

REVISING THE DETERMINATION OF BASIC PAY OF CERTAIN
DECEASED VETERANS IN COMPUTING DEPENDENCY AND
INDEMNITY COMPENSATION PAYABLE BY THE VETERANS'
ADMINISTRATION

MAY 19, 1960.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 7502]

The Committee on Finance, to whom was referred the bill (H.R. 7502) to revise the determination of basic pay of certain deceased veterans in computing dependency and indemnity compensation payable by the Veterans' Administration, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL EXPLANATION

H.R. 7502 would change the method of computing basic pay for dependency and indemnity compensation purposes by using a higher rank held in service than that held at the time of a veteran's death in service or his discharge therefrom, if the use of such higher rank would result in a greater benefit to the widow. It would apply to cases where the veteran had satisfactorily served on active duty for 6 months or more in such higher rank and was so serving within 120 days of death or discharge.

The formula for determining the amount of compensation which the widow receives is \$112 plus 12 percent of the base pay of the person who served. This formula was arrived at after long and careful consideration by a select committee of the House of Representatives and the Senate Committee on Finance which devised this new system of compensation in 1956. It was determined at that time as a matter of policy not to gear the payment of compensation to the pay of the highest rank that the veteran held at any time during his service.

It is recognized that there are instances in which a higher rank was held on active duty for a considerable period and near the time of death or separation from service. One of the groups that would fall within this category is composed of persons who, prior to June 29,

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1948, reverted to a lower rank in order to retire from the service. Prior to that date there was no authority to retire members of the Army and Air Force (other than for disability) in a higher temporary rank to which they had been promoted. Members retired for age or length of service reverted to their permanent rank for the purpose of retirement. This was changed by the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (Public Law 810, 80th Cong.), approved June 29, 1948, which authorized retirement in the highest temporary grade in which an officer had served satisfactorily for not less than 6 months on active duty during World War II. Section 203 of that act also authorized advancement on the retired list of persons who had previously reverted to their permanent rank for the purposes of retirement. Notwithstanding such advancement, the dependency and indemnity compensation payable under existing law to widows of veterans who retired after reversion to the lower rank is computed on their rank at the time of retirement.

Data are not available to identify the cases which might be affected by the bill, if enacted. However, it is believed that the number of such cases would be relatively small.

DEPARTMENTAL REPORT

The following excerpt is from the favorable report by the Veterans' Administration:

H.R. 7502 would relate the dependency and indemnity compensation payable to a widow to the income level of her husband to which they had been accustomed over an extended period of time near the date of his death or separation from service. We believe this is a reasonable and equitable liberalization of the law and does not represent a major departure from the basic principle involved. The Veterans' Administration therefore recommends favorable consideration of the amended bill by your committee.

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):

SECTION 402 OF TITLE 38, UNITED STATES CODE

§ 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.

(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, 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.

