

69TH CONGRESS }  
1st Session }

HOUSE OF REPRESENTATIVES

REPORT  
No. 1351

## INDIAN WAR PENSION BILL

JUNE 2, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. LEATHERWOOD, from the Committee on Pensions, submitted the following

### REPORT

[To accompany H. R. 12532]

The Committee on Pensions, to whom was referred certain bills, H. R. 12, 3749, 7172, 7812, 10861, and 12532 proposing to grant pensions and increase of pensions to certain soldiers of Indian wars, and to certain widows, remarried widows, minor children, and helpless children of such soldiers, and for other purposes, having had the several bills under consideration and having heard the Members who introduced the bills and others representing those who would become beneficiaries thereunder, respectfully submit the following report with the recommendation that bill H. R. 12532 do pass without amendment.

While the committee had the various bills under consideration a report was obtained from the Secretary of the Interior upon bill H. R. 10861, as to the amount it was estimated its enactment would add to the annual expenditure for pensions, and also making suggestions as to changes therein deemed advisable by him, which report is hereto attached.

In view of the changes suggested by the Secretary of the Interior, and a few other minor changes deemed advisable, the committee prepared this bill, H. R. 12532, which was introduced in the House by Mr. Leatherwood.

The existing Indian war pension acts of July 27, 1892, June 27, 1902, May 30, 1908, and March 4, 1917, provide only for service rendered in certain Indian wars or campaigns specifically named in the acts.

It appears, however, that there were at times other Indian hostilities or disturbances west of the Mississippi River, and this act provides for service rendered therein, as well as increased rates of pension for those on the roll under the acts mentioned.

The present rate of pension for Indian war soldiers is \$20 per month and for widows of such soldiers \$12 per month.

Section 1 of this act grants a pension of not less than \$20, or more than \$50 per month, to persons who served 30 days or more in any military organization, whether regularly mustered into the service of the United States or not, but whose service was under the authority, or by the approval of the United States or any State or Territory, in any Indian war or campaign, or in connection with, or in the zone of any active Indian hostilities from January 1, 1859, to December 31, 1898, and who are now, or who may hereafter be, suffering from any mental or physical disability or disabilities of a permanent character, not the result of their own vicious habits which so incapacitates them for the performance of manual labor as to render them unable to earn a support.

This section further provides a rate of \$20 per month for those 62 years of age, \$30 for those 68, \$40 for those 72, and \$50 for those 75 years of age.

The conditions as to age, or disability, required to entitle to pension, as well as the rates, are the same as provided in the Spanish War pension act approved by the President May 1, 1926.

Section 2 provides a pension for the widows and minor children of such persons at the rate of \$30 per month, with \$6 per month additional for each child of the soldier under 16 years of age.

The widow is given title only if married to the soldier prior to March 4, 1917. Provision is also made for the continuance of the pension of minor children who are helpless.

This section also applies to widows of such soldiers who have remarried, either once or more than once, if it is shown that the subsequent marriage or marriages were dissolved either by the death of the husband or husbands, or by divorce without fault on the part of the wife. The rate is the same as that provided for widows and children in the Spanish War pension act of May 1, 1926.

Section 3 prescribes the manner in which proof of service shall be made, which is the same as now provided by the act of March 4, 1917, as amended.

Section 4 provides for an automatic increase from the fourth day of the next month after the approval of this act of the pensions of Indian war soldiers now pensioned or who may hereafter be pensioned under the acts of July 27, 1892, June 27, 1902, and May 30, 1908, as amended by the act of February 19, 1913, or under the act of March 4, 1917, to \$30 per month if 68 years of age; \$40 per month if 72 years of age, and \$50 per month if 75 years of age, and for increase to \$30 per month from same date of the pension of widows under said acts.

This section also provides that hereafter pensions granted under existing Indian war pension acts of July 27, 1892, June 27, 1902, May 30, 1908, and March 4, 1917, shall commence from the date of filing application therefor in the Bureau of Pensions.

This provision was made following the suggestion of the Secretary of the Interior in his report herewith in order to avoid the payment of arrears of pension from the date of said acts amounting in some cases to over \$2,000.

Section 5 provides that no claim agent, attorney, or other person shall receive or retain any fee in claims for increase granted by this act or a fee in excess of \$10 in original claims.

All original pensions under this act are to commence the date the applications are filed in the Bureau of Pensions, except those of minor children when the widow dies, remarries, or otherwise forfeits title, which are to be allowed from the date of such death, remarriage, or forfeiture of title.

The report of Hon. Hubert Work, Secretary of the Interior, upon H. R. 10861, heretofore referred to, is as follows:

DEPARTMENT OF THE INTERIOR,  
Washington, May 26, 1926.

Hon. HAROLD KNUTSON,  
*Chairman Committee on Pensions,  
House of Representatives.*

MY DEAR MR. KNUTSON: I am in receipt of your communication inclosing a copy of a bill, H. R. 10861, entitled "A bill granting pensions to certain soldiers who served in the Indian wars from 1859 to 1898, and for other purposes," concerning which you ask a report with an estimate of the additional cost of the annual disbursement for pensions.

The bill, as its title indicates, grants pension to certain soldiers who served in the various Indian wars from 1859 to 1898, and to their widows, remarried widows, and minor children.

Section 1 deals with the survivors and grants pension at the rate of from \$20 to \$50 per month, proportioned to the degree of inability to earn a support without reference to the cause of such disability provided it be not the result of vicious habits, and for attained age, and benefits "any person who served 30 days or more in any military organization, whether such person was regularly mustered into the service of the United States or not, but whose service was under the authority or by the approval of the United States or any State or Territory in any Indian war or campaign or in connection with or in the zone of any active Indian hostilities in any of the States or Territories of the United States."

In analyzing this section it is found that—

1. All services must have been 30 days or more in a military organization.
2. The service must have been rendered between 1859 and December 31, 1898, in (a) any Indian war or campaign, or (b) in connection with or in the zone of active Indian hostilities.
3. If not regularly mustered into the United States service, the service must have been rendered under the authority or by the approval of—(a) The United States, or (b) any State or Territory.

Investigation discloses that other than in Texas there were the following recognized Indian wars, campaigns, and expeditions from 1861 to 1898 in which the United States and State troops participated:

- 1861-1896. Apache Indian war and troubles in Arizona and New Mexico.
- 1862-1867. Sioux Indian war in Minnesota and Dakota.
- 1863-1869. War against the Cheyenne, Arapahoe, Kiowa, and Comanche Indians in Kansas, Nebraska, Colorado, and Indian Territory.
- 1865-1868. Indian war in southern Oregon and Idaho and northern California and Nevada.
- 1867-1881. Campaign against Lipan, Kiowa, Kickapoo, and Comanche Indians and Mexican border disturbances.
- 1868-69. Canadian River expedition, New Mexico, November 5, 1868, to February 13, 1869.
- 1871. Yellowstone expedition, August 28 to October 25, 1871.
- 1872. Yellowstone expedition, Dakota, July 26 to October 15, 1872.
- 1872-73. Modoc campaign, November 28, 1872, to June 1, 1873.
- 1873. Yellowstone expedition, Dakota, June 4 to October 4, 1873.
- 1874-75. Campaign against Kiowa, Cheyenne, and Comanche Indians in Indian Territory, August 1, 1874, to February 16, 1875.
- 1874. Sioux expedition, Wyoming and Nebraska, February 13, to August 19, 1874.
- 1874. Black Hills expedition, Dakota, June 20 to August 30, 1874.
- 1874. Big Horn expedition, Wyoming, August 13 to October 10, 1874.
- 1875. Expedition against Indians in eastern Nevada, September 7 to 27, 1875.
- 1876. Sioux expedition, Dakota, May 17 to September 26, 1876.
- 1876. Powder River expedition, Wyoming, November 1 to December 31, 1876.
- 1876-77. Big Horn and Yellowstone expeditions, Wyoming and Montana, February 17, 1876, to June 13, 1877.

1876-1879. War with Northern Cheyenne and Sioux Indians in Indian Territory, Kansas, Wyoming, Dakota, Nebraska, and Montana.

1877. Nez Perce campaign, June 14 to October 5, 1877.

1877-1882. Texas.

1878. Bannock and Piute campaign, May 30 to September 4, 1878.

1878. Ute expedition, Colorado, April 3 to September 9, 1878.

1879. Snake or Sheepeater Indian troubles, Idaho, August to October, 1879.

1879-80. Ute Indian campaign in Colorado and Utah, September 21, 1879, to November 8, 1880.

1890-91. Sioux Indian disturbances in South Dakota, November, 1890, to January, 1891.

1892-1896. Troubles with renegade Apache Indians, under Kidd and Massai, in Arizona and Mexican border.

1895. Bannock Indian troubles, July and August, 1895.

1898. Chippewa Indian disturbances at Leech Lake, Minn., October, 1898.

The act of March 4, 1917 (39 Stat. L. 1199), embraces within its scope the following campaigns, expeditions, etc.:

1. In the campaign in southern Oregon and Idaho, in northern California, and Nevada from 1865 to 1868, inclusive.

2. In the campaign against the Sioux in Minnesota and the Dakotas in 1862 and 1863, and in Wyoming in 1865 to 1868.

3. In fighting Indians and guarding United States mails on western frontier as members of:

(a) Company A, First Regiment, First Brigade Nebraska Militia, from August 30 to November 12, 1864.

(b) Company B, First Regiment Nebraska Militia, August 13, 1864, to February 13, 1865;

(c) Company C, First Regiment, Second Brigade Nebraska Militia, from August 24, 1864, to February 7, 1865;

(d) Capt. Edward P. Childs's artillery detachment, Nebraska Militia, from August 30, 1864, to November 12, 1864;

(e) Company A, First Regiment, Second Brigade Nebraska Militia, from August 12, 1864, to December 24, 1864.

4. In the campaign against the Cheyennes, Arapahoes, Kiowas, and Comanches in Kansas, Colorado, and Indian Territory from 1867 to 1869 inclusive.

5. In the Modoc war of 1872 and 1873.

6. In the campaign against the Apaches of Arizona and New Mexico or either of them in 1873, and in 1885 and 1886.

7. In the campaign against the Kiowas, Comanches, and Cheyennes in Kansas, Colorado, Texas, Indian Territory, and New Mexico in 1874 and 1875.

8. In the campaign against the Northern Cheyennes and Sioux in 1876 and 1877.

9. In the Nez Perce war of 1877.

10. In the Bannock war of 1878.

11. In the campaign against the Northern Cheyennes in 1878 and 1879.

12. In the campaigns in the Black Hawk war in Utah from 1865 to 1867, inclusive.

13. In the campaign against the Utes in Colorado and Utah from September, 1879, to November, 1880, inclusive.

14. In the campaign against the Sioux in South Dakota from November, 1890, to January, 1891, inclusive.

It appears that in Texas State troops known as "Minute Men," Rangers, and other designations, were engaged in connection with Indian marauders and depredations from 1859 to 1882, which covers the period of the Civil War, and it will be observed that in the legislation affecting the Texas Volunteers' service during the period from January 1, 1861 to 1866, is excluded in existing law, but not in this bill.

From the foregoing it will be seen that the survivors of the following Indian wars, campaigns, expeditions, etc., their widows, remarried widows, and minor children will be beneficiaries under the bill:

1861-1866. Texas depredations.

1861-1896. Apache Indian war and troubles in Arizona and New Mexico, 27 years of the period not being covered by existing law.

1867-1881. Campaign against Lipan, Kiowa, Kickapoo, and Comanche Indians and Mexican border disturbances.

1868-69. Canadian River expedition New Mexico, November 5, 1868, to February 13, 1869.



- 1871. Yellowstone expedition, August 28, to October 25, 1871.
- 1872. Yellowstone expedition, Dakota, July 26 to October 15, 1872.
- 1873. Yellowstone expedition, Dakota, June 4 to October 4, 1873.
- 1874. Sioux expedition, Wyoming and Nebraska, February 13 to August 19, 1874.
- 1874. Black Hills expedition, Dakota, June 20 to August 30, 1874.
- 1874. Big Horn expedition, Wyoming, August 13 to October 10, 1874.
- 1875. Expedition against Indians in eastern Nevada, September 7 to 27, 1875.
- 1877-1882. Texas.
- 1878. Ute expedition, Colorado, April 3 to September 9, 1878.
- 1879. Snake or Sheepstealer Indian troubles, Idaho, August to October, 1879.
- 1892-1896. Troubles with renegade Apache Indians, under Kidd and Massai, in Arizona and Mexican border.
- 1895. Bannock Indian troubles, July and August, 1895.
- 1898. Chippewa Indian disturbances at Leech Lake, Minn., October, 1898.

There may have been—and probably were—other expeditions, campaigns, etc.

Section 2 grants pension at the rate of \$30 per month without regard to the cause of death and with \$6 per month additional for each minor child from the date of filing application, to the widow, remarried widow, and minor children of the persons referred to in section 1, with provision that in cases of the widows and remarried widows the marriage to the soldier must have taken place prior to March 4, 1917.

This section has a provision for payment to the minor children under 16 years of age in case of the death or remarriage of the widow, but no provision is made therein for pensioning the minor children if no widow survives the soldier, or if the widow's title is lost otherwise than by death or remarriage, except by implication. If such is the intent of the section, that fact should be made clear, and could easily be done by changing the phraseology of the section after the word "case" in line 10, page 3, so that this part of the section will read:

"And in case there be no widow, or one not entitled to pension, and in the event of the death, remarriage, or forfeiture of title of the widow, the child or children under 16 years of age of the soldier shall be paid such pension until the age of 16 years."

With reference to these minor children concerning whom the pension commences from the date of application, the suggestion is offered that when the mother dies or remarries, or otherwise forfeits title, the pension to the children should be made to commence from the date of such death, remarriage, or forfeiture.

In this section provision is also made for pensioning the widows of these Indian War survivors who have remarried and are again widowed or divorced. In fixing the rate of pension for them, provision is made for an additional \$6 per month to "any widow or former widow mentioned, etc." (Line 6, p. 4.) The provision as to "any widow" in this part of the section is a duplication of a similar provision in the first part of the section (line 9 and line 10, p. 3), and is unnecessary.

This section, too, contains a proviso (beginning in line 8, page 4), limiting the right of a widow who remarries and the pension thereupon granted the children. By the terms of this proviso its operation is confined to claims under this bill, and it is submitted that its tenor and effect should be extended to cover all cases, whether under this bill or otherwise. To accomplish this, the word "this" at the end of line 13, page 4, could be changed to the word "any."

In this connection it will be noted that neither the minors, helpless children, nor remarried widows for whom provision is made in the bill are now pensioned, so that a new class of pensioners is thereby created.

Section 3, which provides for the manner of proving the service of the soldier, follows existing law and regulations governing in connection with claims based on service in the several Indian Wars, campaigns, etc.

Section 4 makes provision for increasing the rate of pension granted to the surviving soldiers of the various Indian wars and campaigns, the amount of the increase being based on attained age. It also provides for a flat increased rate of \$30 per month to their widows, remarried widows, and minor children.

This section of the bill contains this proviso:

"Provided, however, That nothing in this act shall be so construed as to reduce any pension under any law, public or private, or to affect in any way the right to pension under the act of March 4, 1917, of any person, or the widow of any person who served in any of the Indian wars or campaigns named in said act."

To the provision therein as to affecting in any way the right to pension under the act of March 4, 1917, etc., I can not agree.

By the terms of the acts mentioned in this section of the bill the pension, if allowed thereunder, begins from the date of the approval of the act under which the claim is prosecuted. Thus, a claimant for pension under the act of July 27, 1892, filing application to-day, could and would if entitled be granted pension from July 27, 1892; under the act of June 27, 1902, from that date; under the act of May 30, 1908, from that date; and under the act of March 4, 1917, from that date. It is true that the possibility of a grant from July 27, 1892, or June 27, 1902, is improbable; but not so with reference to the act of March 4, 1917.

These cases carry, when allowed, in many instances, a large amount of arrears of pensions. As a matter of fact, during the present month cases have been allowed and paid wherein the arrears amounted to \$2,180. Such cases are not isolated, either; and as the time goes by the amounts will grow larger and larger, and I can see no justification whatever for a statute which permits large amounts of arrears of pensions, or, in fact, arrears of pension in any case, to be granted, and I therefore recommend that this provision of the bill be stricken out and suggest that the following proviso be inserted in lieu thereof:

*"Provided, however, That nothing in this act shall be so construed as to reduce any pension under any law, public or private, and that hereafter pensions granted under the acts referred to in this section shall commence from the date of the filing of application therefor in the Bureau of Pensions."*

Section 5 relates to attorneyship and fee; and as this bill provides for certain increases by operation of law in which the services of an attorney are wholly unnecessary, no attorney fee could be payable therein, and the suggestion is offered that this section of the bill be amended to read as follows:

*"Sec. 5. No claim agent, attorney, or other person shall contract for, demand, receive, or retain a fee for service in preparing, presenting, or prosecuting claims for the increase of pension provided for in this act; and no more than the sum of \$10 shall be allowed for such service in other claims thereunder, which sum shall be payable only on the order of the Commissioner of Pensions; and any person who shall, directly or indirectly, otherwise contract for, demand, receive, or retain a fee for service in preparing, presenting, or prosecuting any claim under this act, or shall wrongfully withhold from the pensioner or claimant the whole or any part of the pension allowed or due to such pensioner or claimant under this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, for each and every offense, be fined not exceeding \$500 or be imprisoned not exceeding one year, or both, in the discretion of the court."*

As to the cost of the bill, it is believed that except for the increase in rates provided for in sections 1 and 4 the survivors of but few State organizations not already pensioned and their widows and children will be benefitted by the bill, and that its benefits will be confined mostly to the men of the Regular Army, their widows, and children.

The enlisted strength of the Army year by year from June, 1858, to June, 1921, which may be used as a criterion, was as follows:

June, 1858.....	16, 399	June, 1875.....	23, 580
December, 1859.....	15, 358	June, 1876.....	24, 161
December, 1860.....	15, 259	June, 1877.....	22, 676
June, 1861.....	15, 418	June, 1878.....	23, 701
June, 1862.....	23, 761	June, 1879.....	24, 341
June, 1863.....	22, 915	June, 1880.....	24, 357
June, 1864.....	19, 791	June, 1881.....	23, 561
April, 1865.....	20, 705	June, 1882.....	23, 477
June, 1866.....	31, 470	June, 1883.....	23, 404
August, 1867.....	53, 962	June, 1884.....	24, 268
August, 1868.....	48, 081	June, 1885.....	24, 731
August, 1869.....	34, 074	June, 1886.....	24, 143
August, 1870.....	34, 534	June, 1887.....	24, 394
August, 1871.....	26, 848	June, 1888.....	24, 687
June, 1872.....	27, 110	June, 1889.....	25, 367
June, 1873.....	27, 580	June, 1890.....	24, 921
June, 1874.....	28, 440	June, 1891.....	24, 123

During the period covered by the bill Indian disturbances were almost continuous. The Regular Army of the United States participated in the suppression of most of them. The service rendered would, therefore, have been rendered "in the zone of active Indian hostilities," and would bring the survivors, their widows, remarried widows, and children within the purview of the bill. The

number of these survivors in addition to those now pensioned or pensionable and their widows and children who would become beneficiaries of the bill is, of course, problematical. There is no reliable data available from which to even approximate the number and thus estimate the increased cost of the bill as to them.

Section 4, however, of the bill provides for certain definite increases and the cost of these times can be easily ascertained. There are on the roll 3,875 Indian war survivors, and if their attained ages could be ascertained within the year the annual increased cost is estimated at approximately \$1,181,040 for that item.

There are now on the roll 3,067 widows of Indian war soldiers who would be eligible to the increase provided in section 4 from \$12 per month to \$30 per month, which would involve an additional cost of \$669,600, which would make the total additional annual cost so far as can be ascertained \$1,850,640. But this estimate does not represent the total cost of the entire bill because, as stated, there is no way in which the physical condition of those who are now on the rolls who would be benefited by section 1 can be ascertained except by medical examinations, which have not been held, as physical condition is not now a factor in this class of claims; so that this estimated additional cost does not take into consideration either the additional beneficiaries created by the bill, or the cost with reference to the 3,875 survivors now on the roll who might be entitled to the maximum rate of \$50, perhaps, on account of total inability to earn a support by manual labor. These items would materially increase the cost of the bill. In its present shape the passage of the bill can not be recommended.

A copy of this report was submitted to the Director of the Bureau of the Budget who, under date of the 21st instant, advised that the bill is in conflict with the financial program of the President.

Very truly yours,

HUBERT WORK.

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number of these survivors in addition to those now pensioned or pensionable and their widows and children who would become beneficiaries of the bill is, of course, impractical. There is no reliable data available from which to even approximately make the number and thus estimate the increased cost of the bill as to them.

Section 1, however, of the bill provides for certain definite increases and the cost of these items can be readily ascertained. There are on the roll 2,575 Indian war survivors, and if their attached ages could be ascertained within the year the annual investment cost is estimated at approximately \$1,181,910 for that year.

There are now on the roll 3,087 widows of Indian war soldiers who would be eligible to the increase provided in section 4 from \$12 per month to \$30 per month, which would involve an additional cost of \$288,000, which would make the total additional annual cost so far as can be ascertained \$1,469,910. But this estimate does not represent the total cost of the entire bill because, as stated, there is no way in which the physical condition of those who are now on the rolls who would be benefited by section 1 can be ascertained except by medical examinations which have not been held as physical condition is not now a factor in the class of claims; so that this estimated additional cost does not take into consideration either the additional beneficiaries created by the bill, or the cost with reference to the 3,575 survivors now on the roll who might be entitled to the maximum rate of \$50 per month on account of total inability to earn a support by manual labor. These items would materially increase the cost of the bill. In its present shape the passage of the bill can not be recommended.

A copy of this report was submitted to the Director of the Bureau of the Budget who, under date of the 21st instant, advised that the bill is in conflict with the financial program of the President.

Very truly yours,

Burnett Wood.

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