

96472

98TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 98-309

SURVIVOR BENEFITS FOR FEDERAL LAW ENFORCEMENT OFFICIALS AND FIREFIGHTERS

JULY 25, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PERKINS, from the Committee on Education and Labor, submitted the following

REPORT

together with

NCJRS

MINORITY VIEWS JAN 23 1985

[To accompany H.R. 622]

ACQUISITIONS

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 622) to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
Public Domain

U.S. House of Representatives
to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

O
the
on l
The
orde
vote

Th
bene

11

red
tee
ys.
nd
ice

th
e-

fighter whose death was directly and proximately caused by an outside force in the line of duty.

BACKGROUND

92D CONGRESS

The Subcommittee on Immigration, Citizenship and International Law (formerly Subcommittee No. 1), held hearings on May 24 and 25, 1972, to consider various proposals which would provide death and disability benefits for public safety officers (police and corrections officers) and firefighters. As a result of these hearings, H.R. 16932 was introduced and favorably reported by the full Committee on October 5, 1972. This legislation was similar to a Senate-passed bill (S. 2087) and a conference was held to resolve the differences between these two bills. A conference report was filed on October 17, 1972 but the adjournment of the 92d Congress prevented House consideration of the conference report.

93D CONGRESS

The House-passed version was re-introduced by Hon. Peter W. Rodino, Jr. as H.R. 12 and additional hearings were held on July 25 and 26, 1973 to consider this bill and related legislation. After several mark-up sessions, the Subcommittee ordered a clean bill (H.R. 11321) favorably reported to the full Committee on October 30, 1973. The full Committee considered the bill on February 28, 1974 and by voice vote, ordered H.R. 11321, as amended, favorably reported to the House. The full House approved H.R. 11321, as amended, on April 24, 1974, by a vote of 320-54. The Senate passed similar legislation (S. 15) but a conference was never held and the difference between the two bills were never reconciled.

94TH CONGRESS

H.R. 365, a separate bill providing death benefits to the dependent survivors of firefighters only, was introduced on January 14, 1975. Two days of hearings were held on this bill and a companion bill, H.R. 366, which covered law enforcement officers. H.R. 365, as amended was ordered favorably reported by the full Committee on the Judiciary by voice vote on March 9, 1976. (H.R. 366, providing identical benefits for the dependent survivors of law enforcement officers, was also ordered favorably reported by the Judiciary Committee on March 9, 1976.)

96TH CONGRESS

H.R. 5888, a bill providing death benefits to dependent survivors of Federal law enforcement officers and firefighters, was introduced on November 14, 1979. On March 12, 1980, the Labor Standards Subcommittee held hearings on H.R. 5888 and a similar bill (H.R. 5834). H.R. 5888, was amended and was ordered favorably reported by the full Committee on Education and Labor on May 14, 1980. The House passed H.R. 5888 as reported on November 18, 1980 (313-56). The Senate passed H.R. 5888 without amendment by

voice vote on December 10, 1980. The bill was vetoed by the President on December 25, 1980.

97TH CONGRESS

H.R. 756, a bill identical to H.R. 622 with the exception of the effective date, was the subject of hearings by the Subcommittee on Labor Standards, along with several other bills on November 13, 1981, December 8, 1981 and February 3, 1982. The Committee on Education and Labor ordered the bill to be reported with a technical amendment on July 27, 1982. The House of Representatives considered H.R. 756 under suspension of the rules on August 4, 1983, and approved it by a vote of 327-82. The Senate included the provisions of H.R. 756 as an amendment to its Continuing Budget Resolution.

GENERAL INFORMATION

The Congress has previously enacted legislation (the "Fire Research and Safety Act of 1968"—Public Law 90-259 and the "Federal Fire Prevention and Control Act of 1974"—Public Law 93-498) to provide supportive assistance to state and local governments in order to reduce the incidence of death, personal injury and property damage from fire.

In the report of the Senate Commerce Committee on the 1974 legislation, it was stated that the bill (S. 1796) was a proper response to a "documented need for Federal involvement in what is, for so many, an unnecessary tragedy that not only burdens interstate commerce with billions of dollars of total annual property loss, but which also scars and kills thousands each year." Moreover, the final report of the National Commission on Fire Prevention and Control, which was established by the 1968 legislation, concluded that "It is indisputable that the Federal government must at some cost help the nation attack the fire problem if any significant reduction in fire loss is to be achieved."

Number of firefighters killed in the line of duty in United States

1975.....	108
1976.....	79
1977.....	79
1978.....	74
1979.....	77
1980.....	63

According to the Department of Labor, firefighting is one of the most hazardous professions. Law enforcement officers and firefighters are called upon to risk their lives to protect the lives and the property of their fellow-citizens. Their training, and their professional responsibilities often require that their personal safety be cast aside in order to provide this protection, and, regrettably, as a result, law enforcement officers and firefighters too often sacrifice their lives for the benefit of the public.

In many cases, this leaves their families in extreme hardship, without the ability to meet immediate family needs. This bill would provide a lump-sum benefit payment of \$50,000 in addition to any workers' compensation benefit to which the survivors of the law

enforcement officer or firefighter would be entitled, in an effort to assist in meeting the immediate needs of the survivors of the law enforcement officers or firefighters who have died in the course of their duties. The bill also provides that in cases of hardship and demonstrated need, and in a case where it appears clear that the benefits under the bill would be awarded, the Secretary may make an interim benefit payment of no more than \$3,000.

The Committee notes that lump-sum death benefits are provided, under the bill, only in the case of death, in the line of duty, of law enforcement officers and firefighters who are employees of the federal government and its instrumentalities. Similar death benefits are already provided, under similar circumstances, to law enforcement officers and firefighters employed by state and local governments, pursuant to the provisions of the Public Safety Officers' Benefits Act of 1976.

The Subcommittee on Labor Standards held a hearing on H.R. 622, and H.R. 26, a similar bill, on June 16, 1983. Testimony was taken at those hearings from a number of witnesses, including representatives of several unions which represent federal employees, and representatives of unions which represent firefighters and police officers.

Union witnesses testified in favor of the bill, generally that such a benefit was necessary to recruit and retain responsible and dedicated law enforcement officers and firefighters. Witnesses also suggested that the death of such workers in the course of their duties often imposed great hardships on their survivors, and that basic equity suggested that the firefighters and law enforcement officers employed by the federal government be provided with the same death benefits which the federal government already provided to the law enforcement officers and firefighters who were employed by state and local officials.

ANALYSIS OF THE BILL

H.R. 622 helps to secure the immediate financial needs of the survivors of Federal law enforcement officers and firefighters who are killed as the result of a personal injury inflicted by an outside force while in the line of duty. The bill provides that the survivors shall receive a lump sum payment of \$50,000 from the Federal Government, if the federal law enforcement officer is killed while actively engaged in the detection of a crime; the apprehension of an alleged criminal offender; in the keeping in physical custody of an alleged or convicted criminal offender; or assaulted or subjected to the conduct of criminal activity. In the case of firefighters, such benefits are provided if the firefighter is killed while engaged in the control or extinguishment of a fire or other emergency operation.

The bill defines federal "law enforcement officer" to include any federal employee whose job includes duties directly connected with the control of crime or juvenile delinquency, the enforcement of criminal laws, or the protection of public buildings, or property, Federal officials or foreign diplomatic missions. Such would include uniformed Federal protective officers who guard Federal buildings, embassies and other foreign government facilities and personnel.

However, in order to be entitled to this death benefit, a Federal officer must receive an injury from an outside force resulting in death.

Only those law enforcement officers who are engaged in the listed activity will be awarded benefits. Benefits would not be awarded to people who detect crime in a less direct manner through laboratory investigation, fingerprinting, academic or sociological studies, psychological evaluations or psychic statements.

It would be required that a Federal officer encounter high personal physical risk. It is contemplated that the injury must come from an outside force such as a bullet, blow or other outside force.

It is further contemplated that a heart attack would not be covered unless the heart attack could be found to be directly and proximately caused from an outside source. The bill does not intend to provide benefits to the survivors of Federal officers who may succumb to heart attack or other occupational diseases that may gradually come about through the subtle wear and tear of time, albeit that such wear and tear exists in the field of law enforcement and firefighting.

Federal firefighters are covered if their duties include performing work directly connected with the control and extinguishing of fires or other emergency operations such as rescue squad work, building destruction or similar emergency operations whether uniformed or not, and would include within this definition smoke jumpers and fire spotters whose duties include responsibility for fighting fires or the supervising of the dropping of material, equipment or personnel to fight fires.

In determining the cause of the death, it is contemplated that the phrase "direct and proximate result" should be interpreted to cover only those cases where the personal injury is a substantial factor in bringing about the officers' death.

This legislation is intended to award benefits similar to those awarded pursuant to the Public Safety Officers Act of 1976 and in that regard, provides for a \$3,000 interim benefit payment to survivors which shall be deducted from the \$50,000 if an award is granted. If no award is granted, all or partial repayment may be waived in case of hardship. Death benefits shall not be paid where the officer's death was caused by his intentional misconduct or by suicide. Further, no benefits shall be paid where voluntary intoxication was the proximate cause of death and no benefits shall be paid to any person whose actions substantially contributed to the death of the federal officer.

These death benefits shall be paid in addition to the death benefits to which survivors may be entitled under the Federal Employees' Compensation Act.

Death benefits shall be paid to surviving spouse, and if there are dependent surviving children, they are to share in the death benefit. Surviving children are eligible to receive benefits if they are eighteen years of age or under. If such child is over the age of eighteen, is a student, or is not capable of self-support because of physical or mental disability he or she is likewise entitled to benefits.

Where there are no surviving spouse or children, the death benefit may be paid to the parent or parents of the deceased law en-

forcement officer or firefighter if parent or parents were financially dependent upon the deceased firefighter or law enforcement officer. The Committee intends that in determining dependency in such cases, the Secretary consider the extent to which the parent or parents relied financially on the deceased. Certainly, if the deceased provided one-third or more of the income of the parent or parents, such parent or parents should be considered dependent.

Death benefits paid under this bill shall not be subject to attachment or execution. Claimants may secure the advice of attorneys or other suitable representatives in claiming benefits under this bill, and the Secretary may by regulation, or on an individual case basis, prescribe the maximum fee which may be paid to such attorney or representative on account of such assistance.

While the benefits paid under the Federal Employees' Compensation Act are in the nature of an entitlement, the benefits payable under this bill would only be available to the extent provided for in advance by Appropriation Act (as is the case under the Public Safety Officers' Benefits Act of 1976).

The bill provides for the payment of death benefits to eligible survivors of federal law enforcement officers or firefighters whose deaths resulted from injuries sustained on or after October 1, 1983.

SECTION-BY-SECTION ANALYSIS

Sec. 8148(a)(1) defines "law enforcement officer". Such officers are employees whose duties include performing work directly connected with control of crime or juvenile delinquency, enforcement of criminal laws, and the protection of federal officials, public buildings or property, or foreign diplomatic missions; and who at the time of the personal injury were engaged in the detection of crime, apprehension of alleged criminal offenders; keeping offenders in custody, or who were assaulted or subjected to criminal conduct in the line of duty.

Sec. 8148(a)(2) defines "firefighter". Such individuals are employees whose duties include performing work directly connected with controlling or extinguishing fires and who at the time of injury were engaged in such work or other emergency operations.

Sec. 8148(a)(3) defines "child" as any natural, illegitimate, adopted or posthumous child, stepchild of a deceased law enforcement officer or firefighter who at the time of death of the law enforcement officer or firefighter was no more than eighteen years of age, or if over 18 years of age is a student, or is incapable of self-support because of physical or mental disability.

Sec. 8148(a)(4) defines "dependent" as substantially reliant for support upon the income of the deceased firefighter or law enforcement officer.

Sec. 8148(a)(5) defines "intoxication" as the disturbance of mental or physical faculties as the result of the introduction of alcohol, drugs, or other substances.

Sec. 8148(a)(6) defines "detection of crime" as the physical pursuit, investigation, or interviewing of any individual at the scene of a crime but does not include laboratory work, studies, or other similar acts of a nondangerous nature.

Sec. 8148(b)(1) establishes a \$50,000 death benefit to the eligible survivors of a law enforcement officer or firefighter whose death is the direct and proximate result of a personal injury inflicted by an outside force and in the line of duty, and provides for the payment of such benefit to the surviving spouse if there is no surviving child; half to the surviving spouse and half to surviving children in equal shares if there are surviving children; to surviving children (in equal shares) if there is no surviving spouse; or to the dependent parent or parents of such officer or firefighter if there are no surviving spouse or surviving children.

Sec. 8148(b)(2) authorizes the Secretary to make immediate advances of as much as \$3,000 of the benefit in cases where need for immediate payment is shown, and in situations in which it appears that the eligibility for the benefit under the section is likely.

Sec. 8148(b)(3) provides that any advance payment shall be deducted from the final benefit payment under this section.

Sec. 8148(b)(4) provides that when an interim payment is made, and no eligibility for final payment is established, the recipient of the interim payment shall be liable to repay the amount of the interim payment, but that the Secretary may waive all or part of the repayment in cases where repayment would result in hardship.

Sec. 8148(b)(5) provides that benefits under this section shall be in addition to any payments which may be due under the Federal Employees' Compensation Act, but shall be reduced by any payments received pursuant to section 12(k) of the Act of September 1, 1916, as amended.

Sec. 8148(b)(6) prohibits execution or attachment of benefits payable under this section.

Sec. 8148(b)(7) provides that no benefits shall be paid under this section in cases where (A) the death was caused by intentional misconduct of the law enforcement officer or firefighter, or by intention to bring about such death on the part of the law enforcement officer or firefighter; (B) voluntary intoxication of the decedent was the proximate cause of death; or (C) the actions of any individual entitled to receive benefits were a substantial contributing factor in the death of such officer or firefighter.

Sec. 8148(c) authorizes the Secretary of Labor to prescribe rules, regulations, and procedures for implementing this section, which will be determinative of conflicts of laws and issues arising out of this section; and further authorizes promulgation of rules, regulations and procedures governing recognition and compensation of agents or other persons representing claimants which may prescribe maximum fees which may be charged for services with regard to a claim filed under this section.

(2) Adds reference to this section to the table of sections in chapter 81 of title 5 of the United States Code.

(b)(1) Makes a conforming change to the definition of "child" in the Federal Employees' Compensation Act.

(b)(2) Makes a conforming change to Section 8101(12) of Federal Employees' Compensation Act.

Sec. 2 provides that benefits payable under this section shall only be available to the extent provided for all deaths resulting from injuries sustained on or after October 1, 1983.

COSTS

The Committee has received a cost estimate on the bill from the Congressional Budget Office which the Committee adopts as the appropriate estimate at this time as to the cost of the legislation. This cost estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 19, 1983.

HON. CARL D. PERKINS,
Chairman, Committee on Education and Labor,
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 622, a bill to amend Title 5 of the United States Code to provide death benefits to survivors of federal law enforcement officers and firefighters, and for other purposes, as ordered reported by the House Committee on Education and Labor, July 14, 1983. The bill authorizes the payment of \$50,000 to the survivors of certain federal law enforcement officers and firefighters killed in the line of duty. This payment would be in addition to any other benefits authorized by law, and would apply to anyone killed on or after October 1, 1983.

Based on historical information provided by the Department of Labor, CBO assumes that an average of five federal law enforcement officials and firefighters will be killed each year. Assuming the appropriation of the necessary sums, the total cost to the federal government is estimated to be about \$250,000 annually.

Enactment of this bill would not affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

INFLATIONARY IMPACT STATEMENT

Pursuant to Clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that this bill will have no inflationary effect on prices and costs in the operation of the national economy.

OVERSIGHT

No oversight findings have been presented to the Committee by the Committee on Government Operations. The Education and Labor Committee's own findings are incorporated throughout the discussion above.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

Subchapter I—Generally

Sec.
8101. Definitions.

* * * * *
8148. Death benefits for law enforcement officers and firefighters.
* * * * *

Subchapter I—Generally

§ 8101. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * *
(9) "child" means, *except as provided in section 8148(a)(3) of this title*, one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and includes stepchildren, adopted children, and posthumous children, but does not include married children;

* * * * *
(12) "compensation" includes the money allowance payable to an employee or his dependents and any other benefits paid for from the Employees' Compensation [Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;] *Fund, except that—*

(A) *this paragraph does not in any way reduce the amount of the monthly compensation payable for disability or death; and*

(B) *such term does not include benefits paid under section 8148 of this title;*

* * * * *

§ Death benefits for law enforcement officers and firefighters

(a) For the purpose of this section—

(1) "law enforcement officer" means an employee—

(A) the duties of whose position include performing work directly connected with—

- (i) the control of crime or juvenile delinquency;
- (ii) the enforcement of the criminal laws; or
- (iii) the protection of Federal officials, public buildings or property, or foreign diplomatic missions; and

(B) who, at the time the personal injury referred to in subsection (b) of this section is sustained, is—

- (i) engaged in the detection of crime;
- (ii) engaged in the apprehension of an alleged criminal offender;
- (iii) engaged in the keeping in physical custody of an alleged or convicted criminal offender; or
- (iv) assaulted or subjected to the conduct of criminal activity in the line of duty;

(2) "firefighter" means an employee the duties of whose position include performing work directly connected with the control and extinguishment of fires and who, at the time the personal injury referred to in subsection (b) of this section is sustained, is engaged in such work in the control or extinguishment of a fire or other emergency operation;

(3) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased law enforcement officer or firefighter (as defined in paragraphs (1) and (2)) who, at the time of such law enforcement officer or firefighter's death, is—

- (A) 18 years of age or under;
- (B) over 18 years of age and a student; or
- (C) over 18 years of age and incapable of self-support because of physical or mental disability;

(4) "dependent" means substantially reliant for support upon the income of the deceased law enforcement officer or firefighter;

(5) "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body; and

(6) "detection of crime," means the physical pursuit, investigation, or interviewing of any individual at a crime scene, but shall not include laboratory investigation, studies, or other similar acts of a nondangerous nature.

(b)(1) In any case in which the Secretary of Labor determines, under regulations prescribed pursuant to this section, that a law enforcement officer or firefighter has died as the direct and proximate result of a personal injury inflicted by an outside force and in the line of duty, the Secretary shall pay a benefit of \$50,000 as follows:

(A) if there is no surviving child of such law enforcement officer or firefighter, to the surviving spouse of such law enforcement officer or firefighter;

(B) if there are one or more surviving children and a surviving spouse, one-half to the surviving children in equal shares and one-half to the surviving spouse;

(C) if there is no surviving spouse, to the surviving children of such law enforcement officer or firefighter in equal shares; or

(D) if none of the above, to the dependent parent or parents of such law enforcement officer or firefighter in equal shares.

(2) In any case in which the Secretary determines, upon a showing of need and prior to taking final action, that the death of a law enforcement officer or firefighter is one with respect to which a benefit will probably be paid, the Secretary may make an interim benefit payment not exceeding \$3,000 to the individual entitled to receive a benefit under paragraph (1) of this subsection.

(3) The amount of an interim payment to any individual under paragraph (2) of this subsection shall be deducted from the amount of any final benefit paid to such individual.

(4) In any case in which there is no final benefit paid, the recipient of any interim payment under paragraph (2) of this subsection shall be liable for repayment of such amount. The Secretary may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

(5) The benefit payable under this section shall be in addition to any compensation or other benefit that may be due under this subchapter or from any other source, but shall be reduced by payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

(6) No benefit paid under this section shall be subject to execution or attachment.

(7) No benefit shall be paid under this section—

(A) If the law enforcement officer or firefighter's death was caused by the intentional misconduct of the law enforcement officer or firefighter or by such law enforcement officer or firefighter's intention to bring about such death;

(B) if voluntary intoxication of the law enforcement officer or firefighter was the proximate cause of death; or

(C) to any individual who would otherwise be entitled to a benefit under this section if such individual's actions were a substantial contributing factor to the law enforcement officer or firefighter's death.

(c) The Secretary may prescribe rules, regulations, and procedures to carry out the purpose of this section. Such rules, regulations, and procedures will be determinative of conflict of laws and issues arising under this section. Rules, regulations, and procedures prescribed under this section may include regulations governing the recognition of agents or other persons representing claimants under this section before the Secretary. The Secretary may prescribe the maximum fees which may be charged for services performed in connection with any claim under this section before the Secretary, and any agreement in violation of such rules and regulations shall be void.

* * * * *

MINORITY VIEWS

Justice Holmes once remarked that "hard cases make bad law." The same can be said of bills which facilely promote equity, at a small price. H.R. 622 is just such a bill. It provides a \$50,000 lump sum death benefit for Federal law enforcement officers and firefighters who are killed in the line of duty. For a mere half million dollars annually, Congress can thus afford to give such select employees the same death benefits which it provided to their State and local counterparts in 1976. But close scrutiny of the proposal reveals that its rationale is infirm, its logic specious, and its impact disruptive to the Federal workers' compensation scheme.

Indeed, in vetoing nearly identical legislation in 1980, President Carter said that the "special benefits it would provide are preferential and unwarranted, and . . . would become precedent for extension of similar benefits to other Federal employees."¹

Specifically, the bill should be rejected for the following reasons:

(1) Adequate death benefits are already provided to Federal law enforcement officers and firefighters under the Federal Employees Compensation Act (FECA) as well as low-cost life insurance under the Federal Employees' Group Life Insurance Act of 1954;

(2) By providing special benefits to a select group of Federal employees based upon the nature and potential hazards of their occupation, the bill makes FECA unfairly discriminatory against all other covered Federal employees. In addition, the bill would create new, arguable inequities between Federal and State safety officers; and

(3) The bill is technically flawed.

I. PRESENT DEATH BENEFITS ARE ADEQUATE, AS CONGRESS SO FOUND IN 1976

The Majority argues that because Congress in 1976 provided a \$50,000 death benefit for State and local safety officers, simple equity requires the same benefit for Federal officers. The sterile logic of this position ignores the historical origins of the 1976 Act, its rationale, and the crucial findings which Congress made at the time with respect to Federal firefighters and police.

A review of the legislative history of the 1976 Act makes crystal clear that it was not intended to give State and local safety officers a leg up on Federal officers. Instead the Act effectively sought to bring the benefits of the former up to the level of the latter.

Efforts to provide a \$50,000 death benefit for State and local police and firefighters began in 1972 and culminated in the Public

Safety Officers' Benefits Act of 1976 (P.L. 94-430; 42 U.S.C. § 3796). During the long gestation of this Act, the country was attempting to recover from a turbulent decade. The civil rights movement and the Vietnam War had sent shock waves throughout the Nation, and many major cities were awash with flames and violence. As might be expected, the riots, together with the dramatic increase in crime, took an added toll among police. But the lawlessness took on a new, pernicious form. Firefighters faced injury and death not only from fires but also from snipers and rioters. It became newsworthy that firefighters had police escorts when responding to alarms.

The statistics painted a grim picture. Between 1961 and 1972, the number of State and local police killed annually as a result of felonious criminal activity rose from 37 to 129, a fourfold increase! In 1975, the number killed was 124. With respect to firefighters, the annual fatalities rose from 69 in 1963 to 100 in 1972, and remained near that level through 1975.

Probably because fatalities reached such an alarming number, lawmakers soon made a more disturbing discovery: workers' compensation and insurance plans provided by State and local government employers gave short shrift to police and firefighters and to their dependents. Disability and death benefits were woefully inadequate and in many instances nonexistent.

Moreover, a 1968 Federal Crime Commission report noted that law enforcement personnel and firefighters frequently had difficulties in obtaining any type of comprehensive life insurance. The debates of the 1976 Act revealed that 30 percent of State and local enforcement officers were uncovered by any employer-supported group plans. Finally, the statistics showed that the risk of death was greatest among younger officers whose years of service were often not sufficient to qualify their families for survivors pension benefits.

This overwhelming evidence of financial inadequacy and insecurity gave rise to several concerns. First, it offended notions of fairness that police and firefighters, who must face abnormally high risks of injury and death, should be placed at a severe disadvantage simply because State and local governments were unwilling to bear the higher costs attending such risks. Secondly, many officials were worried that the dramatic increase in fatalities, coupled with the dimaying wages and benefits, would hinder the recruitment of high-caliber personnel. But the impetus for legislation no doubt heightened when the plight of State and local safety officers was contrasted with the benefits available to Federal employees.

What benefits are available to Federal law enforcement officers and firefighters? They come from two principal sources.

First, there is the Federal Employees Compensation Act (FECA) (5 U.S.C. § 8101 et seq.), which H.R. 622 amends. This Act provides comprehensive medical and income coverage for Federal employees who sustain work-related injuries or deaths. It puts no employee at a disadvantage because of the hazards inherent in his job. In the case of death, the employee's immediate family, including dependent parents, are entitled to monthly benefits, based upon a percentage of the decedent's monthly salary at the time of death. In the

¹ "Memorandum of Disapproval of H.R. 5888," *Weekly Compilation of Presidential Documents*, Administration of Jimmy Carter, pages 2830-2831.

case of a widow with two children, the benefit would be 75 percent of the officer's gross pay.

This benefit, substantial itself, is further enhanced by two other features of FECA: A widow, or widower, as long as she or he does not remarry, is entitled for life; children are entitled to compensation until age 18 or until age 23 if a student.

Further, and more significantly, FECA contains a cost of living escalator to keep pace with inflation. (5 U.S.C. § 8146a). Finally, apart from FECA, it should be remembered that death benefits, like disability compensation, are not subject to Federal taxation.

Take the case of an average Federal firefighter whose annual base pay is GS-5, Step 4—\$14,330.² His widow and two children would be entitled to annual benefits totaling \$10,747, which is 75 percent of that amount. As noted above, these benefits are tax-free, and are increased periodically as the cost-of-living climbs. Thus, while the decedent's family may initially sustain a 25 percent reduction in gross income, because FECA benefits are not subject to taxation and other deductions, the family may experience little, if any, actual reduction in net income. Furthermore, FECA benefits are escalated annually to increases in the CPI so that within several years "take-home benefits are greater without taxation than the pre-injury take-home income [of the Federal employee] subject to taxation and other deductions."³

In comparison, many States do not offer as generous benefits. Most peg the percentage of the employee's wages at 66⅔ percent.⁴ Moreover, in many States the statutory maximum annual payment, regardless of an employee's salary, would be less than that payable to the Federal firefighter's widow and children.⁵ And unlike FECA, some States place a monetary ceiling on the amounts which dependents are entitled to receive.⁶

Precisely because FECA benefits are comparatively generous and adequate, it is little wonder that Congress in 1976 expressly declined to grant the \$50,000 death benefit to the survivors of Federal firefighters and law enforcement officers. The House Report to the bill providing the death benefit to State and local firefighters states:

The bill is not intended to cover the survivors of Federal firefighters. The Committee believes that the benefits provided to Federal firefighters under the Federal Employees Compensation Act are generally adequate and in many instances will exceed the \$50,000 payment authorized by this legislation.⁷

² This example is drawn from the testimony of the principal sponsor of H.R. 622 during hearings on a predecessor bill, H.R. 5888 (96th Congress, 2d Session). He noted that firefighters at this pay grade are the ones most likely to be exposed to the risks of death inherent in that occupation.

³ Hearings on a Death Benefit for Federal Law Enforcement Officers and Firefighters" before the Subcommittee on Labor Standards, House Committee on Education and Labor, 96th Congress, 2d Session; page 24. (1980).

⁴ See chart VII, of the 1983 edition of the "Analysis of Worker's Compensation Laws," published by U.S. Chamber of Commerce and reproduced in Appendix to the Minority Views.

⁵ Based upon converting annual Federal payment of \$10,747 to weekly amount of \$207. See chart VII of "Analysis," supra note 4. Such states include Alabama, Arizona, Arkansas, California, Georgia, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, Tennessee, and Texas.

⁶ See chart VII of "Analysis."

⁷ House Rpt. No. 94-1031, 94th Cong., 2d Sess. at 5 (1976).

Likewise, the House Report accompanying the bill to benefit State and local law enforcement officers noted:

* * * coverage is not extended to the survivors of Federal public safety officers. The Committee believes that the benefits provided under the Federal Employees' Compensation Act are generally adequate and in many instances will exceed the \$50,000 payment authorized by this legislation.⁸

But the opposition to H.R. 622 becomes all the more compelling as we consider a second, principal source of benefits which are payable in addition to FECA compensation—the Federal Employees' Group Life Insurance Act of 1954 (5 U.S.C. § 8701 et seq.). This Act was alluded to during the Senate debate on the 1976 legislation.⁹ Its purpose is to provide low-cost group life insurance to Federal employees. Unlike State and local safety officers, who in many instances could not obtain insurance protection, the Act authorizes a group insurance program for nearly all Federal civilian employees. And while the Office of Personnel Management may by regulation exclude certain employees, the Act expressly bars the exclusion of "an employee or group of employees solely on the basis of the hazardous nature of employment."¹⁰

The Group Life Insurance program's already generous provisions were further liberalized in 1980. An employee can purchase Basic coverage, the amount of which is determined by the employee's age and salary. For an employee under age 36 the amount is twice annual salary rounded to the next higher thousand dollars, plus \$2,000. As indicated by the chart below,¹¹ an employee over age 44 can purchase basic coverage of one-half the employee age under age 36 (§ 8704(a)).

However, there is significantly greater coverage available to Federal employees under this program beyond Basic coverage. An employee can also purchase Optional coverage of \$10,000 and Additional Optional coverage in multiples of up to five times annual salary, limited to five times the pay for Executive Level II.

⁸ House Rpt. No. 94-1032, 94th Cong., 2d Sess. at 5 (1976).

⁹ 122 Cong. Rec. S11832 (daily ed. July 19, 1976) (remarks by Senator Kennedy).

¹⁰ 5 U.S.C. § 8716(b)(1). Thus, were H.R. 622 enacted there would be this anomaly: The hazardous nature of an occupation remains an impermissible classification for excluding Federal employees from life insurance protection, but becomes a permissible criteria for granting a certain group of employees—law enforcement officers and firefighters—more favorable death benefits.

¹¹ 5 U.S.C. 8704, which sets forth the following formula:

§ 8704. Group insurance; amounts

(a) An employee eligible for insurance is entitled to be insured for an amount of group life insurance equal to—

(1) the employee's basic insurance amount, multiplied by

(2) the appropriate factor determined on the basis of the employee's age in accordance with the following schedule:

If the age of the employee	The appropriate factor is:
35 or under.....	2.0
36.....	1.9
37.....	1.8
38.....	1.7
39.....	1.6
40.....	1.5
41.....	1.4
42.....	1.3
43.....	1.2
44.....	1.1
45 or over.....	1.0

If this were not generous enough, Basic and Optional coverage provide double indemnity on accidental death or dismemberment.

Thus, survivors of a Federal law enforcement officer or firefighter under age 36 who is killed in the line of duty making \$10,000 per year would be entitled to \$48,000. Optional coverage would add \$20,000 and maximum Additional Optional coverage, another \$50,000, for a total of \$118,000—on top of monthly FECA death benefits.

The "average firefighter" at GS-5, step 4 under age 36 would qualify for \$68,000 in Basic coverage, \$20,000 Optional coverage, and a maximum \$73,535 Additional Optional coverage for a total of \$161,535.

In summary, the same reasons which impelled the enactment of the 1976 Public Safety Employees' Benefits Act do not hold true for H.R. 622. Adequate death benefits are available under FECA and the Group Life Insurance Act. Even if it is appropriate to compare Federal employees with State and local employees, the national government has shown greater generosity to its own personnel. Nor has it acted in a miserly way to evade the arguably increased injury costs associated with these hazardous occupations. Moreover, statistics have shown that line-of-duty fatalities among Federal law enforcement officers and firefighters have remained at a consistently low level.¹² For this reason it cannot seriously be contended that H.R. 622 would significantly facilitate recruiting.

II. THE BILL SPAWNS NEW INEQUITIES NOT ONLY AMONG FEDERAL EMPLOYEES BUT ALSO BETWEEN FEDERAL AND STATE PUBLIC SAFETY OFFICERS

A. INEQUITY AS AMONG FEDERAL EMPLOYEES

Heralded as a cure for inequity, H.R. 622 only succeeds in inflicting the Federal compensation system with a more virulent infir-

¹² For the years 1972-78—Hearings on H.R. 5888 (96th Congress, 2d session), March 12, 1980 (written statement of National Federation of Federal Employees, table 2). For the years 1979-1982 with respect to Federal Law Enforcement Officers, figures were obtained from the FBI Uniform Crime Reports Division; with respect to Federal Firefighters—Hearings on H.R. 622 (98th Congress, 1st session), June 16, 1983 (written statement of National Federation of Federal Employees, table 2). The following table lists the Federal law enforcement officers and firefighters killed in the line of duty for the years 1972-82:

Year	Law enforcement Officers	Firefighters
1972.....	4
1973.....	4
1974.....	3
1975.....	5
1976.....	2	5
1977.....	0	5
1978.....	1	3
1979.....	5
1980.....	2
1981.....	1
1982.....	2
Total	29	18

mity. As its sponsor himself noted, FECA presently "takes no cognizance of hazardous occupations."¹³ H.R. 622 would destroy that impartiality, for FECA treats all covered Federal employees equally, without regard to their occupations. No special class or groups of employees are singled out for more favorable benefits simply because of the hazards of their work. This is equal treatment in its pristine form, and indeed it is as it should be under any workers' compensation scheme. To establish preferences among occupations would be wrong for several reasons.

Aside from the obvious inequity it creates, H.R. 622 subverts the underlying philosophy of FECA. The Act is a workers' compensation scheme that evolved out of the gross inadequacies of common law tort liability.

A century ago, employees faced insurmountable obstacles in obtaining compensation from employers for work-related injuries. Because the common law predicated liability on fault, an injured employee faced the onerous burden of proving his employer's negligence. Moreover, the affirmative defenses available to an employer—contributory negligence, the fellow-servant doctrine, the assumption of risk—too often and too easily defeated employee claims.

Workers' compensation law rejected these principles and adopted a new economic and legal design: An employer was liable for work-related injuries regardless of fault, and the measure of liability was to replace the income lost to the employee. Income compensation as well as medical benefits were to be provided with certainty and promptness, without litigation.

Workers' compensation law thus did not concern itself with matters relevant to the common law. Tort law, for instance, looks to the circumstances surrounding a death or injury for determining the amount of compensation. If the injurious act was done intentionally or with gross disregard for human life, the tortfeasor could be liable for punitive damages. In addition, an injured person can recover damages, regardless of intent, for pain and suffering. But neither of these types of damages are recoverable under FECA, because they have nothing to do with replacement of income. Likewise, the occupational context in which an injury occurs, whether it be law enforcement, computer programming, or gardening, does not now, nor should it, have any bearing on what benefits are payable under FECA.

Another problem with preferential treatment of law enforcement officers and firefighters, we fear, is that it puts FECA on a slippery slope. In no time, other occupational groups will be urging special benefits for themselves based upon the hazards of their job. The Three Mile Island disaster certainly focused attention on the dangers of nuclear reactors, which certain Federal officials must surely inspect. Or, what about Federal mine inspectors? They would need only point to the Federal Mine Health and Safety Act as mute testimony to the congressionally recognized hazards of mining.

The root of the problem, of course, is that there is no principled basis for rationally distinguishing occupations in the context of workers' compensation law. Without such a principle, Congress will

¹³ Hearing testimony of Representative Kildee, p. 17.

be hard pressed in the future to deny special benefits to other groups. Several may well succeed in obtaining special legislation, but others will not, the difference probably owing to the political clout which a group can muster. Ultimately, the principle of equity and even-handed treatment is betrayed.

B. INEQUITY BETWEEN FEDERAL SAFETY OFFICERS AND STATE AND LOCAL OFFICERS

Superficially, H.R. 622 will place Federal safety officers on a par with their State and local counterparts with respect to the \$50,000 death benefits. But in so doing the bill ironically fosters new inequities between the two governmental groups.

FECA provides monthly benefits to the survivors of State law enforcement officers who are killed while assisting in Federal law enforcement.¹⁴ When Congress enacted the 1976 Public Safety Officers' Benefits Act, it took this existing coverage into account. An offset provision was included in the 1976 Act which required that the \$50,000 benefit be reduced by the payments authorized under FECA.¹⁵

H.R. 622 does not contain a comparable offset section. Thus the following "inequity" could arise: Suppose a singular event involving a Federal crime claims the lives of both a Federal law enforcement and an assisting State officer. Under existing law, together with the bill, the dependents of the Federal officer would receive the monthly FECA compensation plus the \$50,000 death benefits. In contrast, dependents of the State officer would have the \$50,000 benefit offset by the FECA benefits.

Indeed, this is precisely what would have occurred in the attempted assassination of President Reagan, an incident which proponents use to bolster their charges of inequity. Had deaths resulted, under current law, the D.C. police officer's survivors would have been eligible for FECA death benefits.¹⁶ The Secret Service Agent's survivors would have received only FECA death benefits. Under the bill, as under current law, the D.C. officer's survivors would still have their \$50,000 benefit effectively eliminated through the offset, but the Secret Service agent's survivors under the bill would receive both benefits in full. Equity?

Speaking of equity, what about Jim Brady or the President himself? Can their jobs be considered any less dangerous? Yet their survivors would have received only FECA death benefits because, we assume, White House press secretaries and Presidents do not have the political clout of the special interests pushing this bill.

The offset is not the only provision from which State and local offices will seek relief from Congress. Another so-called "inequity" will surface with respect to the type of fatalities covered by the 1976 Act.

FECA covers traumatic injuries as well as occupational diseases. The 1976 Act, however, excludes coverage for occupational diseases. Thus State and local safety officers, particularly firefighters, who succumb as a result of heart attacks and chronic lung problems are

¹⁴ 5 U.S.C. § 8191.

¹⁵ 42 U.S.C. § 3796(e)(1).

¹⁶ 5 U.S.C. § 8191.

not generally entitled to the \$50,000 death benefit. The only exception is where an external force, such as stress or smoke inhalation, aggravates to a substantial degree a disease condition, to produce death.¹⁷

As we explain in Part III, *infra*, Federal safety officers will not have to run this legal and medical maze of causation, tracking fine distinction between trauma and occupational disease. Already legislation has been introduced to remove this limitation facing State and local safety officers.¹⁸ Enactment of H.R. 622 will undoubtedly give added impetus to these proposals.

There are perhaps other examples of perceived "inequity" between Federal safety officers, on the one hand, and State and local officers, on the other hand. But the ones noted illuminate the dangers inherent in striving for equality in the abstract.

The press for legislative remedy becomes a little more than a game of leap-frogging, with various groups constantly vying for more and more rights and benefits.¹⁹ Disregarded in this process is a concern for whether the rationale which justified previous, preferential legislation really obtains in subsequent efforts to extend it. The Majority here has paid scant attention to the origins of the 1976 Public Safety Officers' Benefits Act.

As our survey in Part I demonstrates the inadequacy of workers' compensation coverage for safety officers in the several States, made manifest in a troublesome period in our Nation's history, prompted congressional action. But Congress found then, and it still holds true today, that Federal safety officers along with other Federal employees enjoy adequate compensation protection. This should be the guiding consideration, and when it is applied here, H.R. 622 is found seriously wanting.

III. THE BILL IS TECHNICALLY FLAWED

A. PROBLEM WITH OCCUPATIONAL DISEASES

The 1976 Public Safety Officers' Act is premised upon the fact that law enforcement and firefighting are dangerous activities. At the same time, Congress recognized that not all activities associated with such professions are hazardous. The legislative reports, therefore, contained clear exclusions of simple accidents that occur in the performance of such low-risk duties. Also excluded were deaths from occupational diseases.²⁰

H.R. 622 does not preserve this distinction. Department of Labor testimony during the 96th Congress stated that under current interpretation of "injury" in FECA, the "personal injury" covered by the bill would include occupational diseases such as heart attacks.

This will be no minor problem. The bill's sponsor submitted statistics to show that out of a total of 94 fatalities among Federal safety officers, 29 (31%) were due to heart attacks.

¹⁷ Hearing testimony of Department of Justice on H.R. 5888 (96th Cong., 2d sess.).

¹⁸ H.R. 624 (Kildee), S. 1164 (Glenn).

¹⁹ Already there is a bill to increase the benefit payable under the POSB Act from \$50,000 to \$100,000 (H.R. 2276, Kennerly).

²⁰ House Rpt. No. 94-1031, 94th Cong., 2d sess. at 4 (1976); House Rpt. No. 94-1032, 94th Cong., 2d sess. at 4 (1976).

Although the bill says that heart attacks must be directly and proximately caused by an outside source, this is a doubtful limitation, as confirmed in a recent report of the General Accounting Office.²¹

The GAO, in discussing the problem of causality in occupational disease coverage, noted at page 22:

Heart disease causes problems for workers' compensation law because of the difficulty in determining what factor or factors are responsible for "aggravating" the symptoms of the underlying disease or for precipitating the acute episode. Although various studies have attempted to define the relationship between heart disease and the effects of work, stress, emotions, and other factors, they have produced inconclusive and often conflicting results. Some physicians theorize that strain or stress set in motion the coronary occlusion. However, such theories are speculative and, generally, medical science maintains that no valid evidence supports them. In addition, the many conflicting opinions regarding etiology, even in specific patient at a particular moment, further demonstrate the uncertainty on this point.

Compounding this problem is the fact that workers compensation law:

* * * does not weigh the relative importance of cause nor does it look for primary or secondary cause. It merely inquires into whether the employment was a contributing factor; if it was, benefits can be awarded.²²

The bottom line is that most heart attacks will probably be covered. What this shows is that the underlying premise for this type of legislation—compensation for extra-hazardous duty—is of no utility in distinguishing job-related fatalities.

B. TWO ERLBORN AMENDMENTS DEFINING COVERAGE

Mr. Erlenborn offered two amendments in Committee intended to more clearly define coverage, both rejected by the Majority.

These amendments track the regulatory definitions of "line of duty"²³ and "personal injury"²⁴ promulgated by the Justice Department pursuant to the Public Safety Officers' Benefits Act. Their adoption would have provided some assurance that the legislation, albeit flawed conceptually, would at least have been administered more similarly to the PSOB program. Then of course, it has never been the intention of the bill's sponsors to assure equity but rather to create new inequities which will provide the basis for yet another "fix" down the road, probably in an election year.

The first of these amendments defined "line of duty" as

²¹ Report to Congress by the Comptroller General, "Compensation for Federal Employee Injuries: It's Time to Rethink the Rules," HRD-79-78 (August 22, 1979).

²² *Id.* at page 20.

²³ 28 C.F.R. § 32.2(c).

²⁴ 28 C.F.R. § 32.2.

Any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulation, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which he is assigned, or for which he is compensated, by the public agency he serves. For other officers, "line of duty" means any action the officer is so obligated or authorized to perform in the course of controlling or reducing crime, enforcing the criminal law, or suppressing fires.

Adoption of this provision would have more likely assured that only activities actually required by employment would be considered "in the line of duty," rather than merely activities "occurring during employment," which the Court of Claims in one PSOB Act case²⁵ observed has been used to allow workers' compensation benefits for activities not envisioned as compensable by Congress in enacting the PSOB Act. In that case the Court denied benefits in the death of an officer killed in a "quick draw" contest, although it commented that workers' compensation benefits had been awarded in other "quick draw" contests. Undoubtedly, this case would have been compensated under FECA's workers' compensation principles.

The second of the amendments was a series of definitions limiting the nature of "personal injury" covered to exclude occupational diseases and to include only bodily wounds and diseases which are a substantial factor in the officer's death. The amendment states:

(7) "Direct and proximate" or "proximate" means that the antecedent event is a substantial factor in the result.

(8) Notwithstanding Section 8101(5) of this subchapter, "personal injury" means any traumatic injury, as well as diseases which are caused by or result from an injury, but not occupational disease.

(9) Notwithstanding section 8101(5) of this subchapter, "traumatic injury" means a wound or other condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain.

(10) Notwithstanding section 8101(5) of this subchapter, "Occupational disease" means a disease which routinely constitutes a special hazard in, or is commonly regarded as a concomitant of the officer's occupation.

Adoption of these definitions would have more likely assured that the administration of this program would not have followed FECA's precedents—which, of course, is not the intent of the bill's sponsors who wish to saddle the program with compensating diseases of life. As has been already noted, heart disease presents especially nettlesome problems for workers' compensation law because of indeterminate etiology. Workers' compensation bridges

²⁵ *Budd v. United States*, 650 F.2d 290 (Ct. Cl. 1980).

these complexities by ignoring whether the heart disease was primarily or only secondarily caused by job-related stress and strain, awarding benefits merely if it can be said that employment was a contributing factor.

Although this treatment of heart disease might be appropriate in a workers' compensation context, the lump-sum benefit envisioned by the sponsors of H.R. 622, based on hazardous duties, is not workers' compensation; it is not predicated on loss of income, a major tenet of workers' compensation. Accordingly, entitlement based on workers' compensation principles is not necessarily appropriate.

These definitions correctly precluded compensation in the case²⁶ of an officer who died of a heart attack shortly after struggling with a suspect. The cause of death was determined to be "coronary sclerotic hypertensive heart disease with acute and healed myocardial infarcts due to stress during and following the altercation incident to the arrest of the suspect . . ." This is another case which undoubtedly would be compensated under FECA, given FECA's treatment of the role of stress as a contributing factor in bringing on the heart attack.

The limitations imposed by the requirement that the injury be a "substantial factor" in the cause of death was illustrated in another PSOB Act case.²⁷ There the court rejected a claim of a fireman who suffered several heart attacks, the first occurring shortly after returning from a fire and the second a month later. The autopsy showed "marked" arteriosclerotic heart disease which was judged to be the "overriding factor" in the cause of death—that smoke inhalation was not a "substantial factor." Under FECA, however, this case, too, would be compensated because of the requirement there to show merely that the employment "contributed" to the death.

These are the differences in how the PSOB Act and a similar program under FECA will be administered. These are the inequities the sponsors of H.R. 622 are creating between Federal law enforcement officers and firefighters, and their State and local counterparts—all in the name of equity.

C. SUICIDES

Another defect with the bill is that it conceivably authorizes benefits for cause by suicides, despite the sponsors' declarations to the contrary. It is true that the bill does contain an exemption for intentionally inflicted deaths. But this provision tracks the existing FECA law.²⁸

At the hearings in 1980, Labor Department witnesses confirmed that notwithstanding this limitation, the Act has been interpreted to cover suicides if caused by pressure at work. While it may be appropriate to award ordinary compensation in such cases, on the grounds that employment led to diminished mental capacity, it is hard to perceive how suicide deaths fall within the category of high-risk hazards unique to law enforcement and firefighting. In

²⁶ *Smykowski v. United States*, 647 F.2d 1103 (Ct. Cl. 1981).

²⁷ *Morrow v. United States*, 647 F.2d 1099 (Ct. Cl. 1981).

²⁸ 5 U.S.C. § 8102(a) (1)-(3).

short, it does not further the asserted goals of this bill to reward suicides.

D. NEW COVERAGE QUESTIONS

This year's legislation also raises new questions of coverage. The bill which passed the House in the 96th Congress, H.R. 5888 (and vetoed by President Carter), covered officers whose duties were primarily to perform the stated activities in the bill. H.R. 622, however, deletes this "primary" test, permitting coverage if the officers' duties merely included those activities. How many employees who might only incidentally be involved in law enforcement or firefighting would be covered? Would this language encompass National Guard Technicians who were specifically covered in the earlier legislation but deleted in H.R. 622? How about Reservists or Civil Air Patrol volunteers? Who else? The bill leaves these questions unanswered.

E. CONCLUDING COMMENT

The anticipated response to the above criticisms is that the legislative history will resolve any ambiguities in the bill. But it must be remembered that this bill amends a humanitarian law, and it is a settled principle of interpretation to apply it liberally to the maximum benefit of Federal employees.²⁹ We cannot, therefore, share the Majority's conference that the Department of Labor, which must administer this will respect the limitations prescribed in the legislative reports.

CONCLUSION

In opposing this bill, we wish to state completely and unequivocally that we have the highest regard and respect for law enforcement officers and firefighters. The hazards and risks of their work cannot be denied. Yet, at times their courage and bravery have gone unsaluted. It is a sad fact that these professions have been taken for granted in some instances by State and local authorities who were slow to provide adequate compensation benefits. This is what prompted the Congress to pass the Public Safety Officers' Benefits Act of 1976.

The fact remains that Federal law enforcement officers and firefighters have not been the forgotten orphan under Federal law. Their workers' compensation benefits, not to mention available group life insurance, are adequate. The 1976 Act may give their State and local counterparts superficial preference, but when a close comparison of the actual benefits received by each is made, we believe that the Federal officers and their families will more often than not come out on top.

This being the case, we see nothing but trouble with this bill. It will beget new inequities between Federal and State and local officers. More seriously, it will subvert the equality inherent in FECA presently. This bill assaults that principle by singling out a select group of employees for preferential treatment over other employ-

²⁹ See GAO Report, note 21 supra, at 1.

ees who, despite differences in occupation, sustain injuries that are just as crippling or fatal. For these reasons, we cannot support this bill.

APPENDIX TO MINORITY VIEWS

The following Appendix is reproduced from the 1983 Edition of the "Analysis of Workers' Compensation Laws," published by the U.S. Chamber of Commerce.

CHART VII FATALITIES—INCOME BENEFITS FOR SPOUSE AND CHILDREN January 1, 1983

JURISDICTION	PERCENT OF WAGES			MAXIMUM WEEKLY PAYMENT			MINIMUM PER WEEK SPOUSE ONLY	TIME LIMIT	AMOUNT LIMIT ¹		MAXIMUM BURIAL ALLOWANCE
	SPOUSE PLUS CHILDREN	SPOUSE ONLY	ONE CHILD ONLY	SPOUSE PLUS CHILDREN	SPOUSE ONLY	SPOUSE PLUS CHILDREN			SPOUSE ONLY		
ALABAMA	66-23	50	50	\$174.00 ²	\$174.00 ²	\$63.00 ²	500 weeks ^{2,3}	\$87,000	\$87,000	\$1,000	
ALASKA	66-23	66-23	66-23	996.00 ²	996.00 ²	45.00 ²	(^{2,4})			1,000	
AMERICAN SAMOA	66-23	35	35	70.00	70.00		3-25 ²			1,000	
ARIZONA	66-23	35	25	203.98	107.00		(^{2,5})			1,000	
ARKANSAS	66-23	35	50	154.00 ²	154.00 ²	15.00	(^{2,6})	(-)		750	
CALIFORNIA	66-23	66-23	66-23	196.00	196.00	84.00	(^{2,7})	85,000 ²	60,000 ²	1,500	
COLORADO	66-23	66-23	66-23	283.71 ²	283.71 ²	70.80 ²	(^{2,8})			1,000	
CONNECTICUT	66-23	66-23	66-23	326.00 ²	326.00 ²	65.00 ²	(^{2,9})			1,500	
DELAWARE	66-23	66-23	66-23	208.45 ²	208.45 ²	69.47 ²	(^{2,9})			700 ²	
DISTRICT OF COLUMBIA	66-23	50	50	798.78 ²	798.78 ²	89.20 ²	(^{2,9})			1,000	
FLORIDA	66-23	50	35-13	271.00 ²	271.00 ²	20.00 ²	(^{2,9})	100,000	100,000	2,500	
GEORGIA	66-23	66-23	66-23	131.00	131.00		400 weeks ^{2,3}	54,000	32,500	750	
HAWAII	66-23	35	35	140.00	73.50	31.50 ²	(^{2,9})	40,000	40,000	1,200	
ILLINOIS	66-23	50	40	248.00 ²	199.50 ²	68.50 ²	(^{2,9})	(-)		4,800 ²	
INDIANA	66-23	66-23	66-23	158.00 ²	119.25 ²	119.25 ²	500 weeks ^{2,3}	70,500	68,821	1,500 ²	
IOWA	66-23	66-23	66-23	140.00	140.00	52.00 ²	500 weeks ^{2,3}	250,000	250,000	1,750	
KANSAS	66-23	80% of spendable earnings	80% of spendable earnings	\$42.00 ²	\$42.00 ²	(-)	(^{2,9})	70,000	70,000	1,000	
KENTUCKY	66-23	66-23	66-23	204.00 ²	204.00 ²	25.00	(^{2,9})	100,000	100,000	2,000	
LOUISIANA	66-23	50	50	208.25 ²	208.25 ²	55.52 ²	(^{2,9})			2,500 ²	
MAINE	66-23	66-23	66-23	254.00 ²	254.00 ²	81.00 ²	(^{2,9})			3,000	
MARYLAND	66-23	66-23	66-23	290.48 ²	290.48 ²	25.00	(^{2,9})			1,000	
MASSACHUSETTS	66-23	66-23	66-23	292.00 ²	292.00 ²	25.00 ²	(^{2,9})			1,200 ²	
MICHIGAN	66-23	80% of spendable earnings	80% of spendable earnings	300.00 ²	300.00 ²	182.78 ²	500 weeks ^{2,3}	(-)	183,000	1,500	
MINNESOTA	66-23	50	50	270.00 ²	270.00 ²	290.00 ²	(^{2,9})			1,000	
MISSISSIPPI	66-23	35	25	112.00	112.00	70.00	150 weeks ^{2,3}	44,100	44,100	1,000	
MISSOURI	66-23	66-23	66-23	189.49 ²	189.49 ²	199.49 ²	(^{2,9})	195,000	195,000	2,000	
MONTANA	66-23	66-23	66-23	263.00 ²	263.00 ²	121.50 ²	(^{2,9})			1,400	
NEBRASKA	66-23	66-23	66-23	180.00	180.00	49.00 ²	(^{2,9})			2,000	
NEVADA	66-23	66-23	66-23	295.90 ²	295.90 ²	295.90 ²	(^{2,9})			2,500 ²	
NEW HAMPSHIRE	66-23	66-23	66-23	258.00 ²	258.00 ²	30.00 ²	(^{2,9})			1,200	
NEW JERSEY	66-23	50	50	276.00 ²	276.00 ²	63.00 ²	(^{2,9})			2,000	
NEW MEXICO	66-23	66-23	66-23	271.76 ²	271.76 ²	36.66	600 weeks ^{2,3}	183,000	183,000	1,500	
NEW YORK	66-23	66-23	66-23	215.00	215.00	30.00	(^{2,9})			1,500	

¹Amount limits have been computed where not stipulated by law and are shown in italics. Disability payments deducted in all laws, except those of Alaska, Arkansas, California, Delaware, District of Columbia, Florida, Michigan, Mississippi, Missouri, Nevada, New York, North Dakota, Oregon, Washington, West Virginia, Wisconsin, Wyoming, F.E.C.A., or Longshore Act.

²For child under age 18 (18 in Montana, Newfoundland, Northwest Territories, Ohio, Saskatchewan, and Yukon) or 21 in Alaska and Wyoming; 21 in Michigan (and-in school, New Brunswick); if entitled for duration of disability (6-15 years in Wisconsin; for period dependent upon how supported child in Alaska, Newfoundland, Prince Edward Island, and Yukon); if under 18 in Colorado, British Columbia, New Brunswick, Nova Scotia, Newfoundland, Prince Edward Island, Saskatchewan, and C.M.S.C.A.; 22 in Connecticut, F.R.A., Kentucky, Missouri, Nevada, South Dakota, Tennessee, and Virgin Islands; 23 in D.C., Kansas, Louisiana, Maine, Maryland, Massachusetts, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, F.E.C.A., and Longshore Act; 25 in American Samoa, Arkansas, Delaware, Hawaii, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, New Hampshire, Ohio, Puerto Rico, Texas, West Virginia, and Alaska; no age limit in Alaska (4 years only), Massachusetts, Vermont, Manitoba, Northwest Territories, Ontario, and Quebec.

³Spouse for life; compensation ceases on remarriage.

⁴For spouse for life; 2 years lump sum upon remarriage (but only if no children in Colorado, Idaho, Indiana, and Iowa) or balance of compensation if less (Indiana, New Mexico, South Carolina, and Saskatchewan).

⁵For spouse for life; 1 year lump sum upon remarriage.

⁶For spouse for life; cash lump sum on remarriage: Kansas—180 weeks or balance if less; Michigan—3500 or balance if less; Oregon—\$3,000; Washington—\$7,000 or 50% of remaining annuity value if less; Montana—\$3,000; Nova Scotia—\$2,400; Prince Edward Island—\$4,200; Yukon—\$6,111.

⁷Facilities of employer to transportation of body; no maximum except Virginia—\$300; Alaska—\$700; British Columbia—\$423.24 and \$423.24 for incidental death expenses; Nova Scotia—\$300; Prince Edward Island—\$100; Yukon—\$244; Alaska wage if less.

⁸Spouse receives cash lump sum in addition to other benefits: Maine—\$1,000; Massachusetts—\$250; North Dakota—\$300 plus \$100 per child; Oklahoma—\$10,000 plus \$2,500 per dependent (maximum \$15,000); Washington—\$800; British Columbia—\$1,068.06; Manitoba—\$1,000; New Brunswick—\$300; Northwest Territories—\$300; Nova Scotia—\$1,000; Ontario—\$1,200; Prince Edward Island—\$500; Quebec—\$400; Yukon—\$1,200; C.M.S.C.A.—\$150.

⁹No dependents.

¹⁰Maximum is 66.23% of SAWW for spouse and children; 50% of SAWW for spouse only. Minimum is 25% of SAWW; actual wage if less.

¹¹Alaska: Maximum is 200% of SAWW.

¹²Benefit reduced by 1/3 of 5 years after worker's death; by 1/2 of 4 years, and ceases after 7 years; reductions do not apply if spouse is over 52 or permanently and totally disabled. Unwed Social Security offset.

¹³Effective 5-1-82.

¹⁴Benefit in excess of \$75,000 payable from Death and Permanent Disability Benefits Fund.

¹⁵Cost: Maximum is \$24,000; minimum is \$112.50; and amount limit is \$95,000 for spouse and 2 dependents and \$70,000 for spouse only.

¹⁶Cost: Maximum is 30% of SAWW; minimum is 25% of maximum.

¹⁷Social Security offset.

¹⁸Cost: Maximum is 100% of SAWW and minimum is 30% of SAWW (60% of average weekly wages if less). Employer: benefit cost of living increase payable each October.

¹⁹Cost: Maximum is 80% of SAWW for spouse and children; 66.23% of SAWW for spouse only. Minimum for spouse only is 1/2 of maximum for spouse only.

²⁰Additional burial allowance payable on Board approval.

²¹D.C. Effective 7-28-82. Maximum is 100% of SAWW (but no less than \$267.75); minimum is 25% of SAWW (but no less than \$99.20).

²²Cost: Actual wage if less.

²³Maximum is 100% of SAWW.

²⁴House: Maximum is 100% of SAWW for spouse and children; 75% of SAWW for spouse only. Minimum is 25% of SAWW.

²⁵Maximum amount for persons other than spouse and children is the maximum benefit times 2/3.

²⁶Travel expense is 10 times SAWW plus burial allowance equal to 5 times SAWW.

²⁷Spouse benefit is based at 45% of SAWW for spouse plus 1% of SAWW per dependent child up to 30% of SAWW for one child if no dependent spouse.

²⁸Maximum is 123-1/2% of SAWW; minimum is 50% of SAWW.

²⁹Child under 18 is entitled to at least 6 years benefits.

³⁰Maximum is 200% of SAWW.

³¹Minimum earnings presumed to be 35% of SAWW (\$94.85); benefits may not exceed spendable earnings.

³²Cost: Maximum is 75% of SAWW effective 7-1-80.

³³Maximum is 75% of SAWW for spouse and children; 50% of SAWW for spouse only. Minimum is 20% of SAWW.

³⁴Maximum is 60-2/3% of SAWW; minimum is 20% of SAWW; actual wage if less.

³⁵Maximum is 186.23% of SAWW.

³⁶Maximum is 100% of SAWW.

³⁷Additional burial allowance payable on Commission approval.

³⁸Death benefit is based at \$110 weekly for spouse; plus \$6 per child.

³⁹After 400 weeks on \$32,000, spouse must prove actual dependence; time and amount limits do not apply to children's benefits.

⁴⁰Maximum is 30% of SAWW; minimum is 50% of SAWW.

⁴¹500-week limit does not apply to children.

⁴²Maximum is 100% of SAWW.

⁴³Government survivors benefits offset. During dependency of children, then 10 years' benefits, on remarriage—2 years' benefits (or balance if less) if spouse elected to receive benefits weekly rather than in lump sum settlement.

⁴⁴Maximum is 66.23% of SAWW effective 7-1-82.

⁴⁵4 years' benefits payable to child on active duty or armed forces at age 18 who attends school prior to age 23.

⁴⁶Maximum is 100% of SAWW; minimum is 50% of SAWW; actual wage if less.

⁴⁷Maximum is 100% of SAWW.

⁴⁸If wage is less than \$20, benefit is actual wage; if wage \$20-\$30, benefit is \$20; if wage \$30-\$40, benefit is \$30; if wage \$40-\$50, benefit is \$40; if wage \$50-\$60, benefit is \$50; if wage \$60-\$70, benefit is \$60; if wage \$70-\$80, benefit is \$70; if wage \$80-\$90, benefit is \$80; if wage \$90-\$100, benefit is \$90; if wage is more than \$100, benefit is 100% of SAWW.

⁴⁹After 70 weeks, spousal benefits cease unless spouse is permanently and totally disabled. Spousal benefits are payable for 400 weeks and thereafter while a child is eligible for benefits (no time limit if spouse is totally disabled). On remarriage, the unpaid balance otherwise payable for dependent children is payable to parent or guardian for the children's benefit.

⁵⁰Maximum is 75% of SAWW; minimum is 20% of SAWW.

⁵¹After 400 weeks, spouse's earnings are deducted.

⁵²Maximum is 100% of SAWW.

⁵³Social Security offset.

CHART VII □ FATALITIES—INCOME BENEFITS FOR SPOUSE AND CHILDREN □ January 1, 1983 (continued)

JURISDICTION	PERCENT OF WAGES			MAXIMUM WEEKLY PAYMENT		MINIMUM PER WEEK SPOUSE ONLY	TIME LIMIT	AMOUNT LIMIT ¹		MAXIMUM BURIAL ALLOWANCE
	SPOUSE PLUS CHILDREN	SPOUSE ONLY	ONE CHILD CHILDREN	SPOUSE PLUS CHILDREN	SPOUSE ONLY			SPOUSE PLUS CHILDREN	SPOUSE ONLY	
NORTH CAROLINA	66-23	66-23	66-23	\$248.00 ^a	\$248.00 ^a	\$30.00	(2-3)			\$1,200
NORTH DAKOTA ^b	66-23 ^c	66-23	66-23	(1)	(1)	10.00	(2-3)			2,000
OHIO ^d	66-23	66-23	66-23	\$211.00 ^e	\$211.00 ^e	\$80.00 ^f	(2-3)			1,200
OKLAHOMA ^g	75	50	35	196.00 ^h	196.00 ^h	30.00 ⁱ	(2-3)			1,000 ^j
OREGON				\$24.00 ^k	\$24.00 ^k	\$12.00 ^l	(2-3)			3,000
PENNSYLVANIA	66-23	51	32	\$308.00 ^m	\$308.00 ^m	\$53.00 ⁿ	(2-3)			1,500
PUERTO RICO	85	50	30	78.85 ^o	73.08 ^o	11.54 ^o	(2-4)			300 ^p
RHODE ISLAND	80	66-23	66-23	(1)	297.00 ^q	30.00	(2-3)			3,000
SOUTH CAROLINA	66-23	66-23	66-23	254.38 ^r	254.38 ^r	25.00	500 weeks ^s	177,180	177,180	400
SOUTH DAKOTA	66-23	66-23	66-23	(1)	227.00 ^t	113.50 ^t	(2-3)			2,500 ^u
TENNESSEE	66-23	50	50	136.00	136.00	15.00	(2-3)	50,400	50,400	2,500 ^v
TEXAS	66-23	66-23	66-23	182.00	182.00	32.00	(2-3)			1,250
UTAH	66-23 ^w	66-23	66-23	241.00 ^x	241.00 ^x	45.00 ^y	(2-3)			1,000
VERMONT	75-23	66-23	71-23	243.00 ^z	243.00 ^z	121.50 ^z	(2-3)	18,500 ^{aa}	18,500 ^{aa}	800 ^{ab}
VIRGIN ISLANDS				(1)	(1)	(1)	(1)			1,000
VIRGINIA	66-23	66-23	66-23	253.00 ^{ac}	253.00 ^{ac}	63.25 ^{ac}	500 weeks ^{ad}	126,500	126,500	2,000 ^{ae}
WASHINGTON ^{af}	70	60	35	245.81 ^{ag}	245.81 ^{ag}	42.83	(2-3)			2,000
WEST VIRGINIA	70	70	70	200.81 ^{ah}	200.81 ^{ah}	100.21 ^{ah}	(2-3)			1,500
WISCONSIN	66-23	66-23	66-23	294.00 ^{ai}	294.00 ^{ai}	30.00	(1)	58,800 ^{aj}	58,800 ^{aj}	1,000
WYOMING				(1)	233.38 ^{ak}	233.38 ^{ak}	(1)			1,000 ^{al}
F.E.C.A.	75 ^{am}	50	40	910.31	910.31	93.81	(2-4)	(1)	(1)	800 ^{an}
LONGSHORE ACT	66-23	50	50	(1)	(1)	174.90 ^{ao}	(2-3)			1,000
ALBERTA ^{ap}	80% of wages ^{aq}	80% of wages ^{aq}	not income	(1)	(1)	(1)	5 years ^{ar}			1,350 ^{as}
BRITISH COLUMBIA ^{at}			40	(1)	(1)	(1)	(2-3)			1,280.21 ^{au}
MANITOBA ^{av}	75	75		360.38 ^{aw}	360.38 ^{aw}	108.62 ^{aw}	(2-3)			300 ^{ax}
NEW BRUNSWICK ^{ay}				(1)	(1)	(1)	(2-3)			350 ^{az}
NEWFOUNDLAND	(1)	(1)	(1)	(1)	648.85 ^{ba}	129.37 ^{ba}	(1)			1,120 ^{bb}
NORTHWEST TERRITORIES ^{bc}				(1)	142.27 ^{bd}	142.27 ^{bd}	(2-3)			300 ^{be}
NOVA SCOTIA ^{bf}	(1)	(1)	(1)	109.85 ^{bg}	109.85 ^{bg}	109.85 ^{bg}	(2-3)			700 ^{bh}
ONTARIO ^{bi}	(1)	(1)	(1)	113.27 ^{bj}	113.27 ^{bj}	113.27 ^{bj}	(2-3)			1,200 ^{bk}
PRINCE EDWARD ISLAND ^{bl}	(1)	(1)	(1)	(1)	89.23 ^{bm}	89.23 ^{bm}	(2-3)			500 ^{bn}
QUEBEC ^{bo}	72	49-1.2	49-1.2	277.65 ^{bp}	277.65 ^{bp}	76.88 ^{bp}	(1-3)			600 ^{bq}
SASKATCHEWAN	75	75		418.27	418.27	185.77	5 years ^{br}			1,000 ^{bs}
YUKON TERRITORY ^{bt}				(1)	150.00 ^{bu}	150.00 ^{bu}	(2-3)			1,200 ^{bv}
CANADIAN MERCHANT SEAMEN'S ACT ^{bw}				216.35 ^{bx}	216.35 ^{bx}	86.54 ^{bx}	(2-3)			700 ^{by}

H.C. Maximum is 100% of SAWW.
^aAfter 400 weeks, spouse must be dependent or disabled.
 H.D. Maximum \$109 plus \$7 per dependent child under 18.
 Ohio Maximum is 100% of SAWW, minimum is 50% of SAWW.
 Okla. Maximum is 66-23% of SAWW.
 Oregon Monthly spousal benefit is fixed at 50% of SAWW times 4.35 (\$222.11 for 1982-83), an additional \$150 each is payable monthly for the first and second child, plus \$50 monthly per additional child, up to monthly maximum. Maximum is 100% of SAWW times 4.35 (\$1,320.01 for 1982-83).
^cChild's benefit payable to age 18 if at high school.
 Pa. Maximum is 100% of SAWW, minimum is 50% of SAWW.
 P.R. Maximum for spouse and children is \$125 monthly, for spouse only, \$100 monthly. Maximum advance payment is \$500 to widow plus \$50 per child, up to \$1,100 total.
^dMaximum is 100% of SAWW plus \$7 per dependent child, up to 80% of pre-accident wages.
 S.D. Maximum is 100% of SAWW, minimum is 50% of SAWW, actual wage if less. Additional \$50 monthly is payable for each dependent child.
 Tenn. Employee must pay \$10,000 lump sum into estate if worker had no dependents.
 Utah Additional allowance for dependents is \$3 for spouse plus \$5 for dependent child (up to 4). Maximum (including dependent allowance) is 85% of SAWW.
^eAfter 212 weeks payments are continued only after annual review, minimum \$85. Balance of 312 weeks up to 52 weeks is payable to spouse upon remarriage. Social Security death benefits partially offset.
 Va. Maximum is 100% of SAWW, minimum is 50% of SAWW, actual wage if less.
^fNo spouse until age 62 or when entitled to Social Security, balance of 330 weeks, if any, is payable on remarriage. Maximum 330 weeks payable to or for any child.
 V.I. Death benefit is \$12,500 to \$16,000, payable in installments or lump sum, 80% is payable to children, if any. Amount limit excludes amounts paid for disability.
 Wa. Maximum is 100% of SAWW, minimum is 25% of SAWW, actual wage if less.
^gSocial Security offset.
 Wash. Maximum monthly benefit is 75% of state average monthly wage.
^hSocial Security offset.
 W. Va. Maximum is 100% of SAWW, minimum is 33-1/3% of SAWW.
 Wyo. Maximum is 100% of SAWW.
ⁱIf death follows disability, total time limit for disability plus death is 1,000 weeks.
^jAmount limit is 200 times SAWW. When primary benefit expires, a supplementary monthly benefit continues for children at 10% of the spouse's monthly benefit, payable from the Children's Fund, to age 18 or for 15 years if needed.
 Wyo. Monthly benefit is based on 66-23% of state average monthly wage plus lump sum computed at \$50 monthly per child until age 18 (21 if needed). After 231 weeks, court may continue payments at 33-1/3% of state average monthly wage. P.F. benefits in excess of \$4,000 are deducted.
^kEmployer may make other arrangements.
 F.E.C.A. 75 or more children.
^lSpouse who remarries after age 60 continues to receive monthly benefits.
^mAdditional \$200 lump sum payable for cost of funeral expenses as U.S. employee.
 Longshore 750 maximum for death benefit. Director of O.C.P. v. Remington, 440 U.S. 29 (1979). Minimum is 66-23% of SAWW, actual wages if less.
 Ala. 75 years declining payment, effective 1-1-82.
 B.C. Value deduction of Canada pension, maximum monthly benefit for spouse with 2 children is \$1,271.14 (plus \$151.22 for each additional child). Children under 40 receive capital sum of \$23,270.00. Benefits for children under age 40 or older vary by age.
 Man. Maximum is \$1,582.50 monthly, minimum is \$475 monthly. Allowance for 1 dependent is additional \$107 monthly if under 16 or \$119 monthly if over 16 and in school. Allowance for 2 or more dependents is amount payable for 2 oldest children, total monthly benefit may not exceed maximum.
ⁿPlus up to \$50 per child or lump sum.
 N.B. Spouse receives monthly benefit based on 80% of family income, less Canada pension.
 N.J. Spouse receives lump sum equal to 250% of worker's annual compensable earnings, minimum \$17,821.44, maximum \$85,312.50. (Annual compensable earnings are 75% of earnings up to \$45,000.) Spouse who is married or age 50 or older also receives monthly allowance equal to one-half of annual compensable earnings, minimum \$438.20, maximum \$2,843.75. Spouse age 36 to 49 receives one month of monthly allowance for each year over age 23. If there is no surviving spouse, lump sum of \$1,120 is payable, plus monthly allowance of \$438.20 plus \$112.00 per dependent child.
 N.W.T. Fixed monthly benefit is \$438 plus \$145 monthly per child.
 N.S. Fixed monthly benefit is \$478 plus \$124 monthly per child.
 Ont. Fixed monthly benefit is \$432 plus \$136 monthly per child.
 P.E.I. (Estat.) s. 4(1)(b), fixed monthly benefit is \$350 plus \$75 monthly per child. If decedent was corporate officer and shareholder, benefit is 75% of maximum earnings of \$17,000.
 Quebec Maximum is 80% of maximum P.F. disability benefit. Benefits for 1983 not available in time for publication.
^oBenefit also paid 5 years if spouse was under 35. Five years benefits are payable to any spouse regardless of marital status.
 Yukon Effective 1-1-83, fixed monthly benefit is \$460 plus \$185 monthly per child. Other 1983 figures are unofficial projections.
 C.M.S.C.A. Fixed monthly benefit is \$375 for spouse only, actual weekly wage if less. Monthly benefit for spouse and children is \$375 plus \$85 per child, up to \$837.50 monthly.

JOHN N. ERLBORN.
 JIM JEFFORDS.
 STEVE GUNDERSON.
 RON PACKARD.
 HOWARD C. NIELSON.
 ROD CHANDLER.

END