

## EFFECTIVE TIME OF DISCHARGE OR RELEASE OF VETERANS

---

JUNE 29, 1961.—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. 6269]

The Committee on Finance, to whom was referred the bill (H.R. 6269) to extend the provisions for benefits based on limited periods immediately following discharge from active duty after December 31, 1956, to veterans discharged before that date, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### GENERAL STATEMENT

This bill seeks to amend appropriate provisions of title 38, United States Code, to provide that in all cases whenever a veteran is discharged or released from active duty he shall be deemed to continue on such duty during the period of time immediately following the date of such discharge or release required for him to proceed to his home by the most direct route and, in any event, until midnight of the date of such discharge or release. The present law has this provision in effect for only those cases separated from active duty after December 31, 1956.

The Veterans' Administration recommended this proposal in a formal submission to the Congress and the committee concurs in the finding of the Veterans' Administration that this legislation—

would achieve a desirable uniformity of treatment \* \* \*  
which would eliminate the rather arbitrary distinction based  
on when the discharge occurred.

The Veterans' Administration cannot estimate the number of individuals involved but does state the number would not be large and, accordingly, the cost would be relatively small. In this connection it should be borne in mind that no monetary benefits would accrue under the amendment prior to the date of enactment.

## 2 EFFECTIVE TIME OF DISCHARGE OR RELEASE OF VETERANS

The report of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,  
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,  
*Washington, D.C., March 29, 1961.*

Hon. SAM RAYBURN,  
*Speaker of the House of Representatives,*  
*Washington, D.C.*

DEAR MR. SPEAKER: There is transmitted herewith a draft of a bill to extend the provisions for benefits based on limited periods immediately following discharge from active duty after December 31, 1956, to veterans discharged before that date, with the request that it be introduced in order that it may be considered for enactment.

The proposed bill would amend section 106(c) of title 38, United States Code, to provide, in all cases, that whenever an individual is discharged or released from active duty he shall be deemed to continue on such duty—for the purpose of veterans' benefits—during the period of time immediately following the date of such discharge or release required for him to proceed to his home by the most direct route, and in any event until midnight of the date of such discharge or release. This rule is now limited by section 106(c) to those separated from active duty after December 31, 1956.

Historically, the existing law in an outgrowth of section 102(12) of the Servicemen's and Veterans' Survivor Benefits Act. That law, which became effective January 1, 1957, applied the principle to the new program of dependency and indemnity compensation which it established for service-connected deaths. When this principle was later extended to all veterans' benefits, it was not made applicable to discharges or releases earlier than 1957.

The proposed bill would achieve a desirable uniformity of treatment which would eliminate the rather arbitrary distinction based on when the discharge occurred. Moreover, we do not anticipate that serious administrative difficulties would be encountered if this bill is enacted, even though it will involve a few cases of persons discharged from service many years ago.

The cost of the proposed legislation would depend primarily on the number of individuals who, prior to January 1, 1957, suffered injury, disease, or death during the period from time of notice of discharge to midnight of the date of such discharge or release, or until the termination of the period of necessary travel time if later. We are unable to estimate the number of such individuals who would thereby become eligible for veterans' benefits. The number affected, however, would not be large and accordingly the cost would be relatively small. It should also be noted that under this proposal no monetary benefits would accrue under the amendment prior to the date of enactment.

We are advised by the Bureau of the Budget that there would be no objection from the standpoint of the administration's program to the presentation of this proposed legislation to the Congress.

Sincerely,

J. S. GLEASON, Jr.,  
*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 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 106 TITLE 38 UNITED STATES CODE

## § 106. Certain service deemed to be active service

(a) (1) Service as a member of the Women's Army Auxiliary Corps for ninety days or more by any woman who before October 1, 1943, was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the Women's Army Auxiliary Corps or the Women's Army Corps shall be considered active duty for the purposes of all laws administered by the Veterans' Administration.

(2) Any person entitled to compensation or pension by reason of this subsection and to employees' compensation based upon the same service under the Federal Employees' Compensation Act must elect which benefit she will receive.

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of his local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and

who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-connection of a disability under chapter 17 of this title, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

(c) For the purposes of this title, [whenever] an individual [is] discharged or released [after December 31, 1956,] from a period of active duty [he] shall be deemed to *have* [continue] *continued* on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to [be] *have been* required for him to proceed to his home by the most direct route, and in any event *he shall be deemed to have continued on active duty* [,] until midnight of the date of such discharge or release.

(d) For the purposes of this title, any individual—

(1) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) who is disabled or dies from an injury incurred after December 31, 1956, by him while proceeding directly to or returning

#### 4 EFFECTIVE TIME OF DISCHARGE OR RELEASE OF VETERANS

directly from such active duty for training or inactive duty training, as the case may be; shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not he was disabled or died from injury so incurred, the Administrator shall take into account the hour on which he began so to proceed or to return; the hour on which he was scheduled to arrive for, or on which he ceased to perform, such duty; the method of travel employed; his itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

