

DEPENDENCY AND INDEMNITY COMPENSATION FOR CERTAIN SERVICE-CONNECTED DEATHS

SEPTEMBER 20, 1966.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 5852]

The Committee on Finance, to which was referred the bill (H.R. 5852) to amend title 38 of the United States Code with respect to the basis on which certain dependency and indemnity compensation will be computed, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

EXPLANATION OF THE BILL

Public Law 881 of the 84th Congress, effective January 1, 1957, authorized the payment of dependency and indemnity compensation to widows for the service-connected deaths of their husbands. The rate of compensation is now set at \$120 a month plus 12 percent of the base pay of the deceased serviceman. When the rates of pay for members of the Armed Forces are raised there is a corresponding increase in the rates of dependency and indemnity compensation.

Generally speaking, the compensation is based on the rank held by the serviceman on January 1, 1957, or on the date of death (whichever is later), where the person died in service. With respect to a person who did not die in service, base pay is determined as of January 1, 1957, or date of death (whichever is later), for the rank and years of service of the veteran at time of his last discharge or release under conditions other than dishonorable. However, if an individual has satisfactorily served on active duty for a period of 6 months or more in a higher rank, and was serving in such higher rank 120 days before death in the service, or before discharge or release, the base pay of the higher rank may be used.

This bill would eliminate the requirement with respect to the 120-day limitation of serving in a higher rank. Thus, as an example, if a man had served satisfactorily for 6 months in the rank of lieutenant

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colonel during a period of war but later reverted to the lower rank of major, his widow would be eligible for compensation at the rate of pay for that lieutenant colonel. This treatment would apply equally to widows of individuals who died in the service and those who did not die in the service.

While the Veterans' Administration is unable to estimate the cost of this proposal, it is believed to be small.

The favorable report of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., September 7, 1966.

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

DEAR MR. CHAIRMAN: We are pleased to respond to your request for a report on H.R. 5852, 89th Congress, as passed by the House of Representatives on August 15, 1966.

The bill proposes to liberalize requirements governing computation of basic active service pay for purposes of dependency and indemnity compensation.

Under chapter 13 of title 38, United States Code, the rate of dependency and indemnity compensation payable to widows is geared to basic active service pay. The widow is paid at a monthly rate equal to \$120 plus 12 percent of the basic service pay of her deceased husband. The greater the husband's service pay, the greater the widow's rate of dependency and indemnity compensation (38 U.S.C. 411(a)).

The basic pay of a veteran who died in service is that prescribed on January 1, 1957, the effective date of the dependency and indemnity compensation program, or the date of his death (whichever is later), for his rank and years of service (38 U.S.C. 402(a)). With respect to a veteran who did not die in active service, the basic pay generally is that prescribed on January 1, 1957, or the date of his death (whichever is later), for his rank and years of service at time of his last discharge or release from service under conditions other than dishonorable (38 U.S.C. 402(b)).

If, however, a veteran has satisfactorily served on active duty for a period of 6 months or more in a rank higher than specified above, and was serving in such higher rank 120 days before death in service or discharge or release from active service, provision is made (38 U.S.C. 402(d)) for substituting the higher rank if it will result in greater basic pay.

Whenever the rates of pay for members of the uniformed services are changed, basic pay for computing dependency and indemnity compensation is adjusted accordingly.

H.R. 5852 would amend subsection 402(d) of title 38, United States Code, to eliminate the requirement that the veteran's service in a higher rank be performed within 120 days before death in service or discharge or release from active service. In this connection, elimination of the mentioned 120-day period would bring the present method for computing basic pay for purposes of dependency and indemnity compensation more in line with the method used by the military departments for purposes of computing retirement pay.

The determination as to whether an individual has served satisfactorily for the required period in a higher rank is made by the Secretary of the department in which such higher rank was held. The bill would not change this statutory requirement. Under the circumstances, you may desire to obtain the view of the Secretary of Defense on the bill.

Data are not available to identify the cases which might be affected by the bill. Therefore, it is not possible to estimate the cost of the measure, if enacted.

In line with the foregoing comment, I recommend favorable consideration of the bill by your committee.

The Bureau of the Budget advised that there was no objection to the presentation of a comparable report on H.R. 5852 to the Committee on Veterans' Affairs, House of Representatives, from the standpoint of the administration's program.

Sincerely,

W. J. DRIVER, *Administrator.*

CHANGES IN EXISTING LAW

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

SECTION 402 OF TITLE 38, UNITED STATES CODE

Chapter 13—Dependency and indemnity compensation for service-connected deaths

* * * * *

§ 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.

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(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.

(d) If a veteran has satisfactorily served on active duty for a period of six months or more in a rank higher than that specified in subsection (a) or (b) and **[was so serving in such rank within one hundred and twenty days before death in the active military, naval, or air service or before last discharge or release from active duty under conditions other than dishonorable]**, *any subsequent discharge or release from active duty was under conditions other than dishonorable*, his basic pay shall be determined by using the appropriate rank specified in those subsections or by substituting such higher rank for the rank specified in those subsections, whichever will result in a greater amount. The determination as to whether an individual has served satisfactorily for the required period in a higher rank shall be made by the Secretary of the Department in which such higher rank was held.

