
- 2012. Employees of local offices.
- 2013. Cooperation of Federal agencies.
- 2014. Estimate of funds for administration.

### Subchapter I—Unemployment Compensation

#### § 2001. Compensation for veterans under State agreements

(a) The Secretary of Labor is authorized on behalf of the United States to enter into an agreement with any State, or with the agency administering the unemployment compensation law of such State, under which such State agency (1) will make, as agent of the United States, payments of unemployment compensation to Korean conflict veterans, in accordance with the provisions of this chapter, and (2) will otherwise cooperate with the Secretary, and with other State agencies, in making payments of unemployment compensation under this chapter.

(b) Any such agreement shall, except as provided in section 2008 of this title, provide that unemployment compensation at the rate of \$26 per week will be paid by the State to any Korean conflict veteran in such State with respect to weeks of unemployment (not in excess of a total of twenty-six weeks). If a Korean conflict veteran is eligible to receive mustering-out payment under section 2102 of this title, he shall not be eligible to receive unemployment compensation under this chapter with respect to weeks of unemployment completed within thirty days after his discharge or release, if he receives \$100 in such mustering-out payment; within sixty days after his discharge or release if he receives \$200 in such mustering-out payment; or within ninety days after his discharge or release if he receives \$300 in such mustering-out payment.

(c) Any such agreement shall provide that any determination by a State agency with respect to entitlement to unemployment compensation pursuant to an agreement under this section shall be made in accordance with the State unemployment compensation law, insofar as such law is applicable, and shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

(d) Each agreement shall provide the terms and conditions upon which it may be amended or terminated.

(e) Each agreement entered into pursuant to title IV of the Veterans' Readjustment Assistance Act of 1952 shall be deemed to have been entered into pursuant to this chapter.

(f) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the Coast and Geodetic Survey, or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title IV of the Veterans' Readjustment Assistance Act of 1952.

#### § 2002. Unemployment compensation in absence of State agreements

(a) In the case of a Korean conflict veteran who is in a State which has no agreement under this chapter with the Secretary of Labor, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for unemployment compensation under this subsection, make payments of unemployment compensation to him in the same amounts and for the same periods as provided in section 2001 (b) of this title. Any determination by the Secretary with respect to entitlement to unemployment compensation under this subsection shall be made in accordance with the State unemployment compensation law of the State in which the veteran is insofar as such law is applicable.

(b) In the case of a Korean conflict veteran who is in Puerto Rico or in the Virgin Islands, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for unemployment compensation under this subsection, make payments of unemployment compensation to him in the same amounts and for the same periods as provided in section 2001 (b) of this title. Any determination by the Secretary with respect to entitlement to unemployment compensation under this subsection shall be made in accordance with the unemployment compensation law of the District of Columbia insofar as such law is applicable.

42 USC 405.

(c) Any Korean conflict veteran whose claim for unemployment compensation under subsection (a) or (b) of this section has been denied shall be entitled to a fair hearing in accordance with regulations prescribed by the Secretary. Any final determination by the Secretary with respect to entitlement to unemployment compensation under this section shall be subject to review by the courts in the same manner and to the extent as is provided in section 405 (g) of title 42, with respect to final decisions of the Secretary of Health, Education, and Welfare under such title.

29 USC 49-49c,  
49d-49k.

(d) The Secretary may utilize for the purposes of this section the personnel and facilities of the agencies in Puerto Rico and the Virgin Islands cooperating with the United States Employment Service under sections 49-49c, 49d-49k of title 29. For the purpose of payments made to such agencies under such Act, the furnishing of such personnel and facilities shall be deemed to be a part of the administration of the public employment offices of such agencies.

### § 2003. Payments to States

(a) Each State shall be entitled to be paid by the United States an amount equal to payments of unemployment compensation made by such State under and in accordance with an agreement under this chapter.

(b) In making payments pursuant to subsection (a) of this section there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, such sum as the Secretary estimates the State will be entitled to receive under this chapter for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

(c) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State sums payable to such State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds for carrying out the purposes of this chapter.

(d) All money paid to a State under this chapter shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this chapter, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this chapter may be made.

(e) An agreement under this chapter may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

(f) No person designated by the Secretary, or designated pursuant to an agreement under this chapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any unemployment compensation certified by him under this chapter.

(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by the State agency of such State pursuant to an agreement under this chapter shall be deemed to be a part of the administration of the State unemployment compensation law.

42 USC 501-503.

#### § 2004. Information

(a) All Federal departments and agencies shall make available to State agencies which have agreements under this chapter or to the Secretary, as the case may be, such information with respect to military service of any veteran as the Secretary may find practicable and necessary for the determination of such veteran's entitlement to unemployment compensation under this chapter.

(b) The agency administering the unemployment compensation law of any State shall furnish to the Secretary such information as the Secretary may find necessary or appropriate in carrying out the provisions of this chapter, and such information shall be deemed reports required by the Secretary for the purposes of paragraph (6) of subsection (a) of section 503 of title 42.

42 USC 503.

#### § 2005. Penalties

(a) Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under this chapter or under an agreement thereunder shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(b) Any person who makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false or knowingly fails, or causes another to fail, to disclose a material fact, and, as a result thereof, has received any amount as unemployment compensation under this chapter to which he was not entitled, shall be liable to repay such amount to the State agency or the Secretary of Labor, as the case may be, for the fund from which the amount was paid or, in the discretion of the State agency or the Secretary, as the case may be, to have such amount deducted from any future unemployment compensation payable to him under this chapter within the two-year period following the finding, if the existence of such non-disclosure or misrepresentation has been found by a court of competent jurisdiction or in connection with a reconsideration or appeal.

#### § 2006. Regulations

The Secretary is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this chapter. The Secretary shall, insofar as practicable, consult with representatives of the State unemployment compensation agencies before prescribing any rules or regulations which may affect the performance by such agencies of functions pursuant to agreements under this chapter.

### § 2007. Definitions

When used in this subchapter—

(a) The term "Korean conflict veteran" means any person who has served in the active service in the Armed Forces at any time on or after June 27, 1950, and before February 1, 1955, and who has been discharged or released from such active service under conditions other than dishonorable after continuous service of ninety days or more, or by reason of an actual service-incurred injury or disability.

(b) The term "unemployment compensation" means the money payments to individuals with respect to their unemployment.

(c) The term "State" includes Hawaii, Alaska, Puerto Rico, the Virgin Islands, and the District of Columbia.

### § 2008. Nonduplication of benefits

(a) Notwithstanding any other provision of this chapter, no payment shall be made under any agreement under this chapter, or, in the absence of such an agreement, by the Secretary under this chapter to a veteran—

(1) for any week or any part of a week he is eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) to receive unemployment benefits at a rate equal to or in excess of \$26 per week under any Federal or State unemployment compensation law;

(2) for any period with respect to which he receives an education and training allowance under subsection (a), (b), (c) or (d) of section 1632 of this title or a subsistence allowance under chapter 31 of this title or section 12 (a) of the Act enacting this title; or

(3) for any period he receives additional compensation necessary for his maintenance under section 756 (b) (2) of title 5.

(b) In any case in which, for any week or any part of a week, a veteran is eligible for payment of unemployment compensation under this chapter and is also eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) to receive for such week or such part of a week unemployment benefits at a rate of less than \$26 per week under any Federal or State unemployment compensation law, such veteran may elect to receive payment of unemployment compensation under this chapter; but if the veteran so elects, the amount of unemployment compensation payable under this chapter shall be reduced by the amount of such unemployment compensation benefits for which such veteran is eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) under such Federal or State unemployment compensation law.

(c) If the veteran elects under subsection (b) to receive payment of unemployment compensation under this chapter, he shall be entitled to unemployment compensation at the rate of \$26 per week after the exhaustion of State unemployment benefits until the total unemployment compensation received under this chapter and title IV of the Veterans' Readjustment Assistance Act of 1952 equals \$676.

(d) Under no circumstances shall any veteran receive unemployment compensation under this chapter and title IV of the Veterans' Readjustment Assistance Act of 1952 from more than one State at one time or in a total amount in excess of \$676.

5 USC 756.

38 USC 991-999.

**§ 2009. Terminations**

(a) No unemployment compensation shall be paid under this chapter for any benefit week which begins more than three years after the effective date of the discharge or release prescribed in section 2007 (a) of this title.

(b) In no event shall unemployment compensation be paid under this chapter for any benefit week which begins after January 31, 1960.

**Subchapter II—Employment Service for Veterans****§ 2010. Purpose**

The Congress declares as its intent and purpose that there shall be an effective job counseling and employment placement service for veterans of any war, and that, to this end, policies shall be promulgated and administered, so as to provide for them the maximum of job opportunity in the field of gainful employment.

**§ 2011. Assignment of veterans' employment representative**

The Secretary of Labor shall assign to each of the States a veterans' employment representative, who shall be a veteran of any war, who at the time of appointment shall have been a bona fide resident of the State for at least two years, and who shall be appointed in accordance with the civil-service laws, and whose compensation shall be fixed in accordance with the Classification Act of 1949. Each such veterans' employment representative shall be attached to the staff of the public employment service in the State to which he has been assigned. He shall be administratively responsible to the Secretary of Labor, for the execution of the Secretary's veterans' placement policies through the public employment service in the State. In cooperation with the public employment service staff in the State, he shall—

63 Stat. 954.  
5 U S C 1071-  
1153.

(1) be functionally responsible for the supervision of the registration of veterans of any war in local employment offices for suitable types of employment and for placement of veterans of any war in employment;

(2) assist in securing and maintaining current information as to the various types of available employment in public works and private industry or business;

(3) promote the interests of employers in employing veterans of any war;

(4) maintain regular contact with employers and veterans' organizations with a view of keeping employers advised of veterans of any war available for employment and veterans of any war advised of opportunities for employment; and

(5) assist in every possible way in improving working conditions and the advancement of employment of veterans of any war.

**§ 2012. Employees of local offices**

Where deemed necessary by the Secretary of Labor, there shall be assigned by the administrative head of the employment service in the State one or more employees, preferably veterans of any war, of the staffs of local employment service offices, whose services shall be primarily devoted to discharging the duties prescribed for the veterans' employment representative.

**§ 2013. Cooperation of Federal agencies**

All Federal agencies shall furnish the Secretary such records, statistics, or information as may be deemed necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment opportunities for veterans of any war.

### § 2014. Estimate of funds for administration

The Secretary shall estimate the funds necessary for the proper and efficient administration of this subchapter; such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel and communications. Sums thus estimated shall be included as a special item in the annual budget of the Bureau of Employment Security. Any funds appropriated pursuant to this special item as contained in the budget of the Bureau of Employment Security shall not be available for any purpose other than that for which they were appropriated, except with the approval of the Secretary.

## CHAPTER 43—MUSTERING-OUT PAYMENTS

Sec.

- 2101. Eligibility.
- 2102. Determination of payments.
- 2103. Deceased members.
- 2104. Time limitations.
- 2105. Administration of chapter.

### § 2101. Eligibility

(a) Except as provided in subsection (b) of this section, each member of the Armed Forces who served on active duty during the Korean conflict and who is discharged or released from active duty under honorable conditions, shall be eligible for mustering-out payment.

(b) No mustering-out payment shall be made—

(1) to any member of the Armed Forces who, at the time of discharge or release is in a pay grade higher than O-3, or if he is a commissioned officer, unless he was discharged or released before January 31, 1958;

(2) to any member of the Armed Forces who, at the time of discharge or release is entitled to severance pay, or is transferred or returned to the retired list with retired pay, retirement pay, retainer pay, or equivalent pay, or to a status in which he receives such pay; except that this paragraph shall not apply upon retirement or separation pursuant to chapter 61 of title 10;

(3) to any member of the Armed Forces for any active duty performed before the date of his discharge or release from active duty on his own initiative to accept employment, or in the case of any member so released from active duty, for any active duty performed before the date of his discharge while in such inactive status, unless he served outside the continental limits of the United States or in Alaska;

(4) to any member of the Armed Forces whose total period of active duty has been as a student assigned by the Armed Forces to a civilian institution for a course of education or training substantially the same as established courses offered to civilians;

(5) to any member of the Armed Forces for any active duty performed before the date of his discharge from such forces for the purpose of entering the United States Military, Air Force, Naval, or Coast Guard Academy;

(6) to any member of the Armed Forces whose sole service has been as a cadet or midshipman at one of such academies;

(7) to any member of the Armed Forces who has received mustering-out payments under title V of the Veterans' Readjustment Assistance Act of 1952, or to any such member for any period elected by him to be taken into account in determining his eligibility for, or the amount of, mustering-out payment under the Mustering-Out Payment Act of 1944.

70A Stat. 91,  
10 U S C 1201-  
1217.

38 U S C 1011-  
1016.

58 Stat. 10,  
38 U S C 691-  
691g.

(c) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the Coast and Geodetic Survey, or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title V of the Veterans' Readjustment Assistance Act of 1952.

#### § 2102. Determination of payments

(a) Mustering-out-payment for persons eligible under section 2101 of this title shall be in sums as follows:

(1) \$300 for persons who, having performed active duty for sixty days or more, have served outside the continental limits of the United States or in Alaska.

(2) \$200 for persons who, having performed active duty for sixty days or more, have served no part thereof outside the continental limits of the United States or in Alaska.

(3) \$100 for persons who have performed active duty for less than sixty days.

(b) Each person eligible to receive mustering-out payment under subsection (a) (1) shall receive one-third of the stipulated amount at the time of final discharge or ultimate relief from active service, or at the option of the person so eligible, at the time of discharge or release for the purpose of enlistment, reenlistment, or appointment in a regular component of the Armed Forces; and the remaining amount of such payment shall be paid in two equal installments—one month and two months, respectively, from the date of the original payment. Each person eligible to receive mustering-out payment under subsection (a) (2) shall receive one-half of the stipulated amount at the time of final discharge or ultimate relief from active service or, at the option of the person so eligible, at the time of discharge or release for the purpose of enlistment, reenlistment, or appointment in a regular component of the Armed Forces; and the remaining amount of such payment shall be paid one month from the date of the original payment. Each person eligible to receive mustering-out payment under subsection (a) (3) shall receive the stipulated amount at the time of such discharge or relief from active service or, at the option of the person so eligible, at the time of discharge or release for the purpose of enlistment, reenlistment, or appointment in a regular component of the Armed Forces. A person entitled to receive the first installment of the mustering-out payment at the time of discharge or release for the purpose of enlistment, reenlistment, or appointment in a regular component of the Armed Forces shall, at his election, receive the whole of such payment in one lump sum, rather than in installments.

#### § 2103. Deceased members

If any member of the Armed Forces, after his discharge or release from active duty, shall die before receiving any portion of or the full amount of his mustering-out payment, the balance of the amount due him shall be payable, on appropriate application therefor, to his surviving lawful wife or husband, if any; and if he shall leave no surviving lawful wife or husband, then in equal shares to his child or children (without regard to their age or marital status), then in equal shares to his surviving parents, if any. No payments under this chapter shall be made to any other person.

#### § 2104. Time limitations

Any member of the Armed Forces entitled to mustering-out payment who was discharged or relieved from active service under honorable conditions before July 16, 1952, shall, if application therefor is made before July 17, 1959, be paid such mustering-out payment by the Secretary concerned beginning within one month after application

has been received and approved. No member of the Armed Forces shall receive mustering-out payment under this chapter more than once, and such payment shall accrue and the amount thereof shall be computed as of the time of discharge for the purpose of effecting a permanent separation from the service or of ultimate relief from active service or, at the option of such member, for the purpose of enlistment, reenlistment, or appointment in a regular component of the Armed Forces.

#### § 2105. Administration of chapter

(a) Mustering-out payments due or to become due under this chapter shall not be assignable and any payments made to or on account of a veteran under this chapter shall be exempt from taxation, shall be exempt from the claims of creditors, including any claim of the United States, and shall not be subject to attachment, levy, or seizure by or under any legal or equitable process whatever either before or after receipt by the payee.

(b) The Secretaries of the Army, Navy, Air Force, and Treasury may make such regulations not inconsistent with this chapter as may be necessary effectively to carry out the provisions thereof, and their decisions shall be final and not subject to review by any court or other Government official.

(c) The Secretaries of the Army, Navy, Air Force, and Treasury, or such subordinate officers as they may designate, are authorized to make direct payment to survivors over seventeen years of age, and to select a proper person or persons to whom mustering-out payments may be made for the use and benefit of former active members of the Armed Forces, or survivors thereof, as defined by section 2103 of this title, without the necessity of appointment by judicial proceedings of a legal representative of any such former member or such survivors when, in the opinion of the respective Secretaries or their designees, the interests of persons under seventeen years of age so justify, or where the former active member or his survivors is suffering from a mental disability sufficient to make direct payment not in the best interests of such person or persons. Payments made under the provisions of this subsection shall constitute a complete discharge of the obligation of the United States as provided in this chapter; and the selection of a proper person or persons, as provided in this subsection, and the correctness of the amount due and paid to such person or persons shall have the same finality as that accorded decisions made pursuant to subsection (b). The provisions of this subsection shall not apply where a legal guardian or committee has been judicially appointed, except as to any payments made under this subsection before the receipt of notice of appointment.

(d) No person entitled to mustering-out payment under this chapter shall be eligible for such payment under title V of the Veterans' Readjustment Assistance Act of 1952.

38 U S C 1011-  
1016.

## PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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## CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

### SUBCHAPTER I—APPLICATIONS

Sec.

- 3001. Claims and forms.
- 3002. Application forms furnished upon request.
- 3003. Incomplete applications.
- 3004. Disallowed claims.
- 3005. Joint applications for social security and dependency and indemnity compensation.

### SUBCHAPTER II—EFFECTIVE DATES

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### SUBCHAPTER III—PAYMENT OF BENEFITS

- 3020. Payment of benefits by check; delivery.
- 3021. Payment of certain accrued benefits upon death of beneficiary.
- 3022. Cancellation of checks mailed to deceased payees.

## Subchapter I—Applications

### § 3001. Claims and forms

(a) A specific claim in the form prescribed by the Administrator (or jointly with the Secretary of Health, Education, and Welfare, as prescribed by section 3005 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Veterans' Administration.

(b) (1) A claim by a widow or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a widow or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

(2) A claim by a parent for compensation or dependency and indemnity compensation shall also be considered to be a claim for accrued benefits.

### § 3002. Application forms furnished upon request

Upon request made in person or in writing by any person claiming or applying for benefits under the laws administered by the Veterans' Administration, the Administrator shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing such claim.

### § 3003. Incomplete applications

(a) If a claimant's application for benefits under the laws administered by the Veterans' Administration is incomplete, the Administrator shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no benefits may be paid or furnished by reason of such application.

(b) This section shall not apply to any application or claim for Government life insurance benefits.

### § 3004. Disallowed claims

(a) Where a claim has been finally disallowed, a later claim on the same factual basis, if supported by new and material evidence, shall have the attributes of a new claim, except that whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military

10 USC 1552.

records of the proper service department under section 1552 of title 10, or the change, correction, or modification of a discharge or dismissal under section 1553 of title 10, or from other corrective action by competent authority, the effective date of commencement of the benefits so awarded shall be the date on which an application was filed for correction of the military record or for the change, modification, or correction of a discharge or dismissal, as the case may be, the date such disallowed claim was filed, or August 1, 1956, whichever date is the later.

(b) This section shall not apply to any application or claim for Government life insurance benefits.

### § 3005. Joint applications for social security and dependency and indemnity compensation

42 USC 401-420.

The Administrator and the Secretary of Health, Education, and Welfare shall jointly prescribe forms for use by survivors of members and former members of the uniformed services in filing application for benefits under chapter 13 of this title and subchapter II of chapter 7 of title 42. Each such form shall request information sufficient to constitute an application for benefits under both chapter 13 of this title and subchapter II of chapter 7 of title 42; and when an application on such form has been filed with either the Administrator or the Secretary of Health, Education, and Welfare, it shall be deemed to be an application for benefits under both chapter 13 of this title and subchapter II of chapter 7 of title 42. A copy of each such application filed with the Administrator, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Administrator with such application, and which may be needed by the Secretary in connection therewith, shall be transmitted by the Administrator to the Secretary; and a copy of each such application filed with the Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary with such form, and which may be needed by the Administrator in connection therewith, shall be transmitted by the Secretary to the Administrator. The preceding sentence shall not prevent the Secretary and the Administrator from requesting the applicant, or any other individual, to furnish such additional information as may be necessary for purposes of chapter 13 of this title and subchapter II of chapter 7 of title 42, respectively.

### Subchapter II—Effective Dates

#### § 3010. Effective dates of awards

(a) Unless specifically provided otherwise in this chapter, the effective date of an award of compensation, dependency and indemnity compensation, or pension, shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application therefor.

(b) The effective date of an award of disability compensation to a veteran shall be the day following the date of his discharge or release if application therefor is received within one year from such date of discharge or release.

(c) The effective date of an award of death compensation, dependency and indemnity compensation, or death pension shall be the day after the date of death if application therefor is received within one year from such date of death.

(d) The effective date of an award of dependency and indemnity compensation to a child shall be the date the child's entitlement arose if application therefor is received within one year from such date the entitlement arose.

(e) Where a report or a finding of death of any person in the active military, naval, or air service has been made by the Secretary concerned, the effective date of an award of death compensation, dependency and indemnity compensation, or death pension, as applicable, shall be the day after the date fixed by the Secretary as the date of death in such report or finding, if application therefor is received within one year from the date such report or finding has been made; however, such benefits shall not be payable to any person for any period for which such person has received, or was entitled to receive, an allowance, allotment, or service pay of the deceased.

#### § 3011. Effective dates of increases

The effective date of an award of increased compensation, dependency and indemnity compensation, or pension (amending, reopening, or supplementing a previous award, authorizing any payments not previously authorized to the individual involved) shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of evidence showing entitlement thereto.

#### § 3012. Effective dates of reductions and discontinuances

(a) Except as otherwise specified in this section, the effective date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension shall be fixed in accordance with the facts found.

(b) Where compensation, dependency and indemnity compensation, or pension has been awarded and a reduction or discontinuance is thereafter effected as to rates, such reduction or discontinuance shall be effective the last day of the month in which the reduction or discontinuance is approved.

(c) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

- (1) by reason of death, shall be the date of death;
- (2) by reason of marriage or remarriage, shall be the day before the date of marriage or remarriage;
- (3) by reason of attaining age eighteen (or twenty-one, as applicable), shall be the day before the eighteenth (or twenty-first) birthday;
- (4) by reason of fraud on the part of the beneficiary, or with his knowledge, shall be the effective date of the award; and
- (5) by reason of receipt of active service pay or retirement pay, shall be the day before the date such pay began.

#### § 3013. Effective dates of educational benefits

Effective dates relating to awards under chapters 31, 33, and 35 of this title shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

### Subchapter III—Payment of Benefits

#### § 3020. Payment of benefits by check; delivery

(a) Monetary benefits under laws administered by the Veterans' Administration shall be paid by checks drawn, pursuant to certification by the Administrator, in such form as to protect the United States against loss, and payable by the Treasurer of the United States. Such checks shall be payable without separate vouchers or receipts except in any case in which the Administrator may consider a voucher necessary for the protection of the Government. Such checks shall be transmitted by mail to the payee thereof at his last known address and, if he has moved and filed a regular change of address notice with the Post Office Department, shall be forwarded to him. The envelope or cover of each such check shall bear on the face thereof

the following notice: "POSTMASTER: PLEASE FORWARD if addressee has moved and filed a regular change-of-address notice. If addressee is deceased, return the letter with date of death, if known."

(b) Postmasters, delivery clerks, letter carriers, and all other postal employees are prohibited from delivering any mail addressed by the United States and containing any such check to any person whomsoever if he has died or in the case of a widow, if the postal employee believes that she has remarried (unless the mail is addressed to her in the name she has acquired by her remarriage). The preceding sentence shall apply in the case of checks in payment of benefits other than pension, compensation, dependency and indemnity compensation, and insurance, only insofar as the Administrator deems it necessary to protect the United States against loss.

(c) Whenever mail is not delivered because of the prohibition of subsection (b), such mail shall be returned forthwith by the postmaster with a statement of the reason for so doing, and if because of death or remarriage, the date thereof, if known. Checks returned under this subsection because of death or remarriage shall be canceled.

**§ 3021. Payment of certain accrued benefits upon death of a beneficiary**

31 USC 123-128.

(a) Except as provided in section 3203 (a) (2) (A) of this title and sections 123-128 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Veterans' Administration to which an individual was entitled at his death under existing ratings or decisions, or those based on evidence in the file at date of death (hereafter in this section and section 3022 of this title referred to as "accrued benefits") and due and unpaid for a period not to exceed one year, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Administrator;

(2) Upon the death of a veteran, to the living person first listed below:

(A) His spouse;

(B) His children (in equal shares);

(C) His dependent parents (in equal shares);

(3) Upon the death of a widow or remarried widow, to the children of the deceased veteran;

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension; and

(5) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

**§ 3022. Cancellation of checks mailed to deceased payees**

A check received by a payee in payment of accrued benefits shall, if the payee died on or after the last day of the period covered by the check, be returned to the issuing office and canceled, unless negotiated by the payee or the duly appointed representative of his estate. The amount represented by such check, or any amount recovered by reason of improper negotiation of any such check, shall be payable in the manner provided in section 3021 of this title, without regard to section 3021 (c) of this title. Any amount not paid in the manner provided in section 3021 of this title shall be paid upon settlement by the General Accounting Office to the estate of the deceased payee unless the estate will escheat.

**CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS**

Sec.

- 3101. Nonassignability and exempt status of benefits.
- 3102. Waiver of recovery of overpayments.
- 3103. Certain bars to benefits.
- 3104. Prohibition against duplication of benefits.
- 3105. Waiver of retired pay.
- 3106. Renouncement of right to benefits.
- 3107. Apportionment of benefits.
- 3108. Withholding benefits of persons in territory of the enemy.
- 3109. Payment of certain withheld benefits.

**§ 3101. Nonassignability and exempt status of benefits**

(a) Payments of benefits due or to become due under any law administered by the Veterans' Administration shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity.

(b) This section shall prohibit the collection by setoff or otherwise out of any benefits payable pursuant to any law administered by the Veterans' Administration and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (1) any person other than the indebted beneficiary or his estate; or (2) any beneficiary or his estate except amounts due the United States by such beneficiary or his estate by reason of overpayments or illegal payments made under such laws to such beneficiary or his estate or to his dependents as such. If the benefits referred to in the preceding sentence are insurance payable by reason of yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance issued by the United States, the exemption provided in this section shall not apply to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness is in the form of liens to secure unpaid premiums or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits.

(c) Notwithstanding subsection (a), payments of benefits under laws administered by the Veterans' Administration shall not be exempt from levy under subchapter D of chapter 64 of the Internal Revenue Code of 1954 (relating to seizure of property for collection of taxes).

**§ 3102. Waiver of recovery of overpayments**

(a) There shall be no recovery of payments or overpayments of any benefits (except servicemen's indemnity) under any of the laws administered by the Veterans' Administration from any person who, in the judgment of the Administrator, is without fault on his part, and where, in the judgment of the Administrator, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience.

(b) No certifying or disbursing officer shall be liable for any amount paid to any person where the recovery of such amount is waived under subsection (a).

(c) Where the recovery of a payment or overpayment made from the National Service Life Insurance Fund or United States Government life insurance fund is waived under this section, the fund from which the payment was made shall be reimbursed from the National Service Life Insurance appropriation or the military and naval insurance appropriation, as applicable.

**§ 3103. Certain bars to benefits**

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or of an officer by the acceptance of his resignation for the good of the service, or (except as provided in subsection (c)) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veterans' Administration based upon the period of service from which discharged or dismissed.

(b) Notwithstanding subsection (a), if it is established to the satisfaction of the Administrator that, at the time of the commission of an offense leading to his court-martial, discharge, or resignation, any person was insane, such person shall not be precluded from benefits under laws administered by the Veterans' Administration based upon the period of service from which he was separated.

(c) Subsection (a) shall not apply to any alien whose service was honest and faithful, and who was not discharged on his own application or solicitation as an alien.

(d) This section shall not apply to any war-risk insurance, Government (converted) or National Service Life Insurance policy.

**§ 3104. Prohibition against duplication of benefits**

(a) Except to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency officers', regular, or reserve retirement pay, or initial award of naval pension granted after July 13, 1943, shall be made concurrently to any person based on his own service.

(b) (1) Except as provided in paragraph (2), the receipt of pension, compensation, or dependency and indemnity compensation by a widow, child, or parent on account of the death of any person, or receipt by any person of pension or compensation on account of his own service, shall not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other person.

(2) If a child receives or there is paid by the Veterans' Administration on account of a child dependency and indemnity compensation, or death compensation, by reason of the death of a parent, dependency and indemnity compensation by reason of the death of another parent in the same parental line may not be paid to or on account of such child.

(c) Pension, compensation, or retirement pay on account of his own service shall not be paid to any person for any period for which he receives active service pay.

#### § 3105. Waiver of retired pay

Any person who is receiving pay pursuant to any provision of law providing retired or retirement pay to persons in the Armed Forces, or as a commissioned officer of the Coast and Geodetic Survey or of the Public Health Service, and who would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration if he were not receiving such retired or retirement pay, shall be entitled to receive such pension or compensation upon the filing by such person with the department by which such retired or retirement pay is paid of a waiver of so much of his retired or retirement pay as is equal in amount to such pension or compensation. To prevent duplication of payments, the department with which any such waiver is filed shall notify the Veterans' Administration of the receipt of such waiver, the amount waived, and the effective date of the reduction in retired or retirement pay.

#### § 3106. Renunciation of right to benefits

(a) Any person entitled to pension, compensation, or dependency and indemnity compensation under any of the laws administered by the Veterans' Administration may renounce his right thereto. The application renouncing the right shall be in writing over the person's signature. Upon the filing of such an application, payment of such benefits and the right thereto shall be terminated, and such person shall be denied any and all rights thereto from such filing.

(b) Renunciation of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date, but such new application shall be treated as an original application, and no payments shall be made for any period before the date such new application is filed.

#### § 3107. Apportionment of benefits

(a) All or any part of the compensation, pension, or emergency officers' retirement pay payable on account of any veteran may—

(1) if the veteran is being furnished hospital treatment, institutional, or domiciliary care by the United States, or any political subdivision thereof, be apportioned on behalf of his wife, children, or dependent parents; and

(2) if the veteran is not living with his wife, or if his children are not in his custody, be apportioned as may be prescribed by the Administrator.

(b) Where any of the children of a deceased veteran are not in the custody of the veteran's widow, the pension, compensation, or dependency and indemnity compensation otherwise payable to the widow may be apportioned as prescribed by the Administrator.

(c) If a veteran is not living with his wife, or if any of his children are not in his custody, any subsistence allowance payable to him under chapter 31 of this title may be apportioned as may be prescribed by the Administrator.

#### § 3108. Withholding benefits of persons in territory of the enemy

(a) When any alien entitled to gratuitous benefits under laws administered by the Veterans' Administration is located in territory of, or under military control of, an enemy of the United States or of any of its allies, any award of such benefits in favor of such alien shall be terminated forthwith.

(b) Any alien whose award is terminated under subsection (a) shall not thereafter be entitled to any such gratuitous benefits except

upon the filing of a new claim, accompanied by evidence satisfactory to the Administrator showing that such alien was not guilty of mutiny, treason, sabotage, or rendering assistance to such enemy. Except as provided in section 3109 of this title, such gratuitous benefits shall not be paid for any period before the date the new claim is filed.

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Administrator, in his discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such alien were dead.

### § 3109. Payment of certain withheld benefits

(a) Any person who, but for section 3108 of this title, was entitled to benefits under any of the laws administered by the Veterans' Administration, whose award of benefits was terminated under such section, or whose benefits were not paid pursuant to sections 123-128 of title 31, and who was not guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies, shall be paid the full amount of any benefits not paid because of such section 3108, or withheld (including the amount of any checks covered on his account into the Treasury as miscellaneous receipts together with any amount to his credit in the special-deposit account) pursuant to sections 123-128 of title 31. The Administrator shall certify to the Secretary of the Treasury the amounts of payments which, but for this section, would have been made from the special deposit account, and the Secretary of the Treasury, as directed by the Administrator, shall reimburse the appropriations of the Veterans' Administration from such special deposit account, or cover into the Treasury as miscellaneous receipts the amounts so certified.

(b) No payments shall be made for any period before the date claim therefor is filed under this section to any person whose award was terminated, or whose benefits were not paid, before July 1, 1954, because he was a citizen or subject of Germany or Japan residing in Germany or Japan.

## CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

Sec.

3201. Commitment actions.

3202. Payments to and supervision of guardians.

3203. Hospitalized veterans and estates of incompetent institutionalized veterans.

3204. Administration of trust funds.

### § 3201. Commitment actions

The Administrator may incur necessary court costs and other expenses incident to proceedings for the commitment of mentally incompetent veterans to a Veterans' Administration hospital or domiciliary when necessary for treatment or domiciliary purposes.

### § 3202. Payments to and supervision of guardians

(a) Except as provided in section 1701 (c) of this title, where any payment of benefits under any law administered by the Veterans' Administration is to be made to a minor, other than a person in the active military, naval, or air service, or to a person mentally incompetent, or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian, curator, or conservator by the laws of the State of residence of the claimant, or who is otherwise legally vested with the care of the claimant or his estate. Where in the opinion of the Administrator any guardian, curator, conservator, or other person is

acting as fiduciary in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the wards, the Administrator may refuse to make future payments in such cases as he may deem proper. Before receipt of notice by the Veterans' Administration that any such person is under such other legal disability adjudged by some court of competent jurisdiction, payment may be made to such person direct. Where no guardian, curator, or conservator of the person under a legal disability has been appointed under the laws of the State of residence of the claimant, the Administrator shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

(b) Whenever it appears that any guardian, curator, conservator, or other person, in the opinion of the Administrator, is not properly executing or has not properly executed the duties of his trust or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then the Administrator may appear, by his duly authorized attorney, in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters. The Administrator, in his discretion, may suspend payments to any such guardian, curator, conservator, or other person who shall neglect or refuse, after reasonable notice, to render an account to the Administrator from time to time showing the application of such payments for the benefit of such incompetent or minor beneficiary, or who shall neglect or refuse to administer the estate according to law. The Administrator may appear or intervene by his duly authorized attorney in any court as an interested party in any litigation instituted by himself or otherwise, directly affecting money paid to such fiduciary under this section.

(c) Authority is hereby granted for the payment of any court or other expenses incident to any investigation or court proceeding for the appointment of any guardian, curator, conservator, or other person legally vested with the care of the claimant or his estate or the removal of such fiduciary and appointment of another, and of expenses in connection with the administration of such estates by such fiduciaries, or in connection with any other court proceeding hereby authorized, when such payment is authorized by the Administrator.

(d) All or any part of any benefits the payment of which is suspended or withheld under this section may, in the discretion of the Administrator, be paid temporarily to the person having custody and control of the incompetent or minor beneficiary, to be used solely for the benefit of such beneficiary, or, in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any, of such veteran. Any part not so paid and any funds of a mentally incompetent or insane veteran not paid to the chief officer of the institution in which such veteran is an inmate nor apportioned to his dependent or dependents may be ordered held in the Treasury to the credit of such beneficiary. All funds so held shall be disbursed under the order and in the discretion of the Administrator for the benefit of such beneficiary or his dependents. Any balance remaining in such fund to the credit of any beneficiary may be paid to him if he recovers and is found competent, or if a minor, attains majority, or otherwise to his guardian, curator, or conservator, or, in the event of his death, to his personal representative, except as otherwise provided by law; however, payment will not be made to his personal representative if, under the law of his last legal residence, his estate would escheat to the State.

(e) Any funds in the hands of a guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate, derived from benefits payable under laws administered by the Veterans' Administration, which under the law of the State wherein the beneficiary had his last legal residence would escheat to the State, shall escheat to the United States and shall be returned by such guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate, or by the personal representative of the deceased beneficiary, less legal expenses of any administration necessary to determine that an escheat is in order, to the Veterans' Administration, and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.

(f) In the case of any incompetent veteran having no guardian, payment of compensation, pension, or retirement pay may be made in the discretion of the Administrator to the wife of such veteran for the use of the veteran and his dependents.

(g) Payment of death benefits to a widow for herself and child or children, if any, may be made directly to such widow, notwithstanding she may be a minor.

**§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans**

(a) (1) Where any veteran having neither wife, child, nor dependent parent is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration any pension, compensation, or retirement pay otherwise payable shall continue without reduction until the first day of the seventh calendar month following the month of admission of such veteran for treatment or care. If treatment or care extends beyond that period, the pension, compensation, or retirement pay, if \$30 per month or less, shall continue without reduction, but if greater than \$30 per month, the pension, compensation, or retirement pay shall not exceed 50 per centum of the amount otherwise payable or \$30 per month, whichever is the greater. If such veteran is discharged from such treatment or care upon certification by the officer in charge of the hospital, institution, or home, that maximum benefits have been received or that release is approved, he shall be paid in a lump sum such additional amount as would equal the total sum by which his pension, compensation, or retirement pay has been reduced under this section. If treatment or care is terminated by the veteran against medical advice or as the result of disciplinary action the amount by which any pension, compensation, or retirement pay is reduced hereunder, shall be paid to him at the expiration of six months after such termination or, in the event of his prior death, as provided in paragraph (2) of this subsection; and the pension, compensation, or retirement pay of any veteran leaving against medical advice or as the result of disciplinary action shall, upon a succeeding readmission for treatment or care, be subject to reduction, as herein provided, from the date of such readmission, but if such subsequent treatment or care is continued until discharged therefrom upon certification, by the officer in charge of the hospital, institution, or home in which treatment or care was furnished, that maximum benefits have been received or that release is approved, the veteran shall be paid in a lump sum such additional amount as would equal the total sum by which his pension, compensation, or retirement pay has been reduced under this section after such readmission.

(2) (A) In the event of the death of any veteran subject to the provisions of this section, while receiving hospital treatment, institutional or domiciliary care, or before payment of any lump sum authorized herein, such lump sum shall be paid in the following order of precedence: First, to the spouse; second, if the decedent left no spouse, or if

the spouse is dead at time of settlement, then to the children (without regard to their age or marital status) in equal parts; third, if no spouse or child, then to the father and mother in equal parts; fourth, if either the father or mother is dead, then to the one surviving; fifth, if there is no spouse, child, father, or mother at the time of settlement, then to the brothers and sisters in equal parts. If there are no persons in the classes named to whom payment may be made under this paragraph, no payment shall be made, except there may be paid only so much of the lump sum as may be necessary to reimburse a person who bore the expenses of last sickness or burial, but no part of the lump sum shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of such veteran.

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

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

(2) In any case where the estate of such incompetent veteran derived from any source equals or exceeds \$1,500, further payments of such benefits (except retired pay, but including emergency officers' retirement pay) shall not be made until the estate is reduced to \$500. The amount which would be payable but for this subsection shall be paid to the veteran as provided for the lump sum in paragraph (1) of this subsection, but in the event of the veteran's death no part thereof shall be payable.

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

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

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

#### § 3204. Administration of trust funds

All cash balances in the personal funds of patients and the funds due incompetent beneficiaries trust funds administered by the Veterans' Administration, and all moneys received which are properly for deposit into these funds, may be deposited, respectively, into de-

31 USC 725a.

posit fund accounts with the United States Treasury and such balances and deposits shall thereupon be available for disbursement for properly authorized purposes. When any balances have been on deposit with the Treasurer of the United States for more than one year and represent moneys belonging to individuals whose whereabouts are unknown, they shall be transferred and disposed of as directed in the last proviso of subsection (a) of section 725s of title 31.

## CHAPTER 57—RECORDS AND INVESTIGATIONS

### SUBCHAPTER I—RECORDS

Sec.

- 3301. Confidential nature of claims.
- 3302. Furnishing of records.
- 3303. Certification of records of District of Columbia.
- 3304. Transcript of trial records.

### SUBCHAPTER II—INVESTIGATIONS

- 3311. Authority to issue subpoenas.
- 3312. Validity of affidavits.
- 3313. Disobedience to subpoena.

### Subchapter I—Records

#### § 3301. Confidential nature of claims

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

(1) To a claimant or his duly authorized agent or representative as to matters concerning himself alone when, in the judgment of the Administrator, such disclosure would not be injurious to the physical or mental health of the claimant.

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

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

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

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

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

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

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

#### § 3302. Furnishing of records

Any person desiring a copy of any record, paper, and so forth, in the custody of the Veterans' Administration, which may be disclosed

under section 3301 of this title, must make written application therefor to the Veterans' Administration, stating specifically—

(1) the particular record, paper, and so forth, a copy of which is desired and whether certified or uncertified; and

(2) the purpose for which such copy is desired to be used.

(b) The Administrator is authorized to fix a schedule of fees for copies and certification of such records.

### § 3303. Certification of records of District of Columbia

When a copy of any public record of the District of Columbia is required by the Veterans' Administration to be used in determining the eligibility of any person for benefits under laws administered by the Veterans' Administration, the official custodian of such public record shall without charge provide the applicant for such benefits or any person (including any veterans' organization) acting on his behalf or the authorized representative of the Veterans' Administration with a certified copy of such record.

### § 3304. Transcript of trial records

The Administrator may purchase transcripts of the record, including all evidence, of trial of litigated cases.

## Subchapter II—Investigations

### § 3311. Authority to issue subpoenas

For the purposes of the laws administered by the Veterans' Administration, the Administrator, and those employees to whom the Administrator may delegate such authority, to the extent of the authority so delegated, shall have the power to issue subpoenas for and compel the attendance of witnesses within a radius of one hundred miles from the place of hearing, to require the production of books, papers, documents, and other evidence, to take affidavits, to administer oaths and affirmations, to aid claimants in the preparation and presentation of claims, and to make investigations and examine witnesses upon any matter within the jurisdiction of the Veterans' Administration. Any person required by such subpoena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States.

### § 3312. Validity of affidavits

Any such oath, affirmation, affidavit, or examination, when certified under the hand of any such employee by whom it was administered or taken and authenticated by the seal of the Veterans' Administration, may be offered or used in any court of the United States and without further proof of the identity or authority of such employee shall have like force and effect as if administered or taken before a clerk of such court.

### § 3313. Disobedience to subpoena

In case of disobedience to any such subpoena, the aid of any district court of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which the inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any officer, agent, or employee of any corporation or to any other person, issue an order requiring such corporation or other person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

## CHAPTER 59—AGENTS AND ATTORNEYS

Sec.

3401. Prohibition against acting as claims agent or attorney.  
 3402. Recognition of representatives of organizations.  
 3403. Recognition with respect to particular claims.  
 3404. Recognition of agents and attorneys generally.  
 3405. Penalty for certain acts.

### § 3401. Prohibition against acting as claims agent or attorney

No individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Veterans' Administration unless he has been recognized for such purposes by the Administrator.

### § 3402. Recognition of representatives of organizations

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

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

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

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

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

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

18 USC 281, 283;  
5 USC 99.

### § 3403. Recognition with respect to particular claims

The Administrator may recognize any individual for the preparation, presentation, and prosecution of any particular claim for benefits under any of the laws administered by the Veterans' Administration if—

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

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

### § 3404. Recognition of agents and attorneys generally

(a) The Administrator may recognize any individual as an agent or attorney for the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration. The Administrator may require that individuals, before being recognized under this section, show that they are of good moral character and in good repute, are qualified to render claimants valuable service, and otherwise are competent to assist claimants in presenting claims.

(b) The Administrator, after notice and opportunity for a hearing, may suspend or exclude from further practice before the Veterans'

Administration any agent or attorney recognized under this section if he finds that such agent or attorney—

- (1) has engaged in any unlawful, unprofessional, or dishonest practice;
- (2) has been guilty of disreputable conduct;
- (3) is incompetent;
- (4) has violated or refused to comply with any of the laws administered by the Veterans' Administration, or with any of the regulations or instructions governing practice before the Veterans' Administration; or
- (5) has in any manner deceived, misled, or threatened any actual or prospective claimant.

(c) The Administrator shall determine and pay fees to agents or attorneys recognized under this section in allowed claims for monetary benefits under laws administered by the Veterans' Administration. Such fees—

- (1) shall be determined and paid as prescribed by the Administrator;
- (2) shall not exceed \$10 with respect to any one claim; and
- (3) shall be deducted from monetary benefits claimed and allowed.

#### § 3405. Penalty for certain acts

Whoever (1) directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation except as provided in sections 3404 or 784 of this title, or (2) wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due him, shall be fined not more than \$500 or imprisoned at hard labor for not more than two years, or both.

### CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

Sec.

3501. Misappropriation by fiduciaries.  
 3502. Fraudulent acceptance of payments.  
 3503. Forfeiture for fraud.  
 3504. Forfeiture for treason.

#### § 3501. Misappropriation by fiduciaries

(a) Whoever, being a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or his estate, or any other person having charge and custody in a fiduciary capacity of money heretofore or hereafter paid under any of the laws administered by the Veterans' Administration for the benefit of any minor, incompetent, or other beneficiary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into his control in any manner whatever in the execution of his trust, or under color of his office or service as such fiduciary, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law shall be taken to be sufficient evidence prima facie of such embezzlement or misappropriation.

#### § 3502. Fraudulent acceptance of payments

(a) Any person entitled to monetary benefits under any of the laws administered by the Veterans' Administration whose right to payment thereof ceases upon the happening of any contingency, who thereafter fraudulently accepts any such payment, shall be fined not more than \$2,000, or imprisoned not more than one year, or both.

(b) Whoever obtains or receives any money or check under any of the laws administered by the Veterans' Administration without being entitled to it, and with intent to defraud the United States or any beneficiary of the United States, shall be fined not more than \$2,000, or imprisoned not more than one year, or both.

#### § 3503. Forfeiture for fraud

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

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

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

#### § 3504. Forfeiture for treason

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

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

## PART V—BOARDS AND DEPARTMENTS

CHAPTER	Sec.
71. Board of Veterans' Appeals.....	4001
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### CHAPTER 71—BOARD OF VETERANS' APPEALS

Sec.
4001. Composition of Board of Veterans' Appeals.
4002. Assignment of members of Board.
4003. Determinations by the Board.
4004. Jurisdiction of the Board.
4005. Applications for review on appeal.
4006. Docketing of appeals.
4007. Simultaneously contested claims.
4008. Rejection of applications.

#### § 4001. Composition of Board of Veterans' Appeals

(a) There shall be in the Veterans' Administration a Board of Veterans' Appeals (hereafter in this chapter referred to as the "Board") under the administrative control and supervision of a chairman di-

rectly responsible to the Administrator. The Board shall consist of a Chairman, a Vice Chairman, such number (not more than fifty) of associate members as may be found necessary, and such other professional, administrative, clerical, and stenographic personnel as are necessary in conducting hearings and considering and disposing of appeals properly before the Board.

(b) Members of the Board (including the Chairman and Vice Chairman) shall be appointed by the Administrator with the approval of the President.

#### **§ 4002. Assignment of members of Board**

The Chairman may from time to time divide the Board into sections of three members, assign the members of the Board thereto, and designate the chief thereof. If a section as a result of a vacancy or absence or inability of a member assigned thereto to serve thereon is composed of a number of members less than designated for the section, the Chairman may assign other members to the section or direct the section to proceed with the transaction of business without awaiting any additional assignment of members thereto. A hearing docket shall be maintained and formal recorded hearings shall be held by such associate member or members as the Chairman may designate, the associate member or members being of the section which will make final determination in the claim. A section of the Board shall make a determination on any proceeding instituted before the Board and on any motion in connection therewith assigned to such section by the Chairman and shall make a report of any such determination, which report shall constitute its final disposition of the proceeding.

#### **§ 4003. Determinations by the Board**

(a) The determination of the section, when unanimously concurred in by the members of the section shall be the final determination of the Board, except that the Board on its own motion may correct an obvious error in the record, or may upon the basis of additional official information from the service department concerned reach a contrary conclusion.

(b) When there is a disagreement among the members of the section the concurrence of the Chairman with the majority of members of such section shall constitute the final determination of the Board, except that the Board on its own motion may correct an obvious error in the record, or may upon the basis of additional official information from the service department concerned reach a contrary conclusion.

#### **§ 4004. Jurisdiction of the Board**

(a) All questions on claims involving benefits under the laws administered by the Veterans' Administration shall be subject to one review on appeal to the Administrator. Final decisions on such appeals shall be made by the Board.

(b) When a claim is disallowed by the Board, it may not thereafter be reopened and allowed, and no claim based upon the same factual basis shall be considered; however, where subsequent to disallowance of a claim, new and material evidence in the form of official reports from the proper service department is secured, the Board may authorize the reopening of the claim and review of the former decision.

(c) The Board shall be bound in its decisions by the regulations of the Veterans' Administration, instructions of the Administrator, and the precedent opinions of the chief law officer.

#### **§ 4005. Applications for review on appeal**

(a) Except in the case of simultaneously contested claims, applications for review on appeal shall be filed within one year from the date of mailing of notice of the result of initial review or determina-

tion. Such applications must be filed with the activity which entered the denial. If such an application is timely filed, a reasonable time thereafter will be allowed, if requested, for the perfection of the appeal and the presentation of additional evidence before final determination or decision is made. Applications postmarked before the expiration of the one-year period will be accepted as timely filed.

(b) If no application for review on appeal is filed in accordance with this chapter within the one-year period, the action taken on initial review or determination shall become final and the claim will not thereafter be reopened or allowed, except that where subsequent to such disallowance new and material evidence in the form of official reports from the proper service department is secured the Administrator may authorize the reopening of the claim and review of the former decision.

(c) (1) Application for review on appeal may be made in writing by the claimant, his legal guardian, or such accredited representative, or authorized agent, as may be selected by him. Not more than one recognized organization or authorized agent will be recognized at any one time in the prosecution of a claim.

(2) Application for review on appeal may be made within the one-year period prescribed by this section by such officials of the Veterans' Administration as may be designated by the Administrator. An application entered under this paragraph shall not operate to deprive the claimant of the right of review on appeal as provided in this chapter.

(d) In each application for review on appeal the name and service of the veteran on account of whose service the claim is based must be stated, together with the number of the claim and the date of the action from which the appeal is taken. The application must clearly identify the benefit sought.

(e) Each application for review on appeal should contain specific assignments of the alleged mistake of fact or error of law in the adjudication of the claim. Any application which is insufficient may be dismissed.

#### § 4006. Docketing of appeals

All cases received pursuant to application for review on appeal shall be considered and decided in regular order according to their places upon the docket; however, for cause shown a case may be advanced on motion for earlier consideration and determination. Every such motion shall set forth succinctly the grounds upon which it is based. No such motion shall be granted except in cases involving interpretation of law of general application affecting other claims, or for other sufficient cause shown.

#### § 4007. Simultaneously contested claims

(a) In simultaneously contested claims where one is allowed and one rejected, the time allowed for the filing of an application for review on appeal shall be sixty days from the date notice is mailed of the original action to the claimant to whom the action is adverse. In such cases the activity concerned shall promptly notify all parties in interest of the original action taken, expressly inviting attention to the fact that an application for review on appeal will not be entertained unless filed with the sixty-day period prescribed by this subsection. Such notices shall be forwarded to the parties in interest to the last known address of record.

(b) Upon the filing of an application for review on appeal in simultaneously contested claims, all parties other than the applicant for review on appeal whose interest may be adversely affected by the decision, shall be notified of the substance thereof and allowed thirty days

from the date of mailing of such notice within which to file brief or argument in answer thereto before the record is forwarded on application for review on appeal. Such notice shall be forwarded to the last known address of record of the parties whose interests may be adversely affected, and such action shall constitute sufficient evidence of notice.

#### § 4008. Rejection of applications

An application for review on appeal shall not be entertained unless it is in conformity with this chapter.

### CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

Sec.

- 4101. Functions of Department.
- 4102. Divisions of Department.
- 4103. Appointments and compensation.
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- 4105. Qualifications of appointees.
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#### § 4101. Functions of Department

There shall be in the Veterans' Administration a Department of Medicine and Surgery under a Chief Medical Director. The functions of the Department of Medicine and Surgery shall be those necessary for a complete medical and hospital service, including medical research, as prescribed by the Administrator pursuant to this chapter and other statutory authority, for the medical care and treatment of veterans.

#### § 4102. Divisions of Department

The Department of Medicine and Surgery shall include the following: Office of the Chief Medical Director, Medical Service, Dental Service, Nursing Service, and Auxiliary Service.

#### § 4103. Appointments and compensation

(a) The Office of the Chief Medical Director shall consist of the Chief Medical Director, one Deputy Chief Medical Director, not to exceed eight Assistant Chief Medical Directors, and such other personnel and employees as may be authorized by this chapter.

(b) The Chief Medical Director shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department. He shall be a qualified doctor of medicine, appointed by the Administrator. During the period of his service as such, the Chief Medical Director shall be paid a salary of \$19,580 a year.

(c) The Deputy Chief Medical Director shall be the principal assistant of the Chief Medical Director. He shall be a qualified doctor of medicine, appointed by the Administrator. During the period of his service as such, the Deputy Chief Medical Director shall be paid a salary of \$18,480 a year.

(d) Each Assistant Chief Medical Director shall be appointed by the Administrator upon the recommendation of the Chief Medical Director and shall be paid a salary of \$17,380 a year. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery

or dental medicine who shall be directly responsible to the Chief Medical Director for the operations of the Dental Service. Not to exceed twenty-five directors of service or chiefs of division, designated by the Chief Medical Director, shall, within the limitations otherwise prescribed in this chapter, be paid a salary of \$14,545 minimum to \$16,500 maximum.

(e) The Director and Deputy Director of Nursing Service shall be qualified registered nurses, appointed by the Administrator and shall be responsible to the Chief Medical Director for the operation of the Nursing Service. During the period of her service as such, the Director of Nursing Service shall be paid a salary of \$12,770 minimum to \$13,970 maximum a year and the Deputy Director shall be paid a salary of \$11,355 minimum to \$12,555 maximum a year.

(f) The Administrator may appoint a chief pharmacist, a chief dietitian, a chief physical therapist, and a chief occupational therapist. During the period of his service as such, the chief pharmacist and the chief dietitian shall be paid a salary of \$12,770 minimum to \$13,970 maximum a year and the chief physical therapist and the chief occupational therapist shall be paid a salary of \$11,355 minimum to \$12,555 maximum a year.

(g) Any appointment under this section shall be for a period of four years subject to removal by the Administrator for cause.

(h) Reappointments may be made for successive like periods.

#### § 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as he may find necessary for the medical care of veterans, as follows:

- (1) Physicians, dentists, and nurses;
- (2) Managers, pharmacists, physical therapists, occupational therapists, dietitians, and other scientific and professional personnel, such as optometrists, pathologists, bacteriologists, chemists, biostatisticians, and medical and dental technologists.

#### § 4105. Qualifications of appointees

Any person to be eligible for appointment in the Department of Medicine and Surgery must—

- (1) be a citizen of the United States;
- (2) in the Medical Service—
  - hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Administrator, have completed an internship satisfactory to the Administrator, and be licensed to practice medicine, surgery, or osteopathy in a State;
- (3) in the Dental Service—
  - hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Administrator, and be licensed to practice dentistry in a State;
- (4) in the Nursing Service—
  - have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and be registered as a graduate nurse in a State;
- (5) in the Auxiliary Service—
  - (A) manager of hospital, home, or center—
    - have such business and administrative experience and qualifications as the Administrator shall prescribe;
  - (B) optometrist—
    - be licensed to practice optometry in a State;

## (C) pharmacist—

hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy approved by the Administrator, and be registered as a pharmacist in a State;

(D) physical therapists, occupational therapists, dietitians, and other auxiliary employees shall have such scientific or technical qualifications as the Administrator shall prescribe.

**§ 4106. Period of appointments; promotions**

(a) Appointments of physicians, dentists, and nurses shall be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Administrator, without regard to civil-service requirements.

(b) Such appointments as described in subsection (a) of this section shall be for a probationary period of three years and the record of each person serving under such appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Administrator, and if said board shall find him not fully qualified and satisfactory he shall be separated from the service.

(c) Promotions of physicians, dentists, and nurses shall be made only after examination given in accordance with regulations prescribed by the Administrator. Automatic promotions within grade may be made in increments of the minimum pay of the grade in accordance with regulations prescribed by the Administrator.

(d) In determining eligibility for reinstatement in Federal civil service of persons appointed to positions in the Department of Medicine and Surgery, who at the time of appointment shall have a civil-service status, and whose employment in the Department of Medicine and Surgery is terminated, the period of service performed in the Department of Medicine and Surgery shall be included in computing the period of service under applicable civil-service rules and regulations.

**§ 4107. Grades and pay scales**

(a) The grades and per annum full-pay ranges for positions provided in paragraph (1) of section 4104 of this title shall be as follows:

**MEDICAL SERVICE**

Chief grade, \$12,770 minimum to \$13,970 maximum.  
Senior grade, \$11,355 minimum to \$12,555 maximum.  
Intermediate grade, \$9,890 minimum to \$11,090 maximum.  
Full grade, \$8,330 minimum to \$9,530 maximum.  
Associate grade, \$7,030 minimum to \$8,230 maximum.  
Junior grade, \$6,505 minimum to \$7,405 maximum.

**DENTAL SERVICE**

Chief grade, \$12,770 minimum to \$13,970 maximum.  
Senior grade, \$11,355 minimum to \$12,555 maximum.  
Intermediate grade, \$9,890 minimum to \$11,090 maximum.  
Full grade, \$8,330 minimum to \$9,530 maximum.  
Associate grade, \$7,030 minimum to \$8,230 maximum.  
Junior grade, \$6,505 minimum to \$7,405 maximum.

## NURSING SERVICE

Assistant Director, \$8,330 minimum to \$9,530 maximum.  
Senior grade, \$7,030 minimum to \$8,230 maximum.  
Full grade, \$5,985 minimum to \$6,885 maximum.  
Associate grade, \$5,205 minimum to \$6,165 maximum.  
Junior grade, \$4,425 minimum to \$5,385 maximum.

## ADMINISTRATION

(b) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, and nurses.

**§ 4108. Specialist ratings**

(a) Within the restrictions herein imposed, the Chief Medical Director may rate any physician appointed under paragraph (1) of section 4104 of this title as a medical or surgical specialist, and, upon the recommendation of the Assistant Chief Medical Director for Dentistry, may rate any doctor of dental surgery or dental medicine, appointed under paragraph (1) of section 4104 of this title as a dental specialist; however, no person shall at any one time hold more than one such rating.

(b) No person may be rated as a medical, surgical, or dental specialist unless he is certified as a specialist by an American specialty board, recognized by the Administrator where such boards exist; or if no such boards exist, he has been examined and found qualified by a board appointed by the Chief Medical Director from specialists of the Department of Medicine and Surgery holding ratings in the specialty to which the candidate aspires. Whenever there are insufficient specialists, rated in the proper specialty, who are readily available to constitute such a board, the Chief Medical Director may substitute consultants with comparable qualifications employed under section 4114 of this title.

(c) Any person, rated as a medical, surgical, or dental specialist under the provisions of this section shall retain such rating until it shall be withdrawn by the Chief Medical Director. The Chief Medical Director shall not withdraw any such rating until it shall have been determined by a board of specialists that the person holding such rating is no longer qualified in his specialty.

(d) Any person, rated as a medical, surgical, or dental specialist under the provisions of this section, shall receive, in addition to his basic pay, an allowance equal to 15 percent of such pay, but in no event shall the pay plus the allowance authorized by this subsection exceed \$16,000 per annum.

**§ 4109. Retirement rights**

Persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under the Civil Service Retirement Act.

**§ 4110. Disciplinary boards**

(a) The Chief Medical Director, under regulations prescribed by the Administrator shall from time to time appoint boards to be known as disciplinary boards, each such board to consist of not less than three nor more than five employees, senior in grade, of the Department of Medicine and Surgery, to determine, upon notice and fair hearing, charges of inaptitude, inefficiency, or misconduct of any person employed in a position provided in paragraph (1) of section 4104 of this title. When such charges concern a dentist, the majority of employees on the disciplinary board shall be dentists.

(b) The Administrator shall appoint the chairman and secretary of the board, each of whom shall have authority to administer oaths.

(c) The Chief Medical Director may designate or appoint one or more investigators, to assist each disciplinary board in the collection and presentation of evidence. Any person answering to charges before a disciplinary board may be represented by counsel of his own choosing.

(d) A disciplinary board, when in its judgment charges are sustained, shall recommend to the Administrator suitable disciplinary action, within limitations prescribed by the Administrator, which shall include reprimand, suspension without pay, reduction in grade, and discharge from the Department of Medicine and Surgery of such person. The Administrator shall either approve the recommendation of the board, approve such recommendation with modification or exception, approve such recommendation and suspend further action at the time, or disapprove such recommendation. He shall cause to be executed such action as he approves. The decision of the Administrator shall be final.

#### § 4111. Appointment of additional employees

(a) There shall be appointed by the Administrator under civil-service laws, rules, and regulations, such additional employees, other than those provided in section 4103, paragraph (1) of section 4104, and those specified in section 4114 of this title, as may be necessary to carry out the provisions of this chapter.

(b) Notwithstanding any other provision of law, the per annum rate of salary of each individual serving as a manager of a hospital, domiciliary, or center who is not a physician in the medical service shall not be less than the rate of salary which he would receive under section 4107 of this title if his service as a manager of a hospital, domiciliary, or center had been service as a physician in the medical service in the chief grade. This subsection shall not affect the allocation of any position of manager of a hospital, domiciliary, or center to any grade of the General Schedule of the Classification Act of 1949, except with respect to changes in rate of salary pursuant to the preceding sentence, and shall not affect the applicability of the Performance Rating Act of 1950 to any individual.

64 Stat. 1098.  
5 USC 2001 note.

#### § 4112. Medical advisory group

The Administrator shall establish a special medical advisory group composed of members of the medical, dental, and allied scientific professions, nominated by the Chief Medical Director, whose duties shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director direct, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall conduct regular calendar quarterly meetings. The number, terms of service, compensation, and allowances to members of such advisory group shall be in accord with existing law and regulations.

#### § 4113. Travel expenses of employees

The Administrator may pay the expenses, except membership fees, of employees described in section 4103 and paragraph (1) of section 4104 of this title detailed by the Chief Medical Director to attend meetings of associations for the promotion of medical and related science.

#### § 4114. Temporary and part-time appointments

(a) The Administrator, upon the recommendation of the Chief Medical Director, may employ, without regard to the Classification

63 Stat. 954.  
5 U S C 1071-  
1153.

Act of 1949, physicians, dentists, and nurses, on a temporary full-time, part-time, or fee basis; and dietitians, social workers, librarians, and such other professional, clerical, technical, and unskilled personnel, in addition to personnel described in section 4103, paragraph (1) of section 4104, and section 4111, of this title on a temporary full-time or part-time basis at such rates of pay as he may prescribe. No temporary full-time appointment shall be for a period of more than ninety days.

(b) The Administrator shall have authority to establish residencies and internships; to appoint qualified persons to such positions without regard to civil-service or classification laws, rules, or regulations; and to prescribe the conditions of such employment, including necessary training, and the customary amount and terms of pay during the period of such employment and training.

#### § 4115. Regulations

The Chief Medical Director with the approval of the Administrator, unless specifically otherwise provided, shall promulgate all regulations necessary to the administration of the Department of Medicine and Surgery and consistent with existing law, including regulations relating to travel, transportation of household goods and effects, and deductions from pay for quarters and subsistence; and to the custody, use, and preservation of the records, papers, and property of the Department of Medicine and Surgery.

### CHAPTER 75—VETERANS' CANTEEN SERVICE

Sec.

- 4201. Purpose of Veterans' Canteen Service.
- 4202. Duties of Administrator with respect to Service.
- 4203. Operation of Service.
- 4204. Financing of Service.
- 4205. Revolving fund.
- 4206. Budget of Service.
- 4207. Audit of accounts.
- 4208. Service to be independent unit.

#### § 4201. Purpose of Veterans' Canteen Service

The Veterans' Canteen Service (hereafter in this chapter referred to as the "Service") in the Veterans' Administration is an instrumentality of the United States, created for the primary purpose of making available to veterans of the Armed Forces who are hospitalized or domiciled in hospitals and homes of the Veterans' Administration, at reasonable prices, articles of merchandise and services essential to their comfort and well-being.

#### § 4202. Duties of Administrator with respect to Service

The Administrator shall—

- (1) establish, maintain, and operate canteens where deemed necessary and practicable at hospitals and homes of the Veterans' Administration and at other Veterans' Administration establishments where similar essential facilities are not reasonably available from outside commercial sources;
- (2) establish, maintain, and operate such warehouses and storage depots as may be necessary in operating the canteens;
- (3) furnish the Service, without charge, rental, or reimbursement, for its use in connection with the establishment, maintenance, and operation thereof, such space, buildings, and structures under control of the Veterans' Administration as he may consider necessary, including normal maintenance and repair service thereon;
- (4) transfer to the Service without charge, rental, or reimbursement such necessary equipment as may not be needed for

other purposes, and furnish the Service such services and utilities, including light, water, and heat, as may be available and necessary for its use. Reasonable charges, to be determined by the Administrator, shall be paid annually by the Service for the utilities so furnished;

(5) employ such persons as are necessary for the establishment, maintenance, and operation of the Service, and pay the salaries, wages, and expenses of all such employees from the funds of the Service. Personnel necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots shall be appointed, compensated from funds of the Service, and removed by the Administrator without regard to civil-service laws and the Classification Act of 1949. Such employees shall be subject to the Veterans' Preference Act of 1944, the Civil Service Retirement Act, and laws administered by the Bureau of Employees' Compensation applicable to civilian employees of the United States;

5 USC 1071-1153, 851 note, 2251 et seq.

(6) make all necessary contracts or agreements to purchase or sell merchandise, fixtures, equipment, supplies, and services, without regard to section 5 of title 41, and to do all things necessary to carry out such contracts or agreements, including the making of necessary adjustments and compromising of claims in connection therewith;

41 USC 5.

(7) fix the prices of merchandise and services in canteens so as to carry out the purposes of this chapter;

(8) accept gifts and donations of merchandise, fixtures, equipment, and supplies for the use and benefit of the Service;

(9) make such rules and regulations, not inconsistent with the provisions of this chapter, as he considers necessary or appropriate to effectuate its purposes;

(10) delegate such duties and powers to employees as he considers necessary or appropriate, whose official acts performed within the scope of the delegated authority shall have the same force and effect as though performed by the Administrator;

(11) authorize the use of funds of the Service when available, subject to such regulations as he may deem appropriate, and without regard to the provisions of sections 521 and 543 of title 5, for the purpose of cashing checks, money orders, and similar instruments in nominal amounts for the payment of money presented by veterans hospitalized or domiciled at hospitals and homes of the Veterans' Administration, and by other persons authorized by section 4203 of this title to make purchases at canteens. Such checks, money orders, and other similar instruments may be cashed outright or may be accepted, subject to strict administrative controls, in payment for merchandise or services, and the difference between the amount of the purchase and the amount of the tendered instrument refunded in cash.

5 USC 521, 543.

### § 4203. Operation of Service

(a) The canteens at hospitals and homes of the Veterans' Administration shall be primarily for the use and benefit of veterans hospitalized or domiciled at such hospitals and homes. Service at such canteens may also be furnished to personnel of the Veterans' Administration and recognized veterans' organizations employed at such hospitals and homes and to other persons so employed, to the families of all the foregoing persons who reside at the hospital or home concerned, and to relatives and other persons while visiting any of the persons named in this subsection; however, service to any person not hospitalized, domiciled, or residing at the hospital or home

shall be limited to the sale of merchandise or services for consumption or use on the premises.

(b) Service at canteens other than those established at hospitals and homes shall be limited to sales of merchandise and services for consumption or use on the premises, to personnel employed at such establishments, their visitors, and other persons at such establishments on official business.

#### § 4204. Financing of Service

To finance the establishment, maintenance, and operation of the Service there is hereby authorized to be appropriated, from time to time, such amounts as are necessary to provide for (1) the acquisition of necessary furniture, furnishings, fixtures, and equipment for the establishment, maintenance, and operation of canteens, warehouses, and storage depots; (2) stocks of merchandise and supplies for canteens and reserve stocks of same in warehouses and storage depots; (3) salaries, wages, and expenses of all employees; (4) administrative and operation expenses and premiums on fidelity bonds of employees; and (5) adequate working capital for each canteen and for the Service as a whole. Amounts appropriated under the authority contained in this chapter, amounts heretofore appropriated to carry out Public Law 636, Seventy-ninth Congress, and all income from canteen operations become and will be administered as a revolving fund to effectuate the provisions of this chapter.

60 Stat. 887.  
38 USC 13-13g.

#### § 4205. Revolving fund

The revolving fund shall be deposited in a checking account with the Treasury of the United States. Such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various canteens may be deposited in checking accounts in other depositories selected by the Administrator.

#### § 4206. Budget of Service

The Service shall prepare annually and submit a budget program as provided for wholly owned Government corporations by sections 841-869 of title 31, which shall contain an estimate of the needs of the Service for the ensuing fiscal year including an estimate of the amount required to restore any impairment of the revolving fund resulting from operations of the current fiscal year. Any balance in the revolving fund at the close of the fiscal year in excess of the estimated requirements for the ensuing fiscal year shall be covered into the Treasury as miscellaneous receipts.

31 USC 841-869.

#### § 4207. Audit of accounts

The Service shall maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by sections 841-869 of title 31. No other audit shall be required.

31 USC 841-869.

#### § 4208. Service to be independent unit

It is the purpose of this chapter that, under control and supervision of the Administrator, the Service shall function as an independent unit in the Veterans' Administration and shall have exclusive control over all its activities including sales, procurement and supply, finance, including disbursements, and personnel management, except as otherwise herein provided.

## PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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### CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

#### SUBCHAPTER I—PROVISIONS RELATING TO HOSPITALS AND HOMES

Sec.
5001. Hospital and domiciliary facilities.
5002. Construction and repair of buildings.
5003. Use of Armed Forces facilities.
5004. Garages on hospital and domiciliary reservations.
5005. Acceptance of certain property.
5006. Property formerly owned by National Home for Disabled Volunteer Soldiers.

#### SUBCHAPTER II—PROCUREMENT AND SUPPLY

5011. Revolving supply fund.
5012. Authority to procure and dispose of property.
5013. Procurement of prosthetic appliances.
5014. Grant of easements in Government-owned lands.

#### Subchapter I—Provisions Relating to Hospitals and Homes

##### § 5001. Hospital and domiciliary facilities

(a) The Administrator, subject to the approval of the President, shall provide hospitals, domiciliaries, and out-patient dispensary facilities for veterans entitled under this title to hospital or domiciliary care or medical services. Such hospitals, domiciliaries, and other facilities may be provided by (1) purchase, replacement, or remodeling or extension of existing plants, or (2) construction of such facilities on sites already owned by the United States or on sites acquired by purchase, condemnation, gift, or otherwise.

(b) Hospitals and domiciliaries provided by the Administrator under subsection (a) shall be of fireproof construction. Where an existing plant is purchased it shall be remodeled to be fireproof.

(c) The location of each hospital or domiciliary and its nature (whether for domiciliary care or the treatment of tuberculosis, neuropsychiatric cases, or general medical and surgical cases) shall be within the discretion of the Administrator, subject to the approval of the President.

(d) The Administrator may accept gifts or donations for any of the purposes of this section.

(e) The Administrator, subject to the approval of the President, may use as hospitals, domiciliaries, or out-patient dispensary facilities such suitable buildings, structures, and grounds owned by the United States on March 3, 1925, as may be available for such purposes, and the President may by Executive order transfer any such buildings, structures, and grounds to the control and jurisdiction of the Veterans' Administration upon the request of the Administrator.

(f) As used in this section and in sections 5002 and 5003 of this title, the term "hospitals, domiciliaries, or out-patient dispensary facilities" includes necessary buildings and auxiliary structures, mechanical equipment, approach work, roads, and trackage facilities leading thereto, sidewalks abutting hospital reservations, vehicles, livestock, furniture, equipment, accessories, accommodations for officers, nurses, and attending personnel, and proper and suitable recreational facilities.

#### **§ 5002. Construction and repair of buildings**

The construction of new hospitals, domiciliaries and out-patient dispensary facilities, or the replacement, extension, alteration, remodeling, or repair of all such facilities shall be done in such manner as the President may determine. The President may require the architectural, engineering, constructing, or other forces of any of the departments of the Government to do or assist in such work, and he may employ individuals and agencies not connected with the Government, if in his opinion desirable, at such compensation as he may consider reasonable.

#### **§ 5003. Use of Armed Forces facilities**

The Administrator and the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy may enter into agreements and contracts for the mutual use or exchange of use of hospitals and domiciliary facilities, and such supplies, equipment, and material as may be needed to operate such facilities properly, or for the transfer, without reimbursement of appropriations, of facilities, supplies, equipment, or material necessary and proper for authorized care for veterans, except that at no time shall the Administrator enter into any agreement which will result in a permanent reduction of Veterans' Administration hospital and domiciliary beds below the number established or approved on June 22, 1944, plus the estimated number required to meet the load of eligibles under this title, or in any way subordinate or transfer the operation of the Veterans' Administration to any other agency of the Government.

#### **§ 5004. Garages on hospital and domiciliary reservations**

The Administrator may construct and maintain on reservations of Veterans' Administration hospitals and domiciliaries, garages for the accommodation of privately owned automobiles of employees at such hospitals and domiciliaries. Employees using such garages shall make such reimbursement therefor as the Administrator may deem reasonable. Money received from the use of such garages shall be covered into the Treasury of the United States as miscellaneous receipts.

#### **§ 5005. Acceptance of certain property**

The President may accept from any State or other political subdivision, or from any person, any building, structure, equipment, or grounds suitable for the care of the disabled, with due regard to fire or other hazards, state of repair, and all other pertinent considerations. He may designate which agency of the Federal Government shall have the control and management of any property so accepted.

### § 5006. Property formerly owned by National Home for Disabled Volunteer Soldiers

If by reason of any defeasance or conditional clause or clauses contained in any deed of conveyance of property to the National Home for Disabled Volunteer Soldiers, which property is owned by the United States, the full and complete enjoyment and use of such property is threatened, the Attorney General, upon request of the President, shall institute in the United States district court for the district in which the property is located such proceedings as may be proper to extinguish all outstanding adverse interests. The Attorney General may procure and accept, on behalf of the United States by gift, purchase, cession, or otherwise, absolute title to and complete jurisdiction over all such property.

## Subchapter II—Procurement and Supply

### § 5011. Revolving supply fund

(a) The revolving supply fund established for the operation and maintenance of a supply system for the Veterans' Administration (including procurement of supplies and equipment and personal services) shall be—

(1) available without fiscal year limitations for all expenses necessary for the operation and maintenance of such supply system;

(2) reimbursed from appropriations for the cost of all services, equipment, and supplies furnished, at rates determined by the Administrator on the basis of estimated or actual direct and indirect cost; and

(3) credited with advances from appropriations for activities to which services or supplies are to be furnished, and all other receipts resulting from the operation of the fund, including the proceeds of disposal of scrap, excess or surplus personal property of the fund, and receipts from carriers and others for loss of or damage to personal property.

At the end of each fiscal year, any net income of the fund, after making provision for prior losses, shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) An adequate system of accounts for the fund shall be maintained on the accrual method, and financial reports prepared on the basis of such accounts. An annual business type budget shall be prepared for operations under the fund.

(c) The Administrator is authorized to capitalize, at fair and reasonable values as determined by him, all supplies and materials and depot stocks of equipment on hand or on order.

### § 5012. Authority to procure and dispose of property

(a) The Administrator may lease for a term not exceeding three years lands or buildings, or parts or parcels thereof, belonging to the United States and under his control. The proceeds from such leases, less expenses for maintenance, operation, and repair of buildings leased for living quarters, shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) The Administrator may, for the purpose of extending benefits to veterans and dependents, and to the extent he deems necessary, procure the necessary space for administrative, clinical, medical, and outpatient treatment purposes by lease, purchase, or construction of buildings, or by condemnation or declaration of taking, pursuant to law.

**§ 5013. Procurement of prosthetic appliances**

The Administrator may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as he may determine to be proper, without regard to any other provision of law.

**§ 5014. Grant of easements in Government-owned lands**

The Administrator, whenever he deems it advantageous to the Government and upon such terms and conditions as he deems advisable, may grant on behalf of the United States to any State, or any agency or political subdivision thereof, or to any public-service company, easements in and rights-of-way over lands belonging to the United States which are under his supervision and control. Such grant may include the use of such easements or rights-of-way by public utilities to the extent authorized and under the conditions imposed by the laws of such State relating to use of public highways. Such partial, concurrent, or exclusive jurisdiction over the areas covered by such easements or rights-of-way, as the Administrator deems necessary or desirable, is hereby ceded to the State in which the land is located. The Administrator may accept or secure on behalf of the United States from the State in which is situated any land conveyed in exchange for any such easement or right-of-way, such jurisdiction as he may deem necessary or desirable over the land so acquired. Any such easement or right-of-way shall be terminated upon abandonment or nonuse of the same and all right, title, and interest in the land covered thereby shall thereupon revert to the United States or its assignee.

**CHAPTER 83—ACCEPTANCE OF GIFTS AND BEQUESTS**

Sec.

5101. Authority to accept gifts, devises, and bequests.

5102. Legal proceedings.

5103. Restricted gifts.

5104. Disposition of property.

5105. Savings provision.

**§ 5101. Authority to accept gifts, devises, and bequests**

The Administrator may accept devises, bequests, and gifts, made in any manner, with respect to which the testator or donor shall have indicated his intention that such property shall be for the benefit of groups of persons formerly in the active military, naval, or air service who by virtue of such service alone, or disability suffered therein or therefrom, are or shall be patients or members of any one or more hospitals or homes operated by the United States Government, or has indicated his intention that such property shall be for the benefit of any such hospital or home, or shall be paid or delivered to any official, as such, or any agency in administrative control thereof.

**§ 5102. Legal proceedings**

For the purpose of acquiring title to and possession of any property which he is by this chapter authorized to accept, the Administrator may initiate and appear in any appropriate legal proceedings, and take such steps therein or in connection therewith as in his discretion may be desirable and appropriate to reduce said property to possession. He may incur such expenses incident to such proceedings as he deems necessary or appropriate, which shall be paid as are other administrative expenses of the Veterans' Administration. All funds received by devise, bequest, gift, or otherwise, for the purposes contemplated in this chapter, including net proceeds of sales authorized by this chapter, shall be deposited with the Treasurer of the United States to the credit of the General Post Fund.

**§ 5103. Restricted gifts**

Disbursements from the General Post Fund shall be made on orders by and within the discretion of the Administrator and in the manner prescribed in section 5223 of this title; except that (1) if the testator or donor has directed or shall direct that his devise, bequest, or gift be devoted to a particular use authorized by this chapter, the same, less expenses incurred, or the net proceeds thereof, shall be used or disbursed as directed, except that a precatory direction shall be fulfilled only insofar as may be proper or practicable; and (2) if the testator or donor shall have indicated his desire that his devise, bequest, or gift shall be for the benefit of persons in hospitals or homes, or other institutions operated by the United States but under the jurisdiction of an official other than the Administrator, the same, less expenses incurred, or the net proceeds thereof which may come into possession of the Administrator, shall be disbursed by transfer to the governing authorities of such institution, or otherwise, in such manner as the Administrator may determine, for the benefit of the persons in the institution indicated by the testator or donor, for proper purposes, as nearly as practicable in conformity with such desire of the testator or donor.

**§ 5104. Disposition of property**

If the Administrator receives any property other than moneys as contemplated by this chapter, he is authorized in his discretion to sell, assign, transfer, and convey the same, or any interest therein claimed by virtue of such devise, bequest, or gift, for such price and upon such terms as he deems advantageous (including consent to partition of realty and compromise of contested claim of title) and his assignment, deed, or other conveyance of any such property, executed in the name and on behalf of the United States, shall be valid to pass to the purchaser thereof such title to said property as the United States, beneficially or as trustee of the General Post Fund, may have by virtue of any such devise, bequest, or gift, and the proceedings incident thereto, subject to the conditions, limitations, and provisions of the instruments so executed by the Administrator.

**§ 5105. Savings provision**

(a) Nothing contained in this chapter shall be construed to repeal or modify any law authorizing the acceptance of devises, bequests, or gifts to the United States for their own use and benefit or for any particular purpose specified by the donors or testators.

(b) Whenever the United States receives property and it appears that it is, or shall have been, the intention of the testator or donor that such devise, bequest, or gift be for the benefit of those persons described in section 5101 of this title, or any particular hospital or other institution operated primarily for their benefit, such property or the proceeds thereof shall be credited to the General Post Fund, and shall be used or disbursed in accordance with the provisions of this chapter.

## CHAPTER 85—DISPOSITION OF DECEASED VETERANS' PERSONAL PROPERTY

### SUBCHAPTER I—PROPERTY LEFT ON VETERANS' ADMINISTRATION FACILITY

Sec.

- 5201. Vesting of property left by decedents.
- 5202. Disposition of unclaimed personal property.
- 5203. Notice of provisions of this subchapter.
- 5204. Disposition of other unclaimed property.
- 5205. Sale or other disposition of property.
- 5206. Notice of sale.
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### SUBCHAPTER II—DEATH WHILE INMATE OF VETERANS' ADMINISTRATION FACILITY

- 5220. Vesting of property left by decedents.
- 5221. Presumption of contract for disposition of personalty.
- 5222. Sale of assets accruing to the Fund.
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- 5227. Notice of provisions of subchapter.
- 5228. Investment of the Fund.

### Subchapter I—Property Left on Veterans' Administration Facility

#### § 5201. Vesting of property left by decedents

(a) Personal property left by any decedent upon premises used as a Veterans' Administration facility, which premises are subject to the exclusive legislative jurisdiction of the United States and are within the exterior boundaries of any State or dependency of the United States, shall vest and be disposed of as provided in this subchapter, except that—

(1) if such person died leaving a last will and testament probated under the laws of the place of his domicile or under the laws of the State or dependency of the United States within the exterior boundaries of which such premises or a part thereof may be, the personal property of such decedent situated upon such premises shall vest in the person or persons entitled thereto under the provisions of such last will and testament; and

(2) if such person died leaving any such property not disposed of by a last will and testament probated in accord with the provisions of paragraph (1) such property shall vest in the persons entitled to take such property by inheritance under and upon the conditions provided by the law of the decedent's domicile. This paragraph shall not apply to property to which the United States is entitled except where such title is divested out of the United States.

(b) Any officer or employee of the United States in possession of any such property may deliver same to the executor (or the administrator with will annexed) who shall have qualified in either jurisdiction as provided in subsection (a) (1); or if none such then to the domiciliary administrator or to any other qualified administrator who shall demand such property. When delivery shall have been made to any such executor or administrator in accordance with this subsection, neither the United States nor any officer or employee thereof shall be liable therefor.

**§ 5202. Disposition of unclaimed personal property**

(a) Notwithstanding the provisions of section 5201 of this title, the Administrator may dispose of the personal property of such decedent left or found upon such premises as hereafter provided in this subchapter.

(b) If any veteran (admitted as a veteran), upon his last admission to, or during his last period of maintenance in, a Veterans' Administration facility, shall have designated in writing a person (natural or corporate) to whom he desires his personal property situated upon such facility to be delivered, upon the death of such veteran the Administrator or employee of the Veterans' Administration authorized by him so to act, may transfer possession of such personal property to the person so designated. If there exists no person so designated by the veteran or if the one so designated declines to receive such property, or if he has failed to request such property within ninety days after the Veterans' Administration mails to such designate a notice of death and of the fact of such designation, a description of the property, and an estimate of transportation cost, which shall be paid by such designate if required under the regulations hereinafter mentioned, or if the Administrator declines to transfer possession to such designate, possession of such property may in the discretion of the Administrator or his designated subordinate, be transferred to the following persons in the order and manner herein specified unless the parties otherwise agree as provided in this subchapter, namely, executor or administrator, or if no notice of appointment received, to the spouse, child, grandchild, mother, father, grandmother, grandfather, brother, or sister of the veteran. In case two or more of those named above request the property, only one shall be entitled to possession thereof and in the order hereinbefore set forth, unless they otherwise agree in writing delivered to the Veterans' Administration. If claim is made by two or more such relatives having equal priorities, as hereinabove prescribed, or if there are conflicting claims the Administrator or his designee may in such case select the one to receive such possession, or may make delivery as may be agreed upon by those entitled, or may in his discretion withhold delivery from them and require the qualification of an administrator or executor of the veterans' estate and thereupon make delivery to such.

(c) If the property of any decedent is not so delivered or claimed and accepted the Administrator or his designee may dispose of such property by public or private sale in accordance with the provisions of this subchapter and regulations prescribed by the Administrator.

(d) All sales authorized by this subchapter shall be for cash upon delivery at the premises where sold and without warranty, express or implied. The proceeds of such sales after payment of any expenses incident thereto as may be prescribed by regulations, together with any other moneys left or found on a facility, not disposed of in accordance with this subchapter, shall be credited to the General Post Fund, National Homes, Veterans' Administration, a trust fund provided for in section 725s (a) (45) of title 31. In addition to the purposes for which such fund may be used under the existing law, disbursements may be made therefrom as authorized by the Administrator by regulation or otherwise for the purpose of satisfying any legal liability incurred by any employee in administering the provisions of this subchapter, including any expense incurred in connection therewith. Legal liability shall not exist when delivery or sale shall have been made in accordance with this subchapter.

(e) If, notwithstanding such sale, a claim is filed with the Administrator within five years after notice of sale as herein required, by or on behalf of any person or persons who if known would have been

entitled to the property under section 5201 of this title or to possession thereof under this section, the Administrator shall determine the person or persons entitled under the provisions of this subchapter and may pay to such person or persons so entitled the proceeds of sale of such property, less expenses. Such payment shall be made out of the said trust fund, and in accord with the provisions of this section or section 5201 of this title. Persons under legal disability to sue in their own name may make claim for the proceeds of sale of such property at any time within five years after termination of such legal disability.

(f) Any such property, the sale of which is authorized under this subchapter and which remains unsold, may be used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Administrator.

#### **§ 5203. Notice of provisions of this subchapter**

All persons having or bringing personal property on the premises of a Veterans' Administration facility shall be given reasonable notice of the provisions of this subchapter. In case of a mentally incompetent person, notice hereof shall be given the guardian or other person having custody or control of such person or, if none, to his nearest relative if known. The admission to or continued maintenance in such facility after reasonable notice of the provisions of this subchapter shall constitute consent to the provisions hereof. The death of any person on any such facility or the leaving of property thereon shall be prima facie evidence of a valid agreement for the disposition of such property in accordance with the provisions of this subchapter.

#### **§ 5204. Disposition of other unclaimed property**

Any other unclaimed property found on the premises under the control of the Veterans' Administration shall be stored by the officer in charge of such premises and may be sold, used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Administrator if the owner thereof fails to claim same within ninety days. If undisposed of, the same may be reclaimed by the owner, his personal representative or next of kin, upon payment of reasonable storage charges prescribed by regulations. If sold, the net proceeds thereof shall be credited to said post fund to be expended as other assets of such fund. The person who was entitled to such property, or his legal representative, or assignee, shall be paid the proceeds of sale thereof, less expenses if claim therefor be made within five years from the date of finding. If the owner shall have died intestate without creditors or next of kin surviving, such proceeds shall not be paid to his legal representative.

#### **§ 5205. Sale or other disposition of property**

Any unclaimed personal property as described in section 5202 of this title of veterans who have heretofore died or who may hereafter die while maintained as such in a Veterans' Administration facility, and also any unclaimed property heretofore or hereafter found or situated in such facility, may be sold, used, destroyed, or otherwise disposed of in accordance with this subchapter, and subject to regulations promulgated by the Administrator pursuant hereto; and the net proceeds of sale thereof shall be credited and be subject to disbursement as provided in this subchapter.

#### **§ 5206. Notice of sale**

At least ninety days before any sale pursuant to this subchapter, written or printed notice thereof describing the property to be sold shall be mailed to the owner of the property or, if deceased, to his executor or administrator, or to the nearest kin, if any such appear

by the records of the Veterans' Administration. If none such appears from said records, similar notice shall be posted at the facility where the death occurred or property shall have been found (if in existence) and at the place where such property is situated at the time of such notice, and also at the place where probate notices are posted in the county wherein the sale is to be had. The person posting such notice shall make an affidavit setting forth the time and place of such posting and attaching thereto a copy of such notice, and such affidavit shall be prima facie evidence of such posting and admissible in evidence as proof of the same.

#### § 5207. Payment of small shipping charges

Upon receipt of a proper claim for such property under the provisions of this subchapter the Administrator is hereby authorized, in his discretion and in accordance with regulations by him promulgated, to pay mailing or shipping charges not to exceed \$25 in the case of each deceased veteran as hereinabove defined.

#### § 5208. Relinquishment of Federal jurisdiction

Subject to the provisions of this subchapter and to the extent necessary to effectuate the purposes of this subchapter, there is hereby relinquished to the respective State or dependency of the United States such jurisdiction pertaining to the administration of estates of decedents as may have been ceded to the United States by said State or dependency of the United States respecting the Federal reservation on which is situated any Veterans' Administration facility while such facility is operated by the Veterans' Administration; such jurisdiction with respect to any such property on any such reservation to be to the same extent as if such premises had not been ceded to the United States. Nothing in this section shall be construed to deprive any State or dependency of the United States of any jurisdiction which it now has nor to give any State, possession, or dependency of the United States authority over any Federal official as such on such premises or otherwise.

#### § 5209. Definitions

The term "facility" or "Veterans' Administration facility" as used in this subchapter means those facilities over which the Veterans' Administration has direct and exclusive administrative jurisdiction, including hospitals or other facilities on property owned or leased by the United States while operated by the Veterans' Administration.

#### § 5210. Finality of decisions

Decisions by the Administrator under this subchapter shall not be reviewable administratively by any other officer of the United States.

### Subchapter II—Death While Inmate of Veterans' Administration Facility

#### § 5220. Vesting of property left by decedents

(a) Whenever any veteran (admitted as a veteran) shall die while a member or patient in any facility, or any hospital while being furnished care or treatment therein by the Veterans' Administration, and shall not leave surviving him any spouse, next of kin, or heirs entitled, under the laws of his domicile, to his personal property as to which he dies intestate, all such property, including money and choses in action, owned by him at the time of death and not disposed of by will or otherwise, shall immediately vest in and become the property of the United States as trustee for the sole use and benefit of the General Post Fund (hereafter in this subchapter referred to as the "Fund"), a trust fund prescribed by section 725s (a) (45) of title 31.

(b) The provisions of subsection (a) are conditions precedent to the initial, and also to the further furnishing of care or treatment by the Veterans' Administration in a facility or hospital. The acceptance and the continued acceptance of care or treatment by any veteran (admitted as a veteran to a Veterans' Administration facility or hospital) shall constitute an acceptance of the provisions and conditions of this subchapter and have the effect of an assignment, effective at his death, of such assets in accordance with and subject to the provisions of this subchapter and regulations issued in accordance with this subchapter.

**§ 5221. Presumption of contract for disposition of personalty**

The fact of death of a veteran (admitted as such) in a facility or hospital, while being furnished care or treatment therein by the Veterans' Administration, leaving no spouse, next of kin, or heirs, shall give rise to a conclusive presumption of a valid contract for the disposition in accordance with this subchapter, but subject to its conditions, of all property described in section 5220 of this title owned by said decedent at death and as to which he dies intestate.

**§ 5222. Sale of assets accruing to the Fund**

Any assets heretofore or hereafter accruing to the benefit of the Fund, other than money, but including jewelry and other personal effects, may be sold at the times and places and in the manner prescribed by regulations issued by the Administrator. Upon receipt of the purchase price he is authorized to deliver at the place of sale, said property sold, and upon request to execute and deliver appropriate assignments or other conveyances thereof in the name of the United States, which shall pass to the purchaser such title as decedent had at date of death. The net proceeds after paying any proper sales expense as determined by the Administrator shall forthwith be paid to the Treasurer of the United States to the credit of the Fund; and may be disbursed as are other moneys in the Fund by the Division of Disbursements, Treasury Department, upon order of said Administrator. Articles of personal adornment which are obviously of sentimental value, shall be retained and not sold or otherwise disposed of until the expiration of five years from the date of death of the veteran, without a claim therefor, unless for sanitary or other proper reasons it is deemed unsafe to retain same, in which event they may be destroyed forthwith. Any other articles coming into possession of the Administrator or his representative by virtue of this subchapter which, under regulations promulgated by the Administrator, are determined to be unsalable may be destroyed forthwith or at the time prescribed by regulations, or may be used for the purposes for which disbursements might properly be made from the Fund, or if not usable, otherwise disposed of in accordance with regulations.

**§ 5223. Disbursements from the Fund**

Disbursements from the Fund shall be made by the Division of Disbursements, Treasury Department, upon the order and within the discretion of the Administrator for the benefit of members and patients while being supplied care or treatment by the Veterans' Administration in any facility or hospital. The authority contained in the preceding sentence is not limited to facilities or hospitals under direct administrative control of the Veterans' Administration. There shall be paid out of the assets of the decedent so far as may be the valid claims of creditors against his estate that would be legally payable therefrom in the absence of this subchapter and without the benefit of any exemption statute, and which may be presented to the Veterans'

Administration within one year from the date of death, or within the time, to the person, and in the manner required or permitted by the law of the State wherein administration, if any, is had upon the estate of the deceased veteran; and also the proper expenses and costs of administration, if any. If the decedent's estate is insolvent the distribution to creditors shall be in accordance with the laws of his domicile, and the preferences and priorities prescribed thereby shall govern, subject to any applicable law of the United States.

#### § 5224. Disposal of remaining assets

The remainder of such assets or their proceeds shall become assets of the United States as trustee for the Fund and disposed of in accordance with this subchapter. If there is administration upon the decedent's estate such assets, other than money, upon claim therefor within the time required by law, shall be delivered by the administrator of the estate to the Administrator or his authorized representative, as upon final distribution; and upon the same claim there shall be paid to the Treasurer of the United States for credit to the Fund any such money, available for final distribution. In the absence of administration, any money, chose in action, or other property of the deceased veteran held by any person shall be paid or transferred to the Administrator upon demand by him or his duly authorized representative, who shall deliver itemized receipt therefor. Such payment or transfer shall constitute a complete acquittance of the transferor with respect to any claims by any administrator, creditor, or next of kin of such decedent.

#### § 5225. Court actions

If necessary to obtain such assets the Administrator, through his authorized attorneys, may bring and prosecute appropriate actions at law or other legal proceedings, the costs and expenses thereof to be paid as are other administrative expenses of the Veterans' Administration.

#### § 5226. Filing of claims for assets

Notwithstanding the crediting to said Fund of the assets, or proceeds thereof, of any decedent, whether upon determination by a court or the Veterans' Administration pursuant to the provisions of section 5220 of this title, any person claiming a right to such assets may within five years after the death of the decedent file a claim on behalf of himself and any others claiming with the Administrator. Upon receipt of due proof that any person was at date of death of the veteran entitled to his personal property, or a part thereof, under the laws of the State of domicile of the decedent, the Administrator may pay out of the Fund, but not to exceed the net amount credited thereto from said decedent's estate less any necessary expenses, the amount to which such person, or persons, was or were so entitled, and upon similar claim any assets of the decedent which shall not have been disposed of shall be delivered in kind to the parties legally entitled thereto. If any person so entitled is under legal disability at the date of death of such decedent, such five-year period of limitation shall run from the termination or removal of legal disability. In the event of doubt as to entitlement, the Administrator may cause administration or other appropriate proceedings to be instituted in any court having jurisdiction. In determining questions of fact or law involved in the adjudication of claims made under this section, no judgment, decree, or order entered in any action at law, suit in equity, or other legal proceeding of any character purporting to determine entitlement to said assets or any part thereof, shall be binding upon the United States or the Administrator or determina-

tive of any fact or question involving entitlement to any such property or the proceeds thereof, or any part of the Fund, unless the Administrator has been seasonably served with notice and permitted to become a party to such suit or proceeding if he makes a request therefor within thirty days after such notice. Notice may be served in person or by registered mail upon the Administrator, or upon his authorized attorney in the State wherein the action or proceedings may be pending. Notice may be waived by the Administrator or by his authorized attorney, in which event the finding, judgment, or decree shall have the same effect as if the Administrator were a party and served with notice. Any necessary court costs or expenses if authorized by the Administrator may be paid as are other administrative expenses of the Veterans' Administration.

#### § 5227. Notice of provisions of subchapter

The Administrator shall prescribe a form of application for hospital treatment and domiciliary care which shall include notice of the provisions of this subchapter.

#### § 5228. Investment of the Fund

Money in the Fund not required for current disbursements may be invested and reinvested by the Secretary of the Treasury in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

### EFFECTIVE DATE AND SAVINGS PROVISIONS

#### EFFECTIVE DATE

SEC. 2. Except as otherwise provided in this Act, this Act shall take effect on January 1, 1959.

#### OFFENSES COMMITTED UNDER REPEALED LAWS

SEC. 3. (a) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act or the Veterans' Benefits Act of 1957 may be prosecuted and punished in the same manner and with the same effect as if such Acts had not been enacted.

(b) Forfeitures of benefits under laws administered by the Veterans' Administration occurring before January 1, 1959 shall continue to be effective.

#### CONTINUATION OF AUTHORITY UNDER ACT OF JULY 3, 1930

SEC. 4. All functions, powers, and duties conferred upon and vested in the President and the Administrator by the Act of July 3, 1930 (46 Stat. 1016) and which were in effect on December 31, 1957, are continued in effect.

#### CROSS REFERENCES

SEC. 5. (a) References in other laws to any provision of law replaced by title 38, United States Code, shall, where applicable, be deemed to refer also to the corresponding provision of title 38, United States Code.

(b) References in title 38, United States Code, to any provision of title 38, United States Code, shall, where applicable, be deemed to refer also to the prior corresponding provisions of law.

(c) Amendments effective after August 18, 1958, made to any provision of law replaced by title 38, United States Code, shall, notwithstanding the repeal of such provision by section 14 of this Act, supersede the corresponding provisions of title 38, United States Code, to the extent that such amendments are inconsistent therewith.

71 Stat. 83,  
38 USC 2101  
note.

## CONTINUING AVAILABILITY OF APPROPRIATIONS

SEC. 6. (a) Amounts heretofore appropriated to carry out the purposes of any provision of law repealed by this Act, and available on December 31, 1958, shall be available to carry out the purposes of the corresponding provisions of title 38, United States Code.

(b) The availability and use of appropriations made for the purposes of the Act of July 1, 1948 (62 Stat. 1210; 50 App. U. S. C. 1991-1996) shall not be affected by the repeal of such Act.

## OUTSTANDING RULES, REGULATIONS, AND ORDERS

SEC. 7. All rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs before December 31, 1958, and in effect on such date (or scheduled to take effect after such date) shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator.

## PUBLICATION OF THIS ACT

SEC. 8. This Act shall be printed in slip-law form with a table of contents and a comprehensive index and tables furnished by the Committee on Veterans' Affairs of the House of Representatives; however, such table of contents, comprehensive index and tables shall not be printed in the United States Statutes at Large.

## PENDING CLAIMS

SEC. 9. A claim for benefits which is pending in the Veterans' Administration on January 1, 1959, or filed thereafter, shall be adjudicated under the laws in effect on December 31, 1958, with respect to the period before January 1, 1959, and, except as provided in section 10, under title 38, United States Code, thereafter.

## PERSONS RECEIVING BENEFITS

SEC. 10. Any individual receiving benefits as a veteran, or as the widow, child, or parent of a veteran, under public laws administered by the Veterans' Administration on December 31, 1958, shall, as long as entitlement under such laws continues, receive benefits under the corresponding provisions of title 38, United States Code, thereafter, or benefits at the rate payable under such public laws, whichever will result in the greater benefit being paid to the individual. The provisions of this section shall apply to those claims within the purview of section 9 in which it is determined that benefits are payable for December 31, 1958.

## PERSONS ENTITLED TO EMERGENCY OFFICERS' RETIREMENT PAY

SEC. 11. Any person who was receiving, or entitled to receive, emergency officers' retirement pay, or other privileges or benefits as a retired emergency officer of World War I, on December 31, 1958, under the laws in effect on that day, shall, except where there was fraud, clear and unmistakable error as to conclusion of fact or law, or misrepresentation of material facts, continue to receive, or be entitled to receive, emergency officers' retirement pay at the rate otherwise payable on December 31, 1958, and such other privileges and benefits, so long as the conditions warranting such pay, privileges, and benefits under those laws continue.

## CONTINUATION OF CERTAIN RIGHTS AND BENEFITS

38 USC ch. 12A.  
57 Stat. 43.  
38 USC 701, ch.  
12A.  
38 USC 697g.

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

43 Stat. 121; 49  
Stat. 1099.  
38 U S C 5 9 1,  
688b.

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

38 USC 691.

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

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

38 U S C 694-  
694o.

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

## AMENDMENTS AND REPEALS

## AMENDMENTS

24 Stat. 387.

SEC. 13. (a) Section 22 of Part I of the Interstate Commerce Act (49 U. S. C. 22) is amended by striking out "the National Homes or" and inserting in lieu thereof "Veterans' Administration facilities or".

(b) The paragraph which begins "The Secretary of War" under the center heading "MISCELLANEOUS OBJECTS." in the Act of March 3, 1901 (31 Stat. 1163; 24 U. S. C. 197), is amended by striking out ", and inmates of the National Home for Disabled Volunteer Soldiers on the Pacific coast at any State asylum in California,".

70 Stat. 745.

(c) Clause (2) of subsection (b) of section 3 of the Civil Service Retirement Act (5 U. S. C. 2253) is amended by striking out "title III of the Veterans' Benefits Act of 1957" and inserting in lieu thereof "chapter 11 of title 38, United States Code".

(d) Subsection (b) of section 212 of the Act of June 30, 1932 (47 Stat. 406; 5 U. S. C. 59a), is amended by striking out "title III of the Veterans' Benefits Acts of 1957" and inserting in lieu thereof "chapter 11 of title 38, United States Code".

47 Stat. 731.

(e) The first sentence of section 10 (b) of the Federal Home Loan Bank Act (12 U. S. C. 1430 (b)) is amended by inserting immediately after "Servicemen's Readjustment Act of 1944, as amended," the following: "chapter 37 of title 38, United States Code,".

48 Stat. 132.

(f) The second paragraph and the last sentence of the first paragraph of section 5 (c) of the Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (c)) are each amended by inserting immediately after "Servicemen's Readjustment Act of 1944, as amended" the following: ", or chapter 37 of title 38, United States Code".

(g) Section 302 (b) of the Federal National Mortgage Association Charter Act (12 U. S. C. 1717 (b)) is amended by inserting immediately after "Servicemen's Readjustment Act of 1944, as amended" the following: ", chapter 37 of title 38, United States Code".

68 Stat. 613.

(h) Section 512 of the National Housing Act (12 U. S. C. 1731a) is amended (1) by inserting "or of chapter 37 of title 38, United States Code" immediately after "Servicemen's Readjustment Act of 1944, as amended," each time it occurs, and (2) by inserting "or chapter 37" immediately after "said title III" each time it occurs.

68 Stat. 610.

(i) (1) Section 202 (o) of the Social Security Act (42 U. S. C. 402 (o)) is amended by striking out "prescribed under section 601 of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "described in section 3005 of title 38, United States Code".

70 Stat. 807.

(2) Section 217 (b) (2) of such Act (42 U. S. C. 417 (b) (2)) is amended by striking out "section 3 of the Act of August 12, 1935, as amended (38 U. S. C., sec. 454a)" and inserting "section 3101 of title 38, United States Code".

64 Stat. 512.

(3) (A) Subsection (g) of section 1511 of such Act is amended by striking out "title V of the Veterans' Readjustment Assistance Act of 1952 (38 U. S. C. 1011 et seq.)" and inserting in lieu thereof the following: "chapter 43 of title 38, United States Code".

Ante, p. 1088.

(B) Subsection (h) of such section 1511 is amended by striking out "232 of the Veterans' Readjustment Assistance Act of 1952 (38 U. S. C. 942), a subsistence allowance under part VII or part VIII of Veterans Regulation Numbered 1 (a), as amended, or an educational assistance allowance under the War Orphan's Educational Assistance Act of 1956 (38 U. S. C. 1031 et seq.)" and inserting in lieu thereof "1632 of title 38, United States Code, a subsistence allowance under chapter 31 of such title 38 or under part VIII of Veterans Regulation Numbered 1 (a), or an educational assistance allowance under chapter 35 of such title 38".

(C) Subsection (i) of such section 1511 is amended by striking out "title IV of the Veterans' Readjustment Assistance Act of 1952 (38 U. S. C. 991 et seq.)" and inserting in lieu thereof "subchapter I of chapter 41 of title 38, United States Code".

(j) Section 1 (b) (2) of the Bankhead-Jones Farm Tenant Act (7 U. S. C. 1001 (b) (2)) is amended by adding at the end thereof the following: "Any veteran who is eligible for the benefits of chapter 37 of title 38, United States Code, who is found by the Secretary, by reason of his ability and experience (including training as a vocational trainee), to be likely to carry out successfully undertakings required of him under a loan which may be made under this Act, shall be eligible for the benefits of this Act to the same extent as if he were a farm tenant."

50 Stat. 522.

(k) Section 408 of the Federal Employees' Pay Act of 1945 (5 U. S. C. 948) is amended by striking out "section 422 of the Veterans' Benefits Act of 1957" and inserting in lieu thereof "section 522 of title 38, United States Code".

59 Stat. 305;  
71 Stat. 159.

(l) (1) Section 2 (a) of the District of Columbia Servicemen's Readjustment Enabling Act of 1945 (D. C. Code 45-1701 (a)) is amended (A) by inserting "or chapter 37 of title 38 of the United States Code" immediately after "(58 Stat. L. 284)" and (B) by inserting "or chapter" immediately after "said Act".

60 Stat. 159.

(2) Section 2 (b) of such Act is amended by inserting "or chapter 37 of title 38 of the United States Code" immediately after "Servicemen's Readjustment Act of 1944".

(m) Section 8 of the Act of August 4, 1947 (61 Stat. 728; 5 U. S. C. 1057) is amended by striking out "title XIV of the Veterans' Bene-

fits Act of 1957" and inserting in lieu thereof "chapter 73 of title 38, United States Code".

(n) The Act of August 4, 1947 (61 Stat. 747; 25 U. S. C. 331 note) is amended (1) by inserting "or chapter 37 of title 38, United States Code" immediately after "Servicemen's Readjustment Act of 1944" and (2) by inserting "or chapter 37" immediately after "such title III".

71 Stat. 159.

(o) (1) Paragraph (3) of section 202 of the Classification Act of 1949 (5 U. S. C. 1082) is amended by striking out "title XIV of the Veterans' Benefits Act of 1957" and inserting in lieu thereof "chapter 73 of title 38, United States Code".

63 Stat. 956.

(2) Paragraph (23) of such section 202 is amended by striking out "Classification Act of 1923, as amended, pursuant to Public Law 636, Seventy-ninth Congress, approved August 7, 1946, as amended" and inserting in lieu thereof "Classification Act of 1949, pursuant to section 4202 of title 38, United States Code".

(3) Paragraph (25) of such section 202 is amended by striking out "section 14 (b) of Public Law 293, Seventy-ninth Congress, approved January 3, 1946, as amended by Public Law 722, Eightieth Congress, approved June 19, 1948" and inserting in lieu thereof "section 4114 (b) of title 38, United States Code".

71 Stat. 159.

(p) Paragraph (3) of subsection (b) of section 2 of the Performance Rating Act of 1950 (5 U. S. C. 2001) is amended by striking out "title XIV of the Veterans' Benefits Act of 1957" and inserting in lieu thereof "chapter 73 of title 38, United States Code".

64 Stat. 81.

(q) Section 505 of the Housing Act of 1950 (12 U. S. C. 1701k) is amended by striking out all that follows "National Housing Act, as amended" and inserting a period.

70 Stat. 517.

(r) Section 265 (a) of the Armed Forces Reserve Act of 1952 (50 U. S. C. 1016 (a)) is amended by inserting immediately before the period at the end thereof "or chapter 43 of title 38, United States Code".

68 Stat. 637, 639.

(s) (1) Sections 602 (a) and 607 of the Housing Act of 1954 are each amended by striking out "Servicemen's Readjustment Act of 1944, as amended" each place it occurs and inserting in lieu thereof "chapter 37 of title 38, United States Code".

68 Stat. 642.

(2) Section 801 of such Act (12 U. S. C. 1701j-1) is amended (1) by striking out "and the Administrator of Veterans' Affairs, respectively, are" each place it occurs and inserting "is"; and (2) by striking out each of the following phrases wherever they appear:

(A) "or guaranty";

(B) "or Administrator";

(C) "or the Administrator of Veterans' Affairs";

(D) "or the Administrator";

(E) "or guaranteed"; and

(F) "and Administrator".

71 Stat. 160.  
26 USC 121.

(t) Paragraph (18) of section 121 (a) of the Internal Revenue Code of 1954 is amended by striking out "section 1001 of the Veterans' Benefits Act of 1957" and inserting in lieu thereof "section 3101 of title 38, United States Code".

70 Stat. 883.

(u) Section 501 (c) (2) of the Servicemen's and Veterans' Survivor Benefits Act (5 U. S. C. 2091 note) is amended by striking out "under this Act" and inserting "under chapter 13 of title 38, United States Code".

70A Stat.  
10 USC 1441.

(v) Title 10 of the United States Code is amended as follows:

(1) By amending section 1441 by striking out "1115" and inserting in lieu thereof "415 (g)".

(2) By amending chapter 79 by adding at the end thereof the following:

**“§ 1553. Review of discharges and dismissals**

“(a) There is in each military department, and in the Coast Guard when it is not operating as a service in the Navy, a board of review established by the Secretary of that department after conference with the Administrator of Veterans' Affairs. Each such board has five members, and shall review, on its own motion, upon the request of any former member of an armed force, or in the case of a deceased member or former member of an armed force, upon the request of his surviving spouse, next of kin, or legal representative, the type and nature of the discharge or dismissal of such member or former member, unless such discharge or dismissal resulted from the sentence of a general court-martial. Such review shall be based upon all available records of the military department concerned, or the Coast Guard, relating to the member or former member, and such other evidence as may be presented. Witnesses shall be permitted to present testimony either in person or by affidavit, and the person requesting review shall be allowed to appear before such board in person or by counsel.

“(b) Each board shall have authority, except in the case of a discharge or dismissal resulting from the sentence of a general court-martial, to change, correct, or modify any discharge or dismissal, and to issue a new discharge in accord with the facts presented to the board. The findings of each board shall be subject to review only by the Secretary concerned.

“(c) No review is authorized under this section unless application therefor is filed with the proper board within fifteen years after whichever last occurred, (1) the date of the discharge or dismissal sought to be reviewed, or (2) June 22, 1944.

**“§ 1554. Review of decisions of retiring boards and similar boards**

“(a) The Secretary of each military department, and with respect to the Coast Guard, the Secretary of the Treasury, shall establish, from time to time, boards of review composed of five officers, two of whom shall be selected from the Medical Corps of the Army, from the Bureau of Medicine and Surgery of the Navy, from officers of the Air Force designated as medical officers, or from the Public Health Service. Each board shall review, at the request of any officer retired or released from active duty, without pay, for physical disability pursuant to the decision of a retiring board, board of medical survey, or disposition board, the findings and decisions of such board. Such review shall be based upon all available records of the military department concerned, or the Coast Guard, relating to the officer, and such other evidence as may be presented by him. Witnesses shall be permitted to present testimony either in person or by affidavit, and the officer requesting review shall be allowed to appear before such board in person or by counsel.

“(b) Each board of review shall have the same powers as are exercised by, or vested in, the board whose findings and decision are being reviewed. The findings of each board of review shall be transmitted to the Secretary concerned and shall be laid by him before the President for his approval or disapproval and orders in the case.

“(c) No review is authorized under this section unless application therefor is filed within fifteen years after whichever last occurred, (1) the date of the retirement or release for disability sought to be reviewed, or (2) June 22, 1944.

“(d) As used in this section and section 1553, the term ‘counsel’ includes any accredited representative of a service organization recognized by the Administrator of Veterans' Affairs under chapter 59 of title 38.”

(3) The analysis of such chapter 79 is amended by inserting immediately below

"1552. Correction of military records: claims incident thereto."

the following:

"1553. Review of discharges and dismissals.

"1554. Review of decisions of retiring boards and similar boards."

10 USC 6160.

(4) Effective as of January 1, 1958, section 6160 is amended by adding at the end thereof the following: "In the case of any initial award of naval pension granted before July 14, 1943, where the person granted the naval pension is also entitled to pension or compensation under laws administered by the Veterans' Administration, such naval pension shall not exceed one-fourth of such pension or compensation."

(w) Effective as of January 1, 1958, the Veterans' Benefits Act of 1957 is amended as follows:

71 Stat. 83.  
38 USC 2103.

(1) By adding at the end of section 103 thereof the following new subsection:

"(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."

38 USC 2351.

(2) By striking out "disability compensation" in section 351 and inserting "disability or death compensation".

(3) By striking out "parts D and E" in section 352 and inserting "this title".

38 USC 2901.

(4) By striking out "under section 921" each place it occurs in section 901.

(5) By inserting "day following the" immediately before "date of his discharge" in section 910 (b).

38 USC 2921.

(6) By striking out "Pension" in section 921 (a) and inserting "Except as provided in section 1503 (a) (2) (A) and Public Law 828, Seventy-sixth Congress, pension".

38 USC 2121.

(7) By inserting in subsection (a) of section 2101 immediately after "vocational rehabilitation," the following: "counseling required by the Administrator pursuant to the War Orphans' Educational Assistance Act of 1956 or title II of the Veterans' Readjustment Assistance Act of 1952,"; and by inserting "counseling" immediately after "vocational rehabilitation," in subsection (b) of such section.

#### REPEALS

SEC. 14. The following provisions of law are repealed, except with respect to rights and duties that matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun, before January 1, 1959:

(1) In the Revised Statutes of the United States, sections 4825 (24 U. S. C. 71); 4826 (24 U. S. C. 73); 4827 (24 U. S. C. 74); 4829 (24 U. S. C. 91); 4830 (24 U. S. C. 77); 4831 (24 U. S. C. 111); 4833 (24 U. S. C. 133); and 4834 (24 U. S. C. 76).

(2) The paragraph which begins "That so much" under the center heading "WAR DEPARTMENT" in the Act of March 3, 1875 (18 Stat. 359; 24 U. S. C. 111, 122).

(3) The provisos in the paragraph which begins "Support of National Home" under the center heading "MISCELLANEOUS OBJECTS UNDER WAR DEPARTMENT" in the Act of March 3, 1879 (20 Stat. 390; 24 U. S. C. 80).

(4) Section 2 of the Act of February 26, 1881 (21 Stat. 350; 24 U. S. C. 138).

(5) The paragraph which begins "That all pensions" under the center heading "MISCELLANEOUS OBJECTS." in the Act of August 7, 1882 (22 Stat. 322; 24 U. S. C. 138).

(6) The second sentence in the paragraph which begins "For out-door relief" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of March 3, 1885 (23 Stat. 510; 24 U. S. C. 76).

(7) The Act of July 9, 1886 (24 Stat. 129; 24 U. S. C. 117, 117 note).

(8) The Act of March 2, 1887 (ch. 316, 24 Stat. 444; 24 U. S. C. 73 note).

(9) In the Act of March 3, 1887, all of the paragraph which begins "For out-door relief" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" except the first sentence therein (24 Stat. 539; 24 U. S. C. 76, 120).

(10) The Act of August 27, 1888 (25 Stat. 450; 24 U. S. C. 134).

(11) The second sentence in the paragraph which begins "For out-door relief" in the Act of October 2, 1888 (25 Stat. 543; 31 U. S. C. 719).

(12) The proviso in the paragraph which begins "STATE OR TERRITORIAL HOMES:" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in section 3 of the Act of March 2, 1889 (25 Stat. 975).

(13) The Joint Resolution of March 3, 1891 (No. 21, 26 Stat. 1117; 24 U. S. C. 73 note).

(14) The paragraph which begins "In all, two million" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of August 5, 1892 (27 Stat. 384; 24 U. S. C. 123).

(15) In the Act of March 3, 1893, the portion of the paragraph which begins "OFFICE OF THE INSPECTOR GENERAL:" under the center heading "WAR DEPARTMENT" which begins "; and the Secretary of War" and ends "Army" (27 Stat. 653; 24 U. S. C. 118).

(16) In the Act of August 18, 1894, the provisos in the paragraph which begins "In all, two million" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS"; the seven paragraphs immediately following such paragraph (24 U. S. C. 75, 85, 93, 94, 112, 119; 39 U. S. C. 321); and the proviso in the paragraph which begins "For construction" under the heading "AT THE MARION BRANCH, AT MARION, INDIANA" (28 Stat. 411).

(17) The proviso in the paragraph which begins "For repairs" under the heading "AT THE MARION BRANCH, AT MARION, INDIANA:" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in each of the following Acts—

- (A) the Act of March 2, 1895 (28 Stat. 954);
- (B) the Act of June 11, 1896 (29 Stat. 448);
- (C) the Act of June 7, 1897 (30 Stat. 54);
- (D) the Act of July 1, 1898 (30 Stat. 639);
- (E) the Act of March 3, 1899 (30 Stat. 1112);
- (F) the Act of June 6, 1900 (31 Stat. 635);
- (G) the Act of March 3, 1901 (31 Stat. 1177);
- (H) the Act of June 28, 1902 (32 Stat. 471);
- (I) the Act of March 3, 1903 (32 Stat. 1135);
- (J) the Act of April 28, 1904 (33 Stat. 503);
- (K) the Act of March 3, 1905 (33 Stat. 1203)

(18) The paragraph which begins "That hereafter" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of June 11, 1896 (29 Stat. 445; 24 U. S. C. 82).

(19) The second sentence in the paragraph which begins "In all, two million" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of July 1, 1898 (30 Stat. 640; 24 U. S. C. 81).

(20) The paragraph which begins "For president" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of July 1, 1898 (30 Stat. 639; 24 U. S. C. 95 note).

(21) The paragraph which begins "Hereafter the following" under the center heading "ORDNANCE DEPARTMENT" in the Act of May 26, 1900 (31 Stat. 217; 24 U. S. C. 131 note).

(22) The paragraph which begins "That appropriations" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of June 6, 1900 (31 Stat. 294; 24 U. S. C. 114).

(23) The paragraph which begins "For president" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of June 6, 1900 (31 Stat. 636; 24 U. S. C. 95).

(24) The Act of January 28, 1901 (ch. 184, 31 Stat. 745).

(25) In the Act of March 3, 1901 (31 Stat. 1178), under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" the paragraph which begins "Hereafter the Board" (24 U. S. C. 96); and the proviso in the paragraph which begins "In all, three million" (24 U. S. C. 121).

(26) The paragraph which begins "Hereafter" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of July 1, 1902 (32 Stat. 564; 24 U. S. C. 139).

(27) The paragraph which begins "Appropriations herein" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of March 3, 1903 (32 Stat. 1137; 24 U. S. C. 115).

(28) The Joint Resolution of March 31, 1904 (No. 15, 33 Stat. 585; 44 U. S. C. 276).

(29) The proviso in the paragraph which begins "For repairs, namely:" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in each of the following Acts—

- (A) the Act of June 30, 1906 (34 Stat. 746);
- (B) the Act of March 4, 1907 (34 Stat. 1352);
- (C) the Act of May 27, 1908 (35 Stat. 369);
- (D) the Act of March 4, 1909 (35 Stat. 1008);
- (E) the Act of June 25, 1910 (36 Stat. 732);
- (F) the Act of March 4, 1911 (36 Stat. 1409);
- (G) the Act of August 24, 1912 (37 Stat. 449); and
- (H) the Act of June 23, 1913 (38 Stat. 39).

(30) The paragraph which begins "In addition to those classes" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in each of the following Acts—

- (A) the Act of May 27, 1908 (35 Stat. 372; 24 U. S. C. 131 note); and
- (B) the Act of March 4, 1909 (35 Stat. 1012; 24 U. S. C. 131).

(31) The paragraph which begins "Hereafter vacancies" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of June 23, 1913 (38 Stat. 43; 24 U. S. C. 73 note).

(32) The proviso in the paragraph which begins "Repairs:" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of August 1, 1914 (38 Stat. 639; 24 U. S. C. 116).

(33) The proviso in the joint resolution of October 19, 1914 (No. 49, 38 Stat. 780; 24 U. S. C. 73 note).

(34) In the Act of March 3, 1915, under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS", the proviso in the paragraph which begins "Repairs:" (38 Stat. 850; 24 U. S. C. 116); and the paragraph which begins "The following persons" (24 U. S. C. 131 note).

(35) The paragraph which begins "The headquarters of" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of July 1, 1916 (39 Stat. 297; 24 U. S. C. 72).

(36) The paragraph under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of October 6, 1917 (40 Stat. 368; 24 U. S. C. 131 note).

(37) The joint resolution of February 12, 1918 (40 Stat. 438).

(38) Section 20 of the Act of June 25, 1918 (40 Stat. 615).

(39) The Act of February 26, 1919 (ch. 46, 40 Stat. 1179).

(40) The Act of February 28, 1919 (ch. 82, 40 Stat. 1212).

(41) The paragraph which begins "The following persons" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of June 5, 1920 (41 Stat. 905; 24 U. S. C. 131 note).

(42) The joint resolution of August 24, 1921 (ch. 93, 42 Stat. 202).

(43) The Act of April 20, 1922 (42 Stat. 496).

(44) The paragraph which begins "For the fiscal year 1924" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in the Act of June 30, 1922 (24 Stat. 763; 42 U. S. C. 113 note).

42 Stat. 763.

(45) The Act of September 22, 1922 (ch. 426, 42 Stat. 1038).

(46) In the Act of March 2, 1923, the paragraph which begins "Provided" and the paragraph which begins "For the fiscal year 1925" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" (42 Stat. 1424; 24 U. S. C. 113, 113 note).

(47) The World War Adjusted Compensation Act (38 U. S. C. 591-613, 614-618, 619-649, 661-668, 681-683).

43 Stat. 121.  
38 USC 591.

(48) The Act of June 5, 1924 (ch. 262, 43 Stat. 389).

(49) (A) The amendment made to the Act of June 7, 1924, by the Act of March 26, 1928 (ch. 245, 45 Stat. 366), which amendment is hereby declared to have been solely an amendment to the paragraph which begins "The following persons" on page 519 of volume 43 of the United States Statutes at Large (24 U. S. C. 131).

(B) The paragraph referred to in subparagraph (A).

(50) The Act of June 7, 1924 (43 Stat. 534; 24 U. S. C. 135).

(51) In the World War Veterans Act, 1924, title I (38 U. S. C. 421-445, 447-459c); title III (38 U. S. C. 511-512b, 512c-518); and section 605 (38 U. S. C. 574).

(52) The proviso in the paragraph which begins "State and Territorial homes for disabled soldiers and sailors:" under the center heading "NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS" in each of the following Acts:

(A) the Act of February 12, 1925 (43 Stat. 933);

(B) the Act of April 15, 1926 (44 Stat. 294);

(C) the Act of February 23, 1927 (44 Stat. 1145);

(D) the First Deficiency Act, fiscal year 1928 (45 Stat. 39);

(E) the Act of March 23, 1928 (45 Stat. 362);

(F) the Act of February 28, 1929 (45 Stat. 1385); and

(G) the Act of May 28, 1930 (46 Stat. 466).

(53) The fourth proviso in the paragraph which begins "Vocational rehabilitation" under the center heading "UNITED STATES VETERANS' BUREAU" in the Act of March 3, 1925 (43 Stat. 1211).

(54) The Act of July 3, 1926 (44 Stat. 826; 38 U. S. C. 618a-618e, 669).

(55) The Act of March 4, 1927 (ch. 490, 44 Stat. 1410).

(56) The Act of March 4, 1927 (ch. 491, 44 Stat. 1411).

(57) The Act of March 4, 1927 (ch. 504, 44 Stat. 1421).

- (58) Section 7 of the Act of May 29, 1928 (45 Stat. 949; 38 U. S. C. 670).
- (59) The Act of February 20, 1929 (ch. 272, 45 Stat. 1248).
- (60) The Act of May 16, 1930 (ch. 290, 46 Stat. 366).
- (61) Sections 4 and 5 of the Act of June 5, 1930 (46 Stat. 497; 38 U. S. C. 613a).
- (62) The Act of June 21, 1930 (ch. 562, 46 Stat. 792).
- (63) The Act of July 3, 1930 (ch. 832, 46 Stat. 852).
- (64) The proviso in the paragraph which begins "State and Territorial Homes for Disabled Soldiers and Sailors:" under the center heading "VETERANS' ADMINISTRATION" in each of the following Acts—  
 (A) the Independent Offices Appropriation Act, 1932 (46 Stat. 1375); and  
 (B) the Independent Offices Appropriation Act, 1933 (47 Stat. 472).
- (65) Sections 3 and 4 of the Emergency Adjusted Compensation Act, 1931 (46 Stat. 1430; 38 U. S. C. 650).
- (66) The joint resolution of July 8, 1932 (47 Stat. 654).
- (67) Parts VII and VIII of Veterans Regulation Numbered 1 (a) (38 U. S. C. ch. 12A) except that the repeal of part VII shall not take effect in such manner as to impair the operation of the deferred repeal of a portion of paragraph 9 of such part as provided in section 21 of the Government Employees Training Act (72 Stat. 338).
- (68) In the Independent Offices Appropriation Act, 1934 (48 Stat. 283), the sixth paragraph under the center heading "VETERANS' ADMINISTRATION" (38 U. S. C. 445b); and section 20.
- (69) The joint resolution of January 28, 1935 (49 Stat. 1; 38 U. S. C. 445c).
- (70) Section 5 of the Act of August 23, 1935 (49 Stat. 730; 38 U. S. C. 622 note).
- (71) The Adjusted Compensation Payment Act, 1936 (49 Stat. 1099; 38 U. S. C. ch. 11A).
- (72) Section 404 of the Act of June 29, 1936 (38 U. S. C. 445d).
- (73) Section 7 of the Act of July 19, 1939 (53 Stat. 1070; 38 U. S. C. 512b-1).
- (74) Section 2 of the Act of August 1, 1939 (53 Stat. 1145; 24 U. S. C. 134 note).
- (75) The National Service Life Insurance Act of 1940 (38 U. S. C. 801-805, 806-818, 820-824).
- (76) The last sentence of section 407 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U. S. C. 547).
- (77) The Act of February 10, 1942 (56 Stat. 87; 38 U. S. C. 805a).
- (78) Section 4 of the Act of July 11, 1942 (56 Stat. 658).
- (79) Section 2 of the Act of December 3, 1942 (56 Stat. 1038; 38 U. S. C. 855a).
- (80) Section 2 of the Act of December 18, 1942 (ch. 768, 56 Stat. 1066).
- (81) Sections 3 and 4 of the Act of March 24, 1943 (57 Stat. 45; 38 U. S. C. ch. 12A, note to pt. VII of VR 1 (a)).
- (82) The paragraph headed "VETERANS' ADMINISTRATION" in title I of the Urgent Deficiency Appropriation Act, 1943 (57 Stat. 434; 38 U. S. C. ch. 12A, note to pt. VII of VR 1 (a)).
- (83) The Act of October 25, 1943 (ch. 276, 57 Stat. 575).
- (84) The Act of November 22, 1943 (57 Stat. 590; 36 U. S. C. 183-184).
- (85) Section 2 of the Act of December 17, 1943 (57 Stat. 603; 24 U. S. C. 134 note).
- (86) The Mustering-Out Payment Act of 1944 (58 Stat. 8; 38 U. S. C. 691-691g).

38 USC 722.

49 Stat. 2034.

54 Stat. 1014.  
38 USC 818.

54 Stat. 1185.

38 USC 802 note.

34 USC 853c-6.

38 USC 11a note.

- (87) The Servicemen's Readjustment Act of 1944 (38 U. S. C. 693 note, 693h-694n, 695-696f, 696g-697g). 58 Stat. 284.  
38 USC 693 note.  
38 USC ch. 12A.
- (88) Section 4 of the Act of September 27, 1944 (58 Stat. 753).
- (89) The first section and section 3 of the Act of September 30, 1944 (58 Stat. 764; 38 U. S. C. 819, 819 note).
- (90) Section 3 of the Act of September 20, 1945 (59 Stat. 535). 38 USC note foll.  
ch. 12.
- (91) The paragraph which begins "Hospital and domiciliary facilities:" under the centerheading "VETERANS' ADMINISTRATION" in the First Deficiency Appropriation Act, 1946 (59 Stat. 642).
- (92) The paragraph which begins "Operation of canteens:" under the centerheading "VETERANS' ADMINISTRATION" in the Third Deficiency Appropriation Act, 1946 (60 Stat. 615).
- (93) The proviso in the paragraph which begins "Operation of canteens:" in the Independent Offices Appropriation Act, 1948 (61 Stat. 606).
- (94) Section 5 of the Act of August 6, 1947 (61 Stat. 791; 38 U. S. C. ch. 12A, note to pt. VIII of VR 1 (a)).
- (95) Section 2 of the Act of May 18, 1948 (62 Stat. 237; 24 U. S. C. 134 note).
- (96) The Act of June 3, 1948 (ch. 380, 62 Stat. 292).
- (97) Section 3 of the Act of June 19, 1948 (62 Stat. 501).
- (98) Section 2 of the Act of June 23, 1950 (64 Stat. 254; 38 U. S. C. ch. 12A, note to pt. VIII of VR 1 (a)).
- (99) The last proviso in the paragraph which begins "Administration" under the centerheading "VETERANS' ADMINISTRATION" in the Independent Offices Appropriation Act, 1951 (64 Stat. 718; 38 U. S. C. 696f-1).
- (100) The Act of December 28, 1950 (64 Stat. 1121; 38 U. S. C. 701a).
- (101) The Veterans' Readjustment Assistance Act of 1952 (38 U. S. C. 901-975, 976-1016). 66 Stat. 663.  
38 USC 901 note.
- (102) The Act of June 18, 1953 (ch. 127, 67 Stat. 64). 38 USC 11a note.
- (103) The last proviso in the paragraph which begins "Readjustment benefits" under the centerheading "VETERANS' ADMINISTRATION" in the Second Independent Offices Appropriation Act, 1954 (67 Stat. 192; 38 U. S. C. ch. 12A, note to pt. VIII of VR 1 (a)).
- (104) In the Independent Offices Appropriation Act, 1955, under the centerheading "VETERANS' ADMINISTRATION", the last proviso in the paragraph which begins "General operating expenses" (68 Stat. 290; 38 U. S. C. 975a); and the provisos in the paragraph which begins "Readjustment benefits" (38 U. S. C. 694o note).
- (105) The Act of July 15, 1954 (ch. 506, 68 Stat. 477).
- (106) Section 2 of the Act of August 21, 1954 (68 Stat. 758; 24 U. S. C. 134 note).
- (107) The Act of August 28, 1954 (ch. 1049, 68 Stat. 916). 38 USC 750.
- (108) Subsection (b) of the first section of the Act of June 16, 1955 (38 U. S. C., ch. 12A, note to VR 7 (a)). 69 Stat. 161.  
38 USC ch. 12A.
- (109) Sections 2 (b) and 4 (b) of the Act of June 21, 1955 (69 Stat. 168; 38 U. S. C. 694l note). 38 USC 942 note.
- (110) In the Independent Offices Appropriation Act, 1956, under the centerheading "VETERANS' ADMINISTRATION", the last proviso in the paragraph which begins "General operating expenses" (69 Stat. 209; 38 U. S. C. 975a); and the provisos in the paragraph which begins "Readjustment benefits" (38 U. S. C. 694o).
- (111) Section 2 of the Act of August 9, 1955 (ch. 640, 69 Stat. 559).
- (112) The last proviso in the paragraph which begins "General operating expenses" under the centerheading "VETERANS' ADMINISTRATION" in the Independent Offices Appropriation Act, 1957 (70 Stat. 348; 38 U. S. C. 975a).

Ante, p. 200.

(113) The War Orphans' Educational Assistance Act of 1956 (38 U. S. C. 1031-1084).

70 Stat. 857.  
38 USC 1101.

(114) In the Servicemen's and Veterans' Survivor Benefits Act, paragraphs (1), (6) (B), (7), (8), (11), and (12) of section 102; title II (38 U. S. C. 1111-1119); section 405 (38 U. S. C. 1103); in section 501, subsections (a) (3) (B) (38 U. S. C. 823 note), (s) (2) (38 U. S. C., ch. 12A), and (u) (2) (38 U. S. C., ch. 12A, note to VR 2 (a)); and section 601 (38 U. S. C. 1102).

(115) In the Act of August 27, 1957 (71 Stat. 424), the first section (38 U. S. C. 748 note; ch. 12A); section 2 (38 U. S. C. 473-480 note); and section 8 (38 U. S. C. 2315 note).

(116) The first section and section 2 of the Act of September 7, 1957 (71 Stat. 632; 38 U. S. C. 503 note).

71 Stat. 88.  
Ante, pp. 608,  
624.

(117) The Veterans' Benefits Act of 1957 (except title XXII) (38 U. S. C. 2101-4008), except that the repeal of sections 235 and 1413 (b) and (c) of such Act shall not take effect in such manner as to impair the operation of the deferred repeal of such sections as provided in section 21 of the Government Employees Training Act (72 Stat. 338).

Ante, p. 75.

(118) Paragraph (e) (2) of section 5 of the Act of April 1, 1958 (72 Stat. 77; 38 U. S. C. 694 note).

(119) Section 2 of the Act of June 18, 1958 (72 Stat. 200; 38 U. S. C. 911 note).

(120) Section 2 of the Act of August 14, 1958 (Public Law 85-652).

(121) Section 2 of the Act of August 18, 1958 (Public Law 85-674), except that such repeal shall not permit payment of the \$250 burial allowance under sections 902 or 903 of title 38, United States Code, with respect to deaths occurring before August 19, 1958, as to which the amount authorized by the laws in effect on the date of death shall apply.

Approved September 2, 1958.

## Public Law 85-858

### AN ACT

September 2, 1958  
[S. 1903]

To amend section 7 of the Administrative Expenses Act of 1946, as amended, relating to travel expenses of civilian officers and employees assigned to duty posts outside the continental United States.

Federal employ-  
ees.  
Travel expenses  
outside U.S.  
68 Stat. 1008.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 7 of the Administrative Expenses Act of 1946, as amended (5 U. S. C. 73b-3), is amended by inserting after the third proviso the following new proviso: "Provided further, Any officer or employee of the United States appointed by the President, by and with the advice and consent of the Senate, to serve for a term fixed by law, whose post of duty is outside the continental United States, shall be allowed expenses of round trip travel for himself and transportation of his immediate family, but excluding household effects, from his post of duty outside the continental United States to the place of his actual residence at the time of his appointment to such overseas post of duty, at the end of each two years of satisfactory service completed overseas, if he is returning to his actual place of residence for the purpose of taking leave prior to serving at least two more years of overseas duty."

Approved September 2, 1958.