

## COMPENSATION INCREASE FOR PARENTS AND CHILDREN OF VETERANS DYING FROM SERVICE- CONNECTED DISABILITIES

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

### REPORT

[To accompany H.R. 211]

The Committee on Finance, to whom was referred the bill (H.R. 211) to amend title 38, United States Code, to provide increases in rates of dependency and indemnity compensation payable to children and parents of deceased veterans, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE

The purpose of H.R. 211 is to increase by 10 percent (with fractions rounded off to next higher dollar) the monthly rates of dependency and indemnity compensation payable for eligible parents and children of veterans dying of service-connected causes.

#### GENERAL STATEMENT

Chapter 13 of title 38, United States Code (dependency and indemnity compensation), restates a portion of the Servicemen's and Veterans' Survivor Benefits Act (Public Law 881, 84th Cong., Aug. 1, 1956). This act established a new and modernized benefits program of dependency and indemnity compensation for survivors of veterans dying from service-connected causes on or after January 1, 1957.

The rate of dependency and indemnity compensation payable to widows is geared to basic active service pay. As the service pay is increased the widows' rates under this program are automatically increased. The basic service pay was last increased June 1, 1958. This automatic adjustment is not applicable to the monthly rates for parents (38 U.S.C. 415), children (38 U.S.C. 413-414), or the allowance to widows with children (38 U.S.C. 411(b)) in cases where

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payments under the Railroad Retirement Act, Social Security Act, or 38 U.S.C. 412 is below a certain amount.

H.R. 211 proposes to increase by 10 percent (with fractions rounded off to the next higher dollar) the rates of dependency and indemnity compensation not subject to automatic adjustment. These rates have not been changed since they were established.

In his budget message of January 17, 1963, the President recommended a cost-of-living increase for the groups covered by this bill. The increase in the rates of dependency and indemnity compensation proposed by H.R. 211 is commensurate with the increased cost of living since the rates in question were established.

The effect of this legislation is as shown in the tables below (italics indicate rates in H.R. 211):

*Rates of dependency and indemnity compensation to widows, children, and parents for service-connected death occurring on or after Jan. 1, 1957<sup>1 2</sup>*

Widows <sup>1</sup> and children	Children, no widow
<p>Widow alone: \$112 per month, plus 12 per centum of basic pay of deceased husband, with total amount adjusted to next highest dollar. Rates range from \$122 in an E-1 case with less than 2 years' service to \$316 in case of an O-10 with over 30 years' service. If deceased was serving as Chairman of Joint Chiefs of Staff, Chief of Staff of Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, regardless of cumulative years of service the widow's rate is \$337.</p> <p>Widow and 1 child under age 18: Same as amount payable to widow alone.</p> <p>Widow and 2 or more children under age 18: Same rate as that payable to widow alone with following exception: Where total amount payable under the Railroad Retirement Act or Social Security Act, or under sec. 412 of title 38, U.S.C. (veterans' benefits), based upon an assumed fully and currently insured status, is less than \$128, the compensation payable to widow by VA increased by \$25 (<i>\$28</i>) for each child in excess of 1, but the total increase may not exceed the difference between the amounts payable under the above and \$128.</p> <p>Widow and child or children age 18 and above permanently incapable of self-support where incapacity began under age 18: Regular widow's rate payable to widow, plus \$70 (<i>\$77</i>) for each such child payable to child.</p> <p>Widow and child or children age 18 but under 21 attending school: Regular widow's rate payable to widow, plus \$35 (<i>\$39</i>) payable to each such child. (Payment barred if child commences program of war orphans' educational assistance.)</p>	<p>Children under age 18:                      1 child, \$70 (<i>\$77</i>).                      2 children, \$100 (<i>\$110</i>) (equally divided).                      3 children, \$130 (<i>\$143</i>) (equally divided), plus \$25 (<i>\$28</i>) for each child in excess of 3 (equally divided).</p> <p>Child age 18 or above who became permanently incapable of self-support prior to that age: \$95 (<i>\$105</i>) (basic \$70 (<i>\$77</i>) rate increased by \$25 (<i>\$28</i>); total rate with \$25 (<i>\$28</i>) supplement variable where there are other children).</p> <p>Child or children ages 18 to 21 attending school: Same as basic rate payable to children under age 18 where there is no widow. (Payment barred if child commences program of war orphans' educational assistance.)</p>

1 PARENT ONLY

Total annual income		Monthly rate
More than—	But equal to or less than—	
	\$750.....	\$75 ( <i>\$83</i> )
\$750.....	\$1,000.....	60 ( <i>68</i> )
\$1,000.....	\$1,250.....	45 ( <i>50</i> )
\$1,250.....	\$1,500.....	30 ( <i>33</i> )
\$1,500.....	\$1,750.....	15 ( <i>17</i> )
\$1,750.....		0

See footnotes at end of table.

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*Rates of dependency and indemnity compensation to widows, children, and parents for service-connected death occurring on or after Jan. 1, 1957*<sup>1,2</sup>—Continued

2 PARENTS LIVING TOGETHER<sup>4</sup>

Combined annual income		Monthly rate to each
More than—	But equal to or less than—	
	\$1,000.....	\$50 ( <del>55</del> )
	\$1,350.....	40 ( <del>44</del> )
	\$1,700.....	30 ( <del>33</del> )
	\$2,050.....	20 ( <del>22</del> )
	\$2,400.....	10 ( <del>11</del> )
		0

2 PARENTS NOT LIVING TOGETHER

Total annual income of parent		Individual rate
More than—	But equal to or less than—	
	\$750.....	\$50 ( <del>55</del> )
	\$1,000.....	40 ( <del>44</del> )
	\$1,250.....	30 ( <del>33</del> )
	\$1,500.....	20 ( <del>22</del> )
	\$1,750.....	10 ( <del>11</del> )
		0

<sup>1</sup> Persons eligible for death compensation based on death occurring before Jan. 1, 1957, may, under certain conditions, apply for and receive dependency and indemnity compensation.

<sup>2</sup> Except in certain missing persons cases the dependents of veterans who die on or after May 1, 1957, while their life-insurance premiums are waived pursuant to 38 U.S.C. 724 (formerly sec. 622 of the National Service Life Insurance Act of 1940, as amended) are not eligible to receive dependency and indemnity compensation but may be paid death compensation notwithstanding the fact the death occurred after Dec. 31, 1956.

<sup>3</sup> The term "widow" includes the widower of any female veteran if such widower is incapable of self-maintenance and was permanently incapable of self-support due to physical or mental disability at the time of the veteran's death.

<sup>4</sup> Applies also to remarried parent living with spouse, with income of spouse counted.

DEPARTMENTAL VIEWS

The Veterans' Administration and the Bureau of the Budget favor enactment of this legislation.

COST ESTIMATE

The Veterans' Administration estimated the bill would benefit the first year 44,900 children at a cost of \$3,082,000 (secs. 2 and 3) and 30,900 parents at a cost of \$1,743,000 (sec. 4). It was estimated that the cost of section 1 of the bill would not exceed \$209,000. The total first year's additional cost of the bill was thus estimated to be approximately \$5 million. It is the belief of the Veterans' Administration that the additional cost will decrease slightly for the next 4 years.

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### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

### SECTIONS 411, 412, AND 413, TITLE 38, UNITED STATES CODE

#### § 411. Dependency and indemnity compensation to a widow

(a) Dependency and indemnity compensation shall be paid to a widow at a monthly rate equal to \$112 plus 12 per centum of the basic pay of her deceased husband.

(b) If there is a widow and two or more children below the age of eighteen of a deceased veteran, and—

(1) the total of the monthly benefits to which such widow and children are (or would be, upon the filing of an application) entitled on the basis of such deceased veteran's status under the laws referred to in subsection (d);

is less than

(2) the amount described in subsection (c);

then the dependency and indemnity compensation paid monthly to the widow shall be increased by ~~[\$25]~~ \$28 for each such child in excess of one; however, the total of increases under this subsection shall not exceed the difference between the amounts referred to in subparagraphs (1) and (2) of this subsection.

(c) If the amount determined under subsection (a), after increase (if any) under subsection (b), involves a fraction of a dollar, the amount payable shall be increased by the Administrator to the next higher dollar.

(d) The laws referred to in subsection (b)(1) are—

(1) section 412(a) of this title;

(2) section 402 of title 42 (including the reduction provisions of subsection (a) of section 403 of title 42, but without regard to the deduction provisions of section 403); and

(3) section 228e of title 45 (including the reduction provisions of section 228c-1(i) and 228e (h) of title 45).

(e) The amount referred to in subsection (b)(2) is an amount equal to the total of the monthly benefits to which a widow and two children of a deceased fully and currently insured individual would be entitled under section 402 of title 42 (after reduction under subsection (a) of section 403 of title 42 but without regard to deduction provisions of section 403) if such deceased individual's average monthly wage had been \$160.

(f) The amount referred to in subsection (b)(1) shall be determined by the Secretary of Health, Education, and Welfare, or the Railroad Retirement Board, as the case may be, and shall be certified to the Administrator upon his request.

#### § 412. Benefits in certain cases of in-service or service-connected deaths.

(a) In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 414 of title 42) at the time of his death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 402 of title 42 on the basis of his wages and self-employment income but who would, upon application therefore, be entitled to such benefits if he had been fully and currently insured at the time of his death;

the Administrator shall pay for such months benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under subchapter II of chapter 7 of title 42, if such veteran had been both fully and currently insured at the time of his death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Administrator.

(b) In any case where the amount of dependency and indemnity compensation payable under this chapter is less than the amount of pension which would be payable under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension, the Administrator shall pay dependency and indemnity compensation in an amount equal to such amount of pension.

#### **§ 413. Dependency and indemnity compensation to children**

Whenever there is no widow of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) One child, **[\$70]** \$77.

(2) Two children, **[\$100]** \$110.

(3) Three children, **[\$130]** \$143.

(4) More than three children, **[\$130]** \$143, plus **[\$25]** \$28 for each child in excess of three.

### **SECTION 414, TITLE 38, UNITED STATES CODE**

#### **§ 414. Supplemental dependency and indemnity compensation to children**

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to him shall be increased by **[\$25]** \$28.

(b) If dependency and indemnity compensation is payable monthly to a woman as a "widow" and there is a child (of her deceased husband) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of **[\$70]** \$77.

(c) If dependency and indemnity compensation is payable monthly to a woman as a "widow" and there is a child (of her deceased husband) who has attained the age of eighteen and who, while under the

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age of twenty-one, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of **[\$35]** \$39.

**SECTION 415, TITLE 38, UNITED STATES CODE**

**§ 415. Dependency and indemnity compensation to parents**

(a) Dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

(b) Except as provided in subsection (d), if there is only one parent, dependency and indemnity compensation shall be paid to him at a monthly rate equal to the amount under column II of the following table opposite his total annual income as shown in column I:

Column I		Column II
Total annual income		
More than—	Equal to or but less than—	
	\$750	\$ <b>[75]</b> 83.
\$750	\$1,000	\$ <b>[60]</b> 66.
\$1,000	\$1,250	\$ <b>[45]</b> 50.
\$1,250	\$1,500	\$ <b>[30]</b> 33.
\$1,500	\$1,750	\$ <b>[15]</b> 17.
\$1,750	-----	No amount payable.

(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each at a monthly rate equal to the amount under column II of the following table opposite the total annual income of each as shown in column I:

Column I		Column II
Total annual income		
More than—	Equal to or but less than—	
	\$750	\$ <b>[50]</b> 55.
\$750	\$1,000	\$ <b>[40]</b> 44.
\$1,000	\$1,250	\$ <b>[30]</b> 33.
\$1,250	\$1,500	\$ <b>[20]</b> 22.
\$1,500	\$1,750	\$ <b>[10]</b> 11.
\$1,750	-----	No amount payable.

(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent at a monthly rate equal to the amount under column II of the following table opposite the total combined annual income of the parents, or of the parent and his spouse, as the case may be, as shown in column I:

Column I		Column II
Total annual income		
More than—	Equal to or but less than—	
	\$1, 000	\$[50] 55.
\$1, 000	\$1, 350	\$[40] 44.
\$1, 350	\$1, 700	\$[30] 33.
\$1, 700	\$2, 050	\$[20] 22.
\$2, 050	\$2, 400	\$[10] 11.
\$2, 400	-----	No amount payable.

(e) The Administrator shall require as a condition of granting or continuing dependency and indemnity compensation to a parent that such parent file each year with him (on the form prescribed by him) a report showing the total income which such parent expects to receive in that year and the total income which such parent received in the preceding year. The parent or parents shall file with the Administrator a revised report whenever there is a material change in the estimated annual income.

(f) If the Administrator ascertains that there have been overpayments to a parent under this section, he shall deduct such overpayments (unless waived) from any future payments made to such parent under this section.

(g)(1) In determining income under this section, all payments of any kind or from any source shall be included, except—

(A) payments of the 6 months' death gratuity;

(B) donations from public or private relief or welfare organizations;

(C) payments under this chapter (except section 412) and chapter 11 of this title;

(D) lump-sum death payments under subchapter II of chapter 7 of title 42;

(E) payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(2) The Administrator may provide by regulation for the exclusion from income under this section of amounts paid by a parent for unusual medical expenses.