

BURIAL BENEFITS

FEBRUARY 16, 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. 11006]

The Committee on Finance, to which was referred the bill (H.R. 11006) to extend the statutory burial allowance to certain veterans whose deaths occur as a result of a service-connected disability, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

EXPLANATION OF THE BILL

Under existing law, a burial allowance of \$250 is paid to survivors of peacetime veterans who were discharged from active service for a service-connected disability, or who were in receipt of, or but for the receipt of retirement pay would have been entitled to, disability compensation. In the case of a veteran who has service during a period of war, the allowance is paid regardless of whether or not he had a service-connected disability.

The immediate effect of the proposed legislation would be to authorize the burial allowance where a veteran has not applied for disability compensation but who nevertheless died of a service-connected death.

The formal Veterans' Administration request for this legislation was based upon an individual case where the veteran died the day following his separation from service, while en route from his place of separation to his home. He was not a wartime veteran and was not discharged for a service-connected disability. Had he lived long enough to file a claim for disability compensation, his survivors would have been eligible for the \$250 burial allowance inasmuch as his death was attributable to a period deemed to be active service, since an individual is considered to be on active service after his discharge and until he reaches his home if he is traveling by the most direct

route. Under the circumstances, however, the burial allowance could not be paid.

This proposal, as passed by the House of Representatives and approved by the Committee on Finance, will correct the inequity described above.

The increase in costs resulting from enactment of this proposal would be minimal.

The request of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., September 1, 1965.

HON. HUBERT H. HUMPHREY,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill to extend the statutory burial allowance to certain veterans whose deaths occur as a result of a service-connected disability, with the request that it be introduced in order that it may be considered for enactment.

The proposed legislation would amend title 38, United States Code, to extend the burial allowance authorized by section 902(a) thereof to certain veterans who are denied such benefits due to sudden death, or other like circumstances, where they are unable to initiate a claim for disability compensation prior to death.

Eligibility for burial allowances is based upon the following language of 38 U.S.C. 902(a):

"(a) Where a veteran dies who—

"(1) was a veteran of any war;

"(2) had been discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or

"(3) was in receipt of, or but for the receipt of retirement pay would have been entitled to, disability compensation;

the Administrator, in his discretion having due regard to the circumstances in each case, may pay a sum not exceeding \$250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial".

The substantive change, which would be accomplished by this legislation, would authorize the burial allowance where there is a service-connected death; that is, a death which results from a disability incurred or aggravated in line of duty in the active military, naval, or air service. Currently, eligibility as a result of death from such a disability is dependent upon the receipt of, or at least an application for, disability compensation while the individual is alive.

The specific case that motivated this bill involved a factual situation wherein both the Department of Defense and the Veterans' Administration were required to deny burial benefits even though the individual's death could be considered "service connected" for the purpose of veterans' benefits generally. In this case, the deceased individual died the day after his separation from service while en route from his place of separation to his home. He was not a wartime veteran and was not discharged for a disability incurred or aggravated in line of duty. If he had lived long enough to file a claim for disability compensation, he would have been eligible for the statutory burial allowance inasmuch as his death was attributable to

a period deemed to be active duty under the provisions of 38 U.S.C. 106(c). However, since he died without filing a claim for such disability compensation, he did not come within any of the eligibility requirements set forth above and was therefore ineligible for the burial allowance. This legislation will correct such a situation and will insure that any "veteran" who dies as a result of a service-connected disability will be eligible for the assistance toward funeral expenses.

The language defining the term "veteran" to include "a person who dies during a period deemed to be active military, naval, or air service under section 106," of title 38, United States Code, is included solely for the purpose of making the statutory language with respect to eligibility for burial allowances more precise. It has been held on several occasions, with respect to burial and other benefits, that a statutory presumption of a person's continuation in service, contrary to the fact of his actual legally effective release therefrom, does not impair rights accruing under veterans' laws immediately after such release has become legally effective.

A very small number of individuals would be affected by the proposed change in the law and, hence, the increased cost to the Government, resulting from the enactment of this legislation, would be minimal.

We hope that this proposal will receive early and favorable consideration.

We are advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the presentation of this proposal to the Congress.

Sincerely,

W. J. DRIVER, *Administrator.*

A BILL To extend the statutory burial allowance to certain veterans whose deaths occur as a result of a service-connected disability

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 902(a) of title 38, United States Code, is amended to read as follows:

"(a) Where a veteran dies—

"(1) of a service-connected disability; or

"(2) who was (A) a veteran of any war; (B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or (C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;

the Administrator, in his discretion having due regard to the circumstances in each case, may pay a sum not exceeding \$250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term 'veteran' includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title."

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):

SECTION 902(a) OF TITLE 38, UNITED STATES CODE

§ 902. Funeral expenses

[(a) Where a veteran dies who—

[(1) was a veteran of any war;

[(2) had been discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or

[(3) was in receipt of, or but for the receipt of retirement pay would have been entitled to, disability compensation;

the Administrator, in his discretion having due regard to the circumstances in each case, may pay a sum not exceeding \$250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial.]

(a) *Where a veteran dies--*

(1) *of a service-connected disability; or*

(2) *who was (A) a veteran of any war; (B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or (C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;*

the Administrator, in his discretion, having due regard to the circumstances in each case, may pay a sum not exceeding \$250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.