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REPORT
No. 1393

EXPEDITIOUS PAYMENT OF DEATH GRATUITY BENEFITS

MARCH 17, 1958.—Ordered to be printed

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

REPORT

[To accompany H. R. 5382]

The Committee on Finance, to whom was referred the bill (H. R. 5382) to amend sections 102, 301, and 302 of the Servicemen's and Veterans' Survivor Benefits Act, having considered the same, report favorably thereon with amendments, and recommend that the bill, as amended, do pass.

GENERAL STATEMENT

The purpose of the proposed legislation is to amend the Servicemen's and Veterans' Survivor Benefits Act insofar as that act deals with the payment of death gratuity benefits and the pay and allowance of enlisted members of the Philippine Scouts and the insular force of the Navy.

Under existing law, the Secretary of each service concerned is required to pay a death gratuity immediately upon official notification of the death of a member of the uniformed services to certain named dependents.

There are occasions when it is not feasible for the military services to effect payments in this immediate manner as a regular procedure. And it is obvious from the hearings which led to the enactment of the Survivor Benefits Act that such immediate payment in all cases was not intended. Under the proposed legislation, therefore, immediate payment of the death gratuity would be required in those cases where the survivor of a deceased member was living with him or in the vicinity of the deceased member's duty station at the time of his death. In all other cases, the proposed legislation would require payment to be made as expeditiously as possible.

The amendments to sections 301 and 302 which deal with the payment of death gratuity benefits are technical in nature, and were proposed by the Department of Defense.

The bill also amends sections 102 (10) (A) and 102 (11) (D) of the Servicemen's and Veterans' Survivor Benefits Act with regard to the

method of determining basic pay for the purposes of that act in the case of members and former members of the insular force of the Navy and former members of the Philippine Scouts.

Section 507 of the Career Compensation Act of 1949, as amended, provides for the pay and allowances for enlisted members of the Philippine Scouts and enlisted members of the insular force of the Navy.

There are no members of the Philippine Scouts now serving on active duty with the Army. There are only 97 members of the insular force of the Navy now serving on active duty. Members of the Philippine Scouts and the insular force of the Navy have always received less pay than regular members of the Army and Navy because of the considerable differential in the cost of living in the Philippines and in the insular areas.

The pay of the insular force is authorized by section 507 of the Career Compensation Act of 1949, but section 102 (10) (A), which defines basic pay for the purposes of the Servicemen's and Veterans' Survivor Benefits Act, does not contain a reference to section 507, under which the members of the insular force are paid. The proposed amendment remedies this error by including the reference to section 507 of the Career Compensation Act within the definition of "basic pay" as contained in the Servicemen's and Veterans' Survivor Benefits Act.

Thus, the effect of this amendment would be to provide continuous coverage under social security for members of the insular force of the Navy since January 1, 1957, the effective date of the Servicemen's and Veterans' Survivor Benefits Act, and also to provide that payments of dependency and indemnity compensation based on the amount of basic pay authorized by the Secretary of the Army or the Secretary of the Navy, as appropriate, shall commence after the last day of the first month which begins after the date of enactment of the proposed legislation. Since members of the Philippine Scouts and members of the insular force receive less basic pay than regular members of the armed services, this latter provision means that while there would be no retroactive reductions in dependency and indemnity compensation resulting from the fact that payments to survivors of members and former members of the insular force of the Navy and Philippine Scouts are currently being based on a full basic pay as authorized by the Career Compensation Act in conformance with the decision of the Comptroller General, nevertheless, in the future, after the proposed legislation is enacted, such dependency and indemnity payments will be made on the actual basic pay of the Philippine Scouts and the insular force of the Navy.

As a result of the enactment of this portion of the amendment, the dependent survivors of members of the Philippine Scouts and insular force will be entitled to a monthly payment, if qualified, of \$112 per month, plus 12 percent of the basic pay to which the service member was entitled while serving on active duty, or would have been entitled to had he been serving on active duty at the time of his death, if death was the result of a service-connected disability.

Payments have been made based upon the rates of pay prescribed for regular members of the Army and Navy, but starting on the first day of the first month following the enactment of the proposed legislation, the 12 percent application to basic pay will be with

reference to the pay of the insular force and the Philippine Scouts in accordance with the original intention of the Servicemen's and Veterans' Survivor Benefits Act.

EXPLANATION OF COMMITTEE AMENDMENT

The committee amendment, technical in nature, is necessary to assure the continuation of dependency and indemnity compensation to survivors of the so-called new Philippine Scouts on the same basis as the survivors of members of the Philippine Army group.

The amendment is as follows: On page 1, line 5, strike out the figure "507" and insert in lieu thereof the following:

"507 (except as to Philippine Scouts enlisted pursuant to Public Law 190, 79th Congress)"

The General Counsel of the Department of Defense recommends enactment of H. R. 5382, as shown in the following report to the Chairman of the Committee on Finance:

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
September 4, 1957.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense on H. R. 5382, 85th Congress, a bill to amend sections 102, 301, and 302 of the Servicemen's and Veterans' Survivors Benefits Act.

The purpose of sections 1 and 2 of the subject bill is to bring enlisted members of the insular force of the Navy under the provisions of the Servicemen's and Veterans' Survivor Benefits Act, Public Law 881, 84th Congress, with respect to title III, death gratuity, and title IV, old-age and survivors insurance and provide for the uniform application of title II, dependency and indemnity compensation, to both active and former members of the insular force of the Navy and former members of the Philippine Scouts (there are no active members of the Philippine Scouts at the present time).

The purpose of those sections of the bill would be accomplished by including the pay of enlisted men of the insular force of the Navy and the Philippine Scouts as defined by section 507 of the Career Compensation Act of 1949, Public Law 351, 81st Congress, as amended, within the definition of basic pay as set forth in section 102 (10) (A) and 102 (11) (D) of Public Law 881. Under the provisions of section 507 of the Career Compensation Act of 1949, the Secretary of the Army with respect to the Philippine Scouts and the Secretary of the Navy with respect to the insular force of the Navy establishes the pay to be authorized these members, such pay to be within that authorized enlisted members of the regular forces.

The effect would be to provide continuous coverage under social security for members of the insular force of the Navy since January 1, 1957, the effective date of Public Law 881, and to provide that payments of dependency and indemnity compensation based on the amount of basic pay authorized by the Secretary of the Army or the Secretary of the Navy, as appropriate, shall commence after the last day of the first month which begins after the date of enactment. The latter would mean that there would be no retroactive reductions in dependency and indemnity compensation resulting from the fact

that payments to survivors of members and former members of the insular force of the Navy and Philippine Scouts are currently being based on a full basic pay as authorized by the Career Compensation Act, in conformance with a determination of the Comptroller General (B-129589 of November 1, 1956).

In order to include active members of the insular force of the Navy within the provisions of title III, death gratuity, and title IV, old-age and survivors insurance, from January 1, 1957, the Department of Defense recommends early enactment of H. R. 5382.

The purpose of sections 3 and 4 of the subject bill is to require the immediate payment of the death gratuity only in those cases where the survivors of a deceased member of a uniformed service were living with him at or in the vicinity of his duty station at the time of his death. In all other cases the amendment would provide that payment should be made as expeditiously as possible.

As presently worded it is possible for title III of the act to be interpreted as prescribing the immediate payment of the death gratuity, in all cases, by the service disbursing officer located nearest the place of residence of the survivors concerned. It is not feasible for the military services to effect payments in this manner as a regular procedure and, as evidenced by the records on the congressional hearings leading to the enactment of Public Law 881, this is not what was intended.

The Department of Defense considers this also to be a desirable amendment and recommends the bill be favorably considered.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

ROBERT DECHERT.

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 italic; existing law in which no change is proposed is shown in roman):

SEC. 102, (10) (A) "Basic pay" means the monthly pay prescribed by section 201 (a), 201 (e), 201 (f), 507 (*except as to Philippine Scouts enlisted pursuant to Public Law 190, 79th Congress*), or 508 of the Career Compensation Act of 1949, as may be appropriate, for a member of a uniformed service on active duty.

* * * * *

SEC. 102 (11) (D) Whenever basic pay prescribed by section 201 (a), 201 (e), 201 (f), 507 (*except as to Philippine Scouts enlisted pursuant to Public Law 190, 79th Congress*), or 508 of the Career Compensation Act of 1949 is increased or decreased, "basic pay" determined pursuant to this paragraph (11) shall increase or decrease accordingly.

* * * * *

SEC. 301. (a) Except as provided in section 304 (a), the Secretary concerned shall have a death gratuity paid [immediately] *in accordance with section 302* upon official notification of the death of a member of a uniformed service under his jurisdiction who dies while on active duty, active duty for training, or inactive-duty training.

(b) The death gratuity shall equal six months' basic pay (plus special and incentive pays) at the rate to which the deceased member of a uniformed service was entitled on the date of his death, but shall not be less than \$800 nor more than \$3,000.

(c) The death gratuity shall be paid to or for the living survivor or survivors of the deceased member of a uniformed service first listed below:

- (1) His spouse.
- (2) His children (without regard to their age or marital status) in equal shares.
- (3) His parents or his brothers or sisters (including those of the half blood and those through adoption), when designated by him.
- (4) His parents in equal shares.
- (5) His brothers and sisters (including those of the half blood and those through adoption) in equal shares.

(d) If a survivor dies before he receives the amount to which he is entitled under this title, such amount shall be paid to the then living survivor or survivors first listed under subsection (c).

SEC. 302. [In order that payments under section 301 may be made immediately, the Secretary concerned (1) shall authorize the commanding officers of military or naval commands, installations, or districts, in which survivors of deceased members of the Army, Navy, Air Force, Marine Corps, or Coast Guard are residing to determine the survivors eligible to receive the death gratuity, and (2) shall authorize the disbursing or certifying officer of each such command, installation, or district to make the payments to the survivors so determined, or certify the payments due to such survivors, as may be appropriate.] *In order that payments under section 301 may be made immediately to the survivors of a deceased member of a uniformed service who were living with him at or in the vicinity of his duty station at the time of his death, the Secretary concerned (1) shall authorize the commanding officers of military or naval commands, installations, or districts to determine the eligibility of such survivors and (2) shall authorize the disbursing or certifying officer of each such command, installation, or district to make immediate payment to the survivors so determined or certify the payments due such survivors, as appropriate. In all other cases the amount to which a survivor is entitled under section 301 shall be paid as expeditiously as possible.*

