

INDEMNITY INSURANCE FOR COMBAT SERVICEMEN

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Mr. TALMADGE, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 2127]

The Committee on Finance, to which was referred the bill (S. 2127) to amend title 38, United States Code, in order to provide special indemnity insurance for members of the Armed Forces serving in combat zones, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE

The bill would provide an automatic maximum amount of \$10,000 free "special indemnity insurance" against death while on active duty with the Armed Forces in a combat zone, or death within 2 years after service if it is a direct result of an injury or disease incurred while serving in a combat zone designated by the President on or after January 1, 1962. If the serviceman was also insured under a contract of U.S. Government life insurance or national service life insurance the indemnity payable would be the difference between the amount of such insurance and \$10,000.

COMMITTEE AMENDMENTS

The bill has been amended to provide that if the serviceman was also insured under a policy of U.S. Government or national service life insurance the premium on the pure insurance risk of the policy (total premium on term policies) would be waived during the period the indemnity coverage was in effect. Under this amendment during the period of his eligibility for waiver, that is, when the insured is in a combat zone, he shall continue to pay his regular premiums which is done usually by allotment. However, when he leaves the combat zone the Veterans' Administration will be required to refund to the

serviceman the amount of premiums he paid during that period which represents what is known as the pure insurance risk.

The second committee amendment provides that the serviceman would be allowed upon discharge from service during which he was in a combat zone to convert to a policy of nonparticipating Government insurance at lower premiums similar to that made available to veterans of the Korean conflict.

GENERAL STATEMENT

The special indemnity insurance authorized under the bill would be payable in 120 monthly installments with interest at $2\frac{1}{4}$ percent per annum, and only to the surviving spouse, children, parents, or brothers or sisters of the insured. The insured would have the right to designate the beneficiaries within the classes named, the proportion of the principal amount to be paid to each, and to change beneficiaries within the classes without the consent of the beneficiaries. Should the designated beneficiary not survive the insured, or if no beneficiary was designated, the indemnity would be payable to the first eligible class of beneficiaries among those named above. In such a case if a class is composed of more than one individual payments would be made in equal shares among such individuals.

For the purposes of the bill the term "combat zone" would mean any area outside the United States determined by the President to be an area in which units of the Armed Forces of the United States have engaged in combat operations on or after January 1, 1962, and before such date as may be determined by Presidential proclamation.

The proposed special indemnity insurance program is very similar to the program of servicemen's indemnity which was authorized in 1951 by Public Law 23, 82d Congress. This latter program continued in effect until repealed by Public Law 81, 84th Congress, effective January 1, 1957 (the Servicemen's and Veterans' Survivor Benefits Act). When the bill that became that law was before the Senate it was amended by this committee so as to suspend the indemnity benefit during normal peacetime periods but make it fully operative during any period of war or national emergency involving hostilities. The bill passed the Senate with this amendment. Unfortunately, however, in order to avoid jeopardizing enactment of the new survivors' benefits bill, it was necessary for the Senate conferees to recede from this amendment. The urgent need today for more adequate insurance-type protection for our soldiers serving in southeast Asia under extremely hazardous conditions serves to bear out the soundness of this committee's actions 9 years ago. In taking its action the committee was fully aware of the existing VA program of benefits for survivors of servicemen. However, they are only available to a very limited class of beneficiaries and in many cases the amounts payable are minimal in the light of today's economy. For example, if an unmarried son is killed in Vietnam today and he leaves a mother and father whose total income amounts to only \$2,450 per year, they are ineligible to receive any benefit from the Veterans' Administration. In such a case the full indemnity authorized by this bill would be payable to these parents. In other cases there may be minor brothers and sisters for whom the serviceman has assumed responsibility. Again, the present benefit structure makes no provision for this type of survivors.

The committee amendment concerning waiver of premiums is very similar to a provision in the original Servicemen's Indemnity Act and is designed to provide equity for those servicemen paying monthly premiums for their regular insurance and who, therefore, under the setoff provisions would not get full benefit of the free indemnity. As stated previously, the benefit will be in the nature of a refund when the insured is no longer in a combat zone.

Also, the second committee amendment is similar to a provision which the Congress extended to veterans in the original Servicemen's Indemnity Act. In each case where a serviceman by reason of service in a combat zone has had coverage for the indemnity protection, he may, upon discharge from the service, convert that coverage by applying for a new policy of nonparticipating insurance up to \$10,000 at very reasonable premiums. Under the insurance he will be able to select any beneficiary he chooses.

AVAILABILITY OF COMMERCIAL INSURANCE

Representatives of the American Life Convention and the Life Insurance Association of America submitted very significant testimony at the hearing on this bill. They admitted that because of the conditions in Vietnam a number of life insurance companies have concluded that they will no longer write insurance on a serviceman already in a combat zone or alerted to move to one. Other companies have taken the position that they will write such insurance only with a war exclusion clause. Out of 330 companies who are members of the insurance associations represented by the witnesses, the committee was able to learn of only 2, or 3 at the most, which are continuing to write policies without a war exclusion clause if the soldier is alerted, on his way to, or in a combat zone. Even in these cases there is generally a maximum placed on the amount of insurance they will issue and, further, it appears that such companies will continue to write such insurance only as long as they receive relatively few applications for it. It was readily apparent to the committee, therefore, that thousands of young men who are being called to service as a result of the current planned buildup of our forces have great difficulty, and in many cases, are unable to secure adequate insurance protection for their families.

Since January 1, 1962, approximately 800 American fighting men have honored their country for the cause of freedom and democracy with the supreme sacrifice on the battlegrounds of Vietnam. With our military operations in this strife-torn country being expanded, it is unfortunate, but certain, that there will be many more American lives lost in this conflict. Although the Congress cannot guarantee U.S. servicemen preservation of life and limb in battle, we can, and we should, afford them peace of mind by assuring them that in the event of their death, their loved ones back home will be provided some measure of security. Thus, the unavailability of private insurance coverage makes it obligatory for our Federal Government to provide all servicemen in combat areas with insurance protection as proposed in this bill.

ESTIMATE OF COST

The Administrator of Veterans' Affairs testified as follows concerning the probable cost of the new indemnity program which would be authorized by S. 2127:

Because of the many unknown factors involved, our estimate of the cost of S. 2127, if enacted, is based on a number of assumptions. First, it has been assumed that there have been approximately 650 deaths in, or as a result of injury or disease incurred in, a combat zone since January 1, 1962; that the U.S. Armed Forces in combat zones will be maintained at about 150,000; and that the mortality rates of such forces will be 8 per thousand. These mortality assumptions will result, for the purposes of these cost estimates, in 1,200 deaths per year. The total incurred yearly cost would, therefore, be $1,200 \times \$11,148$ (includes interest factor) or \$13,377,600. Since these benefits, however, are paid in installments over a 10-year period, the annual budgetary cost would be \$2.2 million the first year, of which \$850,000 would cover retroactive installments; \$2.7 million the second year; \$4.1 million the third year; \$5.4 million the fourth year; and \$6.7 million the fifth year.

The committee has been advised that the cost of the amendment authorizing certain free premium waivers will not involve any more than \$200,000 per year. The post-service insurance authorized by the second amendment is estimated to be self-sustaining, although there will be some slight administrative costs for the new program.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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

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§ 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], *in effect on January 1, 1959, and continued in effect under section 724(a) 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. *The prohibition against the payment of dependency and indemnity compensation contained in this subsection shall not apply to insureds who on or after the effective date of this amendment die while on active duty in a combat zone as defined in section 789 of this title, or within 120 days after duty in such a zone, or (1) whose death is determined by the Administrator to have been the direct result of an injury or disease incurred while serving in a combat zone, and (2) the injury or disease from which such person died was incurred not more than two years prior to death.*

* * * * *

(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.

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§ 704. Plans of insurance

(a) 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.

(b) Under such regulations as the Administrator may promulgate a policy of participating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except (1) the premium rates for such insurance shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; and (3) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium.

(c) Under such regulations as the Administrator may promulgate, a policy of nonparticipating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except that (1) term insurance issued under section 621 of the National Service Life Insurance Act of 1940 shall be deemed for the purposes of this subsection to have been issued under section 723(b) of this title; and (2) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any person eligible for insurance under section 722(a), [or section 725] section 725, or section 726 of this title may be granted a modified life insurance policy under this subsection which, subject to exception (2) above, shall be issued on the same terms and conditions specified in

section 722(a) [or section 725] *section 725, or section 726*, whichever is applicable.

(d) Any insured whose modified life insurance policy is in force by payment or waiver of premiums on the day before his sixty-fifth birthday may upon written application and payment of premiums made before such birthday be granted National Service Life Insurance, on an ordinary life plan, without physical examination, in an amount of not less than \$500, in multiples of \$250, but not in excess of one-half of the face amount of the modified life insurance policy in force on the day before his sixty-fifth birthday. Insurance issued under this subsection shall be effective on the sixth-fifth birthday of the insured. The premium rate, cash, loan, paid-up, and extended values on the ordinary life insurance issued under this subsection shall be based on the same mortality tables and interest rates as the insurance issued under the modified life policy. Settlements on policies involving annuities on insurance issued under this subsection shall be based on the same mortality or annuity tables and interest rates as such settlements on the modified life policy. If the insured is totally disabled on the day before his sixty-fifth birthday and premiums on his modified life insurance policy are being waived under section 712 of this title or he is entitled on that date to waiver under such section he shall be automatically granted the maximum amount of insurance authorized under this subsection and premiums on such insurance shall be waived during the continuous total disability of the insured.

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§ 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.

[(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 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.】

(b) *After the date of enactment of this subsection any person who is on active duty with the Armed Forces in a combat zone, as defined in section 789 of this title, for a continuous period of 30 days or more and any person hereafter ordered to such duty under orders for 30 days or more in such a combat zone who is insured under National Service Life Insurance or United States Government Life Insurance shall be entitled, upon written application, to a waiver (with the right to a refund after termination of such duty) of all premiums paid on term insurance and that portion of any permanent insurance premiums paid representing the cost of the pure insurance risk, as determined by the Administrator. All premiums due during the period the waiver is in effect must be timely paid to maintain the insurance in force. Such waiver shall apply to premiums becoming due after the first day of the first calendar month following the date of enactment of this subsection, or the first day of the first calendar month following entry on active duty with the armed forces in such a combat zone, whichever is the later date, and during the remainder of such continuous active duty in a combat zone and for 120 days thereafter; however, no premium becoming due prior to the date of application for waiver under this subsection shall be waived or refunded. Any premium waiver granted under this subsection on a participating contract of insurance shall render such insurance nonparticipating during the period such premium waiver is in effect. Upon certification of the period of combat zone duty by the Secretary of the military department concerned, and upon application by the insured, or in death cases by the beneficiary of his insurance, the Administrator shall refund to the insured or to the beneficiary the amount of premiums waived under this subsection. Premiums on term insurance waived under this subsection shall be refunded with interest as determined by the Administrator.*

(c) *Whenever benefits become payable because of the maturity of such insurance while under the premium waiver provided by this section, liability for the 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 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 as to National Service Life Insurance which was participating before waiver was granted, and 3½ 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.*

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§ 726. Post-service insurance for persons serving in combat zones.

(a) *Any person entitled to indemnity protection under section 789 of this title who is ordered to active duty with the Armed Forces in a combat zone as defined in such section for a period of 30 days or more, or who served in such zone for 30 days or more, shall, upon application*

in writing made within 120 days after separation from active duty and payment of premiums as hereinafter provided, and without medical examination, be granted insurance. The insurance granted under this section shall be issued upon the same terms and conditions as are contained in standard policies of National Service Life Insurance except (1) term insurance may not be renewed on the term plan after the insured's 50th birthday; (2) the premium rates for term or permanent plan insurance shall be based on the 1958 Commissioners Standard Ordinary Mortality Table; (3) all cash, loan, extended and paid-up insurance values shall be based on the 1958 Commissioners Standard Ordinary Mortality Table; (4) all settlements on policies involving annuities shall be calculated on the basis of the Annuity Table for 1949; (5) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ per centum per annum; (6) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable; (7) the insurance and any total disability income provisions attached thereto shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited to a revolving fund established in the Treasury of the United States and the payments on such insurance and total disability provision shall be made directly from such fund. Appropriations to such fund are hereby authorized.

(b) The Administrator is authorized to set aside out of the revolving fund established under subsection (a) of this section such reserve amounts as may be required under accepted actuarial principles to meet all liabilities on insurance issued thereunder and any total disability income provision attached thereto. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest such market yield.

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§ 789. Special indemnity insurance for members of the Armed Forces serving in combat zones

“(a) Any person on active duty with the Armed Forces in a combat zone shall, as provided in this section, be automatically insured by the United States, without cost to such person, against death in the principal amount of \$10,000. Such person shall be insured during the time that he serves in a combat zone, and shall be deemed to have been serving in a combat zone at the time of his death if he dies outside of a combat zone and (1) his death is determined by the Administrator to have been the direct result of an injury or disease incurred while serving in a combat zone, and (2) the injury or disease from which such person died was incurred not more than two years prior to death.

(b) Upon certification by the Secretary of the military department concerned of the death of any person automatically insured under this section, the Administrator shall cause the indemnity to be paid as provided in subsection (c) only to the surviving spouse, child or children (including a stepchild, adopted child, or an illegitimate child if the latter was designated as beneficiary by the insured), parent (including a stepparent, parent by adoption, or person who stood in loco parentis to the insured at any time prior to entry into the active service for a period of not less than one year), brother, or sister of the insured, including those of the halfblood and those through adoption. The insured shall have the right to designate the beneficiary or beneficiaries of the indemnity within the classes herein provided; to designate the proportion of the principal amount to be paid to each; and to change the beneficiary or beneficiaries without the consent thereof but only within the classes herein provided. If the designated beneficiary or beneficiaries do not survive the insured, or if none has been designated, the Administrator shall make payment of the indemnity to the first eligible class of beneficiaries according to the order set forth above, and in equal shares if the class is composed of more than one person. Unless designated otherwise by the insured, the term "parent" shall include only the mother and father who last bore that relationship to the insured. Any installments of an indemnity not paid to a beneficiary during such beneficiary's lifetime shall be paid to the named contingent beneficiary, if any; otherwise, to the beneficiary or beneficiaries within the permitted class next entitled to priority, but no payment shall be made to the estate of any deceased person.

(c) The indemnity shall be payable in equal monthly installments of one hundred and twenty in number with interest at the rate of $2\frac{1}{4}$ per centum per annum.

(d) In the event any person was covered at the time of his death by automatic indemnity under this section and was also insured against such death under a contract of national service life insurance or United States Government life insurance, the indemnity authorized to be paid hereunder shall be a principal amount equal to the difference between the amount of insurance in force at the time of death and \$10,000.

(e) The Administrator is authorized to promulgate such rules and regulations, not inconsistent with this section, as are necessary or appropriate to carry out its purposes.

(f) There is hereby 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 section for the payment of liabilities under this section.

(g) Any person guilty of mutiny, treason, spying, or desertion shall forfeit all rights to an indemnity under this section, but restoration to active duty after commission of any such offense shall restore all rights under this section. No indemnity shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy, as defined by the President.

(h) As used in this section the term "combat zone" means any area outside the United States determined by the President to be an area in which units of the Armed Forces of the United States have engaged in combat operations on or after January 1, 1962, and before such date as may be determined by Presidential proclamation.