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Indexed Legislative History of the Public Safety Officers' Benefits Act of 1976



U.S. Department of Justice
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H.R. 366 (PSOB) AS INTRODUCED BY

CONGRESSMAN EILBERG

JANUARY 14, 1975

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. EHLBERG introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Firefighters Benefits
4 Act of 1975".

5 SEC. 2. Title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968 is amended by adding at the end thereof
7 the following new part:

8 "PART J—FIREFIGHTERS DEATH BENEFITS

9 "SEC. 701. (a) In any case in which the Administra-
10 tion determines, under regulations issued under Part F of

1 this title, that an eligible firefighter has died as the direct and
2 proximate result of a personal injury sustained in the per-
3 formance of duty leaving a spouse or one or more eligible
4 dependents, the Administration shall pay a gratuity of
5 \$50,000, in the following order of precedence:

6 “(1) If there is no dependent child, to the spouse.

7 “(2) If there is no spouse, to the dependent child
8 or children, in equal shares.

9 “(3) If there are both a spouse and one or more
10 dependent children, one-half to the spouse and one-half
11 to the child or children, in equal shares.

12 “(4) If there is no survivor in the above classes, to
13 the parent or parents dependent for support on the
14 decedent, in equal shares.

15 “(b) As used in this section, a dependent child is any
16 natural, illegitimate, adopted, posthumous child, or stepchild
17 of the decedent who at the time of the firefighter's death is—

18 “(1) under eighteen years of age; or

19 “(2) over eighteen years of age and incapable of
20 self-support because of physical or mental disability; or

21 “(3) over eighteen years of age and a student as
22 defined by section 8101 of title 5, United States Code.

23 “(c) As used in this section, spouse includes a surviving
24 husband or wife living with or dependent for support on the

1 decedent at the time of his death, or living apart for reason-
2 able cause or because of desertion by the decedent.

3 “(d) As used in this section, the term ‘dependent for
4 support’ means more than one-half of the support of the
5 dependent concerned.

6 “(e) As used in this section, the term ‘eligible fire-
7 fighter’ means any individual serving, with or without
8 compensation, as a firefighter (including any individual
9 serving as an officially recognized or designated member of a
10 legally organized volunteer fire department) who is deter-
11 mined by the Administration to have been, at the time of
12 his injury—

13 “(1) actually and directly engaged in fighting a
14 fire; or

15 “(2) otherwise engaged in the performance of his
16 duty where the activity is determined by the Adminis-
17 tration to be potentially dangerous to the firefighter.

18 “SEC. 702. (a) Whenever the Administration deter-
19 mines, upon a showing of need and prior to taking final
20 action, that a death of a firefighter is one with respect to
21 which a benefit will probably be paid, the Administration
22 may make an interim benefit payment not exceeding \$3,000
23 to the person or persons entitled to receive a benefit under
24 section 701 of this part.

1 “(b) The amount of any interim benefit paid under
2 subsection (a) of this section shall be deducted from the
3 amount of any final benefit paid to such person or persons.

4 “(c) Where there is no final benefit paid, the recipient
5 of any interim benefit paid under subsection (a) of this sec-
6 tion shall be liable for repayment of such amount. The Ad-
7 ministration may waive all or part of such repayment, and
8 shall consider for this purpose the hardship which would
9 result from repayment.

10 “SEC. 703. (a) No benefit shall be paid under this
11 part—

12 “(1) if the death was caused by the intentional mis-
13 conduct of the firefighter or by such firefighter’s inten-
14 tion to bring about his death;

15 “(2) if voluntary intoxication of the firefighter
16 was the proximate cause of such officer’s death; or

17 “(3) to any person who would otherwise be entitled
18 to a benefit under this part if such person’s actions were
19 a substantial contributing factor to the death of the
20 firefighter.

21 “(b) The benefit payable under this part shall be in
22 addition to any other benefit that may be due from any
23 other source, but shall be reduced by—

24 “(1) payments authorized by section 8191 of title
25 5, United States Code;

1 “(2) payments authorized by section 12 (k) of the
2 Act of September 1, 1916, as amended (D.C. Code,
3 sec. 4-531 (1)).

4 “(c) No benefit paid under this part shall be subject to
5 execution or attachment.

6 “SEC. 704. The provisions of this part shall apply with
7 respect to any eligible firefighter who dies as the direct
8 and proximate result of a personal injury which is sustained
9 on or after October 11, 1972.”.

10 SEC. 3. Section 520 of the Omnibus Crime Control and
11 Safe Streets Act of 1968, as amended, is amended by insert-
12 ing “(a)” immediately after “520” and by adding at the
13 end thereof the following new subsection:

14 “(b) There are authorized to be appropriated in each
15 fiscal year such sums as may be necessary to carry out the
16 purposes of part J.”.

17 SEC. 4. Until specific appropriations are made for carry-
18 ing out the purposes of this Act, any appropriation made to
19 the Department of Justice or the Law Enforcement Assist-
20 ance Administration for grants, activities, or contracts shall,
21 in the discretion of the Attorney General, be available for
22 payments of obligations arising under this Act.

23 SEC. 5. The Administration is authorized to establish
24 such rules, regulations, and procedures as may be neces-
25 sary to carry out the purposes of this part J. Such rules,

1 regulations, and procedures will be determinative of con-
2 flict of laws issues arising under this part J.

3 SEC. 6. The Administration may prescribe rules and
4 regulations governing the recognition of agents or other
5 persons, representing claimants before the Administration.
6 The Administration may, by rule and regulation, prescribe
7 the maximum fees which may be charged for services per-
8 formed in connection with any claim before the administra-
9 tion of this part, and any agreement in violation of such rules
10 and regulations shall be void.

11 SEC. 7. In making determinations under section 701,
12 the Administration may delegate such administrative func-
13 tions to the State and local agencies as it determines necessary
14 and proper to the administration of this part. Responsibility
15 for making final determinations would rest with the
16 Administration.

17 SEC. 8. If the provisions of any part of this Act
18 are found invalid or any amendments made thereby or the
19 application thereof to any person or circumstances be held
20 invalid, the provisions of the other parts and their applica-
21 tion to other persons or circumstances shall not be affected
22 thereby.

H.R. 365 (FIREFIGHTERS' BENEFITS) AS INTRODUCED BY

CONGRESSMAN EILBERG

JANUARY 14, 1975

H. R. 366

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. EILBERG introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Public Safety Officers
4 Benefits Act of 1975".

5 SEC. 2. Title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968 is amended by adding at the end thereof
7 the following new part:

8 "PART J.—PUBLIC SAFETY OFFICERS DEATH BENEFITS

9 "SEC. 701. (a) In any case in which the Administra-
10 tion determines, under regulations issued under part F of

1 this title, that an eligible public safety officer has died as the
2 direct and proximate result of a personal injury sustained in
3 the performance of duty, leaving a spouse or one or more
4 eligible dependents, the Administration shall pay a gratuity
5 of \$50,000, in the following order of precedence:

6 “(1) If there is no dependent child, to the spouse.

7 “(2) If there is no spouse, to the dependent child
8 or children, in equal shares.

9 “(3) If there are both a spouse and one or more
10 dependent children, one-half to the spouse and one-half
11 to the child or children, in equal shares.

12 “(4) If there is no survivor in the above classes, to
13 the parent or parents dependent for support on the
14 decedent, in equal shares.

15 “(b) As used in this section, a dependent child is any
16 natural, illegitimate, adopted, posthumous child or stepchild
17 of the decedent who at the time of the public safety officer’s
18 death is—

19 “(1) under eighteen years of age; or

20 “(2) over eighteen years of age and incapable of
21 self-support because of physical or mental disability; or

22 “(3) over eighteen years of age and a student as
23 defined by section 8101 of title 5, United States Code.

24 “(c) As used in this section, spouse includes a surviving
25 husband or wife living with or dependent for support on the

1 decedent at the time of his death, or living apart for reason-
2 able cause or because of desertion by the decedent.

3 “(d) As used in this section, the term ‘dependent for
4 support’ means more than one-half of the support of the
5 dependent concerned.

6 “(e) As used in this section, the term ‘law enforcement
7 officer’ means a person engaged in any activity pertaining to
8 crime prevention, control, or reduction or the enforcement
9 of the criminal law, including, but not limited to police ef-
10 forts to prevent, control, or reduce crime or to apprehend
11 criminals; activities of corrections, probation, or parole au-
12 thorities; and programs relating to the prevention, control,
13 or reduction of juvenile delinquency or narcotic addiction.

14 “(f) As used in this section, the term ‘crime’ means any
15 act or omission which is declared by law to be a crime in the
16 jurisdiction where the injury to the public safety officer
17 occurred. Such an act is a crime for the purposes of this sec-
18 tion notwithstanding the guilt, innocence, disability, or
19 identity of the actor.

20 “(g) As used in this section, the term ‘eligible public
21 safety officer’ means any individual serving, with or with-
22 out compensation, a public agency in an official capacity as
23 a law enforcement officer who is determined by the Adminis-
24 tration to have been, at the time of his injury engaged in—

1 “(1) the apprehension or attempted apprehension
2 of any person—

3 “(A) for the commission of a crime, or

4 “(B) who at that time was sought as a material
5 witness in a criminal proceeding; or

6 “(2) protecting or guarding a person held for the
7 commission of a crime or held as a material witness in
8 connection with a crime; or

9 “(3) the lawful prevention of, or lawful attempt
10 to prevent, the commission of a crime; or

11 “(4) the performance of his duty, where the ac-
12 tivity is determined by the Administration to be poten-
13 tially dangerous to the law enforcement officer.

14 “SEC. 702. (a) Whenever the Administration deter-
15 mines, upon a showing of need and prior to taking final
16 action, that a death of a public safety officer is one with
17 respect to which a benefit will probably be paid, the Admin-
18 istration may make an interim benefit payment not exceeding
19 \$3,000 to the person or persons entitled to receive a benefit
20 under section 701 of this part.

21 “(b) The amount of any interim benefit paid under
22 subsection (a) of this section shall be deducted from the
23 amount of any final benefit paid to such person or persons.

24 “(c) Where there is no final benefit paid, the recipient
25 of any interim benefit paid under subsection (a) of this sec-

1 tion shall be liable for repayment of such amount. The
2 Administration may waive all or part of such repayment,
3 and shall consider for this purpose the hardship which would
4 result from repayment.

5 "SEC. 703. (a) No benefit shall be paid under this
6 part—

7 " (1) if the death was caused by the intentional
8 misconduct of the public safety officer or by such offi-
9 cer's intention to bring about his death;

10 " (2) if voluntary intoxication of the public safety
11 officer was the proximate cause of such officer's death; or

12 " (3) to any person who would otherwise be entitled
13 to a benefit under this part if such person's actions were
14 a substantial contributing factor to the death of the
15 public safety officer.

16 " (b) The benefit payable under this part shall be in
17 addition to any other benefit that may be due from any
18 other source, but shall be reduced by—

19 " (1) payments authorized by section 8191 of title
20 5, United States Code;

21 " (2) payments authorized by section 12 (k) of the
22 Act of September 1, 1916, as amended (D.C. Code,
23 sec. 4-531 (1)).

24 " (c) No benefit paid under this part shall be subject to
25 execution or attachment.

1 "SEC. 704. The provisions of this part shall apply with
2 respect to any eligible public safety officer who dies as the
3 direct and proximate result of a personal injury which is
4 sustained on or after October 11, 1972."

5 SEC. 3. Section 520 of the Omnibus Crime Control and
6 Safe Streets Act of 1968, as amended, is amended by insert-
7 ing "(a)" immediately after "520" and by adding at the
8 end thereof the following new subsection:

9 "(b) There are authorized to be appropriated in each
10 fiscal year such sums as may be necessary to carry out the
11 purposes of part J."

12 SEC. 4. Until specific appropriations are made for carry-
13 ing out the purposes of this Act, any appropriation made to
14 the Department of Justice or the Law Enforcement Assist-
15 ance Administration for grants, activities, or contracts shall,
16 in the discretion of the Attorney General, be available for
17 payments of obligations arising under this Act.

18 SEC. 5. The Administration is authorized to establish
19 such rules, regulations, and procedures as may be neces-
20 sary to carry out the purposes of this part J. Such rules,
21 regulations, and procedures will be determinative of con-
22 flict of laws issues arising under this part J.

23 SEC. 6. The Administration may prescribe rules and
24 regulations governing the recognition of agents or other
25 persons, representing claimants before the Administration.

1 The Administration may, by rule and regulation, prescribe
2 the maximum fees which may be charged for services per-
3 formed in connection with any claim before the administra-
4 tion of this part, and any agreement in violation of such rules
5 and regulations shall be void.

6 SEC. 7. In making determinations under section 701,
7 the Administration may delegate such administrative func-
8 tions to State and local agencies as it determines necessary
9 and proper to the administration of this part. Responsibility
10 for making final determinations would rest with the
11 Administration.

12 SEC. 8. If the provisions of any part of this Act
13 are found invalid or any amendments made thereby or the
14 application thereof to any person or circumstances be held
15 invalid, the provisions of the other parts and their applica-
16 tion to other persons or circumstances shall not be affected
17 thereby.

H.R. 3544 AS INTRODUCED BY

CONGRESSMAN RODINO

FEBRUARY 21, 1975

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 1975

Mr. RODINO introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Public Safety Officers
4 Benefits Act of 1975".

5 SEC. 2. Title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968 is amended by adding at the end thereof
7 the following new part:

8 "PART J.—PUBLIC SAFETY OFFICERS DEATH BENEFITS

9 "SEC. 701. (a) In any case in which the Administra-
10 tion determines, under regulations issued under part F of

1 this title, that an eligible public safety officer has died as
2 the direct and proximate result of a personal injury sus-
3 tained in the performance of duty, leaving a spouse or one
4 or more eligible dependents, the Administration shall pay
5 a gratuity of \$50,000, in the following order of precedence:

6 “(1) If there is no dependent child, to the spouse.

7 “(2) If there is no spouse, to the dependent child
8 or children, in equal shares.

9 “(3) If there are both a spouse and one or more
10 dependent children, one-half to the spouse and one-half
11 to the child or children, in equal shares.

12 “(4) If there is no survivor in the above classes,
13 to the parent or parents dependent for support on the
14 decedent, in equal shares.

15 “(b) As used in this section, a dependent child is any
16 natural, illegitimate, adopted, posthumous child or stepchild
17 of the decedent who at the time of the public safety officer's
18 death is—

19 “(1) under eighteen years of age; or

20 “(2) over eighteen years of age and incapable of
21 self-support because of physical or mental disability; or

22 “(3) over eighteen years of age and a student as
23 defined by section 8101 of title 5, United States Code.

24 “(c) As used in this section, spouse includes a surviving
25 husband or wife living with or dependent for support on the

1 decedent at the time of his death, or living apart for reason-
2 able cause or because of desertion by the decedent.

3 “(d) As used in this section, the term ‘dependent for
4 support’ means more than one-half of the support of the
5 dependent concerned.

6 “(e) As used in this section, the term ‘law enforcement
7 officer’ means a person engaged in any activity pertaining to
8 crime prevention, control, or reduction or the enforcement
9 of the criminal law, including, but not limited to police
10 efforts to prevent, control, or reduce crime or to apprehend
11 criminals; activities of corrections, probation, or parole au-
12 thorities; and programs relating to the prevention, control,
13 or reduction of juvenile delinquency or narcotic addiction.

14 “(f) As used in this section, the term ‘crime’ means any
15 act or omission which is declared by law to be a crime in the
16 jurisdiction where the injury to the public safety officer
17 occurred. Such an act is a crime for the purposes of this sec-
18 tion notwithstanding the guilt, innocence, disability, or
19 identity of the actor.

20 “(g) As used in this section, the term ‘eligible public
21 safety officer’ means any individual serving, with or without
22 compensation, a public agency in an official capacity as a law
23 enforcement officer, or as a fireman (including any individual
24 serving as an officially recognized or designated member of
25 a legally organized volunteer fire department) who is deter-

1 mined by the Administration to have been, at the time of
2 his injury—

3 “(1) a law enforcement officer engaged in—

4 “(A) the apprehension or attempted appre-
5 hension of any person—

6 “(i) for the commission of a crime, or

7 “(ii) who at that time was sought as a
8 material witness in a criminal proceeding; or

9 “(B) protecting or guarding a person held for
10 the commission of a crime or held as a material wit-
11 ness in connection with a crime; or

12 “(C) (i) the lawful prevention of, or lawful
13 attempt to prevent, the commission of a crime; or
14 (ii) otherwise engaged in the performance of his
15 duty, where the activity is determined by the Ad-
16 ministration to be potentially dangerous to the law
17 enforcement officer; or

18 “(2) a fireman—

19 “(A) actually and directly engaged in fighting
20 a fire; or

21 “(B) otherwise engaged in the performance of
22 his duty where the activity is determined by the
23 Administration to be potentially dangerous to the
24 fireman.

25 “SEC. 702. (a) Whenever the Administration deter-

1 mines, upon a showing of need and prior to taking final
2 action, that a death of a public safety officer is one with
3 respect to which a benefit will probably be paid, the Admin-
4 istration may make an interim benefit payment not exceeding
5 \$3,000 to the person or persons entitled to receive a benefit
6 under section 701 of this part.

7 “(b) The amount of any interim benefit paid under
8 subsection (a) of this section shall be deducted from the
9 amount of any final benefit paid to such person or persons.

10 “(c) Where there is no final benefit paid, the recipient
11 of any interim benefit paid under subsection (a) of this sec-
12 tion shall be liable for repayment of such amount. The
13 Administration may waive all or part of such repayment,
14 and shall consider for this purpose the hardship which would
15 result from repayment.

16 “SEC. 703. (a) No benefit shall be paid under this
17 part—

18 “(1) if the death was caused by the intentional mis-
19 conduct of the public safety officer or by such officer’s
20 intention to bring about his death;

21 “(2) if voluntary intoxication of the public safety
22 officer was the proximate cause of such officer’s death; or

23 “(3) to any person who would otherwise be entitled
24 to a benefit under this part if such person’s actions were

1 a substantial contributing factor to the death of the public
2 safety officer.

3 “(b) The benefit payable under this part shall be in
4 addition to any other benefit that may be due from any other
5 source, but shall be reduced by—

6 “(1) payments authorized by section 8191 of title
7 5, United States Code;

8 “(2) payments authorized by section 12 (k) of the
9 Act of September 1, 1916, as amended (D.C. Code, sec.
10 4-531 (1)).

11 “(c) No benefit paid under this part shall be subject to
12 execution or attachment.

13 “SEC. 704. The provisions of this part shall apply with
14 respect to any eligible public safety officer who dies as the
15 direct and proximate result of a personal injury which is sus-
16 tained on or after October 11, 1972.”.

17 SEC. 3. Section 520 of the Omnibus Crime Control and
18 Safe Streets Act of 1968, as amended, is amended by insert-
19 ing “(a)” immediately after “520” and by adding at the
20 end thereof the following new subsection:

21 “(b) There are authorized to be appropriated in each
22 fiscal year such sums as may be necessary to carry out the
23 purposes of part J.”.

24 SEC. 4. Until specific appropriations are made for carry-
25 ing out the purposes of this Act, any appropriation made to

1 the Department of Justice or the Law Enforcement Assist-
2 ance Administration for grants, activities, or contracts shall,
3 in the discretion of the Attorney General, be available for
4 payments of obligations arising under this Act.

5 SEC. 5. The Administration is authorized to establish
6 such rules, regulations, and procedures as may be neces-
7 sary to carry out the purposes of this part J. Such rules,
8 regulations, and procedures will be determinative of con-
9 flict of laws issues arising under this part J.

10 SEC. 6. The Administration may prescribe rules and
11 regulations governing the recognition of agents or other
12 persons, representing claimants before the Administration.
13 The Administration may, by rule and regulation, prescribe
14 the maximum fees which may be charged for services per-
15 formed in connection with any claim before the administra-
16 tion of this part, and any agreement in violation of such rules
17 and regulations shall be void.

18 SEC. 7. In making determinations under section 701,
19 the Administration may delegate such administrative func-
20 tions to State and local agencies as it determines necessary
21 and proper to the administration of this part. Responsibility
22 for making final determinations would rest with the
23 Administration.

24 SEC. 8. If the provisions of any part of this Act are
25 found invalid or any amendments made thereby or the appli-

- 1 cation thereof to any person or circumstances be held invalid,
- 2 the provisions of the other parts and their application to
- 3 other persons or circumstances shall not be affected thereby.

S. 1527 AS INTRODUCED BY

SENATOR MOSS

APRIL 24, 1975

IN THE SENATE OF THE UNITED STATES

APRIL 24 (legislative day, APRIL 21), 1975

Mr. Moss introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Public Safety Officers
4 Benefits Act of 1975".

5 SEC. 2. Title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968 is amended by adding at the end thereof
7 the following new part:

8 "PART J—PUBLIC SAFETY OFFICERS DEATH BENEFITS

9 "DEFINITIONS

10 "SEC. 701. As used in this Act the term—

1 “(1) ‘academic year’ means an academic year or
2 its equivalent as defined in regulations of the Commis-
3 sioner;

4 “(2) ‘Commissioner’ means the United States Com-
5 missioner of Education;

6 “(3) ‘dependent child’ means a child who is either
7 living with or receiving regular support contributions
8 from the public safety officer at the time of his or her
9 death, including a stepchild, an adopted child, or posthu-
10 mous child;

11 “(4) ‘dependent spouse’ means a surviving husband
12 or wife living with or dependent for support on the
13 decedent at the time of his or her death, or living apart
14 for reasonable cause or because of desertion by the
15 decedent;

16 “(5) ‘dependent for support’ means more than
17 one-half of the support of the dependent concerned;

18 “(6) ‘eligible applicant’ means a dependent child,
19 dependent spouse, or any person dependent for support
20 of a public safety officer who has been accepted for
21 enrollment at or is enrolled in an eligible institution;

22 “(7) ‘eligible institution’ means any such institution
23 as defined under section 435 (a) of the Higher Education
24 Act of 1965;

1 “(8) ‘public safety officer’ means a person serving a
2 public agency, with or without compensation, as—

3 “(A) a law enforcement officer, including a
4 corrections or a court officer, engaged in—

5 “(i) the apprehension or attempted apprehension of any person—

7 “(a) for the commission of a criminal
8 act, or

9 “(b) who at the time was sought as a
10 material witness in a criminal proceeding;
11 or

12 “(ii) protecting or guarding a person held
13 for the commission of a criminal act or held as a
14 material witness in connection with a criminal
15 act; or

16 “(iii) the lawful prevention of, or lawful
17 attempt to prevent the commission of, a criminal
18 act or an apparent criminal act or in the performance of his official duty; or

20 “(B) a firefighter—

21 “(i) actually and directly engaged in fighting a fire; or

23 “(ii) otherwise engaged in the performance
24 of his or her duty where the activity is deter-

1 mined by the Administration to be potentially
2 dangerous to the fireman.

3 “(9) the term ‘State’ means any State of the
4 United States, the Commonwealth of Puerto Rico, and
5 any territory or possession of the United States; and

6 “(10) the term ‘unit of general local government’
7 means any city, county, township, town, borough, parish,
8 village, or other general purpose subdivision of a State
9 or any Indian tribe which the Secretary of the Interior
10 determines performs law enforcement functions.

11 “DEPENDENTS DEATH BENEFITS

12 “SEC. 702. (a) In any case in which the Administra-
13 tion determines, under regulations issued under part F of this
14 title, that an eligible public safety officer has died as the
15 direct and proximate result of a personal injury sustained
16 in the performance of duty, leaving a spouse or one or more
17 eligible dependents, the Administration shall pay a gratuity
18 of \$25,000, in the following order of procedure:

19 “(1) If there is no dependent child or children, to
20 the spouse.

21 “(2) If there is no spouse, to the dependent child
22 or children, in equal shares.

23 “(3) If there are both a spouse and one or more
24 dependent children, one-half to the spouse and one-half
25 to the child or children, in equal shares.

1 “(4) If there is no survivor in the above classes,
2 to the parent or parents dependent for support on the
3 decedent, in equal shares.

4 “SEC. 703. The gratuity payable to any person under
5 this part is in addition to any benefits to which he may be
6 entitled under any other law.

7 “SEC. 704. (a) No benefit shall be paid under this
8 part—

9 “(1) if the death caused by the intentional miscon-
10 duct of the public safety officer or by such officer’s inten-
11 tion to bring about his death;

12 “(2) if voluntary intoxication of the public safety
13 officer was the proximate cause of such officer’s death;
14 or

15 “(3) to any person who would otherwise be en-
16 titled to a benefit under this part if such person’s actions,
17 were a substantial contributing factor to the death of the
18 public safety officer.

19 “(b) No benefit paid under this part shall be subject
20 to execution or attachment.

21 “SCHOLARSHIPS AUTHORIZED

22 “SEC. 705. (a) The Commissioner is authorized to
23 award a scholarship to any eligible applicant for full-time
24 undergraduate study at an eligible institution. Each appli-
25 cant shall submit an application accompanied by a certifi-

1 cation from the head of the agency which employed the
2 public safety officer upon whom the applicant was depend-
3 ent, stating that such officer lost his life while engaged in
4 the performance of his official duties.

5 “(b) The maximum amount of the scholarship award
6 payable under this section shall not exceed the cost to such
7 applicant at the appropriate eligible institution for tuition,
8 fees, books, and room and board, or \$5,000 whichever is
9 less, for each academic year for which the scholarship is
10 awarded, as determined by the Commissioner.

11 “(c) The duration of a scholarship award under this
12 Act shall be the period required for the completion by the
13 recipient of the award of his undergraduate course of study,
14 or other appropriate course of study at an eligible institu-
15 tion. That period shall not exceed four academic years ex-
16 cept where the Commissioner determines that the student
17 is enrolled in a degree program which normally requires
18 more than four academic years for a baccalaureate degree,
19 in which event such period shall not exceed five years.

20 “(d) (1) The Commissioner shall notify both the eligi-
21 ble applicant and the eligible institution in which the appli-
22 cant is enrolled or has been accepted for enrollment of the
23 award of a scholarship under this Act.

24 “(2) A separate determination shall, on the basis of
25 the latest available information, be made as to the eligibility

1 of a student for, and the amount of the award to be made
2 under this Act, for each academic year of its duration.

3 “(3) The Commissioner shall, in accordance with
4 agreements pursuant to section 707 utilize the services and
5 facilities of eligible institutions as fiscal agents for paying
6 to students attending such institutions the amounts, if any,
7 to which such students have been determined, with respect
8 to each academic year, to be entitled under this Act.

9 “ADDITIONAL AWARD REQUIREMENTS

10 “SEC. 706. (a) No payment shall be made to an eligible
11 applicant under this Act unless an application therefor is
12 made by such applicant containing such information as the
13 Commissioner may reasonably require together with the cer-
14 tification required under section 3 (a) of this Act.

15 “(b) A student awarded a scholarship grant under this
16 Act shall continue to be entitled to that grant only if such
17 student (1) is maintaining good standing in the course of
18 study which he is pursuing according to the regularly pre-
19 scribed standards and practices of the eligible institution
20 which he is attending and (2) devoted himself full time to
21 such course of study during the academic year in attendance
22 at an eligible institution, except that failure to be at an
23 eligible institution during periods of vacation, military serv-
24 ice, and such other periods as the Commissioner determines

1 are good cause for nonattendance, shall not be considered
2 contrary to the requirements of this clause.

3 "AGREEMENTS WITH ELIGIBLE INSTITUTIONS

4 "SEC. 707. (a) For the purpose of this Act, the Com-
5 missioner is authorized to enter into agreements with eligible
6 institutions in which any student receiving a scholarship
7 award under this Act has enrolled or is accepted for enroll-
8 ment. Each such agreement shall—

9 "(1) provide that an eligible institution will coop-
10 erate with the Commissioner in carrying out the provi-
11 sions of this Act;

12 "(2) provide that the institution will periodically
13 conduct a review to determine whether students enrolled
14 and receiving a scholarship award under this Act con-
15 tinue to be entitled to payments under such grants and
16 the amounts of such payments;

17 "(3) provide for the authorization of such institution
18 as a Federal agent for payments to students under this
19 Act;

20 "(4) provide for such Federal control and account-
21 ing procedures as may be necessary to assure proper dis-
22 bursement of and accounting of funds paid under this
23 Act;

24 "(5) include such other provisions as may be nec-

1 essary to protect the financial interest of the United
2 States and promote the purposes of this Act.

3 “(b) The Commissioner is authorized to pay a cost of
4 agreement allowance to any eligible institution in which a
5 student receiving a scholarship award was enrolled during
6 an academic year ending during any fiscal year after June 30,
7 1974. With respect to each such student, such allowance
8 shall be an amount equal to \$————.”.

9 SEC. 3. Section 520 of the Omnibus Crime Control and
10 Safe Streets Act of 1968, as amended, is amended by insert-
11 ing “(a)” immediately after “520” and by adding at the
12 end thereof the following new subsection:

13 “(b) There are authorized to be appropriated in each
14 fiscal year such sums as may be necessary to carry out the
15 purposes of part J.”.

16 SEC. 4. Until specific appropriations are made for carry-
17 ing out the purposes of this Act, any appropriation made to
18 the Department of Justice or the Law Enforcement Assist-
19 ance Administration for grants, activities, or contracts shall,
20 in the discretion of the Attorney General in cooperation with
21 the Commissioner be available for payments of obligations
22 arising under this Act.

23 SEC. 5. The Administration is authorized to establish
24 such rules, regulations, and procedures as may be necessary

1 to carry out the purposes of this part J. Such rules, regula-
2 tions, and procedures will be determinative of conflict of laws
3 issues arising under this part J, in cooperation with the Com-
4 missioner who shall prescribe regulations to insure that a
5 student who received payments pursuant to a scholarship
6 grant during an academic year in more than one institution
7 is not counted more than once for the purpose of computing
8 the cost of academic allowance to which each such institution
9 is entitled under this Act.

10 SEC. 6. The Administration in cooperation with the Com-
11 missioner may prescribe rules and regulations governing the
12 recognition of agents or other persons, representing claimants
13 before the Administration, and by rule and regulation, pre-
14 scribe the maximum fees which may be charged for services
15 performed in connection with any claim before the admin-
16 istration of this part, and any agreement in violation of such
17 rules and regulations shall be void.

18 SEC. 7. In making determinations under this Act, the
19 Administration or the Commissioner may delegate such
20 administrative functions to any State or unit of local gov-
21 ernment as it determines necessary and proper to the admin-
22 istration of this part. Responsibility for making final
23 determinations shall rest with the Administration.

1 SEC. 8. If the provisions of any part of this Act are
2 found invalid or any amendments made thereby or the appli-
3 cation thereof to any person or circumstances be held invalid,
4 the provisions of the other parts and their application to
5 other persons or circumstances shall not be affected thereby.

S. 2572 AS INTRODUCED BY
SENATORS MCCLELLAN, HRUSKA, THURMOND,

AND HANSEN

OCTOBER 28, 1975

IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 1975

Mr. McCLELLAN (for himself, Mr. THURMOND, Mr. HRUSKA, and Mr. HANSEN)
introduced the following bill; which was read twice and referred to the
Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of
1968 to provide a Federal death benefit to the survivors of
public safety officers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Public Safety Officers'
4 Benefits Act of 1975".

5 SEC. 2. Title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968, as amended, is amended by adding at
7 the end thereof the following new part:

8 "PART J.—PUBLIC SAFETY OFFICERS' BENEFITS

9 "AWARDS

10 "SEC. 701. (a) In any case in which the Administra-
11 tion determines, under regulations issued pursuant to this

1 title, that a public safety officer has died in the line of duty
2 from injuries directly and proximately caused by a criminal
3 act or an apparent criminal act, the Administration shall pay
4 a benefit of \$50,000 as follows:

5 “(1) if there is no surviving child of such officer, to
6 the surviving spouse of such officer;

7 “(2) if there is a surviving child or children and a
8 surviving spouse, one-half to the surviving child or chil-
9 dren of such officer in equal shares and one-half to the
10 surviving spouse;

11 “(3) if there is no surviving spouse, to the child or
12 children of such officer in equal shares; or

13 “(4) if none of the above, to the dependent parent
14 or parents of such officer in equal shares.

15 “(b) Whenever the Administration determines, upon a
16 showing of need and prior to taking final action, that the
17 death of a public safety officer is one with respect to which a
18 benefit will probably be paid, the Administration may make
19 an interim benefit payment not exceeding \$3,000 to the
20 person entitled to receive a benefit under subsection (a) of
21 this section.

22 “(c) The amount of any interim payment under para-
23 graph (b) of this section shall be deducted from the amount
24 of any final benefit paid to such person.

25 “(d) Where there is no final benefit paid, the recipient

1 of any interim payment under subsection (b) of this section
 2 shall be liable for repayment of such amount. The Adminis-
 3 tration may waive all or part of such repayment, considering
 4 for this purpose the hardship which would result from such
 5 repayment.

6 “(e) The benefit payable under this part shall be in
 7 addition to any other benefit that may be due from any other
 8 source, but shall be reduced by—

9 “(1) payments authorized by section 8191 of title
 10 5, United States Code;

11 “(2) payments authorized by section 12 (k) of the
 12 Act of September 1, 1916, as amended (D.C. Code,
 13 sec. 4-531 (1)).

14 “(f) No benefit paid under this part shall be subject to
 15 execution or attachment.

16 “LIMITATIONS

17 “SEC. 702. No benefit shall be paid under this part—

18 “(a) if the death was caused by the intentional
 19 misconduct of the public safety officer or by such offi-
 20 cer’s intention to bring about his death;

21 “(b) if voluntary intoxication of the public safety
 22 officer was the proximate cause of such officer’s death;
 23 or

24 “(c) to any person who would otherwise be entitled
 25 to a benefit under this part if such person’s actions were

1 a substantial contributing factor to the death of the pub-
2 lic safety officer.

3 "SEC. 703. As used in this part—

4 "(a) 'child' means any natural, illegitimate,
5 adopted, or posthumous child or stepchild of a deceased
6 public safety officer who, at the time of the public safety
7 officer's death, is—

8 "(1) eighteen years of age or under;

9 "(2) over eighteen years of age and a student
10 as defined by section 8101 of title 5, United States
11 Code; or

12 "(3) over eighteen years of age and incapable
13 of self-support because of physical or mental dis-
14 ability;

15 "(b) 'criminal act' means any conduct which is
16 declared by law to be a crime in the jurisdiction where
17 the injury to the public safety officer occurred. Such con-
18 duct is a crime for the purpose of this part notwithstand-
19 ing that by reason of age, insanity, intoxication, or other-
20 wise, the person engaging in such conduct was legally
21 incapable of committing the crime;

22 "(c) 'dependent' means a person who was sub-
23 stantially reliant for support upon the income of the de-
24 ceased public safety officer;

1 “(d) ‘fireman’ includes a person serving as an
2 officially recognized or designated member of a legally
3 organized volunteer fire department;

4 “(e) ‘intoxication’ means a disturbance of mental
5 or physical faculties resulting from the introduction of
6 alcohol, drugs, or other substances into the body;

7 “(f) ‘law enforcement officer’ means a person in-
8 volved in crime control or reduction, or enforcement of
9 the criminal laws. This includes, but is not limited to,
10 police, corrections, probation, parole, and judicial
11 officers;

12 “(g) ‘public agency’ means any State of the United
13 States, the District of Columbia, the Commonwealth of
14 Puerto Rico, and any territory or possession of the United
15 States, or any unit of local government, combination of
16 such States or units, or any department, agency or in-
17 strumentality of any of the foregoing; and

18 “(h) ‘public safety officer’ means a person serving
19 a public agency in an official capacity, with or without
20 compensation, as a law enforcement officer or as a fire-
21 man.

22 “ADMINISTRATIVE PROVISIONS

23 “SEC. 704. Rules, regulations, and procedures issued
24 under this title may include regulations governing the recog-

1 nition of agents or other persons representing claimants under
2 this part before the Administration. The Administration may
3 prescribe the maximum fees which may be charged for serv-
4 ices performed in connection with any claim under this part
5 before the Administration, and any agreement in violation of
6 such rules and regulations shall be void.

7 "SEC. 705. In making determinations under section 701,
8 the Administration may utilize such administrative and in-
9 vestigative assistance as may be available from State and
10 local agencies. Responsibility for making final determinations
11 shall rest with the Administration."

12 MISCELLANEOUS PROVISIONS

13 SEC. 3. Section 520 of the Omnibus Crime Control and
14 Safe Streets Act of 1968, as amended, is amended by insert-
15 ing "(a)" immediately after "520" and by adding at the
16 end thereof the following new subsection:

17 "(b) There are authorized to be appropriated in each
18 fiscal year such sums as may be necessary to carry out the
19 purposes of part J."

20 SEC. 4. Until specific appropriations are made for
21 carrying out the purposes of this Act, any appropriation
22 made to the Department of Justice or the Law Enforce-
23 ment Assistance Administration for grants, activities, or con-
24 tracts shall, in the discretion of the Attorney General, be
25 available for payment of obligations arising under this Act.

1 SEC. 5. If the provisions of any part of this Act are
2 found invalid, the provisions of the other parts and their
3 application to other persons or circumstances shall not be
4 affected thereby.

5 SEC. 6. This Act shall become effective and apply to
6 deaths occurring from injuries sustained on or after the date
7 of enactment.

STATEMENTS ON INTRODUCTION

OF S. 2572

OCTOBER 28, 1975



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

Vol. 121

WASHINGTON, TUESDAY, OCTOBER 28, 1975

No. 157

S18716

Senate

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLELLAN (for himself, Mr. THURMOND, Mr. HRUSKA, and Mr. HANSEN):

S. 2572. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers. Referred to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, I rise in support of Senator McCLELLAN's bill to provide benefits to the survivors of public safety officers who are killed in the line of duty.

This legislation would provide a \$50,000 benefit payable to the survivors of a public safety officer who is killed in the line of duty by a criminal act or an apparent criminal act. As defined in this bill, "public safety officer" includes policemen, firemen, correction officers, probation officers, parole officers, and judicial officers.

Mr. President, in recent years many of our public safety officers have been killed by felonious assaults, and it is increasingly apparent that violent crime is spreading. Crime knows no jurisdictional boundary, nor respects the color of a law enforcement officer's uniform. Each officer, whether sheriff, deputy, highway patrolman, or policeman, must be fully cognizant that death may come to him in the performance of his sworn duties.

Public safety officers, dedicated to their law enforcement careers, are not nearly so concerned with their low salaries as they are of maintaining and preserving the security of their families. The Law Enforcement Officer's Group Life Insurance program, passed in the 91st Congress, was but the first step in providing this group of persons some security.

In the case of the average law enforcement officer, group insurance protection is only nominal because the amount of private insurance he can purchase with his law salary is normally insufficient to provide for the needs of his dependents. The approach of this bill should adequately meet the security needs of these officers.

Similar legislation passed the Senate on September 5, 1972. On October 17, 1972, a Senate-House conference committee filed its reports with the House of Representatives, but because the House failed to act, this important legislation died. The Senate passed S. 15, a similar measure, on March 29, 1973.

This bill introduced today contains many of the compromises agreed to in the 92d Congress. I am hopeful both Houses can speedily enact this important legislation.

The alarming trend of crime can only be reversed by professional police officers, who are assured that they and their families will be compensated in a manner commensurate with the risks inherent in law enforcement. Law enforcement careers must be made more acceptable to our qualified citizens. We cannot ask decent, hardworking men to face the constant risk of death in the line of duty and then ignore their rightful request that their families be protected from financial calamity.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Public Safety Officers' Benefits Act of 1975".

Sec. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' BENEFITS

"AWARDS

"Sec. 701 (a). In any case in which the Administration determines, under regulations issued pursuant to this title, that a public safety officer has died in the line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act, the Administration shall pay a benefit of \$50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares, and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of any interim payment under paragraph (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"Sec. 702. No benefit shall be paid under this part—

"(a) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(b) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(c) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public officer.

"Sec. 703. As used in this part—

"(a) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(1) eighteen years of age or under;

"(2) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code; or

"(3) over eighteen years of age and inca-

pable of self-support because of physical or mental disability;

"(b) 'criminal act' means any conduct which is declared by law to be a crime in the jurisdiction where the injury to the public safety officer occurred. Such conduct is a crime for the purpose of this part notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in such conduct was legally incapable of committing the crime;

"(c) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(d) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

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

"(f) 'law enforcement officer' means a person involved in crime control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(g) 'public agency' means any State or the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States or units, or any department, agency or instrumentality of any of the foregoing; and

"(h) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"Sec. 704. Rules, regulations, and procedures issued under this title may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"Sec. 705. In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration."

MISCELLANEOUS PROVISIONS

Sec. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "520" and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of Part J."

Sec. 4. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payment of obligations arising under this Act.

Sec. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Sec. 6. This Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment.

Mr. HRUSKA. Mr. President, I rise in support of the measure introduced today entitled the "Public Safety Officers

Benefits Act of 1975." As my colleague, the Senator from South Carolina, has stated, this legislation has been before the Senate on previous occasions.

A similar bill, S. 2087, passed the Senate in the 92d Congress by a vote of 80 to 0. It was reintroduced in the 93d Congress as S. 15, but was not acted upon before the adjournment of the Congress. The House, however, passed another version of the bill, but no agreement could be reached during a conference meeting on the two measures.

The bill is intended to provide assistance to the dependent survivors of public safety officers who are killed in the performance of their duties and where the cause of death was a criminal act or an apparent criminal act. As a result of a death under these circumstances, the Law Enforcement Assistance Administration would provide a gratuity of \$50,000 to one or more dependent survivors.

Public safety officers are defined in the bill as public servants whose occupation places the officer in danger of physical injury by a criminal act. Included under this definition are policemen, sheriffs, correction guards, and firefighters. All of these groups are forced to deal with the violent elements of our society, and in so doing, face great risks in the performance of their duties. This legislation would provide direct financial benefits to the families of slain public safety officers, increase the morale of these employees, and hopefully, improve their efficiency, which will lead to better law enforcement service to American citizens.

As the bill is presently drafted, it would exempt the lump sum gratuity from Federal income taxation and would become effective upon enactment of the legislation.

Mr. President, this is a good bill which is needed to respond to the almost steady rise in police killings. As the Uniform Crime Reports for 1970 stated: "No arrest situation can be considered routine." The report also noted that in 1970, 19 percent of police killings occurred as the result of ambush.

The risks to our public safety officers are high. The legislation introduced today will serve to compensate the dependents and survivors of slain officers who take these risks in order to protect the lives of those in our society.

Mr. President, I hope this legislation will be carefully considered in committee, balanced with the interests of certain Members in the other body, and brought to the floor for approval by the Senate.

H.R. 365 (FIREFIGHTERS' BENEFITS) AS REPORTED FROM

THE HOUSE JUDICIARY COMMITTEE

APRIL 9, 1976

94TH CONGRESS
2D SESSION

H. R. 365

[Report No. 94-1031]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. EILBERG introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 9, 1976

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "~~Firefighters Benefits Act~~
4 of 1975". "*Firefighters Benefits Act of 1976*".

5 SEC. 2. Title I of the Omnibus Crime Controls and Safe
6 Streets Act of 1968 is amended by adding at the end thereof
7 the following new part:

8 "PART J—FIREFIGHTERS DEATH BENEFITS

9 "SEC. 701. (a) In any case in which the Administra-
10 tion determines, under regulations issued under Part F of

1 this title, that an eligible firefighter has died as the direct and
 2 proximate result of a personal injury sustained in the per-
 3 formance of duty, leaving a spouse or one or more eligible
 4 dependents, the Administration shall pay a gratuity of \$50,-
 5 000, in the following order of precedence:

6 “(1) If there is no dependent child, to the spouse.

7 “(2) If there is no spouse, to the dependent child
 8 or children, in equal shares.

9 “(3) If there are both a spouse and one or more
 10 dependent children, one-half to the spouse and one-half
 11 to the child or children, in equal shares.

12 “(4) If there is no survivor in the above classes,
 13 to the parent or parents dependent for support on the
 14 decedent, in equal shares.

15 “(b) As used in this section, a dependent child is any
 16 natural, illegitimate, adopted, posthumous child, or stepchild
 17 of the decedent who at the time of the firefighter's death is—

18 ~~“(1) under eighteen years of age; or~~

19 “(1) *eighteen years of age or under; or*

20 “(2) over eighteen years of age and incapable of
 21 self-support because of physical or mental disability; or

22 “(3) over eighteen years of age and a student as
 23 defined by section 8101 of title 5, United States Code.

24 “(c) As used in this section, spouse includes a surviving
 25 husband or wife living with or dependent for support on the

1 decedent at the time of his death, or living apart for reason-
2 able cause or because of desertion by the decedent.

3 “(d) As used in this section, the term ‘dependent for
4 support’ means more than one-half of the support of the
5 dependent concerned.

6 “(e) As used in this section, the term ‘eligible fire-
7 fighter’ means any individual serving, with or without
8 compensation, as a firefighter (including any individual
9 serving as an officially recognized or designated member of a
10 legally organized volunteer fire department) who is deter-
11 mined by the Administration to have been, at the time of
12 his injury—

13 ““(1) actually and directly engaged in fighting a
14 fire; or

15 ““(2) otherwise engaged in the performance of his
16 duty where the activity is determined by the Adminis-
17 tration to be potentially dangerous to the firefighter.

18 “SEC. 702. (a) Whenever the Administration deter-
19 mines, upon a showing of need and prior to taking final
20 action, that a death of a firefighter is one with respect to
21 which a benefit will probably be paid, the Administration
22 may make an interim benefit payment not exceeding \$3,000
23 to the person or persons entitled to receive a benefit under
24 section 701 of this part.

25 “(b) The amount of any interim benefit paid under sub-

1 section (a) of this section shall be deducted from the amount
2 of any final benefit paid to such person or persons.

3 “(c) Where there is no final benefit paid, the recipient
4 of any interim benefit paid under subsection (a) of this sec-
5 tion shall be liable for repayment of such amount. The Ad-
6 ministration may waive all or part of such repayment, and
7 shall consider for this purpose the hardship which would
8 result from repayment.

9 “SEC. 703. (a) No benefit shall be paid under this
10 part—

11 “(1) if the death was caused by the intentional mis-
12 conduct of the firefighter or by such firefighter’s intention
13 to bring about his death;

14 “(2) if voluntary intoxication of the firefighter was
15 the proximate cause of such officer’s death; or

16 “(3) to any person who would otherwise be entitled
17 to a benefit under this part if such person’s actions were
18 a substantial contributing factor to the death of the fire-
19 fighter.

20 “(b) The benefit payable under this part shall be in
21 addition to any other benefit that may be due from any other
22 source, but shall be reduced by—

23 “(1) payments authorized by section 8191 of title
24 5, United States Code;

25 “(2) payments authorized by section 12 (k) of the

1 Act of September 1, 1916, as amended (D.C. Code,
2 sec. 4-531 (1)).

3 “(c) No benefit paid under this part shall be subject
4 to execution or attachment.

5 “SEC. 704. The provisions of this part shall apply with
6 respect to any eligible firefighter who dies as the direct
7 and proximate result of a personal injury which is sustained
8 on or after October 11, 1972.”.

9 SEC. 3. Section 520 of the Omnibus Crime Control and
10 Safe Streets Act of 1968, as amended, is amended by insert-
11 ing “(a)” immediately after “520” and by adding at the
12 end thereof the following new subsection:

13 “(b) There are authorized to be appropriated in each
14 fiscal year such sums as may be necessary to carry out the
15 purposes of part J.”.

16 SEC. 4. Until specific appropriations are made for carry-
17 ing out the purposes of this Act, any appropriation made to
18 the Department of Justice or the Law Enforcement Assist-
19 ance Administration for grants, activities, or contracts shall,
20 in the discretion of the Attorney General, be available for
21 payments of obligations arising under this Act.

22 SEC. 5. The Administration is authorized to establish
23 such rules, regulations, and procedures as may be neces-
24 sary to carry out the purposes of this part J. Such rules,

1 regulations, and procedures will be determinative of con-
2 flict of laws issues arising under this part J.

3 SEC. 6. The Administration may prescribe rules and
4 regulations governing the recognition of agents or other
5 persons, representing claimants before the Administration.
6 The Administration may, by rule and regulation, prescribe
7 the maximum fees which may be charged for services per-
8 formed in connection with any claim before the administra-
9 tion of this part, and any agreement in violation of such rules
10 and regulations shall be void.

11 SEC. 7. In making determinations under section 701,
12 the Administration may delegate such administrative func-
13 tions to the State and local agencies as it determines necessary
14 and proper to the administration of this part. Responsibility
15 for making final determinations would rest with the
16 Administration.

17 SEC. 8. If the provisions of any part of this Act
18 are found invalid or any amendments made thereby or the
19 application thereof to any person or circumstances be held
20 invalid, the provisions of the other parts and their applica-
21 tion to other persons or circumstances shall not be affected
22 thereby.

HOUSE REPORT 94-1031 ON H.R. 365

FIREFIGHTERS BENEFITS ACT

APRIL 9, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SARBANES, from the Committee on the Judiciary,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 365]

The Committee on the Judiciary, to whom was referred the bill (H.R. 365), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, lines 3 and 4, strike out "Firefighters Benefits Act of 1975." and insert in lieu thereof: "Firefighters Benefits Act of 1976".

Page 2, strike out line 18 and insert in lieu thereof the following: "(1) eighteen years of age or under; or"

PURPOSE OF THE BILL

The purpose of this bill is to provide a \$50,000 federal payment to the surviving dependents of firefighters who die as the direct and proximate result of a personal injury sustained in the line of duty.

PURPOSE OF THE AMENDMENTS

The first amendment changes the date in the popular name title of the legislation. The second amendment is also technical in nature and is designed to remove any ambiguity as to the coverage of dependent children of firefighters who are 18 years of age.

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 the result of these hearings, H.R. 16932 was introduced and favorably reported by the full Committee on October 5, 1972. This legislation passed the House by unanimous consent on October 11, 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 92nd Congress prevented House consideration of the Conference Report.

93D CONGRESS

The House-passed version was reintroduced by the Honorable 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 differences in 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 covers law enforcement officers.

COMMITTEE VOTE

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).

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, a 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".

This Committee clearly recognizes that fire prevention and control are and should remain primarily local responsibilities. However, there is a recognized federal interest in this area particularly in view of the aforementioned laws, and the Committee believes that the instant legislation is a partial and proper response to this serious problem.

According to Department of Labor surveys, firefighting is one of the most hazardous professions. The following table indicates the number of professional firefighters killed in the line of duty each year since 1963.

Year:	Total	Year:	Total
1963 -----	69	1969 -----	104
1964 -----	65	1970 -----	115
1965 -----	55	1971 -----	106
1966 -----	71	1972 -----	100
1967 -----	68	1973 -----	90
1968 -----	92	1974 -----	100
		1975 (estimated) -----	95

(It should be noted that these figures apply to paid firefighters only, since reliable statistics do not exist for volunteer firemen—who are covered by this bill.)

Notwithstanding the severe occupational hazards, which confront firemen, many states have failed to provide sufficient death benefits for their survivors. Because of this fact and in recognition of society's moral obligation to compensate the families of those individuals who daily risk their lives to preserve and protect the lives and property of others, the Committee is of the opinion that a Federal payment of \$50,000 should be provided to meet the immediate financial needs of the firefighters' survivors. The Committee also recommends upon a showing of need and in a case where a benefit will probably be awarded, that an interim benefit payment not exceeding \$3,000 be awarded to assist the survivors during this time of hardship. Such an interim payment will be deducted from the final amount if and when awarded.

In addition to providing direct financial compensation to the families of deceased firefighters, testimony before the Committee indicates that this legislation will also significantly increase the morale of firefighting personnel and will greatly assist state and local governments in their recruiting efforts.

The bill also represents a recognition of, and a practical expression of appreciation for, the dedicated and meritorious services which have been provided by firefighters throughout this Nation.

ANALYSIS OF THE BILL

H.R. 365, as amended, is designed to meet the immediate financial needs of the surviving dependents of firefighters who die from a personal injury which is sustained while in the performance of duty.

This legislation is premised on the fact that there are certain dangerous, high risk activities associated with firefighting and that it is in the national interest to upgrade, and improve employment opportunities in this profession.

The bill defines "firemen" to include volunteer as well as professional firemen. Such firemen are covered when they are actually and directly engaged in fighting fires.

In addition, benefits will be provided if the firemen sustain a fatal injury while they are engaged in the performance of other activities which are determined by LEAA to be potentially dangerous. The legislation authorizes LEAA to issue regulations to implement this provision.

Since fire fighting has been determined to be one of the most hazardous professions, the Committee is of the opinion that coverage should extend to all activities performed by firemen when they are actually and directly engaged in fighting fires. In addition, in view of the occupational risks confronting firemen, the Committee intends that the "potentially dangerous" coverage should be broadly interpreted to include firemen who die accidentally while in the process of responding to a fire, or whose deaths are the result of criminal or apparent criminal acts (i.e. sniper attacks while responding to a false alarm).

The Committee expects LEAA to exercise its rule-making authority and to conduct public hearings and seek the advice of professional organizations so that potentially dangerous activities may be clearly defined. It is intended that regulations should make it clear that a simple accident which occurs in the performance of routine, non-hazardous duties is not within the scope of coverage or the rationale of this bill. In other words, the bill does not cover routine firehouse activities.

H.R. 365 specifically provides that the firemen's death must be the "direct and proximate" result of a personal injury sustained in the performance of duty.

With regard to this provision, it is the Committee's intent that the term "personal injury" shall include all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by physical impact, as well as diseases which are caused by or result from such injuries, but not diseases which arise merely out of the performance of duty. In other words, deaths from occupational diseases alone are not within the purview of this legislation.

With regard to the issue of causation, the Committee is of the opinion that the "direct and proximate result" requirement should be interpreted to cover those cases where the personal injury is a substantial factor in bringing about the officer's death.

As a condition precedent to such payment, the Administration would be required to determine that: (1) the fireman sustained a personal injury while engaged in one or more of the stated activities; or other potentially dangerous activities; and (2) the personal injury was the direct and proximate cause of the fireman's death.

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 Act¹ are generally adequate and in many instances will exceed the \$50,000 payment authorized by this legislation.²

The bill provides for the payment of a \$3,000 interim benefit to persons who are likely to receive a final award under this legislation. Repayment of this interim benefit where no final award is made may be waived in cases of hardship. Any interim benefit paid will be deducted from the amount of any final benefit paid to such persons.

Benefits shall not be paid in the event intentional misconduct or voluntary intoxication was the proximate cause of death. Further, benefits shall not be paid to any person whose actions substantially contributed to the death of the public safety officer.

Further, the benefit is in addition to all other benefits which the firefighter's survivors may receive except that it shall be reduced by: (1) payments made under the Federal Employees Compensation Act; and (2) payments to D.C. firefighters who are killed in the line of duty.³

The Internal Revenue Service has advised the Committee that the benefit provided under the legislation "could be regarded as benefits received under a statute which is in the nature of Workmen's Compensation Act and as such would be excludable under Section 104(a)(1) of the [Internal Revenue] Code". Therefore, such benefits shall not be subject to Federal income taxes.

The Committee bill establishes a retroactive date of October 11, 1972, which is the date similar legislation passed the House in the 92nd Congress. This retroactive provision would apply to deaths resulting from injuries which were sustained on or after that date.

SECTION-BY-SECTION ANALYSIS OF H.R. 365

Section 1—Popular Name Title.

Section 2.—Directs the Law Enforcement Assistance Administration to pay a \$50,000 death benefit to the spouse or eligible dependents of a fire-fighter who has died as the direct and proximate result of personal injury sustained in the performance of duty.

Defines "eligible fire fighter" to include professional and volunteer firemen who sustain fatal injuries while: (1) actually and directly engaged in fighting fires; or (2) engaged in activities determined by LEAA to be potentially dangerous.

Provides for the payment of \$3,000 interim benefit to persons who are likely to receive a final award under this legislation. Repayment of

¹ 5 U.S.C. 8101 et al. (1970).

² For example, in the event of the death of a Federal public safety officer, the officer's widow would receive 45 percent of the deceased officer's monthly pay if there are no children. If there is a child or children eligible for benefits, the widow would receive 40 percent of the monthly pay and each child would receive an additional 15 percent. In no case, however, may the total monthly compensation exceed 75 percent of the officer's monthly pay or 75 percent of the highest rate of monthly pay provided for a grade GS-15 employee of the U.S. Government. Compensation to the officer's survivors would terminate upon death or remarriage. Compensation to children would terminate upon reaching 18 years of age unless extended because such person is a student or is incapable of self-support. In addition, Federal Employees Compensation benefits also cover permanent and temporary total disability.

³ See D.C. Code, Sec. 4-531(1) (1973), which provides a \$50,000 death benefit to D.C. firemen who are killed in the line of duty.

this interim benefit may be waived in cases of hardship in the event a final award is not made. If a final award is made the interim benefit shall be deducted from the \$50,000 death benefit.

Provides that the \$50,000 benefit shall not be paid in the event the firefighter's intentional misconduct or voluntary intoxication was the proximate cause of his death. Provides further that benefits shall not be paid to any person whose actions substantially contributed to the death of the firefighter.

Asserts that the \$50,000 death benefit is over and above all other benefits which the firefighter's survivors may receive except that it shall be reduced by: (1) payments provided under the Federal Employees Compensation Act to certain public safety officers killed in the line of duty; and (2) payments to D.C. firemen who are killed in the line of duty (under present law they already receive a \$50,000 death benefit).

Provides that the \$50,000 benefit shall be paid for deaths which resulted from personal injuries sustained on or after October 11, 1972.

Section 3.—Authorizes funds to be appropriated in each fiscal year to carry out the purposes of this legislation.

Section 4, 5, 6, and 7.—Administrative provisions.

Section 8.—Severability clause.

DEPARTMENTAL POSITION

The Department of Justice believes that the coverage in H.R. 365 is too broad and recommends that coverage be limited to those deaths which are the result of a criminal act or an apparent criminal act. A formal report has not been received from the Department of Justice on this legislation, but the following testimony was presented to the Committee on September 18, 1975 by Mr. Hugh M. Durham, Legislative Counsel, Office of Legislative Affairs:

Mr. Chairman, I am pleased to appear today before the Subcommittee to discuss the views of the Department of Justice regarding H.R. 365, H.R. 366, and H.R. 3544, public safety officers death benefits legislation.

The three bills are all quite similar, in that a \$50,000 gratuity would be paid to the surviving dependents of public safety officers found to have "died as the direct and proximate result of a personal injury sustained in the performance of duty." H.R. 365 would apply only to firefighters so killed, while H.R. 366 would apply only to law enforcement officers. H.R. 3544 would apply both to firefighters and law enforcement officers. Each bill would amend Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, so that the program would be administered by the Law Enforcement Assistance Administration.

To be eligible, a law enforcement officer must, at the time of injury, have been engaged in the apprehension, attempted apprehension, protection, or guarding of a person wanted or held for the commission of a crime, or as a material witness, or in the prevention or attempted prevention of a crime. A firefighter must have been actually and directly engaged in fighting a fire. Provision is also made in each instance for eligibility if the decedent was otherwise engaged in the performance of duty where the activity is determined to be potentially dangerous.

The terms "crime," "law enforcement officer," "firefighter," and "dependent for support" are further clarified in the legislation. No benefit would be paid if death was caused by the intentional misconduct of the decedent or intention to bring about his own death, if voluntary intoxication of the decedent was the proximate cause of death, or if the actions of any person who would otherwise be entitled to a benefit were a substantial contributing factor to death.

The provisions of each of the bills would apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury sustained on or after October 11, 1972. Such sums as necessary would be authorized to the appropriated for the program, with Department of Justice and Law Enforcement Assistance Administration appropriations available until necessary funds were provided.

These three bills are, as you know, Mr. Chairman, just a few of the pieces of legislation introduced in the 94th Congress which have similar goals. Legislation which would accomplish essentially the same purpose was passed by both Houses in the 92d and 93d Congresses, but for a number of reasons did not get enacted into law.

As you know, Mr. Chairman, during the 92d and 93d Congresses the Department of Justice supported a legislative proposal which would provide death benefits to survivors of public safety officers. Assistant Attorney General McKeivitt testified before this subcommittee on July 26, 1973 on this subject. The program which we have proposed and supported differs, however, in several substantial and important respects from the proposals before you today. First, we would require that the death benefits be available only to survivors of eligible officers who died as a result of a criminal act. We believe that the much broader coverage included in H.R. 365 and H.R. 366 is not justified by the federal interest or involvement. As you know, Mr. Chairman, the earlier proposals for a federal death gratuity program were a partial answer to the shocking wave of police killings in the spring of 1971 and of the fact that some police officers were inadequately covered by job related benefits. We believe, and we have stated this position previously, that expansion to cover all job related deaths would start the federal government down a road that is unwarranted and undesirable, in addition to placing upon the federal government a further substantial and costly federal benefit program.

To reiterate, we believe that the proposal should be designed to deal solely with the slaying of eligible officers and not with accidental deaths. As we indicated in prior testimony before the subcommittee, we believe that accidental death is a hazard of many types of employment and we are aware of no rationale that would suggest federal intervention in these situations. Providing survivors benefits for those who are killed accidentally should be the responsibility of the employer in the same manner as other employment benefits. The murdering of public safety officers, however, is an act which attacks the very essence of a stable society and puts in jeopardy the well being of our country. For this reason we have supported Federal assistance in these limited instances.

Secondly, we believe that the provision should apply prospectively only. The three measures previously described would all apply to injuries sustained since October 11, 1972. We believe that when new ben-

efits are created by statute they should only apply prospectively unless there is a compelling public policy reason for determining a date for retroactive application. We feel that the choice of any retroactive date in this matter would be arbitrary and that prospective application is a fair resolution of the problem. In this connection, in August, 1974, in anticipation of passage of H.R. 11321, 93d Congress, LEAA developed a cost analysis of the proposal. At that time, retroactive benefits would have cost the federal government \$32.3 million. Today that one time expense, providing retroactive benefits for both law enforcement officers and firefighters, would exceed \$50 million.

I have outlined the major differences between the proposals before you and the measure which we have supported. We would still support a measure that conformed substantially with these views. I would like, however, to outline to you a course of action which we think would be a preferable answer to the problem.

The President in his recent Crime Message to the Congress specifically endorsed a program which would provide benefits very comparable in magnitude to those included in the police officers death gratuity proposal. The President's program would extend to all victims of Federal crime. Specifically, he stated:

"In addition to this general effort to reform and improve the criminal justice system, the Federal law should be specifically revised to take into greater account the needs of victims of crime. They, as well as the general public, must be made aware that the government will not neglect the law-abiding citizens whose cooperation and efforts are crucial to the effectiveness of the law enforcement.

"I urge the Congress to pass legislation to meet the uncompensated economic losses of victims of Federal crimes who suffer personal injury. In order to promote the concept of restitution within the criminal law, the monetary benefits should come from a fund consisting of fines paid by convicted Federal offenders."

Provisions which would implement the President's recommendations are currently contained in the pending proposed Criminal Justice Reform Act (S. 1 and H.R. 3907). These provisions would provide benefits of up to \$50,000 for survivors of victims of specified Federal criminal violations. Public service officers are not barred from qualifying as beneficiaries under this proposal. Moreover, we would support a modification to the Law Enforcement Assistance Administration's authority (i.e., Title I of the Omnibus Crime Control and Safe Streets Act) so that states could utilize block grant funds to finance a state program of death benefits for state and local law enforcement officials.

In summary, we would support a public safety officers benefits program consistent with the program which we have supported in the 93d Congress. I have pointed out today the major differences between the program we would support and the provisions of the pending bills. We would, however, prefer the more encompassing approach which I have suggested today through the provisions of S. 1 and under LEAA.

I thank you for the opportunity of presenting the Department's views on this important matter and will be happy to try to answer any questions which you may have.

ESTIMATE OF COST

No separate estimate concerning the cost of H.R. 365 has been submitted by the Department of Justice; however, the Department has submitted informal estimates concerning the cost of the combined coverage of both law enforcement officers and firefighters as contained in H.R. 365 and H.R. 366. The annual recurring cost for this combined coverage was estimated by the Department to be approximately \$18.1 million.

During testimony before the Committee on September 18, 1975, the Department of Justice indicated that the retroactive cost of the combined coverage of H.R. 365 and H.R. 366 would be approximately \$50 million.

The Congressional Budget Officer has advised the Committee that the annual cost of H.R. 365 would be approximately \$5.9 million, while the retroactive provision would result in an additional cost of \$23.0 million.

The Committee generally concurs with the cost estimates submitted by the Congressional Budget Office which is based upon an estimate of the number of firemen killed in the performance of duty during the last four years. At the same time, any estimate is necessarily speculative since the number of firefighters who die in the line of duty may vary considerably from year to year.

BUDGETARY INFORMATION

Clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because the instant legislation does not provide new budgetary authority. Pursuant to Clause 2(1)(3)(C) of Rule XI, the following estimate and comparison was prepared by the Congressional Budget Office and submitted to the Committee:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MARCH 8, 1976.

1. Bill number: H.R. 365.
2. Bill title: Amendment of the Omnibus Crime Control and Safe Streets Act.
3. Purpose of bill: The purpose of the bill is to provide an annuity benefit of \$50,000 to survivors of firefighters who are killed in the performance of duty. Not only does the bill provide for payment to firefighters killed in the future, but there is a retroactive provision for the October 1, 1972–October 1, 1976 period. This bill is for authorization and therefore subject to subsequent appropriation action.
4. Cost estimate: The retroactive provision (Section 704) of H.R. 365 is estimated to cost \$28.9 million. However, after the retroactive claims are paid, the yearly cost of the bill would be approximately \$5.9 million. The assumption was made that all retroactive payments would be completed

in the first year after enactment of the bill. (Enactment is assumed to be October 1, 1976.) All costs are summarized below.

NET COSTS
[Millions of dollars, fiscal years]

	1977	1978	1979	1980	1981
Retroactive costs.....	¹ 23.0				
Yearly operating costs.....	5.9	5.9	5.9	5.9	5.9
Total.....	28.9	5.9	5.9	5.9	5.9

¹ Assumed to be for the Oct. 1, 1972-Oct. 1, 1976, period.

5. Basis for estimate: The costs were based on the estimated number of professional and volunteer firefighters killed in the performance of duty. An average of 115 yearly deaths were estimated based on the last four years of actual statistics. The retroactive costs were based on the actual deaths that occurred during the period from October 1, 1972 to October 1, 1976. These data were obtained from the International Association of Firefighters. In addition to the annuity costs provided in the bill, an administrative staff of five employees was assumed at an average yearly salary of \$18,423.

6. Estimate comparison: None.

7. Previous CBO estimate: None.

8. Estimate prepared by: James Manaro.

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

OVERSIGHT STATEMENTS

Pursuant to Clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee states that it has exercised close oversight over the programs of the Law Enforcement Assistance Administration and the Committee is currently considering legislation which would extend the authorization for LEAA. Consequently, the Committee will closely monitor the implementation of this legislation in its continuing review of the LEAA program.

Clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

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.

COMMITTEE RECOMMENDATION

After careful consideration of this legislation, the Committee is of the opinion that this bill should be enacted and accordingly recommends that H.R. 363, as amended, do pass.

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (new matter is printed in italic, existing law in which no change is proposed in roman).

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

TITLE I—LAW ENFORCEMENT ASSISTANCE

* * * * *

SEC. 520. (a) There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed \$1,000,000,000 for the fiscal year ending June 30, 1974, \$1,000,000,000 for the fiscal year ending June 30, 1975, and \$1,250,000,000 for the fiscal year ending June 30, 1976. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of part E an amount equal to not less than 20 per centum of the amount allocated for the purposes of part C.

(b) *There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J.*

* * * * *

PART J—FIREFIGHTERS DEATH BENEFITS

SEC. 701. (a) *In any case in which the Administration determines, under regulations issued under part F of this title, that an eligible firefighter has died as the direct and proximate result of a personal injury sustained in the performance of duty, leaving a spouse or one or more eligible dependents, the Administration shall pay a gratuity of \$50,000, in the following order of precedence:*

- (1) *If there is no dependent child, to the spouse.*
- (2) *If there is no spouse, to the dependent child or children, in equal shares.*

- (3) *If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.*

- (4) *If there is no survivor in the above classes, to the parent or parents dependent for support on the decedent, in equal shares.*

(b) *As used in this section, a dependent child is any natural, illegitimate, adopted, posthumous child, or stepchild of the decedent who at the time of the firefighter's death is—*

- (1) *eighteen years of age or under; or*
- (2) *over eighteen years of age and incapable of self-support because of physical or mental disability; or*
- (3) *over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.*

(c) *As used in this section, spouse includes a surviving husband or wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of desertion by the decedent.*

(d) As used in this section, the term "dependent for support" means more than one-half of the support of the dependent concerned.

(e) As used in this section, the term "eligible firefighter" means any individual serving, with or without compensation, as a firefighter (including any individual serving as an officially recognized or designated member of a legally organized volunteer fire department) who is determined by the Administration to have been, at the time of his injury—

(1) actually and directly engaged in fighting a fire; or

(2) otherwise engaged in the performance of his duty where the activity is determined by the Administration to be potentially dangerous to the firefighter.

SEC. 702. (a) Whenever the Administration determines, upon a showing of need and prior to taking final action, that a death of a firefighter is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person or persons entitled to receive a benefit under section 701 of this part.

(b) The amount of any interim benefit paid under subsection (a) of this section shall be deducted from the amount of any final benefit paid to such person or persons.

(c) Where there is no final benefit paid, the recipient of any interim benefit paid under subsection (a) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, and shall consider for this purpose the hardship which would result from repayment.

SEC. 703. (a) No benefit shall be paid under this part—

(1) if the death was caused by the intentional misconduct of the firefighter or by such firefighter's intention to bring about his death;

(2) if voluntary intoxication of the firefighter was the proximate cause of such officer's death; or

(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the firefighter.

(b) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

(1) payments authorized by section 8191 of title 5, United States Code;

(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

(c) No benefit paid under this part shall be subject to execution or attachment.

SEC. 704. The provisions of this part shall apply with respect to any eligible firefighter who dies as the direct and proximate result of a personal injury which is sustained on or after October 11, 1972.

DISSENTING VIEWS ON H.R. 365 FIREFIGHTERS BENEFIT ACT

The Judiciary Committee is reporting this bill which provides a \$50,000 death benefit to the dependent survivors of State and local firemen killed in the line of duty as a companion to H.R. 366 which provides identical benefits to the dependent survivors of public safety officers. If there is any justification for the public safety officers bill which we feel there is not, there is no justification for this bill and it should be defeated.

Supporters of this bill argue that it is necessary because State and local governments fail to provide adequate benefits for their firefighters and particularly for the survivors of those firefighters who are killed in the line of duty. For this reason, they advocate the Federal Government paying such dependent survivors a lump sum of \$50,000.

Firemen are not Federal employees, nor are they the responsibility of the Federal Government. They are hired by and work for State and local governments and as such should look to their employers for employee benefits which could include death benefits.

This bill, if enacted, will have no effect on the incidents of fires or the hazards associated with the job of firefighting. It is granted that firefighting is an extremely hazardous profession and firefighters risk life and limb to protect the property of others. However, this is no justification for the Federal Government to become involved in providing employee benefits for such persons. The argument is made in support of the companion bill that the problems of crime go across State lines and are national in scope. But this cannot be said for firefighters. Fires are local in nature, with very little, if any, interstate impact. Therefore, the notion that we are dealing with a national problem is clearly not present in connection with the beneficiaries of this bill. For these reasons, we strongly urge a "no" vote on this legislation.

THOMAS N. KINDNESS.
EDWARD W. PATTISON.
WILLIAM S. COHEN.
CHARLES E. WIGGINS.
EDWARD HUTCHINSON.
ROBERT MCCLORY.
CARLOS J. MOORHEAD.

(13)

DISSENTING VIEWS OF REPRESENTATIVE JOHN
CONYERS, JR. ON H.R. 365

I join my colleagues, in disagreeing with the views of the majority on both H.R. 365 and H.R. 366, for substantially the same reasons expressed by them in their respective dissenting views.

As chairman of the subcommittee now considering reauthorization of the Law Enforcement Assistance Administration under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended it disturbs me that these bills provide the Administration with a broad grant of discretionary authority in a totally new field—the death indemnity business. Leaving aside the doubts as to whether the Federal Government should assume responsibilities which now belong exclusively to the employers of State and local public safety officers and firefighters, it escapes me how this legislation will further the Administration's mandate to assist State and local governments in reducing crime and improving the administration of criminal justice. It is indeed ironic that such governments are petitioning this Committee for more autonomy in planning and use of Federal crime-fighting funds secured under Title I on the one hand and at the same time asking to be relieved of their responsibilities to provide adequate death benefits on the other.

H.R. 365 and H.R. 366 both would empower the Administration to award funds to survivors for death-producing injuries incurred "in the performance of . . . duty where the activity is determined by the Administration to be potentially dangerous. . . ." The reauthorization hearings of the Subcommittee on Crime are filled with charges from all quarters that the Administration has neglected other segments of the criminal justice system and many congressionally-mandated statutory duties in favor of the law enforcement sector. It has become clear to me that many feel that the Administration has failed to provide effective leadership in establishing priorities and proper guidelines for the disbursement and expenditure of Federal funds by State and local agencies eligible to participate in the Title I programs. It seems to me unwise in the extreme to give new responsibilities to the Administration at a time when the enabling legislation which sustains it is being reevaluated and which may be altered in very fundamental ways; it becomes imprudent when those responsibilities drastically affect the Federal balance, as these bills would. Although the ends of this legislation cannot be quarreled with, the means to those ends are questionable at best.

For these reasons and those expressed by my colleagues from New York and California, I must respectfully dissent.

JOHN CONYERS, JR.

(15)

○

H.R. 366 (PSOB) AS REPORTED FROM THE

HOUSE JUDICIARY COMMITTEE

APRIL 9, 1976

H. R. 366

[Report No. 94-1032]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. EILBERG introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 9, 1976

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "~~Public Safety Officers~~
4 ~~Benefits Act of 1975~~": "*Public Safety Officers Benefits Act of*
5 *1976*".

6 SEC. 2. Title I of the Omnibus Crime Control and Safe
7 Streets Act of 1968 is amended by adding at the end thereof
8 the following new part:

9 "PART J.—PUBLIC SAFETY OFFICERS DEATH BENEFITS
10 "SEC. 701. (a) In any case in which the Administra-

tion determines, under regulations issued under part F of this title, that an eligible public safety officer has died as the direct and proximate result of a personal injury sustained in the performance of duty, leaving a spouse or one or more eligible dependents, the Administration shall pay a gratuity of \$50,000, in the following order of precedence:

“(1) If there is no dependent child, to the spouse.

“(2) If there is no spouse, to the dependent child or children, in equal shares.

“(3) If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.

“(4) If there is no survivor in the above classes, to the parent or parents dependent for support on the decedent, in equal shares.

“(b) As used in this section, a dependent child is any natural, illegitimate, adopted, posthumous child or stepchild of the decedent who at the time of the public safety officer's death is—

~~“(1) under eighteen years of age; or~~

“(1) *eighteen years of age or under; or*

“(2) over eighteen years of age and incapable of self-support because of physical or mental disability; or

“(3) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.

1 “(c) As used in this section, spouse includes a surviving
2 husband or wife living with or dependent for support on the
3 decedent at the time of his death, or living apart for reason-
4 able cause or because of desertion by the decedent.

5 “(d) As used in this section, the term ‘dependent for
6 support’ means more than one-half of the support of the
7 dependent concerned.

8 “(e) As used in this section, the term ‘law enforcement
9 officer’ means a person engaged in any activity pertaining to
10 crime prevention, control, or reduction or the enforcement
11 of the criminal law, including, but not limited to police ef-
12 forts to prevent, control, or reduce crime or to apprehend
13 criminals; activities of corrections, probation, or parole au-
14 thorities; and programs relating to the prevention, control,
15 or reduction of juvenile delinquency or narcotic addiction.

16 “(f) As used in this section, the term ‘crime’ means any
17 act or omission which is declared by law to be a crime in the
18 jurisdiction where the injury to the public safety officer
19 occurred. Such an act is a crime for the purposes of this sec-
20 tion notwithstanding the guilt, innocence, disability, or
21 identity of the actor.

22 “(g) As used in this section, the term ‘eligible public
23 safety officer’ means any individual serving, with or with-
24 out compensation, a public agency in an official capacity as

1 a law enforcement officer who is determined by the Adminis-
2 tration to have been, at the time of his injury engaged in—

3 “(1) the apprehension or attempted apprehension
4 of any person—

5 “(A) for the commission of a crime, or

6 “(B) who at that time was sought as a material
7 witness in a criminal proceeding; or

8 “(2) protecting or guarding a person held for the
9 commission of a crime or held as a material witness in
10 connection with a crime; or

11 “(3) the lawful prevention of, or lawful attempt
12 to prevent, the commission of a crime; or

13 “(4) the performance of his duty, where the ac-
14 tivity is determined by the Administration to be poten-
15 tially dangerous to the law enforcement officer.

16 “SEC. 702. (a) Whenever the Administration deter-
17 mines, upon a showing of need and prior to taking final
18 action, that a death of a public safety officer is one with
19 respect to which a benefit will probably be paid, the Admin-
20 istration may make an interim benefit payment not exceeding
21 \$3,000 to the person or persons entitled to receive a benefit
22 under section 701 of this part.

23 “(b) The amount of any interim benefit paid under
24 subsection (a) of this section shall be deducted from the
25 amount of any final benefit paid to such person or persons.

1 “(c) Where there is no final benefit paid, the recipient
2 of any interim benefit paid under subsection (a) of this sec-
3 tion shall be liable for repayment of such amount. The
4 Administration may waive all or part of such repayment,
5 and shall consider for this purpose the hardship which would
6 result from repayment.

7 “SEC. 703. (a) No benefit shall be paid under this
8 part—

9 “(1) if the death was caused by the intentional
10 misconduct of the public safety officer or by such offi-
11 cer’s intention to bring about his death;

12 “(2) if voluntary intoxication of the public safety
13 officer was the proximate cause of such officer’s death; or

14 “(3) to any person who would otherwise be entitled
15 to a benefit under this part if such person’s actions were
16 a substantial contributing factor to the death of the
17 public safety officer.

18 “(b) The benefit payable under this part shall be in
19 addition to any other benefit that may be due from any
20 other source, but shall be reduced by—

21 “(1) payments authorized by section 8191 of title
22 5, United States Code;

23 “(2) payments authorized by section 12 (k) of the
24 Act of September 1, 1916, as amended (D.C. Code,
25 sec. 4-531 (1)).

1 “(c) No benefit paid under this part shall be subject
2 to execution or attachment.

3 “SEC. 704. The provisions of this part shall apply with
4 respect to any eligible public safety officer who dies as the
5 direct and proximate result of a personal injury which is
6 sustained on or after October 11, 1972.”.

7 SEC. 3. Section 520 of the Omnibus Crime Control and
8 Safe Streets Act of 1968, as amended, is amended by insert-
9 ing “(a)” immediately after “520” and by adding at the
10 end thereof the following new subsection:

11 “(b) There are authorized to be appropriated in each
12 fiscal year such sums as may be necessary to carry out the
13 purposes of part J.”.

14 SEC. 4. Until specific appropriations are made for carry-
15 ing out the purposes of this Act, any appropriation made to
16 the Department of Justice or the Law Enforcement Assist-
17 ance Administration for grants, activities, or contracts shall,
18 in the discretion of the Attorney General, be available for
19 payments of obligations arising under this Act.

20 SEC. 5. The Administration is authorized to establish
21 such rules, regulations, and procedures as may be necessary
22 to carry out the purposes of this part J. Such rules, regula-
23 tions, and procedures will be determinative of conflict of
24 laws issues arising under this part J.

25 SEC. 6. The Administration may prescribe rules and

1 regulations governing the recognition of agents or other
2 persons representing claimants before the Administration.
3 The Administration may, by rule and regulation, prescribe
4 the maximum fees which may be charged for services per-
5 formed in connection with any claim before the administra-
6 tion of this part, and any agreement in violation of such rules
7 and regulations shall be void.

8 SEC. 7. In making determinations under section 701,
9 the Administration may delegate such administrative func-
10 tions to State and local agencies as it determines necessary
11 and proper to the administration of this part. Responsibility
12 for making final determinations would rest with the
13 Administration.

14 SEC. 8. If the provisions of any part of this Act
15 are found invalid or any amendments made thereby or the
16 application thereof to any person or circumstances be held
17 invalid, the provisions of the other parts and their applica-
18 tion to other persons or circumstances shall not be affected
19 thereby.

HOUSE REPORT 94-1032 ON H.R. 366

PUBLIC SAFETY OFFICERS BENEFITS ACT

APRIL 9, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SARBANES, from the Committee on the Judiciary,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 366]

The Committee on the Judiciary, to whom was referred the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty, having considered the same, report favorably thereon with amendments and recommended that the bill as amended to pass.

The amendments are as follows:

Page 1, lines 3 and 4, strike out "Public Safety Officers Benefits Act of 1975" and insert in lieu thereof: "Public Safety Officers Benefits Act of 1976".

Page 2, strike out line 19 and insert in lieu thereof the following: "(1) eighteen years of age or under; or"

PURPOSE OF THE BILL

The purpose of the bill is to provide a \$50,000 Federal payment to the surviving dependents of law enforcement officers who die as the direct and proximate result of a personal injury sustained in the line of duty.

PURPOSE OF THE AMENDMENTS

The first amendment changes the date in the popular name title of the legislation. The second amendment is also technical in nature and is designed to remove any ambiguity as to the coverage of dependent children of the public safety officers who are 18 years of age.

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. As the result of those hearings, H.R. 16932 was introduced and favorably reported by the full Committee on October 5, 1972. This legislation passed the House by unanimous consent on October 11, 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 reintroduced by the Honorable 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 differences in the two bills were never reconciled.

94TH CONGRESS

In the 94th Congress the House-passed version was reintroduced as H.R. 3544 by the Honorable Peter W. Rodino, Jr. and the Honorable Joshua Eilberg introduced two bills, H.R. 365 and H.R. 366, which separated coverage for firemen and law enforcement officers. Additional hearings were held on September 18 and 19, 1975 to consider these three proposals, as well as related legislation. On November 6, 1975 the Subcommittee favorably reported H.R. 365 and H.R. 366 to the full Committee with amendments.

COMMITTEE VOTE

H.R. 363 was considered by the full Committee on March 9, 1976 and was ordered favorably reported, as amended, to the House by a roll call vote of 19 ayes-11 noes.

GENERAL INFORMATION

In 1975 a total of 124 state and local law enforcement officers were killed in the performance of duty as the result of felonious criminal action. In the first two months of 1976, 24 such officers were killed. The extent of the problem is illustrated by the following table derived from

the Uniform Crime Reports which sets forth the number of law enforcement officers killed each year since 1961 as a result of felonious criminal action:

Year:	Number killed	Year:	Number killed
1961	37	1969	86
1962	48	1970	100
1963	55	1971	129
1964	57	1972	114
1965	53	1973	131
1966	57	1974	130
1967	76	1975	124
1968	64		

Despite these tragic statistics and the obvious occupational hazards confronting policemen, correctional officers, and other public safety officers, many states and communities have failed to provide adequate death benefits for their survivors. In addition, great disparities exist as to the amount and scope of coverage among those States which have provided death benefits.

In view of these facts and in recognition of society's moral obligation to compensate the families of those individuals who daily risk their lives to preserve peace and to protect our lives and property, the Committee is convinced that a Federal payment of \$50,000 should be provided to meet the immediate financial needs of the officers' survivors.

In addition to providing direct financial compensation to the families of deceased officers, testimony before the Committee indicates that this legislation will also significantly increase the morale of law enforcement personnel and will greatly assist state and local governments in their recruiting efforts.

Effective law enforcement at the state and local level has been a serious concern of the Federal Government for some time as manifested by congressional approval of the Omnibus Crime Control and Safe Streets Act of 1968. Title I of that law established a comprehensive program under the authority of the Law Enforcement Assistance Administration to provide financial and technical assistance to state and local governments to reduce crime and to improve the Nation's criminal justice system.

The instant legislation, H.R. 366, is a logical extension of that concept and the Committee is of the opinion that this bill will improve law enforcement and increase the professionalism of public safety personnel.

ANALYSIS OF THE BILL

H.R. 366, as amended, is designed to meet the immediate financial needs of the surviving dependents of public safety officers who die from a personal injury which is sustained while in the performance of duty.

This legislation is premised on the fact that there are certain dangerous, high-risk activities associated with law enforcement and that it is in the national interest to upgrade, and improve employment opportunities in, this profession.

The bill defines "public safety officers" to include both reserve and professional, state and local law enforcement officers.

In addition, the term "law enforcement officers" is defined to include the following categories of individuals: policemen; correctional officers; probation and parole officers; and officers involved in programs relating to juvenile delinquency or narcotic addiction. Although the term "law enforcement officer" is extremely broad in its definition, the scope of coverage is restricted by reference to the particular activities which the officer must be engaged in at the time of his injury.

Since the major risk of death confronting law enforcement officers stems from their exposure to criminal activity, the legislation covers such individuals whose injuries occur while they are engaged in: crime prevention, as well as apprehending, protecting or guarding suspects, prisoners and material witnesses.

Benefits are also provided if the law enforcement officer sustains a fatal injury while engaged in the performance of other activities which are determined by LEAA to be potentially dangerous. The legislation specifically authorizes LEAA to issue regulations to implement this provision. The Committee expects LEAA to exercise its rulemaking authority by conducting public hearings and seeking the advice of professional organizations so that the concept of "potentially dangerous activities" can be clearly defined.

The Committee believes that the "potentially dangerous" concept should be developed with close attention being given to active, actual or apparent criminally-related activities which result in the death of a public safety officer. This principle can be reflected in one way by providing that any death would be covered if it results from an actual or apparent criminal act, while an officer is performing his duty in a non-hazardous function. The Committee believes it would be grossly unfair to deny the benefits of this bill to the survivors of an officer who is killed by a criminal act while performing routine duties. To supplement this eligibility criteria, an accidental death of an officer engaged in a "potentially dangerous" activity, defined by LEAA regulations, would also be covered. This kind of dual criteria is necessary to carry out the Committee's purpose of providing death benefits to survivors of these public safety officers engaged in dangerous activities which must be performed for the protection of the public.

In other words, the Committee intends that the coverage would extend to the deaths of public safety officers which result from criminal acts or from the performance of hazardous duties where such duties are within the scope of such officer's employment. The Committee expects that LEAA regulations should make it clear that a simple accident which occurs in the performance of routine, non-hazardous duties is not within the scope of coverage or the rationale of this bill. In other words, the bill is not designed to cover an accidental death of a policeman who is engaged in his normal patrol activities.

H.R. 366 specifically provides that the officer's death must be the "direct and proximate" result of a personal injury sustained in the performance of duty.

With regard to this provision, it is the Committee's intent that the term "personal injury" shall include all injuries to the body which

are inflicted by an outside force, whether or not it is accompanied by physical impact, as well as diseases which are caused by or result from such injuries, but not diseases which arise merely out of the performance of duty. In other words, deaths resulting from occupational diseases alone are not within the purview of this legislation.

With regard to the issue of causation, the Committee is of the opinion that the "direct and proximate result" requirement should be interpreted to cover those cases where the personal injury is a substantial factor in bringing about the officer's death.

As a condition precedent to such payment, the Administration would be required to determine that: (1) the officer sustained a personal injury while engaged in one or more of the stated activities; or other potentially dangerous activities; and (2) the personal injury was the direct and proximate cause of the officer's death.

The bill specifically provides coverage only to those serving public agencies¹ in an official capacity with or without compensation. Consequently, coverage is not extended to the survivors of Federal public safety officers. The Committee believes that the benefits provided under the Federal Employees Compensation Act² are generally adequate and in many instances will exceed the \$50,000 payment authorized by this legislation.³

The bill provides for the payment of a \$3,000 interim benefit to persons who are likely to receive a final award under this legislation. Repayment of this interim benefit where no final award is made may be waived in cases of hardship. Any interim benefit paid will be deducted from the amount of any final benefit paid to such persons.

Benefits shall not be paid in the event intentional misconduct or voluntary intoxication was the proximate cause of death. Further, benefits shall not be paid to any person whose actions substantially contributed to the death of the public safety officer.

Further, the benefit is in addition to all other benefits which the officer's survivors may receive except that it shall be reduced by: (1) payments which are already provided under the Federal Employees Compensation Act to state and local law enforcement officers who are killed while enforcing federal laws; and (2) payments to D.C. policemen who are killed in the line of duty.⁴

The Internal Revenue Service has advised the Committee that the benefit provided under the legislation "could be regarded as benefits received under a statute which is in the nature of Workmen's Compensation Act and as such would be excludable under Section 104(a)

¹ The term "public agency" is defined in 42 U.S.C. 378(1) as any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

² 5 U.S.C. 8101 et al. (1970).

³ For example, in the event of the death of a Federal public safety officer, the officer's widow would receive 45 percent of the deceased officer's monthly pay if there are no children. If there is a child or children eligible for benefits, the widow would receive 40 percent of the monthly pay and each child would receive an additional 15 percent. In no case, however, may the total monthly compensation exceed 75 percent of the officer's monthly pay or 75 percent of the highest rate of monthly pay provided for a grade GS-15 employee of the U.S. Government. Compensation to the officer's survivors would terminate upon death or remarriage. Compensation to children would terminate upon reaching 18 years of age unless extended because such person is a student or is incapable of self-support. In addition, Federal Employees Compensation benefits also cover permanent and temporary total disability.

⁴ See D.C. Code, Sec. 4-531(1) (1973), which provides a \$50,000 death benefit to D.C. policemen who are killed in the line of duty.

(1) of the [Internal Revenue] Code." Therefore, such benefits shall not be subject to Federal income taxes.

The Committee bill establishes a retroactive date of October 11, 1972, which is the date similar legislation passed the House in the 92nd Congress. This retroactive provision would apply to deaths resulting from injuries which were sustained on or after that date.

SECTION-BY-SECTION ANALYSIS

Section 1—Popular name title.

Section 2—Directs Law Enforcement Assistance Administration to pay a \$50,000 death benefit to the spouse or eligible dependents of an eligible public safety officer who has died as the direct and proximate result of a personal injury sustained in the line of duty. Defines "eligible public safety officer" to include state and local law enforcement officer (both professional and voluntary) whose fatal injuries are sustained while engaged in the apprehension of suspects and material witnesses, protecting or guarding suspects, prisoners, or material witnesses, the prevention of crime, or the performance of other activities determined by LEAA to be potentially dangerous.

The categories of law enforcement officers to be covered includes: policemen, correctional officers, prison guards, probation or parole authorities and those engaged in juvenile delinquency or narcotics control programs.

Provides that the \$50,000 benefit shall not be paid in the event intentional misconduct or voluntary intoxication was the proximate cause of his death. Provides further that benefits shall not be paid to any person whose actions substantially contributed to the death of the public safety officer.

Asserts that the \$50,000 death benefit is over and above all other benefits which the officer's survivors may receive except that it shall be reduced by: (1) payments which are already provided under the Federal Employees Compensation Act to state and local law enforcement officers who are killed while enforcing federal laws; and (2) payments to D.C. policemen who are killed in the line of duty (under present law they already receive a \$50,000 death benefit).

Provides that the \$50,000 benefit shall be paid for deaths which resulted from personal injuries sustained on or after October 11, 1972.

Section 3—This legislation authorizes funds to be appropriated in each fiscal year to carry out the purposes of this legislation.

Sections 4, 5, 6, and 7—Administrative provisions.

Section 8—Severability clause.

DEPARTMENTAL POSITION

The Department of Justice supports the objectives of this legislation, but recommends that coverage be limited to those deaths which are the result of a criminal act or an apparent criminal act. A formal report has not been received from the Department of Justice on this legislation, but the following testimony was presented to the Committee on September 18, 1975 by Mr. Hugh M. Durham, Legislative Counsel, Office of Legislative Affairs:

Mr. Chairman, I am pleased to appear today before the Subcommittee to discuss the views of the Department of Justice regarding H.R. 365, H.R. 366, and H.R. 3544, public safety officers death benefits legislation.

The three bills are all quite similar, in that a \$50,000 gratuity would be paid to the surviving dependents of public safety officers found to have "died as the direct and proximate result of a personal injury sustained in the performance of duty." H.R. 365 would apply only to firefighters so killed, while H.R. 366 would apply only to law enforcement officers. H.R. 3544 would apply both to firefighters and law enforcement officers. Each bill would amend Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, so that the program would be administered by the Law Enforcement Assistance Administration.

To be eligible, a law enforcement officer must, at the time of injury, have been engaged in the apprehension, attempted apprehension, protection, or guarding of a person wanted or held for the commission of a crime, or as a material witness, or in the prevention or attempted prevention of a crime. A firefighter must have been actually and directly engaged in fighting a fire. Provision is also made in each instance for eligibility if the decedent was otherwise engaged in the performance of duty where the activity is determined to be potentially dangerous.

The terms "crime," "law enforcement officer," "firefighter," and "dependent for support" are further clarified in the legislation. No benefit would be paid if death was caused by the intentional misconduct of the decedent or intention to bring about his own death, if voluntary intoxication of the decedent was the proximate cause of death, or if the actions of any person who would otherwise be entitled to a benefit were a substantial contributing factor to death.

The provisions of each of the bills would apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury sustained on or after October 11, 1972. Such sums as necessary would be authorized to be appropriated for the program, with Department of Justice and Law Enforcement Assistance Administration appropriations available until necessary funds were provided.

These three bills are, as you know, Mr. Chairman, just a few of the pieces of legislation introduced in the 94th Congress which have similar goals. Legislation which would accomplish essentially the same purpose was passed by both Houses in the 92d and 93d Congresses, but for a number of reasons did not get enacted into law.

As you know, Mr. Chairman, during the 92d and 93d Congresses the Department of Justice supported a legislative proposal which would provide death benefits to survivors of public safety officers. Assistant Attorney General McKeivitt testified before this subcommittee on July 26, 1973 on this subject. The program which we have proposed and supported

differs, however, in several substantial and important respects from the proposals before you today. First, we would require that the death benefits be available only to survivors of eligible officers who died as a result of a criminal act. We believe that the much broader coverage included in H.R. 365 and H.R. 366 is not justified by the federal interest or involvement. As you know, Mr. Chairman, the earlier proposals for a federal death gratuity program were a partial answer to the shocking wave of police killings in the spring of 1971 and of the fact that some police officers were inadequately covered by job related benefits. We believe, and we have stated this position previously, that expansion to cover all job related deaths would start the federal government down a road that is unwarranted and undesirable, in addition to placing upon the federal government a further substantial and costly federal benefit program.

To reiterate, we believe that the proposal should be designed to deal solely with the slaying of eligible officers and not with accidental deaths. As we indicated in prior testimony before the subcommittee, we believe that accidental death is a hazard of many types of employment and we are aware of no rationale that would suggest federal intervention in these situations. Providing survivors benefits for those who are killed accidentally should be the responsibility of the employer in the same manner as other employment benefits. The murdering of public safety officers, however, is an act which attacks the very essence of a stable society and puts in jeopardy the well being of our country. For this reason we have supported Federal assistance in these limited instances.

Secondly, we believe that the provision should apply prospectively only. The three measures previously described would all apply to injuries sustained since October 11, 1972. We believe that when new benefits are created by statute they should only apply prospectively unless there is a compelling public policy reason for determining a date for retroactive application. We feel that the choice of any retroactive date in this matter would be arbitrary and that prospective application is a fair resolution of the problem. In this connection, in August, 1974, in anticipation of passage of H.R. 11321, 93d Congress, LEAA developed a cost analysis of the proposal. At that time, retroactive benefits would have cost the federal government \$32.3 million. Today that one time expense, providing retroactive benefits for both law enforcement officers and firefighters, would exceed \$50 million.

I have outlined the major differences between the proposals before you and the measure which we have supported. We would still support a measure that conformed substantially with these views. I would like, however, to outline to you a course of action which we think would be a preferable answer to the problem.

The President in his recent Crime Message to the Congress specifically endorsed a program which would provide bene-

fits very comparable in magnitude to those included in the police officers death gratuity proposal. The President's program would extend to all victims of Federal crime. Specifically, he stated:

"In addition to this general effort to reform and improve the criminal justice system, the Federal law should be specifically revised to take into greater account the needs of victims of crime. They, as well as the general public, must be made aware that the government will not neglect the law-abiding citizens whose cooperation and efforts are crucial to the effectiveness of law enforcement.

"I urge the Congress to pass legislation to meet the uncompensated economic losses of victims of Federal crimes who suffer personal injury. In order to promote the concept of restitution within the criminal law, the monetary benefits should come from a fund consisting of fines paid by convicted Federal offenders."

Provisions which would implement the President's recommendations are currently contained in the pending proposed Criminal Justice Reform Act (S. 1 and H.R. 3907). These provisions would provide benefits of up to \$50,000 for survivors of victims of specified Federal criminal violations. Public service officers are not barred from qualifying as beneficiaries under this proposal. Moreover, we would support a modification to the Law Enforcement Assistance Administration's authority (i.e., Title I of the Omnibus Crime Control and Safe Streets Act) so that states could utilize block grant funds to finance a state program of death benefits for state and local law enforcement officials.

In summary, we would support a public safety officers benefits program consistent with the program which we have supported in the 93d Congress. I have pointed out today the major differences between the program we would support and the provisions of the pending bills. We would, however, prefer the more encompassing approach which I have suggested today through the provisions of S. 1 and under LEAA.

I thank you for the opportunity of presenting the Department's views on this important matter and will be happy to try to answer any questions which you may have.

ESTIMATE OF COST

No separate estimate concerning the cost of H.R. 366 has been submitted by the Department of Justice; however, the Department has submitted informal estimates concerning the cost of the combined coverage of both law enforcement officers and firefighters as contained in H.R. 365 and H.R. 366. The annual recurring cost for this combined coverage was estimated by the Department to be approximately \$18.1 million.

During testimony before the Committee on September 18, 1975, the Department of Justice indicated that the retroactive cost of the combined coverage of H.R. 365 and H.R. 366 would be approximately \$50 million.

The Congressional Budget Office has advised the Committee that the annual cost of H.R. 366 would be approximately \$7.1 million, while the retroactive provision would result in an additional cost of \$27.9 million.

The Committee generally concurs with the cost estimates submitted by the Congressional Budget Office which is based on a detailed analysis of the number of law enforcement officers killed in the performance of duty during the last five years. At the same time, any estimate is necessarily speculative since the number of law enforcement officers who die in the line of duty may vary considerably from year to year.

BUDGETARY INFORMATION

Clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because the instant legislation does not provide new budgetary authority. Pursuant to Clause 2(1)(3)(C) of Rule XI, the following estimate and comparison was prepared by the Congressional Budget Office and submitted to the Committee:

CONGRESSIONAL BUDGET OFFICE COST ANALYSIS

MARCH 8, 1976.

1. Bill number: H.R. 366.
2. Bill title: Amendment of the Omnibus Crime Control and Safe Streets Act.
3. Purpose of bill: The bill provides an annuity of \$50,000 to survivors of law enforcement officers killed in the performance of duty. Not only does the bill provide for payment to officers killed in the future, but there is a retroactive provision for the October 1, 1972 through October 1, 1976 period. This is an authorization bill and therefore requires subsequent appropriation action.
4. Cost estimate: The retroactive provision (Section 704) of H.R. 366 is estimated to have a cost of \$27.9 million. After the retroactive claims are paid, the yearly cost of the bill is approximately \$7.1 million. It was assumed that all retroactive claims would be paid the first year after enactment of the bill. The total costs of the bill are summarized below.

NET COSTS					
(Millions of dollars: fiscal years)					
	1977	1978	1979	1980	1981
Retroactive cost.....	27.9				
Yearly operating costs.....	7.1	7.1	7.1	7.1	7.1
Total costs.....	35.0	7.1	7.1	7.1	7.1

¹ Assumed to be for the Oct. 1, 1972-Oct. 1, 1976, period.

5. Basis for estimate: The yearly cost estimates are based on the projected number of law enforcement officers killed in the performance of duty. Estimates are based on statistics collected from the FBI Crime Report ² and the American Correctional Association. The number of law enforcement officers

killed was estimated at 140 for each year of the projection period. This estimate was based on the average number of officer deaths occurring during the last five years. Similarly, retroactive costs were based on the recorded deaths from October 1, 1972 to October 1, 1976. All cost estimates are adjusted to compensate for officers covered by the Department of Labor's compensation program as specified in Section 703, subpart b, of the bill. Specifically, if officers qualified for the Department of Labor's program, their survivors expected total compensation over time would be greater than the \$50,000 annuity and would therefore disqualify them from any additional benefits under the act. It was also assumed that the program would require an administrative staff of five employees with an average salary of \$18,423.

6. Estimate comparison: None.

7. Previous CBO estimate: None.

8. Estimate prepared by: James Manaro.

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

OVERSIGHT STATEMENTS

Pursuant to Clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee states that it has exercised close oversight over the programs of the Law Enforcement Assistance Administration and the Committee is currently considering legislation which would extend the authorization for LEAA. Consequently, the Committee will closely monitor the implementation of this legislation in its continuing review of the LEAA program.

Clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

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.

COMMITTEE RECOMMENDATION

After careful consideration of this legislation, the Committee is of the opinion that this bill should be enacted and accordingly recommends that H.R. 366, as amended, do pass.

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is printed in *roman*).

² Federal Bureau of Investigation, Crime Reports, years 1971 through 1975.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

TITLE I—LAW ENFORCEMENT ASSISTANCE

* * * * *

SEC. 520. (a) There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed \$1,000,000,000 for the fiscal year ending June 30, 1974, \$1,000,000,000 for the fiscal year ending June 30, 1975, and \$1,250,000,000 for the fiscal year ending June 30, 1976. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of part E an amount equal to not less than 20 per centum of the amount allocated for the purposes of part C.

(b) *There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J.*

* * * * *

PART J.—PUBLIC SAFETY OFFICERS DEATH BENEFITS

SEC. 701. (a) *In any case in which the Administration determines, under regulations issued under part F of this title, that an eligible safety officer has died as the direct and proximate result of a personal injury sustained in the performance of duty, leaving a spouse or one or more eligible dependents, the Administration shall pay a gratuity of \$50,000, in the following order of precedence:*

(1) *If there is no dependent child, to the spouse.*

(2) *If there is no spouse, to the dependent child or children, in equal shares.*

(3) *If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.*

(4) *If there is no survivor in the above classes, to the parent or parents dependent for support on the decedent, in equal shares.*

(b) *As used in this section, a dependent child is any natural, illegitimate, adopted, posthumous child or stepchild of the decedent who at the time of the public safety officer's death is—*

(1) *eighteen years of age or under; or*

(2) *over eighteen years of age and incapable of self-support because of physical or mental disability; or*

(3) *over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.*

(c) *As used in this section, spouse includes a surviving husband or wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of desertion by the decedent.*

(d) *As used in this section, the term "dependent for support" means more than one-half of the support of the dependent concerned.*

(e) As used in this section, the term "law enforcement officer" means a person engaged in any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals; activities of corrections, probation, or parole authorities; and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

(f) As used in this section, the term "crime" means any act of omission which is declared by law to be a crime in the jurisdiction where the injury to the public safety officer occurred. Such an act is a crime for the purposes of this section notwithstanding the guilt, innocence, disability, or identity of the actor.

(g) As used in this section, the term "eligible public officer" means any individual serving, with or without compensation, a public agency in an official capacity as a law enforcement officer who is determined by the Administration to have been, at the time of his injury engaged in—

(1) the apprehension or attempted apprehension of any person—

(A) for the commission of a crime, or

(B) who at the time was sought as a material witness in a criminal proceeding; or

(2) protecting or guarding a person held for the commission of a crime or held as a material witness in connection with a crime; or

(3) the lawful prevention of, or lawful attempt to prevent, the commission of a crime; or

(4) the performance of his duty, where the activity is determined by the Administration to be potentially dangerous to the law enforcement officer.

SEC. 702. (a) Whenever the Administration determines, upon a showing of need and prior to taking final action, that a death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person or persons entitled to receive a benefit under section 701 of this part.

(b) The amount of any interim benefit paid under subsection (a) of this section shall be deducted from the amount of any final benefit paid to such person or persons.

(c) Where there is no final benefit paid, the recipient of any interim benefit paid under subsection (a) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, and shall consider for this purpose the hardship which would result from repayment.

SEC. 703. (a) No benefit shall be paid under this part—

(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

(b) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

(1) payments authorized by section 8191 of title 5, United States Code;

(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

(c) No benefit paid under this part shall be subject to execution or attachment.

Sec. 704. The provisions of this part shall apply with respect to any eligible public safety officer who dies as the direct or proximate result of a personal injury which is sustained on or after October 11, 1972.

DISSENTING VIEWS OF REPRESENTATIVE JOHN
CONYERS, JR., ON H.R. 366

I join my colleagues, in disagreeing with the views of the majority on both H.R. 365 and H.R. 366, for substantially the same reasons expressed by them in their respective dissenting views.

As chairman of the subcommittee now considering reauthorization of the Law Enforcement Assistance Administration under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, it disturbs me that these bills provide the Administration with a broad grant of discretionary authority in a totally new field—the death indemnity business. Leaving aside the doubts as to whether the Federal Government should assume responsibilities which now belong exclusively to the employers of State and local public safety officers and firefighters, it escapes me how this legislation will further the Administration's mandate to assist State and local governments in reducing crime and improving the administration of criminal justice. It is indeed ironic that such governments are petitioning this Committee for more autonomy in planning and use of Federal crime-fighting funds secured under Title I on the one hand and at the same time asking to be relieved of their responsibilities to provide adequate death benefits on the other.

H.R. 365 and H.R. 366 both would empower the Administration to award funds to survivors for death-producing injuries incurred "in the performance of . . . duty where the activity is determined by the Administration to be potentially dangerous . . ." The reauthorization hearings of the Subcommittee on Crime are filled with charges from all quarters that the Administration has neglected other segments of the criminal justice system and many congressionally-mandated statutory duties in favor of the law enforcement sector. It has become clear to me that many feel that the Administration has failed to provide effective leadership in establishing priorities and proper guidelines for the disbursement and expenditure of Federal funds by State and local agencies eligible to participate in the Title I programs. It seems to me unwise in the extreme to give new responsibilities to the Administration at a time when the enabling legislation which sustains it is being reevaluated and which may be altered in very fundamental ways; it becomes improvident when those responsibilities drastically affect the Federal balance, as these bills would. Although the ends of this legislation cannot be quarreled with, the means to those ends are questionable at best.

For these reasons and those expressed by my colleagues from New York and California, I must respectfully dissent.

JOHN CONYERS, JR.

(15)

DISSENTING VIEWS OF REPRESENTATIVE ELIZABETH
HOLTZMAN ON H.R. 366

I regretfully oppose this bill which gives police officers' families a \$50,000 death benefit.

Let us make one thing clear at the outset. This bill will not help in the important fight against crime. The death benefit will provide no additional incentives for the recruitment of police officers. Even the supporters of this bill have stopped making this claim.

The bill lifts from state and local governments a responsibility they should bear, namely providing adequate protection for the families of police who die or become disabled. It may well be that consideration of this bill in the last three Congresses has encouraged state and local governments to drag their feet in providing adequate pension, disability and life insurance protection.

Furthermore, this bill selects out only one group of police officers' dependents for benefits. It does nothing to aid the family of an officer who is permanently disabled in the line of duty. It does nothing to aid the survivors of an officer who has served courageously for years and is killed by a drunk driver on the way home from work. The bill is thus discriminatory and unfair.

If there is any Federal role regarding police compensation, surely it would be to encourage states and localities to deal with the underlying problem of adequate compensation and disability, retirement, and survivors' benefits in a comprehensive manner. This bill does nothing to address this problem and, in fact, diverts attention from the need for comprehensive protection.

For these reasons, I respectfully dissent.

ELIZABETH HOLTZMAN.

(17)

DISSENTING VIEWS ON H.R. 366—PUBLIC SAFETY OFFICERS BENEFITS ACT

A bill providing a lump-sum Federal payment of \$50,000 to the dependent survivor of State and local public safety officers killed in the line of duty, is being reported to the House for the third successive Congress. If there was ever a time when such a program was justified, that time has passed and this bill should be defeated.

In the late sixties and early seventies, social unrest often took the form of street violence. Such violence was directed at many forms of "the establishment" and prime targets were law enforcement officers. Many such officers were killed or injured at the hands of protesters, snipers, and the like. As a result of the situation as it then existed, the idea behind the bill was born.

Now, in 1976, the era of such violence has passed, along with the misguided justification for this bill. For it would not have solved in the past, nor will it solve now, all problems which its proponents say it is designed to relieve.

This bill will not prevent crime. Not one life will be saved by this legislation and it is obviously no deterrent to criminal assaults against public safety officers.

It is suggested that a Federal death benefit is essential to boost the morale of police, and that it would aid in recruitment. Even if one assumes that it is a Federal responsibility to boost the morale of State and local employees, a death benefit is singularly ill-suited to enhance morale or to stimulate recruitment. A cash bonus would do far more for morale than this ill-conceived scheme. It is to be noted that we have not raised death benefits as an inducement to join our "all volunteer" Army for the obvious reason that benefits which may be currently enjoyed are greater morale and recruitment factors than benefits which only accrue upon death.

Furthermore, the payment of death benefits to the survivors of State and local police who are killed in the performance of their duties is not a Federal responsibility. Death benefits are a normal part of the total compensation package which an employer may owe to an employee. In the case of public safety officers who are exposed to daily hazards, the duty of their employers to provide adequate death benefits is absolutely clear. But the United States Government is not the responsible employer of State and local public safety officers, and it should not assume a responsibility properly resting with others, unless there are compelling reasons for doing so.

The reasons advanced for Federal intervention into this area of local responsibility are specious. It is claimed that some States and some communities cannot afford to discharge this responsibility. This allegation is utterly fallacious and is not supported by the evidence before the Committee or common sense. The cost of insuring against the risk

of death from those narrow causes specified in the bill would be minimal. Any State, city or impoverished hamlet which can afford to pay for police protection at all can surely afford the few dollars necessary to purchase group life insurance funding a reasonable death benefit. It is claimed that a Federal death benefit is necessary a tangible evidence of America's support for public safety officers. Without doubt, America owes a debt of gratitude to policemen who risk their lives for our comfort and safety. But can it also be doubted that we owe a similar debt of gratitude to FBI agents and Secret Service personnel? Or the soldiers, sailors, and marines? Or to astronauts and deep-sea divers? Or, for that matter, to those thousands of private citizens engaged in hazardous occupations who contribute to our comfort and safety? There is no good reason to single out public safety officers for special benefits and to neglect all others.

In this connection, it is revealing to compare the treatment of servicemen to that proposed by this bill. National Service Life Insurance is available to members of our Armed Services who are willing to pay for it. The maximum coverage is \$15,000 and the cost of the insurance is paid entirely by the serviceman. In other words, in the case of this category of Federal employee, fully worthy of our gratitude and for whom we have total responsibility, Congress has provided no death benefits at all.

It is claimed that a cash payment is a proper Federal act as evidence of our sympathy for the survivors of public safety officers. But sympathy for the families of slain policemen, which we all share, must not deflect us from a proper analysis of our legislative responsibilities. The widow of a policeman killed in the line of duty is not more grief-stricken nor burdened with financial or family problems than the widow whose husband dies in bed of a heart attack. Indeed, if our aim is to alleviate hardship to widows, or is to extend in cash a manifestation of our sympathy toward her, the nature of the employment of the deceased and the cause of his death are irrelevant factors. To limit payments to survivors of public safety officers killed during the performance of hazardous duty only, is an irrational classification devoid of detectable logic if justification is sought on the basis of sympathy or need.

In addition to its conceptual defects, the bill is overly broad in its coverage of "law enforcement officers."

Section 701(e) defines a law enforcement officer as any person "engaged in any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including * * * programs relating to the prevention, control or reduction of juvenile delinquency or narcotics addiction."

As thus defined, law enforcement officers are not limited to police personnel. A teacher, for instance, is normally employed by a public agency and might well be engaged in an activity related to the reduction of juvenile delinquency. A social worker might be engaged in a narcotics addition program.

The only limitation against such an extension of coverage is the requirement that the "law enforcement officer" (as loosely defined) be engaged in an activity determined by the Administration to be potentially dangerous. Could the Administration rationally adopt regula-

tions excluding a teacher in a violence prone neighborhood who was compelled to confront known delinquents in the classroom? With a \$50,000 pot of gold as an incentive, litigation would be encouraged by regulations excluding teachers under such circumstances.

Clearly the Committee does not intend the coverage to extend as far as we have suggested it might. But legislative history cannot repeal the unambiguous thrust of the words used in a statute.

We are confident that those public safety officers not now covered by an adequate death benefit can gain that coverage with relative ease at their next negotiating session for increased compensation. Employers should pay the full cost of such coverage; but if the employee were to bear the cost alone, group life insurance premiums against those risks covered by this bill would be an insignificant sum.

We urge a "no" vote on this unfortunate legislation.

WILLIAM S. COHEN.
CHARLES E. WIGGINS.
EDWARD HUTCHINSON.
ROBERT MCCLORY.
THOMAS N. KINDNESS.
EDWARD W. PATTISON.

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HOUSE DEBATE AND PASSAGE OF

H.R. 365 AND H.R. 366

APRIL 30, 1976



United States
of America

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No. 62

House of Representatives

Public Safety Officers Benefits: By a recorded vote of 199 ayes to 93 noes, the House passed H.R. 366, Public Safety Officers Benefits Act.

Rejected a motion to recommit the bill to the Committee on the Judiciary.

By a yea-and-nay vote of 98 yeas to 202 nays, on a demand for a separate vote in the House, rejected an amendment that sought to deduct death benefits paid as a result of this bill from the general revenue sharing funds due to the employer of the deceased. Earlier, while in the Committee of the Whole, agreed to the amendment by a division vote of 31 ayes to 22 noes.

Took the following action in the Committee of the Whole:

Agreed to:

The committee amendments;

An amendment that makes payments of benefits effective only to the extent provided for in advance by appropriation acts; and

An amendment that sought to have all benefits paid as a result of this act paid and deducted from sums due to the employer of the deceased from general revenue sharing funds (agreed to by a division vote of 31 ayes to 22 noes).

Rejected:

An amendment to strike the provision making the death benefits retroactive to October 11, 1972; and

An amendment to strike the date limitation of October 11, 1972, from the retroactive provision.

Pages H3718-H3737

Firefighters Benefits: By a yea-and-nay vote of 178 yeas to 80 nays, the House passed H.R. 365, Firefighters Benefits Act.

Agreed to:

The committee amendments; and

An amendment that makes payments for benefits effective only to the extent provided for in advance by appropriation acts.

Rejected an amendment to strike the provision making the death benefits retroactive to October 11, 1972.

Pages H3737-H3745

thorize a death benefit of \$50,000 for the survivors of firefighters killed in the line of duty.

This is an open rule providing for 1 hour of general debate. The rule also waives points of order. The points of order addressed are not inconsequential and ought to be discussed in some detail.

As a matter of record, I would state that House Resolution 1156 making in order consideration of H.R. 366, a companion bill concerning the same death benefit for public safety officers, parallels the present case. My comments on the matter now before the House would apply equally to that case.

In any event, section 4 of the bill raises certain parliamentary difficulties. It states:

Until specific appropriations are made for carrying out the purposes of this act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this act.

This section is open to a point of order under clause 5, rule XXI, and leaves consideration of the entire bill subject to a point of order under section 401(b) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

If the motion on the previous question on the resolution is agreed to, the House will have waived both points of order. I ought, therefore, to discuss the questions at this point.

APPROPRIATIONS

Clause 5, rule XXI, states in part:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

The point of order applies to the language itself and not to consideration of the bill (VII Cannon 2151). This clause was added to the rules of the House in the summer of 1920 as part of various legislative initiatives to establish a budget process and concentrate the appropriating process in a single committee of the House.

The clause has been readopted verbatim at the organization of each of the subsequent 27 Congresses. Any reasonable budget system will be marked by the consistent centralization of the appropriating function. But the efficacy of the rule is dependent on the basic reluctance of the Committee on Rules to waive its provisions.

SECTION 401(b)

The Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), in section 401(b), provides:

It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c) (2) (C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

The law is clear and its intent is obvious, that a new entitlement program shall be fully subject to the budget process in its first implementation.

PROVIDING FOR CONSIDERATION OF H.R. 365, FIREFIGHTERS BENEFITS ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1155 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1155

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 365) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty, and all points of order against section 4 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, House Resolution 1155 is the rule providing for consideration of H.R. 365, a bill to au-

To allow the diversion of funds appropriated for other purposes, as in section 4 of the bill, would have the effect of exempting the program from that initial scrutiny.

It goes without saying, that the integrity of the budget process is one of the principal concerns of the Committee on Rules at this point. During its first binding year, the process must be given every opportunity to work according to design.

HOUSE RESOLUTION 1156

But it is important that the rules of the House not become an obstacle. Clearly we must be prepared to make every allowance in the legislative process to speed consideration of so vital a matter.

These bills are a vital and long delayed response to our obligation to America's public safety officers and firefighters. I think we all realize that, when a policeman or fireman dies, we owe his family a good deal more than sympathy.

These bills address a very basic responsibility of our country. And the Committee on Rules has recommended rules which will enable the speediest possible action of these proposals.

In doing so, the Committee notes the intention of the gentleman from Pennsylvania (Mr. EILBERG) to offer a technical amendment to section 4 that would bring the bill into conformity with the Budget Act provisions by limited reappropriations to those legislated through the appropriations process.

There is no reason to expect that the Committee on Appropriations will act with anything but the greatest dispatch in funding this bill and the proposal of the gentleman from Pennsylvania has resulted, I understand, in general support for the waivers from the Committee on Budget and the Committee on Appropriations.

I urge the House to adopt the resolution so that we can proceed to consider this important legislation (H.R. 365).

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LOTT asked and was given permission to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, House Resolution 1155 is an open rule providing for 1 hour of general debate for the consideration of H.R. 365, the Firefighters Benefits Act of 1976. Since the entitlement provision in the bill is designed to take effect before October 1, 1976, the first day of fiscal year 1977, it violates section 401(b) of the Congressional Budget Act. This rule would waive points of order which could be raised against that violation. All points of order also are waived against section 4 of the bill for failure to comply with clause 5, rule XXI, the rule of the House prohibiting the reporting of an appropriation by a legislative committee.

It is my understanding that amendments will be offered to correct these two deficiencies in the bill. To comply with the Congressional Budget Act, an amendment will be offered to convert the entitlement to an authorization subject to the normal appropriations process. Likewise, an amendment will be submitted on the floor making the legislation

a straight authorization and eliminating the appropriations language.

Briefly, H.R. 365 proposes to:

First. Direct the Law Enforcement Assistance Administration to pay a \$50,000 death benefit to the spouse or dependents of a firefighter who has died as the proximate result of personal injury sustained in the performance of his duty.

Second. Provide for the payment of a \$3,000 interim benefit to persons who are likely to receive a final award under the bill. This amount may be deductible if final reward is made.

Third. Assert that the \$50,000 benefit is over and above all other benefits which the survivors may receive except that it will be reduced by payments under the Federal Employees Compensation Act and payments to District of Columbia firemen killed in the line of duty.

Fourth. Provide that the \$50,000 benefit will be paid for deaths resulting from injuries sustained on or after October 11, 1972.

The annual cost of this legislation is estimated to be \$5,900,000. The retroactive provision is predicted to cost approximately \$23,000,000.

There are objections to this measure. The main concern of those opposed centers around the proposition that there simply is no justification for extending Federal benefits into an area which should remain the responsibility of the individual States and local governments.

Administration position: While the administration supports legislation to compensate the families of law enforcement officers killed as a result of a criminal act, it opposes these bills for the following reasons: First. Their coverage is too broad including firemen, judges, parole officers, conceivably even truant officers; Second. The bills would compensate for accidental death and other public-related deaths not associated with criminal activity; Third. The bills are retroactive to October 1972.

Mr. Speaker, I support the rule before us.

Mr. MOAKLEY. Mr. Speaker, I move the previous question of the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 366, PUBLIC SAFETY OFFICERS BENEFITS ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1156 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1156

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers

who die in the performance of duty, and all points of order against section 4 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, House Resolution 1156 is the rule providing for consideration of H.R. 366, a bill to authorize a death benefit of \$50,000 for the survivors of public safety officers killed in the line of duty.

It is the companion bill to H.R. 365 and the rule is identical to the one just agreed to; this is also a 1-hour, open rule providing for waiver of points-of-order against an identical section 4.

Mr. Speaker, public safety officers lay their lives on the line daily for us. And I am sure my colleagues agree that both of these bills are highly appropriate responses to the sacrifices made daily by policemen and firefighters.

I urge adoption of the rule so that we can proceed to consider this important legislation (H.R. 366).

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LOTT asked and was given permission to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, House Resolution 1156 provides for a 1-hour, open rule for the consideration of H.R. 366, the Public Safety Officers Benefits Act of 1976. The same points of order lie against this bill that lie against the firefighters legislation. They are violations of section 401(b) of the Congressional Budget Act and failure to comply with clause 5 of rule XXI, relating to appropriations in a legislative bill. As is true for the firefighters bill, I have been advised that amendments will be offered to correct these deficiencies when H.R. 366 is read for amendment.

The purposes of the Public Safety Officers Benefits Act of 1976 are as follows:

First. Directs the Law Enforcement Assistance Administration to pay a \$50,000 death benefit to the survivors of an eligible public safety officer who has died as a proximate result of an injury sustained in the line of duty.

Second. Defines "eligible public safety officer" to include State and local law enforcement officers whose fatal injuries are sustained while engaged in the

apprehension of suspects and material witnesses, protecting suspects, prisoners, or material witnesses, prevention of crime, or the performance of other activities determined by LEAA to be potentially dangerous.

Third. Asserts that the \$50,000 benefit is over and above all other benefits the survivors may receive except that it may be reduced by payments under the Federal Employees Compensation Act and payments to District of Columbia policemen killed in the line of duty.

Fourth. Provides that the \$50,000 benefit will be paid for deaths resulting on or after October 11, 1972.

The estimated annual cost of this legislation is \$7,100,000. The retroactive expense back to 1972 is adjudged to be about \$27,900,000.

In general, the same objections relate to this bill as relate to the firefighters measure. That is, many members feel that the States and local governments should assume responsibility for providing death benefits to survivors of policemen killed while on duty. This would be the proper solution but for the fact that great disparity exists between the States as to the death benefits provided. The fact is that many States provide no benefits whatsoever, and the insurance coverage allowed is inadequate more often than not. So it is apparent that the situation obviates the need for the benefits contained in this legislation.

Mr. Speaker, I can think of no individuals more deserving of our gratitude than our policemen and firemen. I intend to vote for the Public Safety Officers Benefits Act of 1976. At this time, however, I urge the adoption of the rule now before the House, House Resolution 1156, in order that we may proceed to debate and pass H.R. 366.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

State of the Union for the consideration of the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 366, with Mr. MEEDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 30 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Chairman, I yield myself such time as I may consume.

(Mr. EILBERG asked and was given permission to revise and extend his remarks.)

Mr. EILBERG. Mr. Chairman, the legislation we now consider, H.R. 366, provides a \$50,000 death benefit to the surviving dependents of public safety officers who are slain in the line of duty. Many of my colleagues will recall that the House on October 11, 1972, unanimously approved legislation in the 92d Congress to compensate surviving dependents of law enforcement officers who die in the performance of hazardous duties including firemen who are killed while protecting life and property from fire. The Senate approved similar legislation. The differences were resolved and a conference report was filed during the last few days of the 92d Congress. Regrettably, Congress adjourned before action could be taken on this critical legislation.

Once again in the 93d Congress numerous proposals dealing with this subject matter were introduced by Members and the House overwhelmingly approved the Public Safety Officers' Benefits Act of 1973 by a vote of 320 to 54. Once again, however, the Senate-passed version limited coverage to death of public safety officers in the line of duty as a result of a criminal act. In my judgment, the Senate legislation discriminated against the firefighting profession, since it almost precluded recovery for firemen. An impasse developed between the House and Senate which could not be resolved prior to the adjournment of the 93d Congress.

For this reason, we are now presenting two separate bills providing identical benefits to firemen and to law enforcement officers. It is my hope, by separating the coverage for these two categories of public safety officers, we may facilitate communication and break the impasse with the Senate on this urgently needed legislation.

The first bill we bring to the floor today is H.R. 366. This bill would provide a

death benefit to the survivors of law enforcement officers who die from injuries sustained in the line of duty.

The term "law enforcement officer" in H.R. 366 is broadly defined to include police officers, corrections, probation and parole officials; and those involved in programs relating to juvenile delinquency or narcotics addiction. While this definition is broad, coverage is limited only to those who sustain fatal injuries while engaged in the following activities: First, apprehending suspects or material witnesses; second, protecting or guarding suspects, prisoners, or material witnesses; or third, preventing crime. H.R. 366 would also cover law enforcement officers who sustain fatal injuries while engaged in any activities which are determined in LEAA to be potentially dangerous.

It should be noted that coverage is provided to individuals "serving" public agencies with or without compensation in an official capacity. In other words, reserve law enforcement officers are also covered under this legislation.

This bill contains an interim benefit provision which would allow a \$3,000 interim benefit to persons who are likely to receive a final award. Repayment of this interim benefit may be waived in hardship cases where no final award is granted.

The \$50,000 death benefit is over and above all other benefits which the officer's survivors may receive except that it shall be reduced by: First, payments which are already provided under the Federal Employees Compensation Act to, State and local law enforcement officers who are killed while enforcing Federal laws; and second, payments to District of Columbia policemen who are killed in the line of duty—under present law they already receive a \$50,000 death benefit.

It is with confidence and conviction that I feel it is appropriate for our Government to compensate surviving dependents of public safety officers who find themselves in a desperate financial situation often left to the mercy of charitable organizations when their loved ones are struck down in the line of duty. Certainly, our society owes a special obligation to those individuals who daily risk their lives for our safety and protection. The numerous letters that I have received from many Members of Congress and private citizens have emphasized that the untimely death of a public safety officer is a truly tragic situation which warrants remedial action by the Congress. In addition, witnesses have testified before the subcommittee that passage of this legislation would substantially improve the morale of public safety officers and enhance recruitment efforts.

The war against crime can be waged simultaneously on numerous fronts including assisting in a positive way the families of those who are charged with the responsibility of seeing that out laws are enforced and obeyed.

This legislation has received the bipartisan support of this body on two previous occasions, and I urge my colleagues to approve this urgently needed legislation.

PUBLIC SAFETY OFFICERS BENEFITS ACT

Mr. EILBERG. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Hawaii.

(Mr. MATSUNAGA asked and was given permission to revise and extend his remarks.)

Mr. MATSUNAGA. Mr. Chairman, I wish to commend the gentleman from Pennsylvania (Mr. EILBERG), the chairman of the subcommittee and a great friend and champion of law enforcement officers throughout the country, for bringing H.R. 366, the proposed Public Safety Officers Benefits Act of 1976, to the floor of the House. As a sponsor of similar legislation in preceding Congresses, I wish to lend my complete support to this much-needed proposal.

Mr. Chairman, the purpose of H.R. 366 is simply to provide to the spouses and dependents of law enforcement officers killed in the line of duty some measure of compensation for their tragic loss. The \$50,000 Federal payment to these survivors which the bill authorizes is certainly the least our society can do to meet its moral obligation to provide care for such individuals.

This is a familiar subject, Mr. Chairman. In 1971, I joined more than a hundred of my colleagues in sponsoring legislation similar to H.R. 366. The result in 1972 was House passage, by unanimous consent, of legislation providing benefits similar to those proposed in the pending bill. Conferees resolved differences between the House and the Senate versions of the bill, but due to insufficient time final action in the House was not taken. Unfortunately for all, but particularly for those who lost loved ones, essentially the same fate befell similar legislation in the 93d Congress.

Statistics clearly show that public safety officers continue to face increasing hazards. They clearly indicate that Congress can no longer delay implementation of the proposal before us today. Between 1965 and 1975, the number of law enforcement officials killed each year as the result of felonious criminal action rose from 53 to 124. In the first 2 months of this year, the grim toll was upped by 24 officers. Because of this tragic fact, and because many States have failed to provide properly for the dependent survivors of those killed in the line of duty, morale, and recruiting have become serious problems—problems with which the States need Federal assistance to cope. A Federal payment of \$50,000 to an officer's survivors, as provided in the pending legislation, should help to alleviate those problems. More importantly, though, while money can never come close to expressing society's debt to those killed, it can at least help to ease the practical, financial problems which may accrue to the survivors.

Mr. Chairman, H.R. 366 would fill an existing void at a minimal cost, and cannot help but mean an improvement in our law enforcement system. I strongly urge its passage.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Chairman, I rise in support of the bill, H.R. 366, to provide death benefits for the dependent survivors of public safety officers killed in the line of duty, and I wish to join with the gentleman from Pennsylvania in urging support of this worthy legislation.

As you will recall, this House overwhelmingly passed similar legislation during the 92d and 93d Congresses.

I feel we must respond to the tragic loss of policemen who give their lives in their very dangerous duties. Each day these brave public servants, in the course of their uniquely hazardous duties, lay their lives on the line not knowing whether they will ever return to their families. As a group, they have never been highly paid and if killed, their dependents must rely on a patchwork system of State insurance programs and voluntary contributions by local citizens. While some might wish localities would be more responsible in providing life insurance for their police forces, the fact is that uniformly this has not been done. The lack of such financial security for one's dependents discourages otherwise enthusiastic candidates from entering this dangerous profession. All witnesses appearing before us on this bill agreed its enactment would aid in recruitment. At this time, when the crime rate continues to go up, when police deaths in the line of duty are at a record high, a survivors death benefit is a small price to pay.

Let me provide for you a profile of a slain police officer from the testimony we heard on this bill from Orday Burden, chairman, Hundred Clubs, Information Council:

Twelve percent of the public safety officers slain in 1974 were under age twenty-five. Thirty-one percent were aged twenty-five to thirty. Officers over age thirty accounted for fifty-seven percent of the 1974 deaths. The officers killed in 1974 had a median years of law enforcement service of only five years which means their pension benefits would be minimal at best. In 1974, a full seventeen percent of the officers had less than one year service when killed. Forty-five percent of those killed had less than five years service while another thirty-three percent had only five to ten years of service. Only twenty-two percent of the officers killed in 1974 have over ten years of service.

The critical importance of this information becomes apparent when one discovers that no city with a population of over one million allows a pension to vest within five years and one one, Philadelphia, allows its pensions to vest within ten years of service.

In sixty-five out of the one hundred three jurisdictions (or 63%) that experienced a public safety officer killed in the line of duty in 1974, no lump sum cash payments exclusive of whatever insurance or pension benefits existed were made. In many of those cases, widows and children have survived because friends or fellow officer families have pooled resources to pay the bills. Remembering that only twenty-two percent of the officers killed in 1974 had more than ten years service and that few jurisdictions provide pension benefits that early in a career it is clear that a substantial problem exists which requires the attention of the Congress.

Mr. Chairman, with respect to providing life insurance, municipal employers have responded very unevenly. No city over 1 million population provides more than \$15,000 coverage. Detroit and

Los Angeles provide nothing. No city over 500,000 and less than 1 million population provide over \$10,000 coverage, and Denver and Cleveland provide nothing. San Diego provides only \$1,000, Jacksonville provides \$2,000, and Phoenix provides \$4,000 of coverage. These are but a few examples of the totally inadequate insurance coverage for peace officers.

In the fight against crime in the United States, the Congress has already joined with State and local municipalities in cooperative efforts to upgrade local law enforcement. We authorize Federal funds to be used in the recruitment and training of law enforcement personnel through the Law Enforcement Assistance Administration. Presently, death benefits are provided for local law enforcement officers killed while enforcing Federal criminal statutes. A \$50,000 death benefit is currently provided to District of Columbia police killed in the line of duty. This bill is a consistent and logical extension of these efforts.

I strongly urge a favorable vote on this meritorious legislation.

Mr. EILBERG. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BRODHEAD).

(Mr. BRODHEAD asked and was given permission to revise and extend his remarks.)

Mr. BRODHEAD. Mr. Chairman, I rise in support of this excellent bill. Many of us in political life describe our work as "public service." But I think we must recognize that our work is not "service" in the same sense that law enforcement work in our cities is "service." For those who follow this latter career are subject to truly extraordinary dangers—dangers that few of us can ever begin to comprehend. America is a great, good, and well-governed country. But we have serious failures as a society—and many of these failures manifest themselves in the form of violent crime. As a society we employ law enforcement officers as our agents to deal with violent crime. Their task is extremely hazardous and their families are subject to the loss of their income at any time. For that reason I believe we must recognize our duty to these courageous men and women who perform this unique and extraordinary form of public service. Last year I introduced a bill very similar to the one under consideration here today. I am pleased that the committee has brought this bill to the floor and urge my colleagues to pass the bill with a resounding vote so that we can get it enacted into law at the earliest possible time.

Mr. EILBERG. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. Chairman, in yielding to this gentleman I would like to comment that the gentleman from New York (Mr. BIAGGI) was an original sponsor of this legislation back in 1972 and has worked very hard to help to bring this measure to this stage.

(Mr. BIAGGI asked and was given permission to revise and extend his remarks.)

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding.

(Mr. DRINAN asked and was given permission to revise and extend his remarks.)

Mr. DRINAN. Mr. Chairman, I rise to speak in favor of H.R. 366, a bill to provide a \$50,000 Federal payment to the surviving dependents of law enforcement officers who die as a direct result of a personal injury sustained in the line of duty.

I commend the distinguished chairman of the subcommittee for separating out the measures related to law enforcement officials and to firefighters.

During the past 10 or 15 years the number of police killed in the line of duty has more than doubled. It has been frequently noted that the number of police officers killed by the illegal use of firearms tolled at least 130 in 1975. In addition, H.R. 366 includes correctional officers, prison guards, probation and parole authorities and those engaged in programs related to juvenile delinquency or the control of narcotics.

Some individuals during the process of finalizing this bill urged that law enforcement officials who were permanently disabled in the line of duty should also receive the equivalent of what the survivors receive for a police officer slain in the line of duty. This extension of this measure may be logical, but other measures can be adapted for that particular situation.

Some persons who are less than enthusiastic about H.R. 366 assert that it will not constitute a direct incentive for the recruitment of police officers. Prescinding from the quality of evidence on either side of that argument, the fact of the matter is that society and the Federal Government have a special obligation toward those who assume the risk of a violent death in order to protect the safety and peace of society.

The lump sum benefit which will come to the widow or survivors of a law enforcement official killed in the line of duty will not be subject to taxation under the IRS Code. Consequently, we can hope that this legislation will bring to the families of slain policemen at least a modest sum by which the children of a deceased law enforcement officer might be given a college education or some of the other benefits which they would ordinarily receive if their father had not lost his life in the line of duty.

I hope, Mr. Chairman, that H.R. 366 will prevail on the floor today and that it will not encounter the difficulties of scheduling which prevented its final enactment in the last Congress.

Mr. BIAGGI. Mr. Chairman, I would like to take this occasion to congratulate the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. ERLBERG) who himself has demonstrated deep concern and has provided relentless leadership and a constancy of purpose in dealing with this legislation, despite all of the obstacles presented over the past several Congresses. Without his leadership and with-

out his persistence, I feel safe in conjecturing that this legislation would not be on the floor today or might very well not have seen the light of day—this day or any other day.

As for myself, I am privileged to have been associated with this legislation. As a former police officer for some 23 years, I am intimately acquainted with the facts of life as they relate to law enforcement agencies. I do not think there is any one in the entire House who does not expect my full support for this bill today.

I would like to help obtain some additional support for this legislation by citing an example which will illustrate just what the bill is all about.

It was a day in late June of 1974. Lt. Henry Schmeimann, a veteran of more than 20 years in the New York City Police Department, kissed his wife goodbye and began his usual walk to work. With her five children and husband gone, Mrs. Schmeimann began her daily chores while listening to the radio. Suddenly a news bulletin came on the air: A policeman, a lieutenant had been shot and killed 10 blocks from the Schmeimann home. Mrs. Schmeimann knew that her husband walked past that location every day. Gripped with fear and panic, she called her husband's office in the internal affairs division. She pleaded, "Has my husband arrived yet? I just heard this report." The heartsick policeman on the other line knew it was her husband who was killed but he did not want to break the news to her over the telephone. This was the job of the police chaplain. The chaplain arrived with the news that Mrs. Schmeimann, who just 2 days earlier had celebrated her birthday and who in several days was to celebrate her 25th wedding anniversary, was now a widow with five children.

This tragic story has been repeated in the households of the more than 750 safety officers who have been killed nationally in the line of duty since 1970. Already in 1976, 43 public safety officers have been killed in the line of duty, the most recent murder taking place in Columbus, Ga., on April 20.

What becomes of the widows and surviving dependents of these men? Most find themselves suddenly deprived of their sole means of support with bills piling up and hungry mouths to feed. Where does help come from? At present, there is no assistance forthcoming, unless the family lives in a community with a big heart which will take up a collection for them. It is a national disgrace that the families of public safety officers who have given up their lives to protect others, are abandoned by their cities, their States, and their Federal Government.

This bill, H.R. 366, proposes to rectify this situation by providing a \$50,000 Federal payment to the surviving dependents of law enforcement officers who die as a direct and proximate result of personal injury sustained in the line of duty. An additional and very important feature of this bill, is its provision for an interim \$3,000 benefit payment to meet immediate financial needs of families of

slain public safety officers. In addition, the \$50,000 death benefit payment will not be subject to Federal income taxes.

I am pleased to see the many categories of law enforcement officers which are covered under the bill. In addition to police, correctional officers, probation and parole officers, officers related to programs involving juvenile delinquency or narcotic addiction are also included. Finally, the bill also covers reserve State and local law enforcement officers. I am especially pleased to see that the important work of auxiliary police units will be recognized under this bill. Last September, a member of the New York City auxiliary police force was brutally beaten to death in Central Park. This was a man who had given of his time voluntarily, a man who was otherwise engaged during the course of the day and who responded to the community needs to supplement the depleted force of the New York City Police Department, a department that had failed to successfully deal with the crime problem, but with the auxiliary police unit the community has been provided with additional forces. This shocking event helped to focus attention on the important work of the more than 5,000 men and women who serve on the auxiliary police force. I might suggest that with that first death I predict, as sure as night follows day, there will be others of its kind and still no provision for their survivors. The inherent dangers in their work are just as grave as those of their counterparts on the regular police force.

To say the job of the public safety officer in this Nation is a hazardous one, is almost a crude understatement. In the past 15 years this Nation has experienced better than a 300-percent increase in the number of law enforcement officers killed in the line of duty.

While these figures may indicate the extent of the problem numerically, they do not even begin to explain the suffering and anguish endured by the families of these men. They do not explain how a happy and proud wife and family suddenly, because of an assailant's bullet or knife, find themselves perched on the brink of poverty with no assistance forthcoming.

I recall my own experiences as a 23-year veteran of the New York City Police Department. I have seen it happen to a number of families. I have endured many funerals of slain law enforcement personnel. The public officials and the community leaders respond and shed their crocodile tears, and perhaps shed genuine tears, and make some compassionate comment for the occasion, and then when the pomp and ceremony is terminated they return to the normal course of their work and leave the families of the slain officers to console themselves.

I have brought this concern with me to the Congress. I have witnessed the House pass similar versions of this legislation on two separate occasions and I am hopeful that we will pass this bill today and complete the legislative process which will allow it to be signed into law. It is no longer sufficient for us to

bestow awards to the grief-stricken widows and children of these men. We must express our concerns in more practical terms. This we can do today by passing H.R. 366, which will provide financial security to these individuals.

So there will be the usual objections to the Federal Government assuming this responsibility. It is apparent that despite the shocking increases in the number of public safety officers killed in the line of duty, States and localities are either unwilling or unable to provide sufficient death benefits.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, I rise in support of the bill. I wish to commend the gentleman for his leadership on these two combined measures, as well as the subcommittee chairman, the gentleman from Pennsylvania (Mr. ELLBERG).

I especially wish to thank the gentleman in the well for his mentioning earlier of the loss in Columbus, Ga., which is my hometown and the third district of Georgia encompasses that town. It was a traumatic experience to learn of the death, the shooting and ultimate death of Officer Vining in Columbus, Ga., and to witness the fact that he did leave a family behind without a whole lot of security for them.

We recall Officer Boone of the same town of Columbus, Ga., and there are many other examples across the length and breadth of this Nation. Appreciation should be translated into tangible rewards and benefits in terms of personal and family security. I am reminded, as we go from the consideration of policemen to firemen of the English poem:

It's Charlie this, and Charlie that, and Charlie go away; but it's "Thank you, Mr. Soldier" when there's trouble in the wind!

We can say the same thing about firemen. We all take them for granted. I just wish to rise in support of this measure and to thank the gentleman for expressing so eloquently the real need for Federal assistance in this area.

Mr. BIAGGI. Mr. Chairman, with the fiscal problems mounting in our cities and States, it is more incumbent than ever before that the Federal Government assume this responsibility. To quibble over questions of jurisdiction represents an unconscionable insult to the thousands of public safety officers who have patiently awaited our action on this bill.

The argument that is offered, a specious one, I contend, that this is not a responsibility of the Federal Government is without basis. That argument has been offered time and time again on the floor of this House in connection with legislation for various purposes. The reason the Federal Government eventually responded is because the local and State governments failed in their responsibility and this House, as well as the other House assumed the responsibility to compensate for the improper conduct, for the lack of appropriate action by the municipalities throughout the country. To pursue that kind of thinking is to negate all the legislation we have passed, legislation in the past.

I am pleased to see that one of the stumbling blocks to this legislation in the past, the retroactivity provision, has been resolved, hopefully. Under this bill, those public safety officers killed in the line of duty on or after October 11, 1972, shall be covered.

Mr. Chairman, this legislation demonstrates compassion, good sense and justice for the brave men and women who serve in our law enforcement units. These individuals live in constant fear, knowing that as the most visible symbol of authority in this Nation they have become the favorite targets of the lawless and anarchistic elements in this country.

Let me stay with that. There was a time in this country when the police officers, law enforcement officials were prepared to expose their lives to peril from the criminals, as we knew it traditionally. In the last decade that area has expanded. They were killed in senseless killings, for no reason except that they wore the visible evidence of authority. They represented the outward symbol of government. We have seen them ambushed and assassinated, not engaged in hot combat in the performance of a felony. We expect that. But not this new development. Frankly, that it is this very phenomenon that has focused attention on the problem and what precipitated the introduction of this legislation.

It is because the Government, the then administration, advocated its enactment. The House recognized its responsibility. Those police officers, those law enforcement officers, were out in the street. They were the visible sign of authority. They were the first line of defense, and they were the object of frustration, wrongful felonious frustration, for those who wanted to attack government.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would like to join in commendation, along with my colleagues, for the gentleman in the well, for the leadership he has provided with respect to this bill, and also to extend my congratulations to the gentleman from Pennsylvania (Mr. ELLBERG) for the job that he has done in bringing this bill to the floor.

H.R. 366 is a measure which I consider to be long overdue.

Mr. Chairman, I rise in strong support of H.R. 366, a measure which I consider to be long overdue. Public safety officers daily put their lives on the line to protect the community. Regrettably, many of these brave men and women are killed in the performance of their duties each year.

Levels of compensation for the dependents of these individuals vary widely from community to community throughout the Nation, and that is the major reason why this legislation is needed. Of course, our society can never

fully repay its debt to those individuals who risk their lives for the public's safety, but a \$50,000 payment to the dependents would help ease their financial problems and end the inequities in levels of compensation.

I urge my colleagues to support this bill.

Mr. BIAGGI. They know their lives and their families' economic well-being may be terminated by the acts of depraved individuals who speak only the cowardly language of violence. Let us be real. Let all those who advocate strong law enforcement stand behind the men and women who have and will sacrifice their lives to protect you and I against crime.

Our vote today will be a clear demonstration of our support and appreciation of the efforts made daily by these public safety officers of this Nation. Certainly, they merit our support.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. ZEFERETTI. Mr. Chairman, I rise in strong support of this legislation. I too, want to join in commending the gentleman in the well and the committee for their efforts.

I too, prior to coming to this great office, was a law enforcement officer for some 20 years, and I can attest to the need this type of legislation will bring. It is about time we stop giving medals and plaques and start giving the people, the dependents and relatives that are left, some assistance. I think this legislation is long overdue, and again I want to commend the committee for bringing this bill to the floor.

Mr. Chairman, I rise in support of H.R. 366, a desperately needed measure. My support stems in part from the fact that several weeks ago, I was terribly saddened by the tragic and unnecessary deaths of two fine police officers in Maryland, those gunned down in the line of duty. I sat back and watched, as did many of you, when thousands of their fellow law enforcement officers joined with the victims' families to pay their last respects to the two dedicated public servants. Yet, these two deaths are only two of the many incidences we have heard about recently, part of the frightening escalation in the number of law enforcement officers killed each year—a number which has quadrupled in the last 15 years.

There are obvious risks associated with public safety employment, and the men and women who choose to assume this responsibility understand the possible hazards and consequences. Yet, each day, they risk their lives to preserve peace and to protect our lives, our families, our homes, and our property. And, we, whom they serve, expect this and much more from them.

The intent of H.R. 366, to provide benefits to survivors of certain public safety officers who die in the performance of duty, is worthy of our support. It is a long and overdue gesture of recognition of sacrifices made by these officers and their families and at least an attempt on our part to make life easier for the survivors in the future.

I am quite frankly disappointed by many of the arguments raised by the opponents of the bill. They claim that the measure is unnecessary. It will do little or nothing to fight crime in our country. Yet, this was not even the purpose of the measure. It was intended to illustrate and carry out our moral obligations to the survivors of deceased law enforcement officers, those who sacrificed so that we, the people of this Nation, might be safe. If only for this reason alone, H.R. 366 will receive my firm support.

Mr. FISH. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. DEVINE), vice chairman of the Republican conference.

(Mr. DEVINE asked and was given permission to revise and extend his remarks.)

Mr. DEVINE. Mr. Chairman, I had not originally intended to speak on this legislation, although I cosponsored similar legislation in previous sessions of the Congress. I rise in total support of the legislation, and fully recognize the thoughts of those who affixed their signatures to dissenting views for the reason that they feel this is a State rather than a Federal responsibility; that we are selecting a certain segment of society and excluding others, and the fact that the number of persons killed involved in law enforcement problems have receded since the revolutionary days of the 1960's until now.

I would invite their attention to page 3 of the report, which shows that following 1969, the law enforcement people have lost their lives in lines of duty exceeding 100 each year starting in 1970, and did not reach that number in the preceding years.

I too, like the gentleman on the other side of the aisle, have a background in law enforcement, having been in the FBI for about 5 years and having been a prosecuting attorney in my county for about 4 years. I think I have had a firsthand relationship with police in the line of duty. They are a dedicated group of people, probably the most maligned of any segment of our society, putting their lives on the line day in and day out.

I wish to interpolate for a moment and commend the gentleman from New York (Mr. BRACER), who was often commended as a member of the New York City Police Department and recognizes firsthand what happens when a policeman gets a "10-17" in my district, which is a domestic dispute. Everybody says, "Well, he is trying to break up a fight between a drunken husband and wife, or something."

But, we find that we lost more officers in the line of duty in answering domestic disputes than we do in answering burglary, rape, or robbery calls or something like that.

No matter what the call, he may be killed running after a traffic violator, chasing someone in a stolen automobile, or any other number of offenses. But this bill is directed to give a \$50,000 award to the widow, those survivors of people who lose their lives in the line of duty.

I think it is pretty small of those of us who are sitting in this body who would deny these benefits for persons who are

in combat daily. When we look at what happens here. What if one of us dies here? Do the Members know that their widow, their survivor, collects a whole year's salary of \$44,000, just because the Member happened to be serving in Congress at the time of death?

Maybe they do consider this hazardous duty. But I would say that law enforcement people are in a much more hazardous situation. It seems to me that it is totally proper that, notwithstanding the fact that this is primarily a State responsibility, this would be a recognition of those men in blue who put their life on the line day in and day out. It is a profession that is much maligned. It is difficult to get people to go into the law enforcement profession any more because the pay has been traditionally bad, and I think that this would probably encourage more people to stand in the position between the criminals and the law-abiding citizens of the country.

Mr. Chairman, it is difficult for many of us to understand the preoccupation of many members of the Judiciary with the rights of wrongdoers to the exclusion of the rights of the victims of society, those hard-working, honest, law-abiding taxpayers. And these men, the law enforcement people—and there are women, I might add—are the ones who stand between the disorganized society and the one of lawful, peaceful citizens.

Mr. Chairman, I would again urge my colleagues to support H.R. 366.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. McCLODY), a member of the committee.

(Mr. McCLODY asked and was given permission to revise and extend his remarks.)

Mr. McCLODY. Mr. Chairman, I rise in opposition to this legislation reluctantly, certainly, because of the very eloquent statements that have been made here on the floor in support of it by my distinguished colleagues and also because of the great respect that I have, particularly, for our distinguished colleague, the gentleman from New York (Mr. BRACER) and for the profession to which he belonged, as well as the law enforcement activities of our colleague, the gentleman from Ohio (Mr. DEVINE).

Mr. Chairman, I feel that this legislation had a good genesis back in 1968, 1969, and 1970, when we were experiencing terrible riots throughout our Nation, when buildings were being burned down and the cities seemed to be subject to the attack of rioters. During that period, firemen would come and try to put out a fire and would be attacked by rioters. I recall this genesis at that time. But I might say that the reason for the legislation disappeared when the national riots disappeared, and I cannot see that there is this crying need for this legislation at the present time. I do not question that as many as 100 or more police officers meet their deaths each year—in a line of duty. But that does not convert local law enforcement with a national obligation—and responsibility.

Furthermore, I would like to point out that this is not legislation which provides benefits for law enforcement offi-

cers who are killed as a result of the commission of some criminal act. Instead, full benefits are provided for all law enforcement officers who meet their death "in the performance of duty." That can mean a great variety of things—including death from an accident while cruising in a squad car—or while traveling to or from a policeman's home and his office in the police station.

So I think this is not appropriate legislation for the Federal Government. I think it is not timely. I think if it had a time, its time has gone, and we should not act on this legislation today.

For a further detailed and persuasive statement in opposition to this measure I direct my colleagues' attention to the dissenting views set forth on pages 19 to 21 of the committee report.

Mr. EILBERG. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. SEIBERLING).

(Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in strong support of this bill and in opposition to any attempts to water it down or to curb its coverage.

The gentleman from Illinois (Mr. McCLODY) just stated that the bill had its genesis in the riots of 1968. Let me just read the number of law enforcement officers who have been killed since 1968.

In that year, 1968, there were 64 killed; in 1969, 86 were killed; in 1970, 100 were killed; in 1971, 129 were killed; in 1972, 114 were killed; in 1973, 131 were killed; in 1974, 130 were killed; and in 1975 there were 124 killed.

The information we have is that the violent deaths of public safety officers are continuing in 1976 at the same rates as in previous years.

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Chairman, I think it is also important to point out that through March 14 of this year we already have 24 public safety officers killed in this country. I think the need is now to do something about it, and the need has not passed.

Mr. SEIBERLING. That death rate of law enforcement officers who are killed continues. In other words, the deaths of public safety officers is what this bill is addressed to, and those deaths are continuing at the same rate and in fact have gone up.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, to complete the information on this subject, there were 12 deaths in January and 12 in February. The figure remained constant in the month of March. It appears that if this rate remains through the year, we will have a projection of 144 deaths for this year, which would be an alltime record.

Mr. Chairman, I thank the gentleman for yielding.

Mr. SEIBERLING. Mr. Chairman, we have spent billions of dollars of Federal funds to assist State and local governments in better law enforcement. While I agree with some of the critics of the LEAA program and agree the money has not always been wisely spent or spent in the places where it should be spent, nevertheless the fact is that the Federal Government has recognized that improving local law enforcement is a national problem, because crime does not respect State and local boundaries.

So the question is really whether this particular bill is going to advance the cause of better law enforcement. From the hearings over several years that the subcommittee has had, we have been shown that it will. I am convinced that one of the most important deterrents to attracting top-grade people to our law enforcement services is the fear as to what will happen to their families in the event that they should be killed in the performance of a job that entails risks that other people in our society do not take.

In this respect, a policeman is in a different position than is a member of the armed services. Most of our armed services personnel take on their responsibilities for a limited period of time or because they happen to like a particular way of life. Except in wartime, theirs is not a particularly dangerous occupation. Our law enforcement officers make a lifetime career of their work and are exposed to danger every working day. Certainly their families are entitled to assurance of a minimum of protection against this kind of risk. Yet this is a kind of protection that many communities are not able to give and that many are not in fact giving.

Mr. Chairman, the bill would be retroactive to October 11, 1972. I would oppose any amendment which would not permit it to be retroactive to that date. On that date the bill passed this House by unanimous consent, and I suggest that when we look at the record of the number of law enforcement officers who have died in the line of duty since that time, we can see that we are dealing here with multiple tragedies.

As a matter of fact, a few days after the bill passed this House unanimously, a young law enforcement officer was killed in my district. He left a widow and small children. I was fortunate enough to be able to say to that widow, "Well, the House of Representatives just passed by unanimous consent a bill which would provide you with a \$50,000 indemnity. It looks like we may be able to help you." This widow had almost nothing; her husband was a young man. Unfortunately, after the House and Senate passed that bill, and the conference report came out, the Congress adjourned before the conference report could be adopted.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

I would like to respond to the remark made by the gentleman from Illinois

(Mr. McCLORY). It is conceded that what crystallized and focused attention on the pathetic plight of policemen and their survivors was the revolutionary assaults that we found taking place in the last decade.

However, that was just an element that focused attention, at long last, on the incisive problem where the municipalities failed in their responsibility.

Mr. SEIBERLING. Mr. Chairman, I agree with the gentleman. Unfortunately, violent crime has not diminished at all. In fact, it continues to increase.

I would just like to say that while I believe in viewing law enforcement as a total system, that does not mean that we should not protect the man whose life is on the line.

Mr. Chairman, this society owes these men a debt of gratitude which we can never repay, but we at least ought to make it possible for them not to have to worry about what will happen to their families if they are killed in the line of duty.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I commend the subcommittee chairman, the gentleman from Pennsylvania (Mr. EHLBERG) and the ranking minority member, the gentleman from New York (Mr. FISH) for their work and efforts in bringing this measure to the floor and the gentleman from New York (Mr. BIAGGI) who has worked so long and diligently on the legislation.

Mr. Chairman, I rise in support of both H.R. 365, the Firefighters Benefits Act for 1976, and H.R. 366, the Public Safety Officers Benefits Act of 1976, measures which I have previously cosponsored and on which I submitted testimony last September when the Subcommittee on Immigration, Citizenship, and International Law held its hearings on these bills.

H.R. 365 and H.R. 366 are similar in that a \$50,000 gratuity would be paid to the surviving dependents of a firefighter who "dies as the direct and proximate result of a personal injury sustained in the performance of duty." To be eligible, a firefighter must have been engaged in fighting a fire or in the performance of a duty determined by the Law Enforcement Assistance Administration to be potentially dangerous to the firefighter. Similarly, any law enforcement officer, to be eligible, must at the time of injury have been engaged in the apprehension, protection, or guarding of a person wanted, or held for the commission of a crime. The provisions of both of these bills would apply to any eligible public safety officer or firefighter who dies as the direct and proximate result of a personal injury sustained on or after October 11, 1972, and H.R. 365 applies to any individual who serves as a firefighter in a legally organized volunteer fire department.

The need for this type of legislation was succinctly stated by the full Judicial

Committee in its committee report on the Public Safety Officers' Benefits Act of 1974, stating:

Notwithstanding the severe occupational hazards which confront policemen, firemen, correctional officers, and other public safety officers, many states have failed to provide sufficient death benefits for their survivors. Because of this fact and in recognition of society's moral obligation to compensate the families of those individuals who daily risk their lives to preserve peace and to protect the lives and property of others, the Committee is of the opinion that a Federal payment of \$50,000 should be provided to meet the immediate needs of the officers' survivors.

Since 1961, the number of public safety officers slain in the line of duty has increased from 37 deaths in that year to 130 killed in 1974. And as of August of this year, 84 more public safety officers have already made the supreme sacrifice, and some of these brave men resided in my 26th Congressional District in New York. Since 1961 more than 1,200 public safety officers have died in the line of duty. That statistic does not include those officers who were seriously injured in the performance of their duties. Since 1961, 985 courageous professional firefighters have succumbed to the flames of smoke-filled buildings.

This is a sad commentary on our way of life and a forbidding prospect to public safety. But what has compounded this tragedy is the seeming lack of gratitude that our State and local governments have demonstrated toward those brave young men and women by their callous disregard for the welfare of the families of these police and firemen.

Clearly, State and local employers have an obligation to provide adequate death benefits to the survivors of public safety officers and firefighters who are killed in the performance of their duties. Yet, it is a fact that in many of our States there are no death benefits and very meager pension benefits for those fortunate enough to survive long enough to become vested. This has forced many of the surviving families of our slain officers unwillingly onto our Nation's swelling welfare lists.

While this unfortunate state of affairs and the responsibility for rectifying this injustice should be undertaken by State and local government, it is evident from the discouraging level of pension benefits paid to public safety officers that the States have not fulfilled their responsibility and have not come forth with an adequate death benefits program.

The statistics readily reveal that where pension benefits do exist, they are often inadequate and the level of benefit is often tied directly to the number of years of service. In considering this legislation, we must bear in mind that the mortality tables reflect a correspondingly greater number of deaths for those officers with the fewest years of service.

With such a poor record by the States in dispensing accrued employment benefits, regardless of the circumstances of death, can we, as the incidence of crime and fire loss rises, sit back and await the States to institute an improved benefits program. I hope my colleagues will join with me in responding to that question with affirmative action.

Mr. Chairman, in the interest of providing adequate death benefits to our Nation's dedicated police officers and our firefighters, I urge my colleagues to support both of these death benefit measures. In the performance of their daily duties, our police and firemen courageously risk their lives to protect our lives and property. Their surviving families are deserving of our consideration—they need and should have adequate protection and compensation.

Mr. EILBERG. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. MINISH).

(Mr. MINISH asked and was given permission to revise and extend his remarks.)

Mr. MINISH. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in strong support for the enactment of this legislation which would provide a \$50,000 death benefit to the surviving dependents of public safety officers who are slain in the line of duty.

Though there can be no adequate compensation to the families of those courageous individuals who having lost a loved one I believe our society can fulfill its moral duty to ease the financial burden of those who have depended upon them. Many State and local governments provide little or no benefits to such dependents when a public safety officer is killed in the line of duty. This bill is designed to meet the immediate financial need of the survivors and is not intended as a substitute measure in instances where State and local governments already have benefit programs in effect.

This legislation will have a favorable impact upon the improved morale of public safety officers' personnel. It will have the effect of improving recruitment since individuals who in the law enforcement profession will have the knowledge that should they suddenly die in the line of duty their dependents will be protected from financial hardship. It is hoped that local and State governments will better be able to obtain competent motivated police officers by the passage of this legislation.

Mr. EILBERG. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

(Mr. FORD of Michigan asked and was given permission to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Chairman, I rise in enthusiastic support of H.R. 366, the Public Safety Officers Benefits Act. This bill provides a \$50,000 lump sum death benefit to the surviving dependents of State and local law enforcement officers who die as the result of personal injuries sustained in the line of duty. Professional and volunteer policemen, correctional officers, prison guards, probation and parole authorities and those engaged in programs relating to juvenile delinquency or narcotics control programs, are all law enforcement officers within the meaning of the act.

Recognizing that families suddenly without a husband and father are faced with very immediate financial problems,

the bill provides an interim benefit of \$3,000 to be awarded in hardship cases. This will later be deducted from the final award. In the event that a final award is not made, repayment of the interim benefit may be waived.

Similar legislation passed both Houses in the 92d and 93d Congresses. Unfortunately, no action was taken on the conference reports. It is only right that retroactive benefits are provided in the bill to surviving dependents of public safety officers who have died from personal injuries sustained on or after October 11, 1972, the date upon which we first passed the bill in the House. We are now trying to do what both Houses recognized should have been done a long time ago. I do not believe that the widows and children of officers who have given their lives since that date can be denied benefits due to the failure of Congress to bring out legislation that more than 3 years ago we decided was necessary.

Mr. Chairman, since 1961 over 1,280 law enforcement officers have died as the result of felonious criminal action. Over half have been killed since 1970. How many lives were touched by the death of these officers? Five thousand perhaps? Ten thousand would be, I believe, a very conservative estimate.

Public safety officers daily put their lives on the line. When I first introduced a similar bill back in September, I noted that a young patrolman in Wayne, Mich., in my congressional district has the previous year given his life attempting to aid an alleged suicide victim. He was met with a gunshot blast when he responded to a call for help at a private residence and died on May 25, 1974, leaving a widow and two small children without his support.

Unfortunately, despite the rising crime rates and thus the increasing hazards of the law enforcement profession as evidenced by the tragic increase in the number of officers who have died in the line of duty, many States and local communities have been unwilling or unable to provide adequate death benefits.

Mr. Chairman, I would like to make it very clear that I do not consider the \$50,000 that this bill provides for as a gift. In 1968, we enacted the Omnibus Crime Control and Safe Streets Act setting up the Law Enforcement Assistance Administration to aid State and local governments in fighting crime. In doing so we recognized that the rising rate of street crime was a national problem that required the mobilization of the resources of the Federal Government. I strongly believe that it follows that we have a moral obligation to those who died trying to help us reach our national goal of safe streets. The \$50,000 is little enough when we consider the financial straits of the families who are suddenly deprived of their principal breadwinner. That sum will not go very far today if we consider that many of the young officers who died were just setting themselves up in a new home—with a mortgage and a new car—purchased with a loan—and children who will need braces and books and someday soon perhaps money for a college education. We cannot give back a husband

or a father. We can only try and lessen the economic problems their survivors face.

The results of my recent questionnaire indicate that my constituents consider the rising crime rate the paramount issue today. In order to successfully deal with this problem we need highly motivated law enforcement personnel. I believe that this bill will encourage the highly qualified young people we need to choose a profession in law enforcement and public safety.

Mr. EILBERG. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. RUSSO).

(Mr. RUSSO asked and was given permission to revise and extend his remarks.)

Mr. RUSSO. Mr. Chairman, I urge our colleagues to join me in support of H.R. 366, the Public Safety Officers Benefits Act of 1976.

As sponsor of H.R. 8761, which generally takes the same approach as the subject legislation, and as a former prosecutor and member of the Judiciary Subcommittee which produced this fine proposal under the able chairmanship of the distinguished gentleman from Pennsylvania, I was an early proponent of effective assistance for the families of police officers who made the ultimate sacrifice for society.

The bill provides a \$50,000 lump sum death benefit to the surviving dependents of State and local law enforcement officers who die as the result of personal injuries sustained in the line of duty. The category of officers covered includes: professional and volunteer policemen, correctional officers, prison guards, probation and parole authorities, and those engaged in programs relating to juvenile delinquency or narcotics control programs.

The bill also provides an interim benefit not exceeding \$3,000 which may be awarded in hardship cases and such payment shall be deducted in the event of a final award. In the event a final award is not made, repayment may be waived. Retroactive benefits are provided to the surviving dependents of law enforcement officers who have died from personal injuries which were sustained on or after October 11, 1972. Federal officers, who are covered under the Federal Employees Compensation Act, would not be covered under H.R. 366.

Similar legislation, covering both firefighters and public safety officers, passed both Houses in the 92d and 93d Congresses, but no final action was taken. The annual cost of H.R. 366 is estimated at \$7.1 million and the retroactive provision at \$27.9 million.

As a society, we expect all law enforcement officers to have the ability to exercise effective judgment in coping with the numerous complex problems which they often face while enforcing the laws of our country. Such officers must make prompt and effective decisions very often in life or death situations. Law enforcement personnel must possess a number of skills whether it be maintaining strength, agility, or endurance in time of crisis. Many times they must endure serious verbal and physical abuse from

citizens and offenders. Public safety officers must possess leadership qualities and be able to tolerate stress. They must maintain objectivity and always demonstrate a high level of personal integrity and ethics. In short, America in the 1970's makes great demands on its public safety officers.

And yet what are their rewards? Even with such stringent requirements, many public safety officers are paid low and inadequate salaries and therefore—all too often—cannot afford to provide for the financial security of their families, should they meet an untimely death. Though many States and localities require that their officers possess the attributes I have alluded to, few such governments provide adequate death benefits for the dependents of men and women slain in the performance of their duties.

My colleagues, the quality of our criminal justice system depends on the quality of its personnel. How can we expect to attract the highest caliber of men and women to perform one of the most sensitive and important functions in our society if we fail to provide adequate benefits for their families should they lose their lives while pursuing public duty.

Let us pass this legislation and demonstrate to police personnel that we are indeed proud of the job they are doing as law enforcement officers. Let us today show our awareness of their difficult plight and demonstrate our concern for their dependents.

I urge my colleagues to vote for H.R. 366.

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

(Mr. ASHBROOK asked and was given permission to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Chairman, I rise in strong support of H.R. 366, the Public Safety Officers Benefits Act. This legislation will provide a \$50,000 Federal payment to the surviving dependents of law enforcement officers who die as a result of injury sustained in the line of duty.

There can be little doubt about the need for this legislation. Law enforcement is a very hazardous profession.

It is a sad fact that more than 1,000 law enforcement officers have been killed in the past decade. According to the uniform crime reports, in 1975 alone 124 officers were killed as the result of felonious criminal action.

This legislation will give assistance to the officer's survivors so that they can adjust economically to the loss of the family's breadwinner. It will help tide them over financially through a very difficult period.

Frankly, I think \$50,000 is small compensation for the loss they have suffered. The very least we can do for those who put their lives on the line to protect our society is to offer some financial security

for their families in the event of their death.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. RAILSBACK).

(Mr. RAILSBACK asked and was given permission to revise and extend his remarks.)

Mr. RAILSBACK. Mr. Chairman, I would like to reaffirm my support of H.R. 365 and H.R. 366 the bills which provide payment of \$50,000 to the survivors of law enforcement officers and firefighters killed in the line of duty or from injuries caused by a criminal act or felonious conduct.

This legislation should be considered and enacted into law as soon as possible. While the \$50,000 payment provides only small comfort to those who must suffer the loss of a loved one, this death gratuity is an economic necessity as much as a humanitarian symbol. Studies have shown that most officers who have been slain in the line of duty were the head of a young struggling family. As staggering as his death is for the family to accept emotionally, there are still the harsh economic realities of bills which must be paid along with meeting the basic necessities of life. At the present time, the widows of police and firemen are inheriting a truly bleak future. We must not wait to take positive action on providing them a means to financial autonomy—the minimum debt of gratitude we owe for their husband's service.

I think I should also point out that 129 law enforcement officers were killed in the line of duty in 1975, and 45 policemen were killed thus far this year. Unfortunately, these figures are increasing from last year.

Because policemen serve as symbols of our society, they have been ambushed, assassinated by malcontents and violence-prone radicals as they respond to planted calls for assistance. This they must face along with their regular duties and possible retribution from criminals they arrest.

An example of this danger was recently brought to our attention when two policemen in Maryland were ambushed and killed trying to apprehend a criminal.

Firemen also face grave dangers in their work. Firefighting is now determined to be one of the most dangerous professions in the United States. The risks of a building collapsing, an explosion, or entrapment are great. These facts are not pleasant for anyone to live with, least of all the families of policemen, firemen, or other public safety officers. We are all aware of the severe occupational hazards that the men in these dangerous fields must daily live with, and yet many States have failed to provide sufficient death benefits for their survivors.

Our public safety officers need all the support they can get, both in the way of public acknowledgement and appreciation but also in more tangible ways. I feel it is more than appropriate for Congress to lead the way in providing a very real kind of support—giving them some tangible protection in the form of

life insurance that we all hope their families will never cash in on.

Mr. FISH. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. MYERS).

(Mr. MYERS of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MYERS of Pennsylvania. Mr. Chairman, I think that perhaps we should take a look at what we are saying here about our ability to recruit public safety officers. First of all, it would be the impression if we read the record here that Members might be saying that we have second-rate people in the public safety officers classification, I believe this does not exist. I think there should be other arguments for this bill and not the argument that we have not attracted good people.

I rise in support of a bill which would provide protection of the nature that is proposed here for public safety officers who would find themselves the victims of violent crimes as a result of performing their duties. Because of my concern that this bill does not narrowly describe that particular function, I am going to ask the chairman if he would respond to some questions I have for legislative history.

Does the bill apply only to police officers or other safety officials who have been affected by violent crimes, or does it relate to other people?

Mr. EILBERG. If the gentleman will yield, it relates to other people as described. The death may occur as a result of activities which are described on page 4 of the bill, that is, in the apprehension or attempted apprehension of any person; protecting or guarding a person held for the commission of a crime; the lawful prevention of, or lawful attempt to prevent, the commission of a crime; and those duties described as potentially dangerous by the LEAA.

Mr. MYERS of Pennsylvania. Could it in any way be interpreted to pay benefits to judges, teachers, and magistrates?

Mr. EILBERG. No, it could not.

Mr. MYERS of Pennsylvania. Could it in any way be interpreted to pay benefits to a police officer who is simply driving to court to testify in a court case?

Mr. EILBERG. It depends upon the facts of the case, and if the gentleman is talking about the ordinary automobile case, it would be my guess that the LEAA would not describe that activity as potentially dangerous.

Mr. MYERS of Pennsylvania. If he were not accompanying a criminal in that situation. As somewhat of a broadening potential, would it provide benefits for officers who were performing duties such as recovering bodies from a body of water, or from a building which had collapsed?

Mr. EILBERG. It is possible that those activities might be included.

Mr. MYERS of Pennsylvania. They would not be excluded.

Could the gentleman tell me, is there any way in which this bill would apply to privately employed safety or security officers?

Mr. EILBERG. No, it would not.

Mr. MYERS of Pennsylvania. What if they were called by a local arm of the government or the local police organization to assist in any way?

Mr. EILBERG. It is my opinion that they would not be included.

Mr. MYERS of Pennsylvania. Does the bill apply at all to voluntary good Samaritans?

Mr. EILBERG. It does not.

Mr. MYERS of Pennsylvania. I thank the gentleman for his explanation, because I think what is important about this bill is that we do narrow in on the aspects of the greatest hazards, and by legislative history I think we put more confidence in the bill. I would like to point out the fact that industrywise the coal miners experience a great hazard in their profession, and I do not think they would object to benefits being paid to benefit survivors of those victims of violence, specifically who are performing a function in thwarting a criminal situation.

But if we were to make a broad sweeping approach where the secretaries and people who are not faced in the line of duty with reacting to criminals were getting payments I think we would lose broad-based support. So my interpretation of what the gentleman has said is that we are protecting beneficiaries of people who are in a situation that is threatening because of the violent criminal action and protecting the public safety.

I thank the gentleman for his responses.

Mr. FISH. Mr. Chairman, I yield the remaining 8 minutes of my time to the gentleman from California (Mr. Wiggins), a member of the committee.

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, only once or twice a year does a bill come before this body which is so utterly devoid of merit as to cast an adverse reflection upon the Congress itself. The two bills before us now fit neatly within that category. I do not use the expression "utterly devoid of merit" lightly and accordingly I want to take just a few moments to attempt to reverse the evident tide of opinion in this House and deflect it if possible toward a more responsible course.

The issue, Mr. Chairman, is not what we should do for State and local police officers. The issue as I see it is the political responsibility of the Members of Congress themselves.

We know what the bill provides. The bill provides that we shall open the Federal Treasury and pay \$50,000 to the survivors of certain State police and fire personnel. I want to ask the Members: Why do we do this? The argument goes that we owe a debt of gratitude to these valiant men and women who serve us bravely and with distinction. Perhaps we do. Perhaps society does owe a debt to those who subject themselves to risk for our comfort, our safety, and our benefit. But why do we select State police officers as the beneficiaries of our grati-

tude? Do we not owe a similar debt of gratitude to the FBI personnel, for example, for whom we are responsible?

Mr. EILBERG. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Since the gentleman is my chairman, of course I yield.

Mr. EILBERG. Mr. Chairman, the gentleman should know the FBI is already covered under FECA.

Mr. WIGGINS. The FBI does not receive a \$50,000 death benefit under present law.

Mr. EILBERG. Under the benefits that are permitted, if the gentleman will yield further, under the FECA the benefits in an FBI case may well exceed \$50,000. The widow gets 45 percent, each child 15 percent, up to 75 percent of the pay, and depending upon the longevity of the individual involved the dollars that may be paid out of the Federal Treasury may well exceed \$50,000.

Mr. WIGGINS. And may well be less, according to the record before us in the committee.

The point is, Mr. Chairman, these are employees for whom we have assumed and do have an absolute responsibility, and we simply do not dig into the Federal Treasury and give \$50,000 to the survivors of all those who die in line of duty. Nor do we do it for Secret Service personnel nor for GI's.

Our different treatment of survivors of servicemen killed in the line of duty is a question which will not go away. How in the world can we pull a person out of civilian life, force him to serve against his will in a hazardous occupation, namely in the armed services in time of war, and then not provide him with death benefits at all unless he pays for it himself?

My recollection is that I paid out of a rather meager paycheck a sum of money to purchase national service life insurance in the amount of \$10,000. That was the maximum amount available to me.

Now, that is the kind of gratitude we show toward those employees for whom we have an absolute responsibility. Now, we do not have an absolute responsibility with respect to State and local employees. We do not have any more responsibility for providing death benefits, which is a part of the normal employment package, than we do for the pay level itself or for sickness benefits or disability benefits.

What are some of the other reasons? It has been alleged that this is an aid to recruitment. It has been alleged that this is an aid to morale. I will concede the latter point. Of course, it is an aid to morale and if we want to make them feel even better, let us raise the benefit to \$100,000. That would be twice as much aid to their morale.

But what about recruitment? If, indeed, raising the death benefits is an aid to recruitment, it is seldom mentioned in the bargaining sessions; in fact, never. We have never found it to be a necessary inducement to get people to be recruited into our all-volunteer Army now, have we? When we have been faced with the problem of recruitment, we have not

responded by raising the death benefits. This is not a genuine reason for the legislation. It is a make-weight.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, I would like to subscribe to everything the gentleman said; but is not the more fundamental issue one of whether or not in this federal system of ours we are going to do something on a national level or local level? After all, if we are going to have a federal system, we have the States and localities, from which that certain authority flows. If we are going to do that on this basis, why not abolish the States and localities? Why not take over everything the States and localities do not want to do and go from there?

Mr. WIGGINS. Mr. Chairman, well, I cannot but help agreeing with the gentleman. The gentleman is making my last point, which is the point of federalism itself. The gentleman from New York (Mr. Bricker) says we have invaded State responsibilities in other areas. Let me explain the manner in which we have invaded State prerogatives in these other areas. We have set Federal standards and required the States to live within those standards. Here we do not. We simply assume the responsibility itself.

Mr. Chairman, the direct assumption of State responsibilities is a novel approach and one that does great violence to the Federal system.

We will vote in a moment. Our votes will be noted by the law enforcement lobbyists in this Chamber. I hope the taxpayer interests are presented here, too, and that they look very critically at what we do today, because we are not acting in their interests.

Mr. BURKE of Florida. Mr. Chairman, I rise in support of H.R. 366, the Public Safety Officers Benefit Act. I have been a sponsor of this bill in the past three Congresses. As a cosponsor and longtime advocate of this legislation, I am delighted to be able to raise my voice in support of it on the floor of the U.S. House of Representatives.

It is my hope that the Senate will act quickly to pass this measure so that it does not die again as it did after House passage in the 93d Congress. My own bill, H.R. 9172, is identical in purpose to H.R. 366 and I sincerely hope that this relief for families of public safety officers can be quickly implemented.

There have been far too many good law enforcement men and women killed protecting life and property on our streets. Regrettably, the large percentage of policemen killed and other enforcement officers are never truly appreciated for their work. You are aware of the senseless slaying of two Montgomery County police officers recently during the attempted apprehension of a bank robber and in Miami of three policemen in line of duty. Police officers fall prey to criminals in our country continually and they are plagued with the threat daily of senseless and brutal killings of law enforcement officers.

South Florida, where I come from, has had more than its share of these killings. A few weeks ago Phillip Black and Police Cpl. Donald Irwin were shot to death beside Interstate 95 by a sudden burst of gunfire by the occupants of a car parked at a rest area near Deerfield Beach. Three policemen—Officers Frank D-azevedo, Clark Curlette, and Thomas Hodges, Jr.—were shot to death in Miami during an investigation of a stolen car.

All seven of these officers leave behind their families and friends, but more importantly they leave behind families without a breadwinner. There is some assistance available to the families, it is true, but it is insufficient to help them over the hurdle of a lost breadwinner. Bills still must be paid. Children still grow and need clothes, food, and spending money. Life goes on, but it is made doubly bitter to the families of the victims by the loss of companionship and the loss of income.

The residents of the 12th Congressional District of Florida which I represent feel deeply about this problem. More than 200,000 residents signed petitions which were presented to the House Judiciary Committee in 1973 urging passage of my bill. One of those signing the petition was Mrs. Beverly Yourman, another was Mrs. Teresa Riley. Both ladies lost their husbands on August 30, 1973, when they were gunned down while pursuing robbery suspects.

It is difficult under any circumstance for any family to adjust to the death of a parent, but it is even more difficult when the parent or spouse is killed by some stranger caught committing a crime.

I have not forgotten and I am sure they have not, the hope that we had for passage of this legislation.

Mr. Speaker, television treats us to a daily diet of cops and robbers programs so that many of us are callous about the deaths of policemen. We more or less accept it as being a usual thing for cops and robbers to have shootouts. However, for the families of the law enforcement officers who are slain the tragedy is real and does not stop at the end of the 30-minute TV program.

The Federal Bureau of Investigation figures show that 128 State, local, county, and Federal law enforcement officers were killed in the performance of their duty in the United States, Puerto Rico and the Virgin Islands and Guam during 1975. Of that number four were Floridians. As of March 3, 1976, FBI figures showed that 24 law enforcement officers had been feloniously killed so far this year.

Mr. Speaker and my colleagues, it is past time we did something for the widows and children of these brave men, who gave their lives to protect our lives and property—I will be proud to cast my vote for H.R. 366 to provide a \$50,000 Federal payment to the surviving dependents of law enforcement officers who die as the direct and proximate result of a personal injury sustained in the line of duty.

Mr. CONTE. Mr. Chairman, I rise in support of the bill to provide \$50,000 Federal payment to the surviving dependents

of law enforcement officers who die as the direct and proximate result of a personal injury sustained in the line of duty.

I support this legislation as the author of a similar bill (H.R. 2641) to provide survivor benefits in addition to providing compensation to public safety officers who suffer single and multiple dismemberment in the line of duty.

Mr. Chairman, our public safety officers are being subjected to more and more danger with our increased crime rates. Many cities, because of their budgetary problems, have had to decrease their contingents, leaving police officers with larger areas to patrol with a decreased number on backup. New York City alone has laid off more than 5,000 public safety officers. In calendar year 1975, 124 law enforcement officers were killed in the line of duty—almost quadruple the statistics for 1961 when 37 lost their lives.

With the increased exposure to danger and the skyrocketing crime rate it is most appropriate that the well-being and support of the survivors of public safety officers are guaranteed. This bill will do just that. This legislation also provides up to \$3,000 interim assistance to the families which would be subtracted from the \$50,000 benefit.

It seems apparent that passage of this bill will serve as a significant increase in the morale of law enforcement personnel. Also, this legislation may prove to be a tremendous help in assisting State and local governments in their recruiting efforts.

I should like to point out that this legislation does not apply to Federal public safety officers. There is existing legislation which provides survivor benefits to Federal public safety officers' families at least at the level provided in this legislation.

Mr. Chairman, we must recognize society's moral obligation to compensate the families of those individuals who daily risk their lives to preserve peace and to protect our lives and prosperity.

I urge my colleagues to support this bill.

Thank you, Mr. Chairman.

Mr. MURTHA. I would like to speak very strongly in support of legislation before the House today to provide payment to the spouses or dependents of firemen and police officers killed in the performance of their official duties.

Statistics that I have show as many as 140 policemen and 200 firemen will be killed next year while serving their communities.

The benefits contained in this bill will be a great help to their families. We should not forget, however, that even the \$50,000 allowed in this bill is small compensation compared to the tremendous contribution these individuals make to the safety and protection of our citizens.

Mr. Chairman, I represent a rural area where governments operate on very small budgets. While some larger cities already have compensation for their fallen public servants, the governments in my area simply cannot afford it. Protection such as is contained in this bill is long overdue.

I vigorously support it, and compliment Congressman ELBERG, and the other members of the Judiciary Committee who have worked diligently on this bill.

I urge a positive vote.

Mr. FRASER. Mr. Chairman, this afternoon we are considering two bills, H.R. 365 and H.R. 366 which would provide a \$50,000 Federal payment to the surviving dependents of law enforcement officers and firefighters killed during the line of duty.

I would like to take this opportunity to express my views. It is my belief that State and local governments have the primary responsibility in providing adequate protection for the families of police and firefighters who die or become disabled during the performance of their duty.

In 1973, my home State of Minnesota passed a law that provides \$25,000 in compensation to the family of any peace officer, fireman, or citizen who is killed while attempting to stop a crime or assist in a public emergency.

The 1974 Minnesota Legislature established the Minnesota Crime Victims Reparations Board. The board is empowered to pay up to \$10,000 to compensate victims of crime for personal injury. The board also compensates victims for medical expenses and lost wages. In the event of death, the money goes to dependents. The same coverage applies to a person who is injured or killed preventing a crime or assisting in the apprehension of a person suspected of engaging in a crime.

I am cosponsoring the House Judiciary Committee's bill, H.R. 13158, to compensate victims of crime. Too often, victims of crime are those who can least afford to be—the elderly, poor, blacks, Indians, and Chicanos. The Federal program established by this bill relates to need. Victims are reimbursed for out-of-pocket expenses which are not otherwise reimbursed by medical insurance or disability payments.

H.R. 13158 establishes a Federal grant program to States, like Minnesota, which have instituted programs to benefit victims of crime. The Federal Government, under this bill, would be allowed to provide up to 50 percent of the cost of State awards to victims up to \$50,000. All administrative costs, however, will be borne by the States. With the enactment of this legislation, Minnesota would be able to award crime victims up to \$20,000 without increasing the cost to the State. The maximum benefit level could be doubled without costing the State. Each State has discretionary authority to set maximum benefit levels, but this bill would only reimburse States for 50 percent of an award up to \$50,000.

The bill is expected to come before the House within the next 2 weeks. Its passage would go a long way toward strengthening the State's role in providing protection and compensation for victims of crime.

For the reasons I have outlined above, I have decided to vote against H.R. 365 and H.R. 366. The Federal Government should encourage States to set up their own programs to compensate victims of

crime. Passage of these bills does little to encourage States to deal with this problem.

Mr. RODINO. Mr. Chairman, I rise to express my strong support for H.R. 366, legislation which provides benefits to the surviving dependents of law enforcement officers who are killed in the line of duty. I might remind my colleagues that because of the dedicated services of many public safety officers, we are able to live a little more peacefully and comfortably in today's turbulent society. In many tragic instances it is the public safety officer who sacrifices his life while preserving order in society and protecting our lives and property. All too often, however, the dependents of these public servants must rely on public charities or welfare to sustain themselves.

I am aware that there are those who believe it should be the responsibility of the States to adopt compensation programs for public safety officers. The unfortunate fact is that most States have not adopted such programs. Further, private charities which exist to assist the struggling families of slain officers are not adequate.

Though there is merit to the theoretical argument that governmental units—State, municipalities, or county governments should adequately compensate public safety officers, the fact of the matter is that they do not do so. As in the past, the Federal Government has intervened in many instances to provide financial assistance to the victims of a sudden natural disaster and we can indeed assist those families who find themselves in economic distress when the bread winner meets an untimely death.

There are some who claim that this legislation will not help in our fight against crime. I might remind my colleagues that our efforts to curb crime in our society must be approached from many different directions. President Ford, himself, as a part of his program for law enforcement, has recommended legislation to adequately compensate the innocent victims of crime. Just as I support this concept and feel it is a proper Federal program, I feel that this legislation is not only proper, but necessary and I believe it will aid in recruitment and improve the morale of all public safety officers.

Passage of this legislation could indeed be a symbol of the respect of the Federal Government for the rule of law and for the men and women who enforce these laws and protect our society.

This legislation has received the overwhelming support of this body on two previous occasions and I urge my colleagues to approve H.R. 366.

Mr. GAYL OS. Mr. Chairman, the enforcement of our laws in many of our States is a 24-hour responsibility for many public safety officers. Since it is the function of our law enforcement officers to maintain the social order of our society and protect the lives and property of our citizens it is imperative that we support H.R. 366, the Public Safety Officers Benefits Act of 1976.

In essence our society requires public safety officers to go into places and situations where crime is rampant and to

solve a situation which may indeed cost that public safety officer his life. I do not believe it is outrageous to ask that the dependents of such officers be given some security so that if a loss occurs to their loved one they do not have to depend on public organizations and welfare to survive.

This legislation provides a \$50,000 lump sum to the surviving dependents of a law enforcement officer who is killed as the proximate result of an injury sustained in the line of duty. In many instances the salaries of police officers employed in crime prevention is not adequate for their families should they face an untimely death. I reiterate that such men and women provide unique services in protecting our society and consequently this minimum compensation should be provided to their surviving dependents.

It is entirely proper that the Federal Government provide this benefit to its law enforcement personnel. These courageous and dedicated individuals are our Nation's defense against those criminal elements who often operate across State lines. Just as victims of crime and members of the society turn to public safety officers for help when they are in trouble so we must respond to the needs of our policemen and correctional officers who request a financial security by providing for their dependents should they face an untimely death.

There are some who argue that this bill will do nothing to improve recruitment of public safety officers. The testimony received by the committee which considered this legislation from numerous segments of the criminal justice field indicate that recruitment would indeed be improved if the benefits of the profession were enhanced.

There are some who argue that this bill is contrary to States rights and that this responsibility should better be left to State and local governments. If we do not pass this legislation and provide a Federal gratuity, there is every indication that State and local governments will not provide adequate compensation for the men and women who daily risk their lives. This bill will not interfere or intervene into local matters. Instead, it is intended that this bill supplement local efforts to solve very human problems.

It seems to me that a great deal of attention is given to the rights of the accused and the processes by which our legal system deal with criminals. Too often, little attention is focused on the victims of crime or on the needs of those men and women who are responsible for enforcing our laws and preserving public safety. I do not feel it is too much to ask that our Government provide some degree of financial security to those individuals who protect our homes and businesses and maintain order in the society.

In recent years, our Federal Government has poured millions of dollars into the fight against crime. We have spent money to try to recruit and equip law enforcement agencies. I consider this legislation one more method, perhaps a far greater humane effort, in seeing to it that our society has the highest quality of men and women to enforce its laws. I

know the successful passage of this bill will insure that public safety officers realize the depth of support the American people are willing to give their law enforcement personnel.

Mr. BURKE of Massachusetts. Mr. Chairman, this bill provides a payment, through the Law Enforcement Assistance Administration—LEAA—of \$50,000 to the spouses or eligible dependents of law enforcement officers who die as a result of injury sustained in the performance of duty. The bill also provides an interim benefit payment of \$3,000 to persons who can reasonably be expected to receive a final award under this legislation. That amount would, of course, be deducted from the final award. In cases of extreme hardship, where an interim payment had been made and a subsequent determination was made of ineligibility for the final award, that hardship would be taken into account, and repayment would not be demanded.

This is a sound, and responsible piece of legislation. Law enforcement is among the most hazardous of all professions. In the last 5 years alone it has claimed the lives of 628 law enforcement officers. Those lives were given up by men and women whose sole purpose was to safeguard the American public from the onslaught of crime. In many cases, their families were left with nothing more than memories, and whatever could be raised when his fellow officers passed the hat. Some State and local governments do, of course, have adequate death benefits. But that is hardly a universal situation. The wide disparity of coverage from one area to another has a direct impact on the number and quality of men and women who will enter careers in law enforcement. The result is that some areas are able to attract top personnel, and to concentrate on developing a high degree of professionalism, while other areas engage in a constant struggle to attract adequate numbers of people, of whatever ability, to enlist in the fight against crime. I hardly think that we can continue to tolerate that situation in present-day America.

I know that the Department of Justice would like to limit the scope of this legislation. The Department has argued that the death benefit should only be paid where fatalities occur as a direct or near-direct result of an actual crime. Such an approach is impossibly narrow and, in my view, totally unacceptable. By virtue of their profession, law enforcement officers are called on to handle a great many problems, at the risk of their own life, in which no criminal act is involved. Take, for example, the case of the pleasure-boater, or the swimmer who encounters trouble and is in danger of drowning. In almost every case, the first person to be summoned is a law enforcement officer. Obviously, no crime is involved, yet the officer faces a direct and immediate risk of losing his or her life in an attempt to save the victim. Are we going to determine that this is not a sufficiently worthwhile act to warrant coverage? I would hope not. I am pleased, therefore, that the Public Safety Officers Benefits Act does not adhere to the limitations recommended by the Jus-

tice Department. The bill specifically defines eligibility to cover the surviving dependents of law enforcement officers who die from injury sustained in the performance of their duty, without regard to the occurrence of actual criminal acts.

I know that some of my colleagues stand prepared today to argue that the Federal Government has no right to become involved in financing benefits for non-Government employees. But if up-grading and improving our national law enforcement capabilities is not in the national interest, I do not know what is. The rising crime rate, particularly with regard to the rapid increase of violent crimes, is surely a matter of national concern. Reversing that trend should be among our highest national priorities.

This legislation will improve and upgrade both employment opportunities and professionalism in a career area that can substantially reduce the high rate of crime. It is a bill which clearly recognizes the high risks involved in law enforcement, and addresses our national responsibility in encouraging the advancement of that profession. I strongly support H.R. 366, and I urge my colleague to join with me in voting for its passage.

The CHAIRMAN. All time has expired. The Clerk will read.

The Clerk read as follows:

H.R. 366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers Benefits Act of 1975".

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, lines 3 and 4, strike out "Public Safety Officers Benefits Act of 1975" and insert in lieu thereof: "Public Safety Officers Benefits Act of 1976".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

Sec. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS DEATH BENEFITS"

"Sec. 701. (a) In any case in which the Administration determines, under regulations issued under part F of this title, that an eligible public safety officer has died as the direct and proximate result of a personal injury sustained in the performance of duty, leaving a spouse or one or more eligible dependents, the Administration shall pay a gratuity of \$50,000, in the following order of precedence:

"(1) If there is no dependent child, to the spouse.

"(2) If there is no spouse, to the dependent child or children, in equal shares.

"(3) If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.

"(4) If there is no survivor in the above classes, to the parent or parents dependent for support on the decedent, in equal shares.

"(b) As used in this section, a dependent child is any natural, illegitimate, adopted,

posthumous child or stepchild of the decedent who at the time of the public safety officer's death is—

"(1) under eighteen years of age; or

"(2) over eighteen years of age and incapable of self-support because of physical or mental disability; or

"(3) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.

"(c) As used in this section, spouse includes a surviving husband or wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of desertion by the decedent.

"(d) As used in this section, the term 'dependent for support' means more than one-half of the support of the dependent concerned.

"(e) As used in this section, the term 'law enforcement officer' means a person engaged in any activity pertaining to crime prevention, control, or reduction of the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals; activities of corrections, probation, or parole authorities; and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

"(f) As used in this section, the term 'crime' means any act or omission which is declared by law to be a crime in the jurisdiction where the injury to the public safety officer occurred. Such an act is a crime for the purposes of this section notwithstanding the guilt, innocence, disability, or identity of the actor.

"(g) As used in this section, the term 'eligible public safety officer' means any individual serving, with or without compensation, a public agency in an official capacity as a law enforcement officer who is determined by the Administration to have been, at the time of his injury engaged in—

"(1) the apprehension or attempted apprehension of any person—

"(A) for the commission of a crime, or

"(B) who at that time was sought as a material witness in a criminal proceeding; or

"(2) protecting or guarding a person held for the commission of a crime or held as a material witness in connection with a crime; or

"(3) the lawful prevention of, or lawful attempt to prevent, the commission of a crime; or

"(4) the performance of his duty, where the activity is determined by the Administration to be potentially dangerous to the law enforcement officer.

"Sec. 702. (a) Whenever the Administration determines, upon a showing of need and prior to taking final action, that a death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person or persons entitled to receive a benefit under section 701 of this part.

"(b) The amount of any interim benefit paid under subsection (a) of this section shall be deducted from the amount of any final benefit paid to such person or persons.

"(c) Where there is no final benefit paid, the recipient of any interim benefit paid under subsection (a) of this section shall be liable for repayment of such amount. The Administration may waive all of part of such repayment, and shall consider for this purpose the hardship which would result from repayment.

"Sec. 703. (a) No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public

safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"(b) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(c) No benefit paid under this part shall be subject to execution or attachment.

"Sec. 704. The provisions of this part shall apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury which is sustained on or after October 11, 1972."

Mr. EILBERG (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with and that it be printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, strike out line 20 and insert in lieu thereof the following: "(1) eighteen years of age or under; or"

The committee amendment was agreed to.

The remainder of the bill reads as follows:

Sec. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "520" and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J."

Sec. 4. Until specific appropriations are made for carrying out the purposes of this Act, any appropriations made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

Sec. 5. The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part J. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part J.

Sec. 6. The Administration may prescribe rules and regulations governing the recognition of agents or other persons representing claimants before the Administration. The Administration may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the administration of this part, and any agreement in violation of such rules and regulations shall be void.

Sec. 7. In making determinations under section 701, the Administration may delegate such administrative functions to State and local agencies as it determines necessary and proper to the administration of this part.

Responsibility for making final determinations would rest with the Administration.

Sec. 8. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

AMENDMENT OFFERED BY MR. FILBERG

Mr. EILBERG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EILBERG: Page 6, strike out lines 14 through 19 and insert in lieu thereof the following:

"Sec. 4. The authority to make payments under sections 701 and 702 of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts."

Mr. EILBERG. Mr. Chairman, this is a simple amendment which is designed to bring this legislation into conformity with the Congressional Budget Act of 1974.

Following committee action on this bill by our committee we were advised by the Budget Committee that both H.R. 365 and H.R. 366 violate section 401(b) of the Congressional Budget Act in that they provide new entitlement authority.

Consequently, I have assured the chairman of the Budget Committee and the Rules Committee that I would offer this amendment in order to convert these proposals from entitlement bills into pure authorization bills.

The amendment also eliminates the provision currently contained in the legislation which constitutes an appropriation on a legislative bill, and I have assured the Rules Committee that my amendment would eliminate this provision from the legislation. In the event this amendment is adopted, it is also my intent to offer a similar amendment to H.R. 365, and I urge my colleagues to support this amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I fully concur with the gentleman from Pennsylvania in support of this amendment as I did in my testimony on this matter before the Rules Committee. There was no intention on the part of our committee to avoid or ignore the normal proceedings set forth in the Budget Control Act.

I am pleased that the Rules Committee accepted our assurances that we would offer this amendment to correct the technical defect in this bill and urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EILBERG).

The amendment was agreed to.

Mr. DANIELSON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer an amendment, which I have designated as my amendment No. 1.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON: Page 6, line 6, strike out "October 11, 1972," and insert in lieu thereof the following: "the date of the enactment of this part."

(Mr. DANIELSON asked and was given permission to revise and extend his remarks.)

Mr. DANIELSON. Mr. Chairman, I want to make eminently clear at the beginning of my presentation that I shall not support—I repeat, I shall not support—this bill, regardless of whether my amendment is adopted.

In case there is any misunderstanding, I again state that even if my amendment is adopted, I shall vote against this bill; and I urge that all of my colleagues do likewise.

Mr. Chairman, the amendment which I have offered is a very simple one. This bill provides on page 6, line 6, that the gratuity should be paid to anyone specified who dies as a result of a personal injury which was first sustained on or after October 11, 1972.

Mr. Chairman, I want to point out that this bill is designed to be retroactive. It relates backward for a period of approximately 4 years.

Mr. Chairman, I am opposed, generally, on any occasion, to retroactive legislation. There is no justification whatever, unless the equities become so strong as to shock the conscience.

What is so important about October 11, 1972? Can anyone tell me why there should be a benefit paid to the beneficiary of someone who dies subsequent to October 11, 1972, but the same benefit does not accrue to the beneficiary of someone who died on the previous day, October 10, 1972, or October 1, 1972, or in September, or in July, or even in 1971?

Mr. Chairman, if we are going to reach backward into the past to find an appropriate beneficiary for this gratuity, what is so magical about October 11, 1972?

I will tell the Members what I surmise to be the reason, someone who is a friend of someone who is a friend of someone would be covered by the October 11, 1972, date, so we must go back that far on.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I do not yield at this time.

Mr. Chairman, I respectfully submit that if we are going to do equity in this

or any other bill it should become effective as of the effective date of the bill and not earlier.

In the event my amendment should fail, then I propose that if there is virtue in going back to October 11, 1972, then let us go all the way back. If October 11, 1972 is good, what is wrong with October 11, 1970, or 1965, or 1960? Let us then just make it retroactive. You know, there have been a lot of good men, tried and true, who have been killed since 1789, when our Constitution was adopted, so if we are going to be retroactive, then let us be retroactive, not selectively but generally, for the benefit of all of those who might otherwise come within the purview of this law.

That is the extent of my amendment, Mr. Chairman, and I strongly urge its support. There is no basis or equity for any other course, and I urge that the Members vote for my amendment.

Now I will yield to the gentleman from Ohio. (Mr. SEIBERLING.)

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding. The gentleman from California undoubtedly knows that on October 11, 1972, legislation practically identical to this bill passed this House by unanimous consent.

Mr. DANIELSON. I thank the gentleman and I yield no longer. I hope I can straighten that out because it just happens that on October 11, 1972, I was seated at that microphone as the assistant whip while our then late great majority leader, Hale Boggs, was presiding and we were hurriedly trying to get through a lot of bills before adjournment on the evening of October 11, 1972, and we took up many bills from the Committee on the Judiciary, all of which were passed under suspension of the rules with, I dare say, not even Mr. Boggs and myself being aware of their content. There was no considered judgment on the passage of this bill in 1972. Thank goodness it did not pass in the other body and never did become the law.

If there are any other questions, I will be glad to yield.

Mr. SEIBERLING. Will the gentleman yield again?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. The gentleman from California is also aware, I presume, that the bill was passed in the House on April 24, 1974, by a vote of 320 to 54, so the implication that it has never been considered by the House does not hold air.

Mr. DANIELSON. That is correct.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. DANIELSON. Mr. Chairman, I would simply state that I was present in this Chamber on the 24th day of April, I believe it was, and I opposed the bill. I submit that this bill is an outrage and should be stricken down.

Mr. EILBERG. Mr. Chairman, I rise in opposition to the amendment.

(Mr. EILBERG asked and was given

permissions to revise and extend his remarks.)

Mr. EILBERG. Mr. Chairman, we have had some debate about the significance of October 11, 1972. Indeed the House did act unanimously on that date. As the chairman of the subcommittee that brought the legislation before the House then, and who has continued in that position, I can assure the Members of the House that there has been continuous activity on and interest in this legislation ever since that time. I have heard from any number of the Members. I have had correspondence from all over the land. This interest has been continuous from the date of the passage on October 11, 1972, until now. I suggest, Mr. Chairman, that any date, whether it is the date of passage of the bill, or the effective date—whenever the bill becomes law—or any prospective date, they are all arbitrary dates.

I would say to the gentleman from California (Mr. DANIELSON) that there is nothing magic in having the effective date being the date on which the President signs the legislation. I say that that is another arbitrary date. So I say, Mr. Chairman, let us pick a date which has some particular meaning.

I say also, Mr. Chairman, that following October 11, 1972, and this has been referred to in the debate, after the bill passed the House that a great many police officers were killed, and the expectations of a large number of the survivors of the public safety officers were raised, and the thought has been with them throughout this kind of a gratuity would be forthcoming to them.

There have been a number of tragic killings of law enforcement officers. One can only pick up the paper almost every day and see the tragic killings that have taken place. I believe it would be unfair to deny benefits to their dependent survivors, especially when we consider that it has passed both the House and the Senate on two previous occasions.

I might say finally, Mr. Chairman, that there have been a number of tragic deaths that have occurred since October 11, 1972. I hold in my hand a chart reflecting that 398 police officers and 202 firemen have died tragically and would be covered by this bill if the October 11, 1972, date is accepted. I say that the retroactive date October 11, 1972, should be retained.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am interested in the number of deaths and injuries that the gentleman has referred to going back to the date of the proposed retroactivity. I wonder if the gentleman could tell the Members how much that will cost if we go back retroactively to that date.

Mr. EILBERG. Let me say that the total cost of both bills would be about \$18 million for the next fiscal year, retroactively—let me say that retroactively for both groups it would be approximately \$50 million.

Mr. EVANS of Colorado. I would ask the gentleman from Pennsylvania whether his committee is going to try to cover other State and local officials with this kind of death benefits, too?

Mr. EILBERG. We have no intentions of extending it any further. This is the minimal intrusion on the part of the Federal Government. We feel this money is necessary. We feel that the facts are tragic in that the State and local municipalities have failed to cover this need for decades and we simply have to do something about it. We are not entering the field for the first time, LEAA has already entered the field.

Mr. EVANS of Colorado. With all due deference to the chairman of the committee, I cannot support this bill. I think it is a bad precedent. I hope the bill is defeated.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I commend my distinguished chairman of the Committee on the Judiciary for moving this legislation. Our public safety people have jobs where they have to risk life and limb, jobs which I suspect very few if any of our colleagues would be willing to take on themselves and put themselves in those shoes.

With respect to the retroactive provisions I would like to note that it is even more inequitable to forget those who would otherwise have come under this provision if it were only prospective. If we were to make any criticism at all it would be that the 4 years retroactive provision is inequitable and inadequate in terms of its meager provisions as far as those who have had this situation thrust upon them and their families and that they should be given some recognition.

It is all too seldom, I think, that we have some opportunity to provide some measure of justice. For myself I do not know of any others than the personnel of the police and fire departments who would be subject to such provision. But that is not before us. But it is really silly to state if the provision is not universal it should not be done at all. That is no reason not to do it in this situation where the demonstrated need is so clear and unambiguous, and I hope this measure meets with the approval of the House.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

I will not take the full 5 minutes but I would like to respond to the gentleman from California. First of all I am frank to say that a few days after October 11, 1972, a young policeman in my district was killed in pursuing a criminal. He had a young wife and small children. It was some consolidation to that widow that at least it appeared that the Congress of the United States was going to do something to prevent her from being totally destitute. At that point the bill had been passed by the House and the Senate. Because of circumstances, the conference report, even though it was reported out, could not be adopted by the House and Senate because the House adjourned.

Now, we have a situation where over 400—and I suspect it is closer to 1,000—law enforcement personnel and firefighters have been killed since that date. The local governments knew about this bill, and many of them, because of the tremendous support that was evidenced in Congress, assumed—and the widows assumed—that the Congress was going to act on this.

For various reasons involving the other body we have not been able to get a bill out until this time, and we are trying to make good on the implied promise that was made by this House when we adopted this bill by unanimous consent on October 11, 1974.

Mr. BURKE of Florida. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Florida.

Mr. BURKE of Florida. I thank the gentleman for yielding.

I would like to compliment the chairman and compliment the present speaker for supporting the bill itself and being opposed to the retroactive amendment. I think it is important to note that we passed this bill twice, and the Senate approved it once. I think it is about time now that both parts of the Congress decide that this is an important bill. It is one that the States themselves will not face up to, and I think it is about time that those who protect the American people get some support.

I thank the gentleman for yielding.

Mr. SEIBERLING. I thank the gentleman, and I share his views.

Mr. Chairman, I yield back the remainder of my time.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MOSS asked and was given permission to revise and extend his remarks.)

Mr. MOSS. Mr. Chairman, I rise in support of the amendment which makes an incredibly bad piece of legislation less objectionable. But this legislation ought to be regarded not only by the Federal taxpayers but by local taxpayers as an outrageous intrusion of the Federal Government into the fields of responsibility properly reserved to the States and to the local governments. There is no equity in this bill. Public safety officers in many, many jurisdictions are well provided for in the event of death in the line of duty, and if they are not, at least it is the responsibility of local people and not the responsibility of the House of Representatives of the United States.

To try to sell the fallacious argument that because the House—a previous House, I might add—acted with a lack of wisdom through approving this on the Consent Calendar is not an argument of substance. When it was considered and debated, I am very proud of the fact that I was one of the 54 to vote against the legislation on that occasion. I have not had any kind of outcry from my district condemning me for my lack of humanity toward the police officers or toward the firefighters. I wonder where we should stop.

I know that there are other dedicated municipal servants who die or who are killed in the line of duty. Where do we

draw a line if we are going to treat them equitably? What about the community that has no system of compensation for its public employees in the event of a death or disability as contrasted to the one that has a very generous system such as occurs in my State and many others? Are we not to have any kind of a test here? I think this is one of the most outrageous, almost approaching the level of profane, pieces of legislation that I have seen in this House.

I would strongly urge my colleagues not to embark on this path. This is a very dangerous one. It is a never ending one that is going to drag the Federal Government further and further into the business of the States, of the municipalities, and it is a role we have no right to assume, and I hope we will not.

I am probably not so naïve as to feel that the bill is going to be defeated; but at least, it is not going to be passed with my vote.

Mr. EILBERG. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Chairman, I would like to point out to the gentleman and to the Members, we have had extensive hearings on the legislation. This is not something we thought about yesterday.

Mr. MOSS. Let me say, I did not indicate that this was just thought about yesterday; but I do not think it was thoroughly thought about today.

Mr. EILBERG. Mr. Chairman, will the gentleman yield further?

Mr. MOSS. Yes; of course.

Mr. EILBERG. If the Members will refer to the last hearings on this, look at pages 94 and 95, pages 151 and following; on pages 94 and 95 they will find the amount of lump-sum cash benefits that are provided all over the country. There is a wide disparity. It is obvious that many States and localities are not facing up to their responsibilities.

Mr. MOSS. That is the responsibility of the States and cities and not a Federal responsibility. The same lack of equity applies to every other municipal and State employee. Why target two groups? What we are going to cause is a broadening of the term "public security officer" in the States. We are going to have our lifeguards, our park guards, we are going to have an endless expansion in order to bring them under this payment of a gratuity.

This is a dangerous road. I know what I am talking about, and I can only say I find it unbelievable that this committee would report to this House a piece of legislation of such potentially damaging reach and infringement upon the appropriate role of local government.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. Moss was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Of course, I yield the 1 minute to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I have unusual respect for the gentleman

in the well. I do not take the gentleman's opinions lightly, but I suggest if the gentleman had seen the entire hearing record and listened to the testimony that we had, that the gentleman would not, perhaps, hold his opinion quite as strongly as the gentleman does.

Does the gentleman support the concept of the Law Enforcement Assistance Act in order to help local communities do a better job of fighting crime?

Mr. MOSS. I do not think we can compare the two at all. I do not think that we can compare the two; but if the gentleman wants to ask me if I support every feature of the Law Enforcement Assistance Act, I will tell the gentleman that I do not.

I think that we are wasting enormous sums of money. I think the budget for the LEAA has reached the point where it exceeds the total of the budget for the rest of the Department of Justice. It is growing at an uncontrolled and almost uncontrollable rate.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I support the amendment of the gentleman from California (Mr. DANIELSON) and I endorse the comments of my colleague, the gentleman from California (Mr. Moss).

Mr. Chairman, I want to take only a moment to make an observation or two with respect to the argument repeatedly made that States and cities are not living up to their responsibilities to provide an appropriate death benefit to their own employees. That argument is a self-fulfilling prophecy. Some years ago when Congress held out the promise that we were going to relieve the States of their responsibilities to provide death benefits to police officers, the States stopped in the exercise of that responsibility themselves, naturally.

Mr. EILBERG. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Chairman, my own State of Pennsylvania has not followed that psychology. A \$25,000 lump-sum benefit has passed one House and is pending in the other House and the chance of passing it in Pennsylvania is very good.

Mr. WIGGINS. Mr. Chairman, I commend the gentleman's State. That State's action is a powerful argument that this House should not take such action at all. The record is clear, however, that all States have not been so responsive to this problem and the reason they have not is that they hope we will take them off the hook.

The sooner we put this issue to rest, the sooner the States will assume a responsibility which is theirs.

Mr. HANNAFORD. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. HANNAFORD. Mr. Chairman, I appreciate the gentleman yielding to me.

Is it not true that the Federal Government has itself failed to accept its "re-

sponsibility" for its own many thousands of firefighters and peace officers?

Mr. WIGGINS. Yes, the action of the Federal Government with respect to its own employees is a patchwork, very frankly. We have a different treatment of servicemen than we do of our FBI and Secret Service. We have a different treatment for D.C. police officers than we do for any others. It is a patchwork exercise of responsibility, I will say to my colleague, and does no great credit to this House.

Members of the committee, I urge support for the Danielson amendment, and however that amendment is resolved by the House, I urge defeat of this bill.

Mr. FISH. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think the arguments have been made here and this body has acted twice on this measure. It is very clear that we have held out an expectation of benefits, not to State governments and not to municipalities, but to individuals, the families and the survivors of slain public safety officers.

Mr. Chairman, mention was made by the gentleman from California (Mr. Moss) in the well a few moments ago that his State was one of the ones that was responsive to this problem. I would just like to point out that we are talking about life insurance, about life insurance taken in behalf of a municipality for its police forces. In cities of over 1 million, Los Angeles has none. In cities between one-half million and 1 million, San Francisco has none. San Diego has \$1,000. In cities between 250,000 and 500,000, Long Beach, Calif., has none. In cities with a population of 100,000 to 250,000, Riverside, Calif., has none. San Bernardino, Calif., has \$1,000.

Mr. Chairman, aside from the possibility of receiving life insurance under group policies that would pertain to all peace officers, which we have seen is very uneven and inadequate coverage, we have an additional question here. A man may be under a pension plan at the time of his death. However, here we have an interesting statistic. A number of police officers are slain within the first 5 to 10 years of their service, and it is a disgraceful situation as to how few municipalities permit vesting within the time frame when an enormous number of these peace officers are slain. The result is that we have in many cases survivors who have not received any insurance, but also do not benefit from their husband's pension.

I urge the defeat of this amendment.

Mr. BIAGGI. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, we have made our observations and arguments in connection with this legislation during debate, but I guess that at least one facet of those arguments remains to be repeated. I raised the potential argument that might be offered by the adversaries of this legislation that it was not within the purview of Federal jurisdiction, but really belongs to municipalities and to the political subdivisions—and perhaps I may conclude that it does—but the fact

is that they have failed miserably, and there is no reason in the world to expect that they will change their attitude at this point.

We have found illustration after illustration where common decency, morality and legislative intent fell on the shoulders of municipal administrators, and they did not respond. We find in this bill, as well as the Congress working with legislation in civil rights, in education, in housing, et cetera, where the responsibility is primarily and fundamentally on localities.

They unfortunately did not respond. The Federal administration did. The obligation is as compelling here. The author of the amendment, the gentleman from California (Mr. DANIELSON), stated that he is simply against retroactivity as a policy, except for some compelling equity. What more compelling equity can be found than in the misery and in the sorrow that we find in survivors who are left destitute, who are left with food stamps and social welfare, with the loss of their breadwinner, which puts them at a very distinct disadvantage.

Mr. Chairman, put aside the emotion, put aside the loss. Do not we, as representatives of the people, have the responsibility? Again I say this to the Members: How many funerals have they attended and shared in compassionate and consoling remarks during the course of their lifetime, knowing full well the municipality had failed miserably?

Mr. Chairman, this is an opportunity to do something.

The gentleman from California, the author of the amendment, mentioned the date of October 11, whether that was a date specially picked because some Member had a survivor who needed assistance. If it were, it is sufficient justification. The fact is, it was not.

October 11th is very significant. It is the day on which the 92d Congress passed unanimously similar legislation.

The gentleman stated that it was one of those days when suspensions went by and the House was unaware of what transpired. That is a sad reflection, a sad commentary, and it is certainly without basis.

Let us look at the second date, the 93d Congress, where the Congress again voted 320 to 54. There was certainly deliberation. There was certainly argument. There was obviously controversy. It was passed. And do the Members know what makes it even more unique? The author of the amendment was a gentleman who voted for the bill.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. I thank the gentleman for yielding.

Mr. Chairman, I have opposed this bill ever since it passed under suspension in the 92d Congress. I just want the record to be straight.

Mr. BIAGGI. Mr. Chairman, I would refer the gentleman to the CONGRESSIONAL RECORD of April 24, 1974, at page H3147, rollcall 181, where the name Danielson appears under the ayes.

Mr. DANIELSON. If the gentleman will yield further, I will respond that if it does—and I shall not doubt the gentleman's word—that that would be an error. If the gentleman will check the Record for that day, he will find that I took the well of the House and argued as forcefully as I could against the bill.

Mr. GUDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. GUDE asked and was given permission to revise and extend his remarks.)

Mr. GUDE. Mr. Chairman I rise in opposition to the amendment and in support of H.R. 366. When I entered Congress 10 years ago, crime was a national problem and, if anything, it is a bigger national problem today. This Congress would never have established LEAA and poured millions and millions of dollars into it if it were not a national problem.

Mr. Chairman, there has been talk about the long hand of the Federal Government reaching down and involving itself in local and State matters. Certainly if there is any way we should help the local and State governments, it is with this legislation which has no strings attached to it whatsoever. This provides for simple acts of restitution to the widows and children of men who have been killed in the line of duty.

In the past 15 years, the number of law enforcement officers killed in the line of duty has risen by over 300 percent. Last year alone, the tragic toll came to 124. Many Members will recall that just 1 month ago in my home district of Montgomery County, Md., two police officers pursuing a suspect in a bank robbery were ambushed and shot down. They died a short while later from their wounds.

One of the officers, Capt. James E. Daly, was instrumental in founding the Montgomery County Police Academy, a veteran of 20 years, and a highly respected member of the police force and community which he served. He is survived by a wife and three teen-aged children.

The second officer, John M. Frontczak, was an 8-year veteran of the force and had been cited many times for his meritorious service. Mr. Frontczak, who had recently been promoted to corporal, is survived by his wife and two small children.

Because these officers were killed while pursuing a person who had robbed a federally insured savings and loan, their families will most likely receive compensation from the Federal Government. There are provisions in current law to provide financial aid for survivors of officers killed while assisting in the investigation of Federal offenses. In addition, Montgomery County provides some benefits.

Many officers slain each year in the United States are not covered by sufficient benefits. Members of small forces serving small jurisdictions often do not have strong insurance or death benefits programs. Nor do most policemen receive salaries sufficient to build adequate estates which would care for their families.

I do not think that it is in the national

interest to allow these men to risk their lives for the good of all society and yet do nothing for them should they be killed while enforcing State laws.

Crime is a national problem. Criminals do not observe the fine geographic and political boundaries separating one jurisdiction from another. Good law enforcement in one jurisdiction contributes to the public safety of neighboring areas and of the Nation as a whole. The Federal Government has an obligation to promote law enforcement nationwide, and a responsibility to those who work to insure the public safety.

As the figures indicate, law enforcement has become an increasingly hazardous profession. A law enforcement officer has the right to expect that his wife and his children will be financially secure should he lose his life while on the job. The fear of leaving a family uncared for is a disincentive to the type of individual responsible and high-quality law enforcement needs.

We are not talking about volunteer lifeguards or individuals who with a momentary spurt of courage help out a neighbor or a friend, but people who devote their life to a dangerous career in order to promote the public safety.

Mr. Chairman, I certainly hope this amendment is defeated and the bill is enacted.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Ms. HOLTZMAN asked and was given permission to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Chairman, it is seldom that I disagree with the very distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. ENLBERG), and especially on a matter that is as important as this which deals with the problem of police and local law enforcement. But I think that the amendment is a wise one and the bill is not a wise bill.

I would urge that the amendment be adopted and the bill be defeated. I do so, because it seems to me we must recognize at this point a few fundamental facts. We must recognize that this bill has nothing to do with protecting anyone against crime, and we must recognize that this bill does not deal with the problem that has been eloquently addressed here; namely, that there may be inadequate compensation on the local level for survivors and inadequate compensation in general for police officers.

I think it is shocking and appalling that there is not adequate compensation for police officers, but this bill does not even begin to address that issue. This bill singles out only a specified group of people in certain specified kinds of instances and gives them a gratuity. It does not deal with the problem of the permanently disabled police officer. Neither that permanently disabled police officer who may have been injured in the line of duty nor his family is assisted by the bill.

What happens if a policeman on his way home after a day that is very dangerous, is involved in an automo-

bile accident and is killed? There is not a single penny in this bill that would assist his family.

This bill, in the manner it tries to provide gratuity, is therefore arbitrary and discriminatory. I think it is appalling, as I said before, that there may not be adequate compensation for police officers or survivors on the local level, but let us not kid ourselves into thinking that this bill in any way addresses the serious problems that may exist on the local level with respect to inadequate compensation to police officers, inadequate benefits in terms of disability payments to police officers, or inadequate survivors' benefits. Let us not kid ourselves about that.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Ms. HOLTZMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Of course, Mr. Chairman, in the case where a policeman is walking home or driving home and is killed in an automobile accident, that is a risk he takes, and it is the same risk any other citizen takes.

What this bill is trying to do is to take care of the risk that the policeman takes that other citizens do not take by virtue of the fact that he is a law enforcement officer and is exposed continually, day after day, to violent crime.

Ms. HOLTZMAN. But, Mr. Chairman, the gentleman and the advocates of this bill have said that there is an appalling lack of adequate compensation for police officers on a local level. I am not disagreeing with that. What I am saying to the gentleman is that the bill does not deal with that fundamental problem nor does it deal with the problem of a disabled policeman who is shot in the line of duty and becomes permanently disabled. What happens to his survivors in such circumstances?

That is why I say this bill selects in an arbitrary and discriminatory fashion people to compensate.

Second, I also agree that the compensation should be adequate, but I believe that we ought to encourage State and local governments to deal with the problem of paying benefits on a comprehensive basis.

Mr. EILBERG. Mr. Chairman, will the gentleman yield?

Ms. HOLTZMAN. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Chairman, does the gentleman not recall that in the subcommittee we decided against providing money for permanently disabled policemen on the basis that this is a step in the direction of a Federal police force, and we wanted to have minimum involvement in that field? Was that not the decision of the majority of the subcommittee?

Ms. HOLTZMAN. Mr. Chairman, that is the problem we get into with this legislation. We ought to be encouraging States and local governments on a comprehensive basis to improve compensation for police officers and law enforcement officers and not pick out a single particular group in certain circumstances and try to do them justice.

Mr. EILBERG. Mr. Chairman, will the gentleman not agree that any effort on the part of the Congress to provide additional compensation would make available an unconscionable number of dollars, as compared with the very small investment of funds contained in our bill?

Ms. HOLTZMAN. I think there are other ways to achieve the objectives.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Ms. HOLTZMAN. I yield to the gentleman from New York.

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Mr. Chairman, I have the deepest respect for the opinions of the gentleman in the well, and I can understand how insurance may not be considered as compensation; but would not the gentleman from New York (Mrs. HOLTZMAN) agree that when a person is considering entering such a dangerous occupation, it is a part of that portfolio of compensation to consider the benefits to the widow and the children if, in fact, the person was killed?

Ms. HOLTZMAN. Surely.

Mr. RANGEL. Therefore, this has to be considered as a form of compensation even though it is not so comprehensive as we would like.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANIELSON).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON: Page 6, line 3, insert immediately after the word "apply", the word "retroactively"; page 6, line 5, strike out "which is sustained on or after October 11, 1972," and insert in lieu thereof the following: a period immediately after the word "injury".

(Mr. DANIELSON asked and was given permission to revise and extend his remarks.)

Mr. DANIELSON. Mr. Chairman and members of the committee, I will not take the full 5 minutes on this amendment, but I will briefly explain the thrust of my offered amendment. It is this: that while with this amendment we would retain the retroactive feature, we would not impose the artificial limitation of October 11, 1972, we would make the bill truly retroactive.

Mr. Chairman, the loss, the sorrow, the heartache of those who survived those who died as a result of an injury before October 11, 1972, is as great as that of those who died on or after October 11, 1972.

As the poet said:

The quality of mercy is not strain'd. It droppeth as the gentle rain from heaven upon the place beneath;

Mr. Chairman, this gratuity should drop as the gentle rain from heaven. It should not be selective or be dependent on the arbitrary date on which the injury took place. It should go with fairness to all who are similarly situated.

Mr. Chairman, if we are going to be retroactive, if this is wholesome, if this is equitable, if this is in keeping with our national policy, then let us show true humanity and reach back so as to provide this gratuity to all of those who have suffered.

Mr. FISH. Mr. Chairman, I move to strike the last word.

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Chairman, I would like to address a question to the chairman of the committee, the gentleman from Pennsylvania (Mr. EILBERG).

Despite my admiration for my colleague, the gentleman from California (Mr. DANIELSON), and my deep respect for him, I think he is having a little fun with the House at a time when many Members have travel plans.

I wonder whether the chairman is considering asking for a count of how many Members do want to address the House on this issue, so that we might have a limitation of time in considering this amendment.

How many Members do want to speak, just one or two?

Mr. EILBERG. Mr. Chairman, if the gentleman will yield, it will be just a few Members, I think. This matter will wind up very quickly, I think, in response to the gentleman's basic question.

Mr. FISH. The chairman thinks that it will be a matter of two or three Members?

Mr. EILBERG. Yes, I think so.

Mr. RUSSO. Mr. Chairman, I rise in opposition to the amendment.

(Mr. RUSSO asked and was given permission to revise and extend his remarks.)

Mr. RUSSO. Mr. Chairman, I am sure that my colleague, the gentleman from California (Mr. DANIELSON), really is not serious in hoping that this amendment passes, for several reasons. First of all, the proponents of the amendment have not discussed the cost factor that is involved. Second, I am sure that the author does not have a plan he is willing to submit to the Congress as to how proof of eligibility would be established for cases going back to 1789.

Mr. Chairman, I think we should take this amendment and dismiss it immediately and get on with the work of the Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANIELSON).

The question was taken; and the Chairman announced that the yeas appear to have it.

Mr. DANIELSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS: At the end of the bill add a new section as follows:

"All benefits paid as a result of the pro-

visions of this act shall be paid and deducted from such sums that are due or may become due to the employer of the deceased from the General Revenue Sharing funds."

(Mr. GIBBONS asked and was given permission to revise and extend his remarks.)

Mr. GIBBONS. Mr. Chairman, the Federal Government lays out about \$6 billion a year in general revenue sharing funds to the State and local governments. These governments are the employers of these people. These are the governments who are responsible for paying the benefits. We are not appropriating it from tax funds that they raise, we are appropriating it from tax funds that we raise. I think it is simple business that if we are going to require this to be paid that it come out of the Federal share of the general revenue sharing funds that we appropriate here. That is all my amendment does.

If there are any questions I will be glad to try to answer the questions.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, in other words the gentleman's amendment—which I think is an excellent amendment—is essentially saying that we accent what the committee says when it says that the State and localities have not done their job and that therefore we are going to require them to do their job and have them do it out of their own money, and not out of the money belonging to those who have done their job?

Mr. GIBBONS. We are going to take it out of the General Revenue funds that we give them and pay them that way.

Mr. PATTISON of New York. I think that is a very good amendment, and I certainly support it.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New Jersey.

Mr. MINISH. I thank the gentleman for yielding.

The revenue sharing plan expires in December, as I understand it; is that correct?

Mr. GIBBONS. I understand it is going to be renewed.

Mr. MINISH. We do not know that.

Mr. GIBBONS. There is plenty of time to renew it. I said all funds due or to become due, so I am sure there will be plenty of funds there.

Mr. MINISH. Will the gentleman yield further?

Mr. GIBBONS. I will be glad to yield.

Mr. MINISH. If the legislation is not passed, then there are no funds due.

Mr. GIBBONS. We can modify them and change it back if it should fail to pass. I doubt that the general revenue funds will fail to pass.

Mr. Chairman, I think this is a responsible amendment. It takes care of the benefits that this House seems to want to pay, and I think it is the proper way to do it.

If there are any other questions, I will be glad to answer them.

Mr. Chairman, I yield back the remainder of my time.

Mr. EILBERG. Mr. Chairman, I rise in opposition to the amendment.

I would like to observe preliminarily—and I am sure it is an oversight on the part of my colleague, the gentleman from Florida; of course, we do not have a copy of the amendment, so we did not have any notice of it—that it occurs to me that as a Member of the House there are good reasons against this amendment.

As has been indicated, revenue sharing expires at the end of the year. We have no idea whether it is going to be renewed, or whether it is going to be renewed for 1 year or several years. I am sure each of us is hearing from our municipalities and our States of the terrific burdens that they now have and the vast dependence that they have on revenue-sharing money, and how they just cannot meet their present obligations. There is already great dependence on existing revenue-sharing funds.

We just do not know—none of the States know, and certainly they have no opportunity to know—what share of a number of dollars of revenue money would be deleted from their revenue-sharing funds. In other words, this amendment, I think, has not been carefully thought out. We are taking money away from the States and municipalities that badly need it. Perhaps we should be increasing those funds under appropriate legislation. I think this is a step in the wrong direction, and I ask my colleagues to vote this amendment down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. GIBBONS).

The question was taken; and on a division (demanded by Mr. GIBBONS) there were—ayes 33, noes 22.

Mr. EILBERG. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Pennsylvania (Mr. EILBERG) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. MEEDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee,

having had under consideration the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty, pursuant to House Resolution 1156, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. EILBERG. Mr. Speaker, I demand a separate vote on the so-called Gibbons amendment.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: At the end of the bill add a new section as follows:

"All benefits paid as a result of the provisions of this act shall be paid and deducted from such sums that are due or may become due to the employer of the deceased from the General Revenue Sharing funds."

The SPEAKER. The question is on the amendment.

The question was taken; and on a division (demanded by Mr. GIBBONS) there were—ayes 42, noes 49.

Mr. GIBBONS. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was refused.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—ayes 98, noes 202, not voting 132, as follows:

[Roll No. 219]

YEAS—98

Abdnor	Evins, Tenn.	Moorhead,
Adams	Fasell	Calif.
Alexander	Penwick	Moorhead, Pa.
Allen	Fisher	Moss
Anderson,	Flynt	Mottl
Calif.	Gibbons	Obey
Armstrong	Goodling	Pattison, N.Y.
Ashbrook	Haley	Pettis
Bafalis	Hammer-	Poage
Bauman	schmidt	Pritchard
Bennett	Hefner	Rees
Bolling	Henderson	Regula
Brooks	Hicks	Robinson
Burke, Fla.	Holt	Rogers
Burleson, Tex.	Hughes	Roncalio
Burlison, Mo.	Hutchinson	Rousslet
Byron	Jarman	Ryan
Cederberg	Jones, Okla.	Satterfield
Clawson, Del.	Kastenmeier	Schneebell
Cochran	Kindness	Schulze
Collins, Tex.	Latta	Sebelius
Conable	Lehman	Shriver
Corman	Lent	Shuster
Cornell	Lloyd, Calif.	Stephens
Daniel, Dan.	Long, Md.	Stratton
Daniel, E. W.	Lott	Taylor, Mo.
Danielson	McClary	Treen
Davis	McDonald	Whitten
Dickinson	McEwen	Wiggins
Dingell	Meeds	Wilson, Bob
Edwards, Ala.	Michel	Young, Alaska
Edwards, Calif.	Millard	Young, Fla.
Erlenborn	Miller, Calif.	Zablocki
Evans, Colo.	Mills	

NAYS—202

Abzug
Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Beard, R.I.
Beard, Tenn.
Bergland
Biaggi
Blester
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Calif.
Burke, Mass.
Burton, Phillip
Carney
Carr
Chisholm
Clausen,
Don H.
Clay
Cleveland
Conte
Coughlin
Crane
D'Amours
Daniels, N.J.
Delaney
Dellums
Derwinski
Devine
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Ellberg
English
Evans, Ind.
Fary
Findley
Fish
Fithian
Flood
Florio
Ford, Mich.

Ford, Tenn.
Forsythe
Fountain
Fraser
Gaydos
Gillman
Ginn
Gonzalez
Grassley
Green
Gude
Guyer
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harris
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hightower
Holland
Holtzman
Howard
Hubbard
Hyde
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jordan
Kath
Kemp
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Leggett
Levitas
Lloyd, Tenn.
Long, La.
McCormack
McDade
McFall
McHugh
McKinney
Madigan
Mahon
Mann
Martin
Matsunaga
Mazzoli
Metcalfe
Meyner
Mezvisky
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moore
Murphy, Ill.
Murtha
Myers, Pa.
Natcher

NOT VOTING 132

Archer
Baucus
Bedell
Bell
Bevill
Boggs
Bowen
Broomfield
Brophy
Burgener
Burton, John
Butler
Carter
Chappell
Clancy
Cohen
Collins, Ill.
Conlan
Conyers
Cotter
de la Garza
Dent
Derrick
Diggs
Dodd
Downing, Va.
Emery
Esch
Eshleman
Flowers
Foley
Frenzel

Frey
Fuqua
Gialmo
Goldwater
Gradison
Hansson
Harkin
Harrington
Harsha
Hawkins
Hayes, Ind.
Hayes, Ohio
Hebert
Helz
Hillis
Hinshaw
Horton
Howe
Hungate
Ichord
Jacobs
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kasten
Kazen
Kelly
Ketchum
Keys
Krueger
Lifton

Lujan
Lundine
McCloskey
McCollister
McKay
Macdonald
Madden
Maguire
Mathis
Melcher
Mink
Moffett
Mollohan
Montgomery
Morgan
Mosher
Murphy, N.Y.
Myers, Ind.
Nichols
Nix
O'Hara
Paul
Pepper
Peyser
Pickle
Preyer
Quillen
Randall
Riegle
Risenhoover
Roberts
Rodino

Rooney
Rose
Rostenkowski
Runnels
Ruppe
St Germain
Sarbanes
Sikes
Skubitz
Smith, Nebr.
Snyder
Solarz
Staggers

Stanton,
J. William
Stanton,
James V.
Stark
Steiger, Ariz.
Steiger, Wis.
Stuckey
Sullivan
Symington
Teague
Thompson
Thornton

Udall
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wolf
Wyder
Young, Ga.
Young, Tex.

The Clerk announced the following pairs:

Mr. Thompson with Mr. Kazen.
Mrs. Boggs with Mr. Staggers.
Mr. Hébert with Mr. Stark.
Mr. Howe with Mr. Bell.
Mr. Sikes with Mr. Esch.
Mr. Waggonner with Mr. Eshleman.
Mrs. Keys with Mr. Heinz.
Mr. Bowen with Mr. Macdonald of Massachusetts.

Mr. Wolff with Mr. Madden.
Mr. Murphy of New York with Mr. Lujan.
Mr. Jacobs with Mr. Maguire.
Mr. Chappell with Mr. Clancy.
Mr. Bevill with Mr. Kelly.
Mr. Conyers with Mr. McCloskey.
Mr. de la Garza with Mr. Archer.
Mr. Derrick with Mr. Carter.
Mr. Hays of Ohio with Mr. Frenzel.
Mr. Dodd with Mr. Goldwater.
Mr. Krueger with Mr. Cohen.
Mr. Jones of Tennessee with Mr. Hillis.
Mr. O'Hara with Mr. Frey.
Mr. Rodino with Mr. Gradison.
Mr. Rostenkowski with Mr. McCollister.
Mr. Morgan with Mr. Lundine.
Mr. St Germain with Mr. Conlan.
Mr. Pepper with Mr. Teague.
Mr. Foley with Mr. Burgener.
Mr. Nix with Mr. Hansen.
Mr. White with Mr. Stuckey.
Mr. Riegle with Mr. Montgomery.
Mr. Charles H. Wilson of California with Mr. Paul.

Mr. James V. Stanton with Mr. Snyder.
Mr. Rooney with Mr. Skubitz.
Mr. Roberts with Mr. Steiger of Wisconsin.
Mr. Fuqua with Mr. Wampler.
Mr. Sarbanes with Mr. Ruppe.
Mr. Jones of North Carolina with Mr. Broomfield.

Mr. Udall with Mrs. Collins of Illinois.
Mr. Baucus with Mr. Downing of Virginia.
Mr. Bedell with Mr. Emery.
Mr. Flowers with Mr. Brophy.
Mr. John Burton with Mr. Harrington.
Mr. Litton with Mr. Butler.
Mr. Cotter with Mr. Harsha.
Mr. Dent with Mr. Horton.
Mr. Diggs with Mr. Pickle.
Mr. Gialmo with Mr. Freyer.
Mr. Harkin with Mr. Quillen.
Mr. Hawkins with Mr. Randall.
Mr. Hayes of Indiana with Mr. Ichord.
Mr. Risenhoover with Mr. Jones of Alabama.

Mr. Hungate with Mr. Kasten.
Mr. Jenrette with Mr. Runnels.
Mr. Rose with Mr. J. William Stanton.
Mr. Mathis with Mrs. Sullivan.
Mr. Symington with Mr. McKay.
Mr. Melcher with Mr. Vander Jagt.
Mr. Moffett with Mr. Wyder.
Mr. Young of Georgia with Mrs. Mink.
Mr. Mollohan with Mr. Mosher.
Mr. Nichols with Mr. Peyser.
Mr. Young of Texas with Mr. Myers of Indiana.

Mrs. Smith of Nebraska with Mr. Solarz.
Mr. Charles Wilson of Texas with Mr. Whitehurst.

Mr. LAGO¹ ARSINO and Mr. MARTIN changed their vote from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. WIGGINS. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Wiggins moves to recommit the bill (H.R. 366) to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WIGGINS. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RUSSO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 93, not voting 140, as follows:

[Roll No. 220]

AYES—199

Abzug
Addabbo
Alexander
Ambro
Andrews,
N. Dak.
Annunzio
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bergland
Biaggi
Blester
Blanchard
Blouin
Boland
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, Phillip
Byron
Carney
Chisholm
Clausen,
Don H.

Clay
Cochran
Conte
Corran
Coughlin
D'Alema
Dale, Dan
Daniels, N.J.
Davis
Delaney
Devine
Dickinson
Dingell
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Ala.
Ellberg
English
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Gaydos
Gibbons
Gillman
Ginn

Gonzalez
Goodling
Grassley
Green
Gude
Guyer
Haley
Hall
Hamilton
Hanley
Harris
Heckler, Mass.
Helstoski
Henderson
Holland
Holt
Howard
Hubbard
Hyde
Jeffords
Johnson, Calif.
Johnson, Pa.
Jordan
Kath
Kastenmeier
Koch
Krebs
LaFalce
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
McCormack
McDade
McFall
McKinney

Madigan	Passman	Simon
Matsunaga	Patten, N.J.	Sisk
Mazzoli	Perkins	Slack
Meeds	Pike	Smith, Iowa
Metcalfe	Pressler	Spellman
Meyner	Price	Spence
Mezvisinsky	Rallsback	Steed
Mineta	Rangel	Steelman
Minish	Regula	Stokes
Mitchell, Md.	Reuss	Studds
Mitchell, N.Y.	Rhodes	Thone
Moakley	Richmond	Tsongas
Moorhead,	Rinaldo	Van Deerlin
Calif.	Roe	Vander Veer
Moorhead, Pa.	Rogers	Vanik
Mosher	Roncalio	Vigorito
Mottl	Rosenthal	Walsh
Murphy, Ill.	Roush	Waxman
Murtha	Roybal	Winn
Myers, Pa.	Russo	Wirth
Natcher	Ryan	Wright
Neal	Santini	Wylie
Nedzi	Sarasin	Yatron
Nolan	Scheuer	Young, Alaska
Nowak	Schroeder	Young, Fla.
Oberstar	Seiberling	Zablocki
O'Brien	Sharp	Zeferetti
O'Neill	Shipley	
Otinger	Shriver	

NOES—93

Abdnor	Evins, Tenn.	Moore
Adams	Fountain	Moss
Allen	Fraser	Obey
Anderson,	Hammer-	Patterson,
Calif.	schmidt	Calif.
Andrews, N.C.	Hannafoord	Pattison, N.Y.
Armstrong	Hicks	Pettis
Ashley	Hightower	Poage
AuCoin	Holtzman	Pritchard
Bingham	Hughes	Quile
Bolling	Hutchinson	Rees
Bonker	Jarman	Robinson
Brown, Mich.	Johnson, Colo.	Rousselot
Brown, Ohio	Jones, Okla.	Satterfield
Burleson, Tex.	Kemp	Schneebeli
Burrlison, Mo.	Lagomarsino	Schulze
Carr	Landrum	Sebellus
Clawson, Del.	Latta	Shuster
Cleveland	Leggett	Solarz
Collins, Tex.	Long, La.	Stephens
Conable	McClary	Stratton
Cornell	McDonald	Symms
Crane	McEwen	Talcott
Daniel, R. W.	McHugh	Taylor, Mo.
Danielson	Mahon	Taylor, N.C.
Dellums	Martin	Treen
Derwinski	Michel	Ullman
Duncan, Oreg.	Mikva	Weaver
Edgar	Millford	Whitten
Edwards, Calif.	Miller, Calif.	Wiggins
Erlenborn	Miller, Ohio	Wilson, Bob
Evans, Colo.	Mills	Yates

NOT VOTING—140

Anderson, Ill.	Hagedorn	Mathis
Archer	Hansen	Melcher
Baucus	Harkin	Mink
Bedell	Harrington	Moffett
Bell	Harsha	Mollohan
Bevill	Hawkins	Montgomery
Boggs	Hayes, Ind.	Morgan
Bowen	Hays, Ohio	Murphy, N.Y.
Broomfield	Hébert	Myers, Ind.
Broyhill	Hechler, W. Va.	Nichols
Burgener	Hefner	Nix
Burton, John	Heinz	O'Hara
Butler	Hillis	Paul
Carter	Hinsaw	Pepper
Cederberg	Horton	Peyser
Chappell	Howe	Pickle
Clancy	Hungate	Preyer
Cohen	Ichord	Quillen
Collins, Ill.	Jacobs	Randall
Conlan	Jenrette	Riegle
Conyers	Jones, Ala.	Risenhoover
Cotter	Jones, N.C.	Roberts
de la Garza	Jones, Tenn.	Rodino
Dent	Kasten	Rooney
Derrick	Kazen	Rose
Diggs	Kelly	Rostenkowski
Dodd	Ketchum	Runnels
Downing, Va.	Keys	Ruppe
Emery	Kindness	St Germain
Esch	Krueger	Sarbanes
Eshleman	Litton	Sikes
Fenwick	Lujan	Skubitz
Flowers	Lundline	Smith, Nebr.
Foley	McCloskey	Snyder
Frenzel	McCollister	Staggers
Frey	McKay	Stanton
Fuqua	Macdonald	J. William
Glaimo	Maguire	Stanton
Goldwater	Mann	James V.
Gradison		Stark

Steiger, Ariz.	Traxler	Wilson, C. H.
Steiger, Wis.	Udall	Wilson, Tex.
Stuckey	Vander Jagt	Wolff
Sullivan	Waggonner	Wydler
Symington	Wampler	Young, Ga.
Teague	Whalen	Young, Tex.
Thompson	White	
Thornton	Whitehurst	

The Clerk announced the following pairs:

Mr. Thompson with Mr. Kazen.
Mrs. Boggs with Mr. Staggers.
Mr. Howe with Mr. Bell.
Mr. Sikes with Mr. Esch.
Mr. Waggonner with Mr. Eshleman.
Mrs. Keys with Mr. Heinz.
Mr. Bowen with Mr. Macdonald of Massachusetts.
Mr. Wolff with Mr. Madden.
Mr. Murphy of New York with Mr. Lujan.
Mr. Chappell with Mr. Maguire.
Mr. Bevill with Mr. Clancy.
Mr. Conyers with Mr. Kelly.
Mr. de la Garza with Mr. McCloskey.
Mr. Derrick with Mr. Archer.
Mr. Hays of Ohio with Mr. Carter.
Mr. Dodd with Mr. Frenzel.
Mr. Krueger with Mr. Goldwater.
Mr. Jones of Tennessee with Mr. Cohen.
Mr. O'Hara with Mr. Hillis.
Mr. Rodino with Mr. Frey.
Mr. Rostenkowski with Mr. Gradison.
Mr. Morgan with Mr. McCollister.
Mr. St Germain with Mr. Lundline.
Mr. Pepper with Mr. Conlan.
Mr. Foley with Mr. Anderson of Illinois.
Mr. Nix with Mr. Burgener.
Mr. White with Mr. Hansen.
Mr. Riegle with Mr. Montgomery.
Mr. Charles H. Wilson of California with Mr. Paul.
Mr. James V. Stanton with Mr. Snyder.
Mr. Rooney with Mr. Skubitz.
Mr. Roberts with Mr. Steiger of Wisconsin.
Mr. Fuqua with Mr. Wampler.
Mr. Sarbanes with Mr. Ruppe.
Mr. Teague with Mr. Stuckey.
Mr. Baucus with Mr. Broomfield.
Mr. John Burton with Mr. Emery.
Mrs. Collins of Illinois with Mrs. Fenwick.
Mr. Glaimo with Mr. Hechler of West Virginia.
Mr. Cotter with Mr. Hefner.
Mr. Dent with Mr. Broyhill.
Mr. Flowers with Mr. Harsha.
Mr. Harkin with Mr. Ichord.
Mr. Bedell with Mr. Kasten.
Mr. Hawkins with Mr. Steiger of Arizona.
Mr. Diggs with Mr. Butler.
Mr. Hayes of Indiana with Mr. Vander Jagt.
Mr. Harrington with Mr. Jones of Alabama.
Mr. Jacobs with Mr. Hungate.
Mr. Jenrette with Mr. Kindness.
Mr. Charles Wilson of Texas with Mr. Whitehurst.
Mr. Young of Georgia with Mr. Wydler.
Mr. Mann with Mr. Cederberg.
Mr. Randall with Mr. Whalen.
Mr. Downing of Virginia with Mr. Myers of Indiana.
Mr. Freyer with Mr. Litton.
Mr. Mathis with Mr. Jones of North Carolina.
Mr. McKay with Mr. Quillen.
Mr. Melcher with Mr. Udall.
Mrs. Mink with Mr. Young of Texas.
Mr. Moffett with Mr. Mollohan.
Mr. Nichols with Mr. Peyser.
Mr. Pickle with Mr. Rose.
Mr. Risenhoover with Mr. Runnels.
Mrs. Smith of Nebraska with Mr. J. William Stanton.
Mr. Stack with Mrs. Sullivan.
Mr. Symington with Mr. Thornton.
Mr. Traxler with Mr. Horton.

Mr. WAXMAN changed his vote from "no" to "aye."
So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill H.R. 366 just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FIREFIGHTERS BENEFIT ACT

Mr. EILBERG. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 365) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 365), with Mr. MEEDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 30 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Chairman, I yield myself such time as I may consume.

(Mr. EILBERG asked and was given permission to revise and extend his remarks.)

Mr. EILBERG. Mr. Chairman, it is very obvious and should be to all the Members that these bills are virtually identical. I will enter my formal statement in the Record, as I requested.

I want to say just two things. First, the firefighter is really a public safety officer and the hazards of his death are greater than those of any other occupation so it would be unconscionable to do something for the survivors of police officers and similarly not benefit the survivors of firefighters.

Further, Mr. Chairman, the coverage of the bill applies to those firemen actually engaged in firefighting and others who die in the performance of their duty where the activity is determined by the administration to be potentially dangerous. Otherwise, the bill is in virtually the same form as the bill just passed by the House.

Mr. Chairman, H.R. 365, the Firefighters Benefit Act of 1976, provides a \$50,000 Federal payment to the surviving dependents of firefighters who die as a

direct and proximate result of a personal injury sustained in the line of duty.

I might remind my colleagues that in the last Congress the House overwhelmingly approved legislation which would have provided such a benefit to the dependents of firemen who died in the line of duty.

Regrettably, the Senate has continuously insisted on restricting coverage to deaths resulting from a criminal act. It was the committee's opinion that such a restriction would narrow the scope of coverage and would thereby virtually exclude firefighters from the benefits of the legislation.

This bill clearly recognizes the valuable services which are performed by firefighters, both paid and volunteer, throughout the United States and expresses, in a practical fashion, our deep appreciation for their dedicated efforts. The Labor Department through its research has indicated that firefighting is one of the most hazardous professions. In 1975 alone an estimated 95 professional firemen lost their lives protecting our property and lives from the hazards of fires. In addition to providing direct financial compensation to the dependents of deceased firefighters, it was indicated by most of the witnesses before the committee that this legislation will improve the morale of firefighting personnel.

I should emphasize that this bill does not represent an assumption by the Federal Government of any responsibility for fire prevention and control. Instead, the bill—similar to previous Federal legislation on this subject—recognizes that if it is both necessary and proper for the Federal Government to support and assist in some small way the efforts of State and local governments to combat the fire problem.

By providing for the immediate financial needs of the surviving dependents of firefighters, we believe that H.R. 365 is a reasonable limited and practical method of achieving this objective.

"Firemen" are defined to include volunteer firemen, as well as professional firemen, and coverage is provided when they are actually and directly engaged in fighting fires. In addition, benefits will be provided if a fatal injury is sustained while a fireman is engaged in the performance of other activities which are determined by LEAA to be potentially dangerous.

Since firefighting has been determined to be one of the most dangerous professions, it is the intention of the committee that coverage should extend to all hazardous activities performed by firemen when they are actually and directly engaged in fighting fires.

Furthermore, the fireman's death must be the direct and proximate result of a personal injury sustained while in the performance of duty. Personal injury is not intended to include deaths from occupational diseases or diseases which arise out of the performance of duties.

Benefits shall not be paid in the event of any intentional misconduct or voluntary intoxication by the victim if such conduct was the proximate cause of death. In addition, benefits shall not be

paid to any person whose actions substantially contributed to the death of the public safety officer.

This benefit is in addition to all other benefits which the firefighters' survivors may receive from other sources except that it shall be reduced by payments made under the Federal Employees' Compensation Act and payments to D.C. firefighters who are killed in the line of duty.

The committee establishes a retroactive date of October 11, 1972, which is the date similar legislation passed the House in the 92d Congress.

Mr. Chairman, the firemen of this Nation certainly deserve our wholehearted support and encouragement. In my opinion this bill establishes a limited and inexpensive program to express this support—but at the same time it represents a most effective and most appropriate method of demonstrating our appreciation for the valuable services they render to society. I urge my colleagues to support this legislation.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Chairman, I rise in support of the bill, H.R. 365 to provide death benefits for the dependent survivors of firefighters killed in the line of duty and I wish to join with the gentleman from Pennsylvania in urging support of this worthy legislation.

As you will recall, this House passed similar legislation during the 92nd and 93d Congresses, but unfortunately, the legislation was never finally enacted. Our subcommittee has considered this problem again this Congress and as you know from the debate on H.R. 366 which was just passed, we have separate bills for policemen and firemen, in the hopes that the other body will concur. I support this approach and trust that we can ultimately resolve any differences and enact meaningful legislation in this area during this congress.

I feel we must respond to the tragic loss of life by firefighters. Each day, these brave public servants lay their lives on the line, not knowing whether they will ever return to their families. As a group, they have never been highly paid and if they are killed, their dependents must rely on a patchwork system of State insurance programs and voluntary contributions by local citizens. If States and municipalities provided adequate life insurance this bill would not be needed, but such is not the case. The lack of financial security for one's dependents can discourage otherwise enthusiastic candidates from entering these dangerous professions. The estimated annual cost of \$5.9 million—less than \$6 million—seems to be a small price to pay to assist in upgrading firefighters job benefits.

The Federal Government has undertaken substantial efforts, and significant expenditures of Federal funds in the area of fire prevention and control through enactment of the Fire Research and Safety Act of 1968 and the Federal Fire Prevention and Control Act of 1974.

This latter bill established, within the Department of Commerce, the National Fire Prevention and Control Administration. This administration represents a new Federal effort to reduce the Nation's losses of life and property from fire—losses which represent the highest per capita rate of all of the major industrialized nations in the world.

The Administration is conducting research to provide greater protection to firefighters, including studies of firefighters' deaths to determine areas where additional training would be effective in reducing death or injury. They are also developing a curriculum to train investigators in the techniques of arson investigation.

In addition to these programs many other Federal agencies are involved in one or more aspects of fire prevention or control. The Forest Service of the Department of Agriculture and the Defense Department maintain fire prevention capabilities. Research is conducted by the National Bureau of Standards. Fire data is gathered and analyzed by the Bureau of Vital Statistics of HEW, the Forest Service, the Occupational Safety and Health Administration—OSHA—and the Consumer Product Safety Commission which is also charged with the enforcement of the Federal flammable fabrics laws.

Testimony before our subcommittee indicates that by providing benefits for survivors of firemen killed in the line of duty, will greatly increase morale among our Nation's firefighters, and should greatly assist in efforts to recruit new members to enter this profession.

I urge your support of this meritorious legislation.

Mr. EILBERG. Mr. Chairman, I reserve the balance of my time.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. MYERS).

(Mr. MYERS of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MYERS of Pennsylvania. Mr. Chairman, I rise again, as I did in the last bill, to ask the chairman of the committee for some legislative history in regard to coverage of this bill.

Could the chairman tell me if people who are involved in preparation of fire equipment who are not members of a fire organization, but are hired by that organization, and were to be killed, would they be covered?

Mr. EILBERG. I would say "no."

Mr. MYERS of Pennsylvania. Would the gentleman also respond to the possibility of a good samaritan activity, a volunteer who is not on the roll of a volunteer organization?

Mr. EILBERG. He would not be covered.

Mr. MYERS of Pennsylvania. What about an individual who is fighting his own fire on his own property?

Mr. EILBERG. He would not be covered.

Mr. MYERS of Pennsylvania. What specifically would constitute membership in a firefighting organization?

Mr. EILBERG. The bill defines fireman to include a volunteer of a legally

organized volunteer fire department, and such firemen are covered when they are actually and directly engaged in fighting fires.

Mr. MYERS of Pennsylvania. Would a volunteer fireman have to be shown on a specific roll or membership list prior to the accident?

Mr. EILBERG. Yes.

Mr. MYERS of Pennsylvania. Would the gentleman respond to the situation where firefighters or members of firefighting organizations are asked to provide emergency service in relation to ambulance coverage? Would those specific people be covered?

Mr. EILBERG. If they are regarded as potentially dangerous by the LEAA, they would be covered. It would be up to the LEAA.

Mr. MYERS of Pennsylvania. What about individuals who were rescuing people from hazardous locations, or recovering bodies from drowning, and so forth? What about members of a firefighting organization who were called upon to rescue individuals from, for instance, a bridge or a collapsed building, a hazardous sort of situation in a community?

Mr. EILBERG. The answer would be, the activity would have to be described as potentially dangerous by LEAA.

Mr. MYERS of Pennsylvania. They may be covered if they see fit to do so?

Mr. EILBERG. It is possible.

Mr. MYERS of Pennsylvania. Would that also apply to the individuals who were called upon to recover bodies of drowned persons, if that is a normal activity?

Mr. EILBERG. Yes, it would.

Mr. MYERS of Pennsylvania. Is there any way in which this bill could be construed to provide benefits to a firefighter who is asked by his organization to attend a convention or training facility, but in the act of doing so is killed in an accident?

Mr. EILBERG. No.

Mr. MYERS of Pennsylvania. Is there any way that this bill can be construed to provide benefits to members of firefighting organizations who were engaged in an activity such as a parade or providing a carnival activity or something like that?

Mr. EILBERG. No.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. FISH. Mr. Chairman, I yield two additional minutes to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. The Chairman is probably aware of the fact that in many cases fire companies are volunteer, and perhaps municipal organizations are called upon by private organizations to come on their property and provide a service. In many cases there is a charge for doing so. Would this extend to that situation?

Mr. EILBERG. Would the gentleman restate that, please?

Mr. MYERS of Pennsylvania. If, for instance, there was a chemical organization, a chemical industry in a town, and they had a chemical spill or oil spill and asked the fire company to come in and flush the area, perform some duty along

that line, which is not fighting fires, clean up, would they be covered?

Mr. EILBERG. The LEAA would have to determine whether that situation was potentially dangerous.

Mr. MYERS of Pennsylvania. This bill was not constructed to direct specifically in any way the situation where a firefighter met death as a result of a violent criminal activity, such as a sniper, was it?

Mr. EILBERG. If the killing occurred while he was fighting a fire, he would be covered under the first classification. It is possible, however, that the LEAA may also define the activity in which he was participating was potentially dangerous.

Mr. MYERS of Pennsylvania. What about the man who is not a member of a firefighting organization? Is he covered?

Mr. EILBERG. No.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LENT).

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Mr. Chairman, I rise in support of H.R. 365, to provide a \$50,000 benefit for the dependents of volunteer and professional firefighters who lose their lives in the line of duty. At the same time, I want to commend my colleague Mr. EILBERG, for his leadership in bringing this bill to the floor.

Our Nation's many thousands of firefighters daily risk their lives in the protection of lives and property. Regrettably, 95 of these brave individuals lost their lives in 1975 in the performance of their duties.

Levels of compensation for the dependents of firefighters vary widely throughout the Nation, and it is for this reason that H.R. 365 is badly needed. Our society could never fully repay its debt to those individuals who daily risk their lives for the public's safety, but a \$50,000 payment to their surviving dependents would help ease their financial problems and end the inequities in levels of compensation.

I hope my colleagues will support this long overdue measure.

Mr. FORD of Michigan, Mr. Chairman, I rise in strong support of H.R. 365, the Firefighters Benefits Act.

This bill provides a \$50,000 lump-sum death benefit to the surviving dependents of State and local firefighters who die as the result of personal injuries sustained in the line of duty. Coverage is extended to both professional and volunteer firemen who sustain fatal injuries while they are actually and directly engaged in fighting fires or in the performance of other activities which are determined by the Law Enforcement Administration to be potentially dangerous.

This \$50,000 is not a gift. It is an attempt by the Federal Government to compensate in a small way the families of firefighters who have died trying to help us cope with what we have come to recognize as a national problem. The committee report on this bill points out that studies by the Congress and the National Commission on Fire Prevention and Control have concluded that the

Federal Government must help the country attack the fire problem. If it does not there can be no real hope for a significant reduction in the thousands of people killed each year and the billions of dollars of property loss by fires. I believe that the provision for an interim payment not to exceed \$3,000 to be made before the final award is also necessary to assist the survivors with their most immediate financial problems.

Similar legislation passed both Houses in the 92d and 93d Congress. Unfortunately we were not able to act on the conference reports. I believe it is fitting that this bill be made retroactive to the day the legislation first passed the House, October 11, 1972. More than 3 years ago we recognized a need. Granted that it certainly existed before that time, but we have to choose some date on which to begin benefit entitlement and October 11, 1972, seems a good choice.

Mr. Chairman, we want dedicated young people to enter what is, according to the Department of Labor one of the most hazardous professions. In addition, we want to encourage the thousands of unpaid volunteer firefighters to continue to give of their time and sometime their lives. This bill will, I believe, help us to achieve the goal of a motivated force of firefighting personnel.

Mr. ANNUNZIO. Mr. Chairman, as one of the original sponsors in the 93d Congress of the public safety officers' benefits measure before us today (H.R. 366), I rise to express my full support for this just and compassionate legislation as amended by the Judiciary Committee. I also reintroduced this legislation in the 94th Congress, and my bill also covers professional and volunteer firemen. Therefore, I am proud to extend my support to H.R. 365, the Firefighters Benefits Act, the provisions of which are similar to my bill, H.R. 189.

H.R. 366 will provide a \$50,000 Federal payment to the surviving dependents of policemen, correctional officers, prison guards, probation and parole officers, and officers involved in programs relating to juvenile delinquency or narcotic addiction who die as the direct result of a personal injury sustained in the line of duty.

H.R. 365 also extends this benefit to the survivors of professional and volunteer firemen, and both bills provide these important benefits for deaths resulting from injuries sustained on or after October 11, 1972. Both bills also are designed to meet the immediate financial needs of dependents, and could provide up to \$3,000 in interim emergency benefit payments if it is found necessary to assist a family through this difficult and trying time.

I believe that it is only right and fair, indeed—only decent, that we consider the changing times—from the early sixties when crime, though a problem, had not yet reached epic dimensions to become one of the most demanding issues on the domestic scene today. We must admit that the public safety officer and the fireman are targets for grievances against the shortcomings in our system of Government, and in so doing, provide decent benefits for the men and women

we expect to cope with these changing times.

Though this is small compensation, and certainly will not solve the major problem of crime or the unprovoked attacks on the police or on firefighters, it is the very least we can offer for the protectors of our society.

A question has been raised as to whether it should be the Federal responsibility to provide such death benefits to survivors of State and local law enforcement personnel and firemen killed in the line of duty.

I believe it is wise to establish a Federal standard for these benefits that survivors have a right to receive, since several States offer virtually no financial assistance and other States have only spotty programs in this regard. Testimony before the committee also indicated that this legislation will significantly increase the morale of law enforcement personnel and firemen and greatly assist State and local governments in their recruiting efforts.

On April 19, 1968, Congress passed Public Law 90-291, authorizing dependent's compensation for police officers killed in the line of duty while enforcing Federal laws.

On June 16, 1968, Public Law 90-351 amended the April law to allow compensation for non-Federal officers killed in the line of duty if the crime was even suspected of being a Federal offense.

Although Federal legislation for public safety officers has been commendable, when we talk about providing benefits to only those State officers who happen to be injured while pursuing a Federal offender, we are not covering a very broad spectrum of the dedicated men and women who serve so ably in the enforcement of our laws.

Consider the fact that in 1974 a total of 130 local, county, and State law enforcement officers were killed in the performance of their duty to protect their communities. In 1974, 100 firemen were killed during the course of their duties. With no comprehensive benefit program provided to the survivors of these young people, many widows, widowers, and young children of the slain have suffered very real financial hardships. That is not to minimize the factor of fear that must be felt by all those related to a man or woman who has chosen law enforcement as their profession. The family must live with the realization that every time these courageous individuals don their uniform and leave their home to report for their shifts, they run the risk of becoming another statistic.

Mr. Chairman, I strongly urge the favorable action of my colleagues on H.R. 365 and H.R. 366 which would provide more security and peace of mind for all public safety officers and firemen who must take risks in the pursuit of a safer society. We must not and cannot, in good conscience, turn our backs on the anguish and poverty suffered by the survivors of law officers slain while protecting our rights and liberties, and of firemen who die while protecting our lives and our property.

Mr. BURKE of Massachusetts. Mr. Chairman, we have under consideration

today legislation which is extremely important to our national goal of providing the best fire prevention and control facilities possible. Obviously nothing is more central to this effort than the men and women who risk their lives each day to save the lives and property of our citizens. The Firefighters Benefits Act clearly addresses that fact. This bill provides a payment, through the Law Enforcement Assistance Administration, of \$50,000 to the spouses or eligible dependents of firefighting personnel who die as a result of injury sustained in the performance of duty. It includes both professional and volunteer firemen who sustain fatal injury in the course of fighting fires, or while performing duties determined by the Law Enforcement Assistance Administration to be potentially dangerous.

The bill also provides an interim benefit payment of \$3,000 to persons who can reasonably be expected to receive a final award under this legislation. That amount would, of course, be deducted from the final award. In cases of extreme hardship, where an interim payment had been made and a subsequent determination was made of ineligibility for the final award, that hardship would be taken into account, and repayment of the interim amount would not be demanded.

This is a sound and responsible piece of legislation. Firefighting is among the most hazardous of all professions. In the last 5 years alone it has claimed the lives of 491 men. That figure, taken from the U.S. Department of Labor, does not include the many volunteer firefighters who have given their lives in the line of duty. In many cases, their families were left with nothing more than memories, and whatever could be raised when his fellow firefighters passed the hat. Some State and local governments do, of course, have adequate death benefits. But that is hardly a universal situation. The wide disparity of coverage from one area to another has a direct impact on the number and quality of men and women who will enter careers in firefighting. The result is that some areas are able to attract top personnel, and to concentrate on developing high professionalism, while other areas engage in a constant struggle to attract adequate numbers of people, of whatever ability, to assist in fire prevention and control. I hardly think that we can continue to tolerate that situation in present-day America.

I know that the Department of Justice would like to limit the scope of this legislation. That Department has argued that the death benefit should only be paid where fatalities occur as a direct or near direct result of an actual crime. Such an approach is impossibly narrow, and totally unacceptable to me. Any fire is a crime as far as I am concerned. It is a crime of negligence. Every firefighter can tell you that prevention is the key to controlling fires, and that 90 percent of all fires are directly attributable to man. Unfortunately, the Department of Justice does not take that view. Under their theory, arson would have to be proven as the cause of the fire. There are thousands of instances

each year, and the number increasing, of fires of questionable origin. However, in many of those cases, it is still not possible to confidently assert that intentional arson was involved. I am pleased that the Firefighters Benefits Act defines eligibility to cover the surviving dependents of firefighters who die from injury sustained in the performance of their duty, without regard to the occurrence of criminal acts.

I know that some of my colleagues stand prepared today to argue that the Federal Government has no right to become involved in financing benefits for non-Government employees. But if upgrading and improving our national fire prevention and control abilities is not in the national interest, I do not know what is. Even if you put aside the human considerations involved in firefighting, and the number of deaths which occur each year, the property considerations are enormous. Each year millions of dollars worth of property is destroyed by fire. Factories are destroyed throwing thousands of people out of work. Forest areas are destroyed creating problems of flooding, soil erosion, and all of the problems associated with the loss of valuable lumber, and wood fibers. All of this eventually reaches the Federal Government in terms of lowered GNP, required payments of unemployment compensation, public assistance, reforestation, and so on. In short the Government loses a fortune which could have been saved through improved firefighting programs and facilities.

This legislation will improve and upgrade employment opportunities and professionalism in a career area that can substantially reduce the loss of life and property in this Nation. It is a bill which clearly recognizes the high risks involved in firefighting, and addresses our national responsibility in encouraging the advancement of that profession. I strongly support H.R. 365, and I urge my colleagues to join with me in voting for its passage.

Mr. BIAGGI. Mr. Chairman, I rise to give my support to H.R. 365, the Firefighters Benefit Act of 1976. Passage of this legislation will be a clear demonstration of our support and appreciation of the efforts and sacrifices made daily by professional and volunteer firefighters in this Nation.

As the committee report indicates, firefighting is a most hazardous profession. In 5 of the last 6 years, more than 100 firefighters have been killed in the line of duty, an increase of more than 50 percent from a decade ago. These numbers tell only part of the story. They omit the personal and economic anguish and suffering endured by the survivors of these brave individuals who are forced to pick up the pieces and begin new lives, uncertain of their ability to survive economically.

Most States have failed in their moral obligation to provide assistance to the survivors of firefighters killed in the line of duty. Whether it is due to their inability or unwillingness, the simple fact is that the benefits are not being provided. With future prospects for new economic problems in our cities and States,

it seems evident that the Federal Government must assume this responsibility.

H.R. 365 will make this long overdue Federal commitment by providing a \$50,000 Federal death benefit payment to the surviving dependents of firefighters who die as a direct and proximate result of personal injury sustained in the line of duty. The bill allows for an immediate payment of \$3,000 to be given to needy families, and will not subject the benefits to Federal income tax.

This legislation is complementary to earlier legislation we have enacted designed to promote new State and local programs aimed at fire prevention. Substantial progress in this battle is years away, but the hazards encountered by firefighters continue.

In New York City, the dangers facing firefighters have been greatly compounded by layoffs within the ranks of the fire department. There are fewer firemen fighting the increasing number of fires in the city. We are working on legislation which will relieve this problem, but we cannot meantime ignore the consequences which this situation presents to firefighters in New York as well as in other cities which have been forced to lay off important municipal employees.

In recent years, firemen have had to contend with additional hazards beyond fighting fires. There have been increasing incidences of firemen being injured and killed while fighting fires, by snipers and other criminal assailants. I am pleased that this legislation will include these types of acts under its coverage.

Mr. Chairman, I wish at this time to commend my distinguished colleague, Mr. EILBERG for his untiring leadership on behalf of this bill as well as H.R. 366, which will provide similar benefits for public safety officers. We have travelled this path before, as the House in each of the past two Congresses, has passed similar legislation. Let us do so again today and continue the commitment which will allow this bill to at long last become law.

Mr. RUSSO. Mr. Chairman, I rise in support of H.R. 365, the Firefighters Benefits Act of 1976.

As sponsor of H.R. 8761, which generally takes the same approach as the subject legislation, and as a former member of the Judiciary Subcommittee which produced this fine proposal under the able leadership of the distinguished gentleman from Pennsylvania, I was an early proponent of effective assistance for the families of firefighters who lose their lives during the performance of public duty.

The bill provides a \$50,000 lump sum death benefit to the surviving dependents of State and local firefighters who die as the result of personal injuries sustained in the line of duty. Coverage would include both professional and volunteer firemen who sustain fatal injuries while they are actually and directly engaged in fighting fires or engaged in the performance of other activities which are determined by the Law Enforcement Assistance Administration to be potentially dangerous.

The bill also provides an interim benefit not exceeding \$3,000 which may be

awarded in hardship cases and such payment shall be deducted in the event of a final award. In the event that a final award is not made, repayment may be waived.

Retroactive benefits are provided to the surviving dependents of firefighters who have died from personal injuries which were sustained on or after October 11, 1972. Federal firefighters, who are covered under the Federal Employees Compensation Act, would not be covered under H.R. 365.

I am firmly convinced that the brave men and women who perform this essential function of keeping our communities safe from fires, merit the kind of security for their families encompassed in H.R. 365. Thus, I strongly urge approval of this measure.

Mr. RODINO. Mr. Chairman, I rise in strong support of H.R. 365, the Firefighters Benefits Act of 1976, which is designed to provide a \$50,000 Federal gratuity to the dependent survivors of professional and volunteer firemen who are killed in the line of duty.

The Committee on the Judiciary has struggled long and hard over the years to insure the enactment of legislation which recognizes the heroic deeds of our public safety officers and this legislation is an appropriate expression of our appreciation for the services rendered by the firefighting profession.

Certainly this legislation is not intended to take over the primary responsibility of State and local governments to provide adequate fire prevention and control programs.

On the other hand, H.R. 365 does represent a recognition of the Federal Government's role to support and encourage them in their efforts to discharge this responsibility.

Firefighters—like law enforcement personnel—have long been neglected by their respective employers in terms of adequate salaries, working conditions, and fringe benefits, despite the hazardous nature of this occupation.

Likewise, this bill does not establish any precedent for expanding the role of the Federal Government with regard to fire prevention and I note that Congress has previously enacted legislation to increase the effectiveness of fire prevention and control agencies at all levels of government, namely the "Fire Research and Safety Act of 1968," and the "Federal Fire Prevention and Control Act of 1974."

In this regard, testimony has been presented to the Judiciary Committee over the last three Congresses stating that passage of this legislation will clearly reinforce efforts of State and local governments to recruit both professional and volunteer firefighters.

Research conducted by the National Commission of Fire Prevention and Control, pursuant to Public Law 90-259, indicated that the United States has the highest per capita rate of death and property loss from fire of all the major industrialized nations in the world. The Commission also estimated that fire kills approximately 12,000 individuals and injures another 300,000 Americans each year, but most importantly the Commis-

sion found that firefighting is the Nation's most hazardous profession.

In view of these alarming statistics, I believe it is most appropriate for the Federal Government to assist in some manner and the legislation we are considering today should be viewed by all as a proper and acceptable response to this serious problem.

I urge my colleagues to support this meritorious and urgently needed legislation.

Mr. MATSUNAGA. Mr. Chairman, during consideration of the bill H.R. 366, which was passed earlier today, I expressed to the gentleman from Pennsylvania (Mr. EILBERG) my deep appreciation for his substantial efforts on behalf of our Nation's law enforcement officials. I now wish to commend the gentleman for his unceasing efforts on behalf of our country's professional firefighters in bringing to the floor H.R. 365, the proposed Firefighters Benefits Act of 1976. As a cosponsor of similar legislation in preceding Congresses, and as sponsor of other proposed legislation to improve the working conditions of professional firefighters such as H.R. 9531, a bill to reduce the workweek of Federal firefighters, I rise to express my wholehearted support for this long-overdue proposal.

Mr. Chairman, H.R. 365 seeks to authorize a Federal payment of \$50,000 to the spouses and dependents of professional firefighters killed in the line of duty. Tragically, the mortality rate in this extremely hazardous profession continues to rise; the number of professional firefighters killed during the performance of their duties has increased from 55 during 1965 to an average of 100 per year presently. Yet, many States have failed to provide sufficient death benefits for their survivors.

Mr. Chairman, it is my strong belief, a belief which I am certainly not alone to hold in the Congress, that our society has a moral obligation to care for the survivors of those who die protecting our homes and businesses from fire. While I know that money can never provide adequate compensation for the loss of life itself, I do believe that the provisions contained in H.R. 365, if enacted, would in some small way express society's debt to these individuals by easing the financial hardship often faced by their survivors as a result of the death of the provider in the line of duty.

Mr. Chairman, H.R. 365 is a proposal which is equitable, essential, and long overdue. I urge its expeditious passage.

Mr. EILBERG. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FISH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Firefighters Benefits Act of 1975".

Sec. 2. Title I of the Omnibus Crime Controls and Safe Streets Act of 1968 is amended by adding at the end thereof the following new part:

"PART J—FIREFIGHTERS DEATH BENEFITS"

"Sec. 701. (a) In any case in which the Administration determines, under regulations issued under Part F of this title, that an eligible firefighter has died as the direct and proximate result of a personal injury sustained in the performance of duty, leaving a spouse or one or more eligible dependents, the Administration shall pay a gratuity of \$50,000, in the following order of precedence:

"(1) If there is no dependent child, to the spouse.

"(2) If there is no spouse, to the dependent child or children, in equal shares.

"(3) If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.

"(4) If there is no survivor in the above classes, to the parent or parents dependent for support on the decedent, in equal shares.

"(b) As used in this section, a dependent child is any natural, illegitimate, adopted, posthumous child, or stepchild of the decedent who at the time of the firefighter's death is—

"(1) under eighteen years of age; or

"(2) over eighteen years of age and incapable of self-support because of physical or mental disability; or

"(3) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.

"(c) As used in this section, spouse includes a surviving husband or wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of desertion by the decedent.

"(d) As used in this section, the term 'dependent for support' means more than one-half of the support of the dependent concerned.

"(e) As used in this section, the term 'eligible firefighter' means any individual serving, with or without compensation, as a firefighter (including any individual serving as an officially recognized or designated member of a legally organized volunteer fire department) who is determined by the Administration to have been, at the time of his injury—

"(1) actually and directly engaged in fighting a fire; or

"(2) otherwise engaged in the performance of his duty where the activity is determined by the Administration to be potentially dangerous to the firefighter.

"Sec. 702. (a) Whenever the Administration determines, upon a showing of need and prior to taking final action, that a death of a firefighter is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person or persons entitled to receive a benefit under section 701 of this part.

"(b) The amount of any interim benefit paid under subsection (a) of this section shall be deducted from the amount of any final benefit paid to such person or persons.

"(c) Where there is no final benefit paid, the recipient of any interim benefit paid under subsection (a) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, and shall consider for this purpose the hardship which would result from repayment.

"Sec. 703. (a) No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the firefighter or by such firefighter's intention to bring about his death;

"(2) if voluntary intoxication of the firefighter was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if

such person's actions were a substantial contributing factor to the death of the firefighter.

"(b) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8101 of title 5, United States Code;

"(2) payments authorized by section 12 (k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(c) No benefit paid under this part shall be subject to execution or attachment.

"Sec. 704. The provisions of this part shall apply with respect to any eligible firefighter who dies as the direct and proximate result of a personal injury which is sustained on or after October 11, 1972."

Sec. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "520" and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J."

Sec. 4. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

Sec. 5. The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part J. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part J.

Sec. 6. The Administration may prescribe rules and regulations governing the recognition of agents or other persons, representing claimants before the Administration. The Administration may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the administration of this part, and any agreement in violation of such rules and regulations shall be void.

Sec. 7. In making determinations under section 701, the Administration may delegate such administrative functions to the State and local agencies as it determines necessary and proper to the administration of this part. Responsibility for making final determinations would rest with the Administration.

Sec. 8. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Mr. EILBERG (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, lines 3 and 4, strike out "Firefighters Benefits Act of 1975," and insert in lieu thereof: "Firefighters Benefits Act of 1976."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, strike out line 18 and insert in lieu thereof the following:

"(1) eighteen years of age or under; or"

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. EILBERG

Mr. EILBERG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EILBERG: Page 5, strike out lines 18 through 21 and insert in lieu thereof the following:

"Sec. 4. The authority to make payments under sections 701 and 702 of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts."

(Mr. EILBERG asked and was given permission to revise and extend his remarks.)

Mr. EILBERG. Mr. Chairman, this amendment is identical to that which I previously offered to H.R. 365—and which was adopted. Since I have already explained the primary thrust and purpose of this amendment, I would simply reiterate that it is designed to conform H.R. 365 with the Congressional Budget Act and to remove that aspect of H.R. 365 which constitutes an appropriation on a legislative bill. I urge my colleagues' support for this amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from New York (Mr. Fish).

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, I fully concur with the gentleman from Pennsylvania (Mr. EILBERG), and I support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EILBERG).

The amendment was agreed to.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MOSS asked and was given permission to revise and extend his remarks.)

Mr. MOSS. Mr. Chairman, I spoke a little earlier on the previous bill and asked how far we were going down this road, and I got the answer very quickly. The only thing is that we do not know how far we are going.

Mr. Chairman, I know that out in my area the firemen are frequently called upon to rescue cats out of trees. Should they fall at that time, is the \$50,000 compensation payable to the survivor?

I will ask the chairman if in the performance of the duty of removing cats from trees, would the firefighter be compensated?

Mr. EILBERG. If the gentleman will yield, the answer lies in the intention of the committee, which I hope would be the legislative intent, that the LEAA would conduct hearings to determine guidelines which would be generally applicable. Then LEAA would then have the authority to decide individual cases.

I cannot give a specific answer to the gentleman. It would be up to LEAA to de-

cide whether this was such an activity that should be covered.

Mr. MOSS. Mr. Chairman, I think the answer is that this constitutes an unbelievably broad grant of authority to LEAA.

The LEAA Administrator is going to determine whether, for the many, many duties that firemen perform which have nothing to do with fighting fires, firemen would be compensated should a loss of life occur. In many communities emergency ambulance service is provided by fire departments. It is also provided by hospitals, and the personnel in both instances being municipal, one would be eligible to be determined by the LEAA Administrator as subject to the provisions of this law, and another municipal employee performing precisely the same duty for a department other than the fire department would not be covered under the provisions of this legislation. This is a ludicrous and a ridiculous situation.

Mr. Chairman, I recognize that it is nearly 4 o'clock on Friday afternoon and I know how anxious many Members are to leave and return to their districts, but there is no excuse for this House to engage in such a totally irresponsible legislative act as we are now being asked to consider on the floor of this House. There is no excuse for that at any time, on a Friday, a Monday, a Wednesday, a Thursday, or whenever it might be.

This is the most totally irresponsible piece of legislation, I think I can say without qualification, that I have seen offered here in this Chamber.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, I subscribe to everything the gentleman from California (Mr. Moss) has said, and I join with him in his opposition to this bill. I know how difficult it is to vote against this, because there is no constituency against it and there is a strong constituency for it.

However, this has got to be the most irresponsible piece of legislation I have seen come from this House. I am ashamed that we passed the prior bill, and I think those of us who voted for that should prepare a news release saying we made a mistake voting for the first one.

Mr. MOSS. Mr. Chairman, let me say to my colleague that I agree completely. I listened to Members who said this was not going to come out of conference. They consoled themselves with their irresponsible action on the ground that it would not come out of conference.

Well, it might. It might come out of conference, and we might be faced with the fact that this will become a reality, and it would constitute a most costly and embarrassing precedent.

Mr. Chairman, I do not think there is any excuse for the kind of irresponsible action that was taken earlier, and I think it is as inevitable as the fact that tomorrow will come that the same action is going to be taken in the case of this bill.

Mr. EILBERG. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the distinguished chairman of the subcommittee.

Mr. EILBERG. Mr. Chairman, notwithstanding the lack of confidence the gentleman obviously has in this subcommittee, I would like to reply to what he has said.

Mr. MOSS. Mr. Chairman, I must admit that I have a total lack of confidence in this subcommittee.

Mr. EILBERG. Mr. Chairman, I am sure the gentleman is sincere. My respect for him is in no way diminished because of this, I can assure him of that.

I would say that the LEAA would exercise good judgment in determining what cases are potentially dangerous.

The CHAIRMAN. The time of the gentleman from California (Mr. Moss) has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 3 additional minutes.)

Mr. MOSS. Mr. Chairman, I invite the gentleman from Pennsylvania (Mr. EILBERG) to look at some of the General Accounting Office audits that I have released on LEAA, and then he can determine if they are as totally responsible as he would have us believe. I have serious reservations about the practices of that agency, and it dispenses hundreds and hundreds of millions of dollars.

Mr. EILBERG. Mr. Chairman, will the gentleman yield further?

Mr. MOSS. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Chairman, I think it would be totally unconscionable to legislate for every case of death, but that is, not what is covered by this legislation. It is necessary for LEAA to make certain determinations.

Mr. MOSS. Mr. Chairman, I will yield no further at this moment.

Mr. Chairman, we do that in the case of our Federal employees; we do not give a broad grant of authority to anyone else. This is irresponsible. This is unfunded, and we should remember that we do not even cover our own Federal employees under a system that is as generous as this, and they have a funded system that is supposed to compensate them.

This is totally unfunded, and we have no idea of the ultimate cost of it. I do not think anyone else does.

Mr. Chairman, I strongly urge my colleagues to reject this ill-conceived—I will not use the language that comes to mind; it would be somewhat profane, but its parentage could probably be brought into doubt.

Mr. CONABLE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. CONABLE asked and was given permission to revise and extend his remarks.)

Mr. CONABLE. Mr. Chairman, what is the role of the Federal Government? Is it to assume all risks in society?

That is the course we have been on since I have been here in Congress. To protect against the risk of possible unemployment, the risk of possible inflation, the risk of pulling the wrong box off the supermarket shelf, the risk of disease, the risk of business failure, the risks of old age—you name it—every pos-

sible risk which we could identify has become a Federal responsibility.

Mr. Chairman, if this is the role of the Federal Government, then this may be a proper bill.

Certainly I would not want to distinguish between the worthiness of policemen and firemen. I think it invites invidious comparison, and inevitably we will find ourselves passing similar legislation for servicemen and other worthy participants in social activity of one sort or another.

It is my view, however, Mr. Chairman, that we cannot continue down this course responsibly. The Federal Government cannot assume all risks in a free society. If it tries to do so, inevitably, we will find that a riskless society is a choiceless society.

The loss of freedom of choice, including more choices which may involve personal risk, is not the goal of any Member of this body.

A completely riskless society does not leave any options to anyone, including the taxpayers who have to back every Government guarantee.

We are on a primrose path, Mr. Chairman, and we should turn back before it is too late.

AMENDMENT OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON: Page 5, line 8, strike out "October 11, 1972," and insert in lieu thereof the following: "the date of the enactment of this part."

(Mr. DANIELSON asked and was given permission to revise and extend his remarks.)

Mr. DANIELSON. Mr. Chairman, I shall not take the 5 minutes.

The amendment which I now offer is identical to the amendment which I offered to the previous bill, namely, an amendment to repeal the retroactive clause and have the bill become effective on its effective date and not earlier.

Mr. Chairman, I have presented that argument before, and the House did not support it, and I shall not further belabor the point, although I do believe that it is a proper action to take, and I urge an "aye" vote.

Mr. Chairman, I want to add one or two thoughts. I have heard arguments made on the floor here today by people who attempt to qualify themselves by saying, "I was once a law-enforcement officer."

Mr. Chairman, so was I, for 5½ years. I have heard others say, "I used to be a prosecuting attorney; impliedly, I am therefore qualified."

Mr. Chairman, I was, too, for more than 3 years.

I have heard others refer to service in the military. I happen to have done a couple of years service in the Navy during World War II myself.

At that time, in order to get \$10,000 worth of so-called GI insurance, our meager paychecks were docked for an appropriate premium.

Mr. Chairman, I would not object if our State, county, and local governments were given an opportunity to have their safety employees covered under national

service life insurance by the docking of an appropriate premium that would cover the cost. However, this bill is just a giveaway. Members of the committee, this is a national ripoff, and it is our responsibility to stand here as Members of the Congress and resist it.

We do not represent only the special interests. We represent every American citizen. It is our responsibility to safeguard the Treasury.

Mr. Chairman, I submit that without qualification, this is the most irresponsible piece of legislation that I have seen in 14 years as a legislator.

If the American people knew—if the American people understood—the import of this bill, they would be outraged. This bill and the one which preceded it would shock the conscience of the Nation. We cannot with responsibility pass this sort of a thing. I urge respectfully that we assume our responsibility and vote no. Meanwhile I urge that the Members adopt my amendment which will at least restore a small aspect of sanity to this outrage.

Mr. EILBERG. Mr. Chairman, I rise in opposition to the amendment.

(Mr. EILBERG asked and was given permission to revise and extend his remarks.)

Mr. EILBERG. Mr. Chairman, I believe that all of the arguments that were made in behalf of H.R. 366, the bill previously under consideration, in connection with the same amendment offered by the gentleman from California (Mr. DANIELSON) would be equally applicable here, so I will not repeat them.

I will simply say in addition that it would be unconscionable to me to have the retroactive date in effect for the public safety officers and not have it apply to firemen as well. So I urge, for all of the reasons previously given and what I have just given that the Members reject this amendment.

Mr. ALLEN. Mr. Chairman, I move to strike the last word and I rise in support of the amendment offered by the gentleman from California (Mr. DANIELSON).

(Mr. ALLEN asked and was given permission to revise and extend his remarks.)

Mr. ALLEN. Mr. Chairman, I concur with those who say that this is primarily a responsibility of the local governments. Local governments should face up to this responsibility, and the employees of the local governments ought to exercise their influence to see that city fathers and their governing bodies live up to their responsibilities.

Let me say, in the case of my own metropolitan government of Nashville and Davidson County, Tenn., that we have already met our responsibilities, and with the responsibilities that this bill would provide. The program we have in Nashville provides for \$50,000 to the widows and children left by any fireman or policeman killed in the line of duty. In addition to that, they are provided with life insurance equal to twice their annual salary with double indemnity. Thus a fireman or a policeman who is making \$10,000 a year has a life insurance policy of \$20,000 with a double indemnity feature which provides in the case of ac-

cidental death, his family would receive \$40,000 in life insurance in addition to \$50,000, as this bill would provide; or \$90,000 all told.

Mr. Chairman, if the metropolitan government of Nashville and Davidson County can measure up to its responsibility to its policemen and firemen, then I do not see why we should stand here and vote to relieve other municipalities and States of their responsibilities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANIELSON).

The amendment was rejected.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MEEDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 365) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty, pursuant to House Resolution 1155, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—ayes 178, noes 80, not voting 174, as follows:

[Roll No. 221]

AYES—178

Abzug	Brinkley	Dingell
Addabbo	Brodehead	Downey, N.Y.
Alexander	Brooks	Drinan
Ambro	Brown, Calif.	Duncan, Tenn.
Andrews,	Buchanan	Early
N. Dak.	Burke, Fla.	Eckhardt
Annunzio	Burke, Mass.	Edwards, Ala.
Aspin	Burton, Phillip	Ellberg
Badillo	Byron	English
Bafalis	Chisholm	Evans, Ind.
Baldus	Clausen	Fary
Bauman	Don H.	Fascell
Beard, R.I.	Clay	Findley
Bennett	Cochran	Fish
Bergland	Conte	Fisher
Blagel	Coughlin	Fithian
Blester	D'Ancours	Flood
Blanchard	Daniel, Dan	Florio
Blouin	Daniels, N.J.	Flynt
Boland	Davis	Ford, Mich.
Breaux	Deaney	Ford, Tenn.
Breckinridge	Dickinson	Forsythe

Gaydos	Madigan	Rinaldo
Gibbons	Matsunaga	Roe
Gilman	Meeds	Rogers
Ginn	Metcalfe	Roncallo
Gonzalez	Meyner	Rosenthal
Grassley	Mezvisky	Roush
Green	Mineta	Roybal
Gude	Minish	Russo
Guyer	Mitchell, Md.	Ryan
Haley	Mitchell, N.Y.	Sarasin
Hamilton	Moakley	Scheuer
Hanley	Moorhead,	Schroeder
Harris	Calif.	Seiberling
Heckler, Mass.	Moorhead, Pa.	Sharp
Helstoski	Mosher	Shriver
Henderson	Motti	Simon
Holt	Murphy, Ill.	Slack
Howard	Murtha	Smith, Iowa
Hubbard	Myers, Pa.	Spellman
Hyde	Natcher	Spence
Jeffords	Neal	Steed
Johnson, Calif.	Nedzi	Steelman
Johnson, Pa.	Nolan	Stuckey
Jordan	Nowak	Studds
Karsh	Oberstar	Thone
Kastenmeier	O'Brien	Tsongas
Krebs	O'Neill	Van Deulin
LaFalce	Ottinger	Vander Veen
Lehman	Passman	Vanik
Lent	Patten, N.J.	Vigorito
Levitas	Perkins	Waxman
Lloyd, Calif.	Pike	Wirth
Lloyd, Tenn.	Pressler	Wright
Long, Md.	Price	Young, Alaska
Lott	Rallsback	Young, Fla.
McCormack	Rangel	Zablocki
McDade	Regula	Zeferetti
McFall	Reuss	
McKinney	Richmond	

NOES—80

Abdnor	Edwards, Calif.	Miller, Ohio
Adams	Erlenborn	Mills
Allen	Evans, Colo.	Moore
Anderson,	Evins, Tenn.	Moss
Calif.	Fountain	Pattison, N.Y.
Andrews, N.C.	Fraser	Pettis
Armstrong	Goodling	Ponge
Ashley	Hammer-	Pritchard
AuCoin	schmidt	Quie
Bingham	Hicks	Rees
Baker	Hightower	Robinson
Brown, Mich.	Hughes	Rousselot
Brown, Ohio	Hutchinson	Satterfield
Burleson, Tex.	Jarman	Shuster
Burrisson, Mo.	Johnson, Colo.	Solarz
Carr	Jones, Okla.	Stephens
Clawson, Del.	Kemp	Stratton
Cleveland	Lagomarsino	Symms
Collins, Tex.	Landrum	Talcott
Conable	Latta	Taylor, Mo.
Cornell	Leggett	Taylor, N.C.
Crane	McDonald	Treen
Daniel, R. W.	McEwen	Ullman
Danielson	McHugh	Weaver
DeLuca	Mahon	Wiggins
Derwinski	Michel	Yates
Duncan, Oreg.	Milken	
Edgar	Miller, Calif.	

NOT VOTING—174

Anderson, Ill.	Diggs	Holtzman
Archer	Dodd	Horton
Ashbrook	Downing, Va.	Howe
Baucus	du Pont	Hungate
Beard, Tenn.	Emery	Ichord
Bedell	Esch	Jacobs
Bell	Eshleman	Jenrette
Bevill	Fenwick	Jones, Ala.
Boggs	Flowers	Jones, N.C.
Bolling	Foley	Jones, Tenn.
Bowen	Frenzel	Kasten
Brademas	Frey	Kazen
Broomfield	Fuqua	Kelly
Broyhill	Glaime	Ketchum
Burgener	Goldwater	Keys
Burke, Calif.	Gradison	Kindness
Burton, John	Hagedorn	Koch
Butler	Hall	Krueger
Carney	Hannaford	Litton
Carter	Hansen	Long, La.
Cederberg	Harkin	Lujan
Chappell	Harrington	Lundine
Clancy	Harsha	McClory
Cohen	Hawkins	McCloskey
Collins, Ill.	Hayes, Ind.	McCollister
Conlan	Hays, Ohio	McKay
Conyers	Hébert	Macdonald
Corman	Hechler, W. Va.	Madden
Cotter	Hefner	Maguire
de la Garza	Helms	Mann
Dent	Hillis	Martin
Derrick	Hinsshaw	Mathis
Devine	Holland	Mazzoli

Melcher	Rodino	Stokes
Milford	Rooney	Sullivan
Mink	Rose	Symington
Moffett	Rostenkowski	Teague
Mollohan	Runnels	Thompson
Montgomery	Ruppe	Thornton
Morgan	St Germain	Traxler
Murphy, N.Y.	Santini	Udall
Myers, Ind.	Sarbanes	Vander Jagt
Nichols	Schneebell	Waggonner
Nix	Schulze	Walsh
Obey	Sebelius	Wampler
O'Hara	Shipley	Whalen
Patterson,	Sikes	White
Calif.	Sisk	Whitehurst
Paul	Skubitz	Whitten
Pepper	Smith, Nebr.	Wilson, Bob
Peysner	Snyder	Wilson, C. H.
Pickle	Staggers	Wilson, Tex.
Preyer	Stanton,	Winn
Quillen	J. William	Wolff
Randall	Stanton,	Wylder
Rhodes	James V.	Wyllie
Riegle	Stark	Yatron
Risenhoover	Steiger, Ariz.	Young, Ga.
Roberts	Steiger, Wis.	Young, Tex.

The Clerk announced the following pairs:

Mr. Thompson with Mr. Kazen.
 Mrs. Boggs with Mr. Staggers.
 Mr. Hébert with Mr. Anderson of Illinois.
 Mr. Howe with Mr. Bell.
 Mr. Sikes with Mr. Esch.
 Mr. Waggonner with Mr. Eshleman.
 Mrs. Keys with Mr. Heinz.
 Mr. Bowen with Mr. Macdonald of Massachusetts.
 Mr. Wolff with Mr. Madden.
 Mr. Murphy of New York with Mr. Lujan.
 Mr. Chappell with Mr. Maguire.
 Mr. Bevil with Mr. Clancy.
 Mr. Conyers with Mr. Kelly.
 Mr. de la Garza with Mr. McCloskey.
 Mr. Derrick with Mr. Archer.
 Mr. Hays of Ohio with Mr. Frenzel.
 Mr. Dodd with Mr. Goldwater.
 Mr. Krueger with Mr. Cohen.
 Mr. Jones of Tennessee with Mr. Hillis.
 Mr. O'Hara with Mr. Frey.
 Mr. Rodino with Mr. Gradison.
 Mr. Rostenkowski with Mr. McCollister.
 Mr. Morgan with Mr. Lundine.
 Mr. St Germain with Mr. Conlan.
 Mr. Pepper with Mr. Burgener.
 Mr. Foley with Mr. Hansen.
 Mr. Nix with Mr. Montgomery.
 Mr. White with Mr. Paul.
 Mr. Riegle with Mr. Snyder.
 Mr. Charles H. Wilson of California with Mr. Skubitz.
 Mr. James V. Stanton with Mr. Steiger of Wisconsin.
 Mr. Rooney with Mr. Wampler.
 Mr. Roberts with Mr. Ruppe.
 Mr. Fuqua with Mr. Carney.
 Mr. Sarbanes with Mr. Carter.
 Mr. Teague with Mr. Long of Louisiana.
 Mr. Baucus with Mr. Broomfield.
 Mr. John Burton with Mr. Emery.
 Mrs. Collins of Illinois with Mrs. Fenwick.
 Mr. Glaimo with Mr. Hechler of West Virginia.
 Mr. Cotter with Mr. Hefner.
 Mr. Dent with Mr. Broyhill.
 Mr. Flowers with Mr. Harsha.
 Mr. Harkin with Mr. Ichord.
 Mr. Bedell with Mr. Kasten.
 Mr. Hawkins with Mr. Steiger of Arizona.
 Mr. Digs with Mr. Butler.
 Mr. Hayes of Indiana with Mr. Vander Jagt.
 Mr. Harrington with Mr. Jones of Alabama.
 Mr. Jacobs with Mr. Hungate.
 Mr. Jenrette with Mr. Kindness.
 Mr. Charles Wilson of Texas with Mr. Wylder.
 Mr. Young of Georgia with Mr. Cederberg.
 Mr. Mann with Mr. Whalen.
 Mr. Randall with Mr. Myers of Indiana.
 Mr. Downing of Virginia with Mr. Litton.
 Mr. Freyer with Mr. Jones of North Carolina.
 Mr. Mathis with Mr. Quillen.

Mr. McKay with Mr. Udall.
 Mr. Melcher with Mr. Young of Texas.
 Mrs. Mink with Mr. Mollohan.
 Mr. Moffett with Mr. Peyser.
 Mr. Nichols with Mr. Rose.
 Mr. Pickle with Mr. Runnels.
 Mr. Risenhoover with Mr. J. William Stanton.
 Mrs. Smith of Nebraska with Mrs. Sullivan.
 Mr. Stark with Mr. Thornton.
 Mr. Symington with Mr. Horton.
 Mr. Traister with Mr. Ashbrook.
 Mr. Brademas with Mr. Beard of Tennessee.
 Mrs. Burke of California with Mr. Devine.
 Mr. Corman with Mr. du Pont.
 Mr. Hannaford with Mr. Hagedorn.
 Mr. Obey with Mr. Martin.
 Mr. Holland with Mr. Hinshaw.
 Mr. Koch with Mr. McClory.
 Mr. Mazzoli with Mr. Hall.
 Mr. Santini with Mr. Rhodes.
 Mr. Shipley with Mr. Schneebell.
 Ms. Holtzman with Mr. Sebelius.
 Mr. Sisk with Mr. Milford.
 Mr. Patterson of California with Mr. Schulze.
 Mr. Stokes with Mr. Walsh.
 Mr. Yatron with Mr. Wyllie.
 Mr. Whitten with Mr. Bob Wilson.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 365 just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

H.R. 365 (FIREFIGHTERS' BENEFITS) AS PASSED THE HOUSE

H. R. 365

IN THE SENATE OF THE UNITED STATES

MAY 3, 1976

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Firefighters Benefits Act
4 of 1976".

5 SEC. 2. Title I of the Omnibus Crime Controls and Safe
6 Streets Act of 1968 is amended by adding at the end thereof
7 the following new part:

8 "PART J.—FIREFIGHTERS DEATH BENEFITS

9 "SEC. 701. (a) In any case in which the Administra-
10 tion determines, under regulations issued under Part F of

1 this title, that an eligible firefighter has died as the direct and
2 proximate result of a personal injury sustained in the per-
3 formance of duty, leaving a spouse or one or more eligible
4 dependents, the Administration shall pay a gratuity of \$50,-
5 000, in the following order of precedence:

6 “(1) If there is no dependent child, to the spouse.

7 “(2) If there is no spouse, to the dependent child
8 or children, in equal shares.

9 “(3) If there are both a spouse and one or more
10 dependent children, one-half to the spouse and one-half
11 to the child or children, in equal shares.

12 “(4) If there is no survivor in the above classes,
13 to the parent or parents dependent for support on the
14 decedent, in equal shares.

15 “(b) As used in this section, a dependent child is any
16 natural, illegitimate, adopted, posthumous child, or stepchild
17 of the decedent who at the time of the firefighter's death is—

18 “(1) eighteen years of age or under; or

19 “(2) over eighteen years of age and incapable of
20 self-support because of physical or mental disability; or

21 “(3) over eighteen years of age and a student as
22 defined by section 8101 of title 5, United States Code.

23 “(c) As used in this section, spouse includes a surviving
24 husband or wife living with or dependent for support on the

1 decedent at the time of his death, or living apart for reason-
2 able cause or because of desertion by the decedent.

3 “(d) As used in this section, the term ‘dependent for
4 support’ means more than one-half of the support of the
5 dependent concerned.

6 “(e) As used in this section, the term ‘eligible fire-
7 fighter’ means any individual serving, with or without
8 compensation, as a firefighter (including any individual
9 serving as an officially recognized or designated member of a
10 legally organized volunteer fire department) who is deter-
11 mined by the Administration to have been, at the time of
12 his injury—

13 “(1) actually and directly engaged in fighting a
14 fire; or

15 “(2) otherwise engaged in the performance of his
16 duty where the activity is determined by the Adminis-
17 tration to be potentially dangerous to the firefighter.

18 “SEC. 702. (a) Whenever the Administration deter-
19 mines, upon a showing of need and prior to taking final
20 action, that a death of a firefighter is one with respect to
21 which a benefit will probably be paid, the Administration
22 may make an interim benefit payment not exceeding \$3,000
23 to the person or persons entitled to receive a benefit under
24 section 701 of this part.

1 “(b) The amount of any interim benefit paid under sub-
2 section (a) of this section shall be deducted from the amount
3 of any final benefit paid to such person or persons.

4 “(c) Where there is no final benefit paid, the recipient
5 of any interim benefit paid under subsection (a) of this sec-
6 tion shall be liable for repayment of such amount. The Ad-
7 ministration may waive all or part of such repayment, and
8 shall consider for this purpose the hardship which would
9 result from repayment.

10 “SEC. 703. (a) No benefit shall be paid under this
11 part—

12 “(1) if the death was caused by the intentional mis-
13 conduct of the firefighter or by such firefighter’s intention
14 to bring about his death;

15 “(2) if voluntary intoxication of the firefighter was
16 the proximate cause of such officer’s death; or

17 “(3) to any person who would otherwise be entitled
18 to a benefit under this part if such person’s actions were
19 a substantial contributing factor to the death of the fire-
20 fighter.

21 “(b) The benefit payable under this part shall be in
22 addition to any other benefit that may be due from any other
23 source, but shall be reduced by—

24 “(1) payments authorized by section 8191 of title
25 5, United States Code;

1 “(2) payments authorized by section 12 (k) of the
2 Act of September 1, 1916, as amended (D.C. Code,
3 sec. 4-531 (1)).

4 “(c) No benefit paid under this part shall be subject
5 to execution or attachment.

6 “SEC. 704: The provisions of this part shall apply with
7 respect to any eligible firefighter who dies as the direct
8 and proximate result of a personal injury which is sustained
9 on or after October 11, 1972.”.

10 SEC. 3. Section 520 of the Omnibus Crime Control and
11 Safe Streets Act of 1968, as amended, is amended by insert-
12 ing “(a)” immediately after “520” and by adding at the
13 end thereof the following new subsection:

14 “(b) There are authorized to be appropriated in each
15 fiscal year such sums as may be necessary to carry out the
16 purposes of part J.”.

17 SEC. 4. The authority to make payments under sections
18 701 and 702 of the Omnibus Crime Control and Safe Streets
19 Act of 1968 (as added by section 2 of this Act) shall be
20 effective only to the extent provided for in advance by ap-
21 propriation Acts.

22 SEC. 5. The Administration is authorized to establish
23 such rules, regulations, and procedures as may be neces-
24 sary to carry out the purposes of this part J. Such rules,

1 regulations, and procedures will be determinative of con-
2 flict of laws issues arising under this part J.

3 SEC. 6. The Administration may prescribe rules and
4 regulations governing the recognition of agents or other
5 persons, representing claimants before the Administration.
6 The Administration may, by rule and regulation, prescribe
7 the maximum fees which may be charged for services per-
8 formed in connection with any claim before the administra-
9 tion of this part, and any agreement in violation of such rules
10 and regulations shall be void.

11 SEC. 7. In making determinations under section 701,
12 the Administration may delegate such administrative func-
13 tions to the State and local agencies as it determines neces-
14 sary and proper to the administration of this part. Responsi-
15 bility for making final determinations would rest with the
16 Administration.

17 SEC. 8. If the provisions of any part of this Act
18 are found invalid or any amendments made thereby or the

1 application thereof to any person or circumstances be held
2 invalid, the provisions of the other parts and their applica-
3 tion to other persons or circumstances shall not be affected
4 thereby.

Passed the House of Representatives April 30, 1976.

Attest: EDMUND L. HENSHAW, JR.,
Clerk.

H.R. 366 (PSOB) AS PASSED THE HOUSE

H. R. 366

IN THE SENATE OF THE UNITED STATES

MAY 3, 1976

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Public Safety Officers
4 Benefits Act of 1976".

5 SEC. 2. Title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968 is amended by adding at the end thereof
7 the following new part:

8 "PART J.—PUBLIC SAFETY OFFICERS DEATH BENEFITS

9 "SEC. 701. (a) In any case in which the Administra-
10 tion determines, under regulations issued under part F of

1 this title, that an eligible public safety officer has died as the
2 direct and proximate result of a personal injury sustained in
3 the performance of duty, leaving a spouse or one or more
4 eligible dependents, the Administration shall pay a gratuity
5 of \$50,000, in the following order of precedence:

6 " (1) If there is no dependent child, to the spouse.

7 " (2) If there is no spouse, to the dependent child
8 or children, in equal shares.

9 " (3) If there are both a spouse and one or more
10 dependent children, one-half to the spouse and one-half
11 to the child or children, in equal shares.

12 " (4) If there is no survivor in the above classes, to
13 the parent or parents dependent for support on the
14 decedent, in equal shares.

15 " (b) As used in this section, a dependent child is any
16 natural, illegitimate, adopted, posthumous child or stepchild
17 of the decedent who at the time of the public safety officer's
18 death is—

19 " (1) eighteen years of age or under; or

20 " (2) over eighteen years of age and incapable of
21 self-support because of physical or mental disability; or

22 " (3) over eighteen years of age and a student as
23 defined by section 8101 of title 5, United States Code.

24 " (c) As used in this section, spouse includes a surviving
25 husband or wife living with or dependent for support on the

1 decedent at the time of his death, or living apart for reason-
2 able cause or because of desertion by the decedent.

3 “(d) As used in this section, the term ‘dependent for
4 support’ means more than one-half of the support of the
5 dependent concerned.

6 “(e) As used in this section, the term ‘law enforcement
7 officer’ means a person engaged in any activity pertaining to
8 crime prevention, control, or reduction or the enforcement
9 of the criminal law, including, but not limited to police ef-
10 forts to prevent, control, or reduce crime or to apprehend
11 criminals; activities of corrections, probation, or parole au-
12 thorities; and programs relating to the prevention, control,
13 or reduction of juvenile delinquency or narcotic addiction.

14 “(f) As used in this section, the term ‘crime’ means any
15 act or omission which is declared by law to be a crime in the
16 jurisdiction where the injury to the public safety officer
17 occurred. Such an act is a crime for the purposes of this sec-
18 tion notwithstanding the guilt, innocence, disability, or
19 identity of the actor.

20 “(g) As used in this section, the term ‘eligible public
21 safety officer’ means any individual serving, with or with-
22 out compensation, a public agency in an official capacity as
23 a law enforcement officer who is determined by the Adminis-
24 tration to have been, at the time of his injury engaged in—

1 “(1) the apprehension or attempted apprehension
2 of any person—

3 “(A) for the commission of a crime, or

4 “(B) who at that time was sought as a material
5 witness in a criminal proceeding; or

6 “(2) protecting or guarding a person held for the
7 commission of a crime or held as a material witness in
8 connection with a crime; or

9 “(3) the lawful prevention of, or lawful attempt
10 to prevent, the commission of a crime; or

11 “(4) the performance of his duty, where the ac-
12 tivity is determined by the Administration to be poten-
13 tially dangerous to the law enforcement officer.

14 “SEC. 702. (a) Whenever the Administration deter-
15 mines, upon a showing of need and prior to taking final
16 action, that a death of a public safety officer is one with
17 respect to which a benefit will probably be paid, the Admin-
18 istration may make an interim benefit payment not exceeding
19 \$3,000 to the person or persons entitled to receive a benefit
20 under section 701 of this part.

21 “(b) The amount of any interim benefit paid under
22 subsection (a) of this section shall be deducted from the
23 amount of any final benefit paid to such person or persons.

24 “(c) Where there is no final benefit paid, the recipient
25 of any interim benefit paid under subsection (a) of this sec-

1 tion shall be liable for repayment of such amount. The
2 Administration may waive all or part of such repayment,
3 and shall consider for this purpose the hardship which would
4 result from repayment.

5 "SEC. 703. (a) No benefit shall be paid under this
6 part—

7 " (1) if the death was caused by the intentional
8 misconduct of the public safety officer or by such offi-
9 cer's intention to bring about his death;

10 " (2) if voluntary intoxication of the public safety
11 officer was the proximate cause of such officer's death; or

12 " (3) to any person who would otherwise be entitled
13 to a benefit under this part if such person's actions were
14 a substantial contributing factor to the death of the
15 public safety officer.

16 " (b) The benefit payable under this part shall be in
17 addition to any other benefit that may be due from any
18 other source, but shall be reduced by—

19 " (1) payments authorized by section 8191 of title
20 5, United States Code;

21 " (2) payments authorized by section 12 (k) of the
22 Act of September 1, 1916, as amended (D.C. Code,
23 sec. 4-531 (1)).

24 " (c) No benefit paid under this part shall be subject
25 to execution or attachment.

1 "SEC. 704. The provisions of this part shall apply with
2 respect to any eligible public safety officer who dies as the
3 direct and proximate result of a personal injury which is
4 sustained on or after October 11, 1972."

5 SEC. 3. Section 520 of the Omnibus Crime Control and
6 Safe Streets Act of 1968, as amended, is amended by insert-
7 ing "(a)" immediately after "520" and by adding at the
8 end thereof the following new subsection:

9 "(b) There are authorized to be appropriated in each
10 fiscal year such sums as may be necessary to carry out the
11 purposes of part J."

12 SEC. 4. The authority to make payments under sections
13 701 and 702 of the Omnibus Crime Control and Safe Streets
14 Act of 1968 (as added by section 2 of this Act) shall be
15 effective only to the extent provided for in advance by
16 appropriation Acts.

17 SEC. 5. The Administration is authorized to establish
18 such rules, regulations, and procedures as may be necessary
19 to carry out the purposes of this part J. Such rules, regula-
20 tions, and procedures will be determinative of conflict of
21 laws issues arising under this part J.

22 SEC. 6. The Administration may prescribe rules and
23 regulations governing the recognition of agents or other
24 persons representing claimants before the Administration.
25 The Administration may, by rule and regulation, prescribe

1 the maximum fees which may be charged for services per-
2 formed in connection with any claim before the administra-
3 tion of this part, and any agreement in violation of such rules
4 and regulations shall be void.

5 SEC. 7. In making determinations under section 701,
6 the Administration may delegate such administrative func-
7 tions to State and local agencies as it determines necessary
8 and proper to the administration of this part. Responsibility
9 for making final determinations would rest with the
10 Administration.

11 SEC. 8. If the provisions of any part of this Act
12 are found invalid or any amendments made thereby or the
13 application thereof to any person or circumstances be held
14 invalid, the provisions of the other parts and their applica-
15 tion to other persons or circumstances shall not be affected
16 thereby.

Passed the House of Representatives April 30, 1976.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

H.R. 366 AS REPORTED FROM THE

SENATE JUDICIARY COMMITTEE

MAY 12, 1976

94TH CONGRESS
2D SESSION

H. R. 366

[Report No. 94-816]

IN THE SENATE OF THE UNITED STATES

MAY 3, 1976

Read twice and referred to the Committee on the Judiciary

MAY 12, 1976

Reported by Mr. McCLELLAN, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

* * *

That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' BENEFITS

AWARDS

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this title, that a public safety officer has died in the line of duty from in-

1 *juries directly and proximately caused by a criminal act or an*
2 *apparent criminal act, the Administration shall pay a benefit*
3 *of \$50,000 as follows:*

4 *"(1) if there is no surviving child of such officer,*
5 *to the surviving spouse of such officer;*

6 *"(2) if there is a surviving child or children and*
7 *a surviving spouse, one-half to the surviving child or*
8 *children of such officer in equal shares and one-half to*
9 *the surviving spouse;*

10 *"(3) if there is no surviving spouse, to the child or*
11 *children of such officer in equal shares; or*

12 *"(4) if none of the above, to the dependent parent*
13 *or parents of such officer in equal shares.*

14 *"(b) Whenever the Administration determines, upon a*
15 *showing of need and prior to taking final action, that the*
16 *death of a public safety officer is one with respect to which a*
17 *benefit will probably be paid, the Administration may make an*
18 *interim benefit payment not exceeding \$3,000 to the person*
19 *entitled to receive a benefit under subsection (a) of this section.*

20 *"(c) The amount of any interim payment under sub-*
21 *section (b) of this section shall be deducted from the amount*
22 *of any final benefit paid to such person.*

23 *"(d) Where there is no final benefit paid, the recipient of*
24 *any interim payment under subsection (b) of this section*
25 *shall be liable for repayment of such amount. The Adminis-*

1 tration may waive all or part of such repayment, considering
 2 for this purpose the hardship which would result from such
 3 repayment.

4 “(e) The benefit payable under this part shall be in ad-
 5 dition to any other benefit that may be due from any other
 6 source, but shall be reduced by—

7 “(1) payments authorized by section 8191 of title
 8 5, United States Code;

9 “(2) payments authorized by section 12(k) of the
 10 Act of September 1, 1916, as amended (D.C. Code, sec.
 11 4-531(1)).

12 “(f) No benefit paid under this part shall be subject to
 13 execution or attachment.

14 “LIMITATIONS

15 “SEC. 702. No benefit shall be paid under this part—

16 “(a) if the death was caused by the intentional mis-
 17 conduct of the public safety officer or by such officer's
 18 intention to bring about his death;

19 “(b) if voluntary intoxication of the public safety
 20 officer was the proximate cause of such officer's death; or

21 “(c) to any person who would otherwise be entitled
 22 to a benefit under this part if such person's actions were
 23 a substantial contributing factor to the death of the
 24 public safety officer.

25 “SEC. 703. As used in this part—

1. “(a) ‘child’ means any natural, illegitimate,
2 adopted, or posthumous child or stepchild of a deceased
3 public safety officer who, at the time of the public safety
4 officer’s death, is—

5 “(1) eighteen years of age or under;

6 “(2) over eighteen years of age and a student
7 as defined in section 8101 of title 5, United States
8 Code; or

9 “(3) over eighteen years of age and incapable
10 of self-support because of physical or mental dis-
11 ability;

12 “(b) ‘criminal act’ means any conduct which is
13 declared by law to be a crime in the jurisdiction where
14 the injury to the public safety officer occurred. Such
15 conduct is a crime for the purpose of this part notwith-
16 standing that by reason of age, insanity, intoxication, or
17 otherwise, the person engaging in such conduct was
18 legally incapable of committing the crime;

19 “(c) ‘dependent’ means a person who was substan-
20 tially reliant for support upon the income of the deceased
21 public safety officer;

22 “(d) ‘fireman’ includes a person serving as an offi-
23 cially recognized or designated member of a legally
24 organized volunteer fire department;

25 “(e) ‘intoxication’ means a disturbance of mental or

1 *physical faculties resulting from the introduction of al-*
2 *cohol, drugs, or other substances into the body;*

3 *“(f) ‘law enforcement officer’ means a person in-*
4 *volved in crime control or reduction, or enforcement of*
5 *the criminal laws. This includes, but is not limited to,*
6 *police, corrections, probation, parole, and judicial officers:*

7 *“(g) ‘public agency’ means any State of the United*
8 *States, the District of Columbia, the Commonwealth of*
9 *Puerto Rico, and any territory or possession of the*
10 *United States, or any unit of local government, combina-*
11 *tion of such States or units, or any department, agency,*
12 *or instrumentality of any of the foregoing; and*

13 *“(h) ‘public safety officer’ means a person serving*
14 *a public agency in an official capacity, with or without*
15 *compensation, as a law enforcement officer or as a*
16 *fireman.*

17 *“ADMINISTRATIVE PROVISIONS*

18 *“SEC. 704. Rules, regulations, and procedures issued*
19 *under this title may include regulations governing the recogni-*
20 *tion of agents or other persons representing claimants under*
21 *this part before the Administration. The Administration may*
22 *prescribe the maximum fees which may be charged for services*
23 *performed in connection with any claim under this part*
24 *before the Administration, and any agreement in violation*
25 *of such rules and regulations shall be void.*

1 *"SEC. 705. In making determinations under section 701,*
2 *the Administration may utilize such administrative and in-*
3 *vestigative assistance as may be available from State and*
4 *local agencies. Responsibility for making final determinations*
5 *shall rest with the Administration."*

6 *MISCELLANEOUS PROVISIONS*

7 *SEC. 3. Section 520 of the Omnibus Crime Control and*
8 *Safe Streets Act of 1968, as amended, is amended by adding*
9 *at the end thereof the following new subsection:*

10 *"(c) There are authorized to be appropriated in each*
11 *fiscal year such sums as may be necessary to carry out the*
12 *purposes of part J."*

13 *SEC. 4. The authority to make payments under part J of*
14 *the Omnibus Crime Control and Safe Streets Act of 1968 (as*
15 *added by section 2 of this Act) shall be effective only to the*
16 *extent provided for in advance by appropriation Acts.*

17 *SEC. 5. If the provisions of any part of this Act are*
18 *found invalid, the provisions of the other parts and their*
19 *application to other persons or circumstances shall not be*
20 *affected thereby.*

1 *SEC. 6. This Act shall become effective and apply to*
2 *deaths occurring from injuries sustained on or after the*
3 *date of enactment.*

Amend the title so as to read: "An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers."

Passed the House of Representatives April 30, 1976.

Attest: EDMUND L. HENSHAW, JR.,
Clerk.

SENATE REPORT 94-816 ON H.R. 366

PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976

MAY 12, 1976.—Ordered to be printed

Mr. McCLELLAN, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 366]

The Committee on the Judiciary, to which was referred the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to the survivors of certain public safety officers who die in the performance of duty, having considered the same, report favorably on it with an amendment in the nature of a substitute, and recommend that the bill, as amended, pass.

AMENDMENT

Strike out all after the enacting clause and insert the following:
That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".
SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' BENEFITS AWARDS

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this title, that a public safety officer has died in the line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act, the Administration shall pay a benefit of \$50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with

respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of any interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

" 'LIMITATIONS

"Sec. 702. No benefit shall be paid under this part—

"(a) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(b) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(c) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"Sec. 703. As used in this part—

"(a) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(1) eighteen years of age or under;

"(2) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(3) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(b) "criminal act" means any conduct which is declared by law to be a crime in the jurisdiction where the injury to the public safety officer occurred. Such conduct is a crime for the purpose of this part notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in such conduct was legally incapable of committing the crime;

"(c) "dependent" means a person who was substantially reliant for support upon the income of the deceased public safety officer.

"(d) "fireman" includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

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

"(f) "law enforcement officer" means a person involved in crime control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(g) "public agency" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States or units, or any department, agency or instrumentality of any of the foregoing; and

"(h) "public safety officer" means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

" 'ADMINISTRATIVE PROVISIONS

"Sec. 704. Rules, regulations, and procedures issued under this title may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"705. In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration."

"MISCELLANEOUS PROVISIONS"

"Sec. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J."

"Sec. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation acts.

"Sec. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

"Sec. 6. This Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment."

Amend the title so as to read:

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers.

PURPOSE OF THE ACT AS AMENDED

The purpose of the Act, as reported with an amendment in the nature of a substitute, is to provide a \$50,000 Federal death benefit to the survivor or survivors of a public safety officer whose death was in the line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act.

STATEMENT

In both the Ninety-second and Ninety-third Congresses the Senate passed measures similar to the subject bill. In each Congress the House passed their own version and for several reasons the differences were not resolved.

The language of the amendment was introduced as S. 2572 on October 28, 1975, by Senator McClellan and cosponsored by Senators Thurmond, Hruska, Hansen, and Roth. Senator Moss had introduced a bill (S. 1527) on the same subject on April 24, 1975.

Upon the introduction of S. 2572, Senator Thurmond stated:

The alarming trend of crime can only be reversed by professional police officers, who are assured that they and their families will be compensated in a manner commensurate with the risks inherent in law enforcement. Law enforcement careers must be made more acceptable to our qualified citizens. We cannot ask decent, hardworking men to face the constant risk of death in the line of duty and then ignore their rightful request that their families be protected from financial calamity.¹

The motivation for this legislation is obvious: The physical risks to public safety officers are great; the financial and fringe benefits are not usually generous; and the officers are generally young with growing

¹ Cong. Rec., Oct. 28, 1975, p. S 18716 (daily ed.):

families and heavy financial commitments. The economic and emotional burden placed on the survivors of a deceased public safety officer is often very heavy.

The dedicated public safety officer is concerned about the security of his family, and to provide the assurance of a Federal death benefit to his survivors is a very minor recognition of the value our government places on the work of this dedicated group of public servants.

During hearings on this subject, witnesses pointed out the all too often tragic consequences of the risks the public safety officer takes. Mr. Kenneth T. Lyons, President, International Brotherhood of Police Officers, stated:

These statistics, dramatic as they are, do not even begin to convey the anguish and trauma visited upon the wives and children of the officers who have died bravely and violently in the service of our communities. Nor do cold numbers do any more than hint at the incalculable loss to our nation and our society that their deaths represent; for, in truth, with each death of a police officer we lose one of our best and our brightest.

In most jurisdictions of the country, the aftermath of the death of a police officer in the line of duty is not pleasant to contemplate. Oftentimes, it is a young widow and her young children who are suddenly and crushingly faced with the abrupt loss of a husband and father. Initially, this shock tends to obscure the realization of the long-term impact and its practical effects on the financial security and well-being of the family.

Only after the emotional period following the funeral passes does the widow come face to face with the despairing realization that she has been left without the means to cope with the financial needs of caring for, raising and educating her children. The day-to-day problems which would have been difficult enough to deal with on the average police officer's salary are now compounded beyond any rational expectation of her ability to cope.²

Mr. Hugh M. Durham, Legislative Counsel, Office of Legislative Affairs, Department of Justice, in House hearings on the subject stated:

To reiterate, we believe that the proposal should be designed to deal solely with the slaying of eligible officers and not with accidental deaths [W]e believe that accidental death is a hazard of many types of employment and we are aware of no rationale that would suggest Federal intervention in these situations. Providing survivors benefits for those who are killed accidentally should be the responsibility of the employer in the same manner as other employment benefits. The murdering of public safety officers, however, is an act which attacks the very essence of a stable

² *Public Safety Officers Benefits Act*, hearings before the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary, House of Representatives, 94th Cong., 1st Sess., Sept. 18, 19, 1975, p. 45.

society and puts in jeopardy the well-being of our country. For this reason we have supported Federal assistance in these limited instances.³

Over 200 policemen and firemen are killed each year in the performance of their duties. The 1974 Uniform Crime Reports lists law enforcement officers feloniously killed in the previous ten-year period:⁴

1965-----	53	1970-----	100
1966-----	57	1971-----	129
1967-----	76	1972-----	116
1968-----	64	1973-----	134
1969-----	86	1974-----	132

The following data on the circumstances surrounding the deaths of the 132 law enforcement officers in 1974 is taken from the FBI Uniform Crime Reports:

There were more law enforcement officers killed attempting arrests than in any other police activity in 1974. This trend was established in prior years and continues as one of the most dangerous situations the police officer faces today. Twenty-eight officers were killed while attempting arrests for crimes other than robbery or burglary. In connection with robbery offenses, 25 officers were slain by persons encountered during the commission of a robbery or during the pursuit of robbery suspects. Eight officers were killed at the scene of burglaries or while pursuing burglary suspects. No arrest situation can be considered routine and officers must utilize extreme caution with all individuals they contact.

In 1974, nine officers were killed in ambush situations. . . .

Twenty-nine officers were slain in 1974 responding to 'disturbance calls' which include family quarrels, man with gun, bar fights, etc. Twelve officers were killed while investigating suspicious persons or circumstances. Eleven officers were slain while making traffic stops, and ten officers were killed while transporting or otherwise engaged in custody of prisoners.⁵

Senator McClellan, in opening hearings on the subject bill, stated:

I feel the Nation owes a moral obligation to adequately compensate the survivors of one who gives his life to protect society.

The law enforcement officer must contend with violent elements in our society in a face-to-face situation. The greater the sacrifice involved, the greater our Nation's support and gratitude should be.⁶

POSITION OF THE ADMINISTRATION

The Department of Justice supported the enactment of such legislation in the 92d and 93d Congresses—in fact, the bill in the 92d Congress (S. 2187) was introduced at the request of the Administration.

³ *Public Safety Officers Benefits Act*, hearings before the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary, House of Representatives, 94th Cong., 1st Sess., Sept. 18, 19, 1975, p. 45.

⁴ FBI Uniform Crime Reports 1974, p. 224.

⁵ *Id.*

⁶ *Public Safety Officers' Benefits Act of 1976*, hearings before the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, May 4, 1976.

The Department testified during hearings in the present Congress that they supported Federal assistance under this type of program in limited instances, i.e., to deal solely with the slaying of eligible officers and not with accidental deaths.⁷

SURVIVOR BENEFITS

H.R. 366, as reported, is intended to assist the survivors of a public safety officer when the burden of a tragic death results to that officer in the performance of his duty and the cause of death was a criminal act or an apparent criminal act. As a result of a death under such conditions, the Law Enforcement Assistance Administration would provide a Federal benefit of \$50,000 to one or more survivors.

Generally, "public safety officer" is defined as a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or a fireman. "Law enforcement officer" means a person involved in crime control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole and judicial officers.

The term "line of duty" as used in this bill has the customary usage that the injury resulting in the officer's death must have occurred when the officer is performing duties authorized, required, or normally associated with the responsibilities of such officer acting in his official capacity as a law enforcement officer or fireman.

The benefits are to be paid according to a specified order of precedence to the survivors of the officer.

In a situation where an otherwise eligible claimant is precluded by the provisions of section 702(c), it is the Committee's intention that other eligible claimants would remain eligible in their order of precedence. For example, if a surviving spouse is precluded from a benefit by reason of this subsection, an eligible child or children or an eligible parent or parents would remain eligible.

Benefits under the bill would not be subject to the Federal income tax, as discussed in a letter to the Chairman of the Subcommittee from Mr. Roger V. Barth, Assistant to the Commissioner, Internal Revenue Service, in commenting on similar provisions in an earlier bill.⁸

COST ESTIMATE

Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the following cost estimate for the reported bill:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, MAY 11, 1976

1. Bill Number: S. 2572 (provisions of amendment in the nature of a substitute for H.R. 366).
2. Bill Title: Public Safety Officers' Benefits Act of 1975.
3. Purpose of Bill: The bill provides a \$50,000 annuity to survivors of public safety officers who are killed in the line of duty as a result

⁷ *Public Safety Officers Benefits Act*, hearings before the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary, House of Representatives, 94th Con., 1st Sess., Sept. 18, 19, 1975, p. 45.

⁸ See S. Rept. 93-81, *Public Safety Officers' Benefits Act of 1973*, p. 5.

of a criminal act. A public safety officer is defined as a person serving a public agency in an official capacity, with or without compensation as a law enforcement officer or fireman.

4. Cost Estimate: The majority of costs associated with this bill are for the payment of survivors' annuities. The table below presents the projected costs.

Fiscal year:	Millions
1977-----	\$6.6
1978-----	6.6
1979-----	6.6
1980-----	6.6
1981-----	6.6

5. Basis for Estimate: The yearly cost estimates are based on the estimated number of law enforcement officers and firemen killed in the performance of duty as a result of a criminal act. Estimates are based on statistics collected from the FBI Crime Report,⁹ American Correction Association and National Fire Protection Association. From these sources, it was estimated that 130 public safety officers would qualify for annuity benefits, i.e., 87 law enforcement officers, 8 correctional officers and 35¹⁰ firemen. The number of law enforcement officers was adjusted to compensation for officers covered by the Department of Labor's compensation program as specified in Section 701, subpart e of the bill. Specifically, if officers qualified for the Department of Labor's program, their survivors' total expected compensation over time would be greater than the \$50,000 annuity and would therefore disqualify them from additional benefits under the act. It was also assumed that the program would require an administrative staff of five employees with an average salary of \$18,423.

6. Estimate Comparison: None.

7. Previous CBO Estimate: None.

8. Estimate Prepared By: James V. Manaro (225-5275).

9. Estimate Approved By:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

Section 2 of the bill would add a new Part J—Public Safety Officers' Benefits—to Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. Part J is broken down into Sections 701 through 705 as follows:

(a) Section 701 provides in subsection (a) for the payment of a benefit of \$50,000 to certain specified survivors of a public safety officer killed in the line of duty as a direct result of a criminal act or apparent criminal act. Subsection (b) permits an interim payment of up to \$3000 to be paid to a claimant upon a finding of need. Subsection (c) provides that any interim payment must be deducted from amounts payable upon final determination. If a claimant is eventually determined not to be entitled to a benefit under this Part, subsection (d)

⁹ Federal Bureau of Investigation, Crime Reports, years 1971 through 1975:

¹⁰ Estimate based on 115 firefighters killed in the performance of duty and an estimated 30 percent of firefighters deaths as a result of arson and other criminal related incidences, as reported by the National Fire Protection Association.

provides for a repayment of the interim payment but permits a waiver of this repayment in appropriate cases, particularly where repayment would cause undue hardship. To prevent double payment from Federal sources, subsection (e) provides for a reduction of the benefit payable under Part J by the amount of payments otherwise authorized under 5 U.S.C. 8191 and section 4-531(1) of the District of Columbia Code. Subsection (f) provides that the benefits payable under this Part are not subject to execution or attachment.

(b) Section 702 sets out the limitations on the payment of benefits under this Part. A benefit shall not be paid (a) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death; (b) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or (c) to any person who would otherwise be entitled to a benefit if such person's actions were a substantial contributing factor to the death of the public safety officer.

(c) Section 703 defines the terms of "child," "criminal act," "dependent," "fireman," "intoxication," "law enforcement officer," "public agency," and "public safety officer" as used in this Part.

(d) Section 704 provides that the rules, regulations, and procedures issued under this title may include regulations governing the recognition of agents or other persons representing claimants under this Part before the Administration. The Administration may prescribe maximum fees which may be charged in connection with such representation.

(e) Section 705 provides that in the making of determinations for payment of benefits under this Part, the Administration may utilize available administrative and investigative assistance from State and local agencies. The responsibility for making the final determination shall rest with the Administration.

Section 3 of the bill amends Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, by adding at the end a new subsection (c) authorizing the appropriation of such sums as may be necessary each fiscal year to carry out the purposes of Part J.

Section 4 of the bill states that the authority to make payments under Part J shall be effective only to the extent provided for in advance by appropriation acts.

Section 5 contains a severability clause.

Section 6 provides that this Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment.

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, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic* and existing law in which no change is proposed is shown in *roman*):

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

TITLE I—LAW ENFORCEMENT ASSISTANCE

SEC. 520(a) There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed \$1,000,000,000 for the fiscal year ending June 30, 1974, \$1,000,000,000 for the fiscal year ending June 30, 1975, and \$1,250,000,000 for the fiscal year ending June 30, 1976. Fund appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter shall be allocated for the purposes of part E and amount equal to not less than 20 per centum of the amount allocated for the purposes of part C.

(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall expend from other Law Enforcement Assistance Administration appropriations, other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency program as was expended by the Administration during fiscal year 1972.

(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J.

PART J.—PUBLIC SAFETY OFFICERS' BENEFITS AWARDS

SEC. 701.(a) In any case in which the Administration determines, under regulations issued pursuant to this title, that a public safety officer has died in the line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act, the Administration shall pay a benefit of \$50,000 as follows:

(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

(c) The amount of any interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

(1) payments authorized by section 8191 of title 5, United States Code;

(2) payments authorized by section 12 (k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531 (1)).

(f) No benefit paid under this part shall be subject to execution or attachment.

LIMITATIONS

SEC. 702. No benefit shall be paid under this part—

(a) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

(b) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

(c) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

SEC. 703. As used in this part—

(a) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

(1) eighteen years of age or under;

(2) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code; or

(3) over eighteen years of age and incapable of self-support because of physical or mental disability;

(b) "criminal act" means any conduct which is declared by law to be a crime in the jurisdiction where the injury to the public safety officer occurred. Such conduct is a crime for the purpose of this part notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in such conduct was legally incapable of committing the crime;

(c) "dependent" means a person who was substantially reliant for support upon the income of the deceased public safety officer;

(d) "fireman" includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

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

(f) "law enforcement officer" means a person involved in crime control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

(g) "public agency" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States or units, or any department, agency or instrumentality of any of the foregoing; and

(h) "public safety officer" means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

ADMINISTRATIVE PROVISIONS

SEC. 704. Rules, regulations, and procedures issued under this title may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration.

The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

Sec. 705. In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.



SENATE DEBATE AND PASSAGE OF H.R. 366



Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

Vol. 122

WASHINGTON, MONDAY, JULY 19, 1976

No. 107

Senate

Bills Passed:

Public Safety Officers: By 80 yeas to 4 nays, Senate passed H.R. 366, to provide benefits to survivors of certain public safety officers who die in the performance of duty, after agreeing to committee amendment in the nature of a substitute and to other proposed amendments as follows:

Adopted:

(1) By 62 yeas to 17 nays, modified Kennedy unprinted amendment No. 184, to establish a public safety officer's group life insurance program; Page 511828

(2) Moss unprinted amendment No. 187, making eligible for benefits survivors of any law enforcement officer or fireman if killed in the line of duty as a result of accident or crime; and Page 511836

(3) Mansfield unprinted amendment No. 188, to provide reimbursement for victims of violent crime (Division 1 agreed to by 64 yeas to 20 nays; Division 2 agreed to by 67 yeas to 19 nays; Divisions 3-35 en bloc, agreed to by 62 yeas to 23 nays). Page 511838

Also, during consideration of this amendment Senate, by 34 yeas to 47 nays, rejected motion to table appeal from the ruling of the Chair when it ruled this amendment nongermane to provisions of the bill, and by 38 yeas to 44 nays, then overturned such ruling of the Chair. Page 511843

Senate insisted on its amendments, requested conference with the House, and appointed as conferees Senators McClellan, Hart of Michigan, Kennedy, Hruska, and Thurmond. Page 511848

S. 230, authorizing group life insurance programs for public safety officers, was placed in the calendar under Subjects on the Table. Page 511836

Pages 511826-511848

**PUBLIC SAFETY OFFICERS
BENEFITS ACT OF 1976**

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 366, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

Sec. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

**"PART J.—PUBLIC SAFETY OFFICERS' BENEFITS
AWARDS**

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this title, that a public safety officer has died in the line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act, the Administration shall pay a benefit of \$50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of any interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be

liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12 (k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 702. No benefit shall be paid under this part—

"(a) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(b) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(c) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"SEC. 703. As used in this part—

"(a) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(1) eighteen years of age or under;

"(2) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(3) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(b) 'criminal act' means any conduct which is declared by law to be a crime in the jurisdiction where the injury to the public safety officer occurred. Such conduct is a crime for the purpose of this part, notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in such conduct was legally incapable of committing the crime;

"(c) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(d) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

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

"(f) 'law enforcement officer' means a person involved in crime control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(g) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing; and

"(h) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"SEC. 704. Rules, regulations, and procedures issued under this title may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under

this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"Sec. 705. In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration."

MISCELLANEOUS PROVISIONS

SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J."

SEC. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 6. This Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment.

Mr. MANSFIELD. Mr. President, I suggested the absence of a quorum, with the time being charged to neither side.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. McCLELLAN. What is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 366. Debate on the bill is limited to 1 hour, to be equally divided between and controlled by the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Nebraska (Mr. Hruska), with 30 minutes on any amendment except an amendment by the Senator from Massachusetts (Mr. KENNEDY), on which there shall be a limitation of 1 hour, and with a limitation of 20 minutes on any debatable motion, appeal, or point of order.

Mr. McCLELLAN. I thank the Chair very much.

I yield myself 5 minutes on the bill.

Mr. President, the legislation embodied in the bill (H.R. 366), as reported, has passed the Senate in substantially this form in both the 92d and 93d Congresses. On September 5, 1972, the Senate passed a similar bill by a vote of 80 to 0; and on March 29, 1973, passed a similar bill by voice vote.

The subject matter, therefore, is not new to the Senate but the need to enact this legislation continues to be most urgent. The bill proposes to provide a \$50,000 Federal benefit to the survivor or survivors of a public safety officer whose death was in the line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act.

The language of the amendment to H.R. 366 was introduced as S. 2572 on October 28, 1975, by this Senator and Senators THURMOND, HRUSKA, and HANSEN, and later cosponsored by Senator ROTH.

In my opinion, the motivation for this legislation is obvious—public safety officers are constantly subjected to great physical risks, the financial and fringe benefits available to such officers are only moderate, and the officers are generally young and with growing families. The economic and financial burdens on the survivors of such an officer are often heavy.

More than 200 policemen and firemen are killed each year in the performance of their duties. During 1974, 132 law enforcement officers were killed. Of these officers killed in 1974, 45 percent had less than 5 years' service, which means that in most instances pensions would not be available since the majority of pension plans vest only after 5 years of service.

During 1974, there were more law enforcement officers killed attempting arrests than in any other police activity. And 61 officers were killed during arrest situations. When anyone attacks a policeman, he is attacking a symbol of our criminal justice system; he is attacking our society. The policeman is taking the place of each and every one of us each time he faces the dangers of his duties.

I feel that we have a moral responsibility to provide a Federal death benefit to the survivors of those officers who have paid with their lives in the performance of their duties.

H.R. 366, as reported with an amendment in the nature of a substitute bill, would assist the survivors of a public safety officer when the burden of a tragic death results to that officer in the performance of his duty and the death was the result or apparently the result of a criminal act. After a determination that the officer's death occurred under such conditions, the Law Enforcement Assistance Administration would provide a Federal benefit of \$50,000 to one or more survivors of such officer.

Generally, "public safety officer" is defined as a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or a fireman.

Public agency means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any local government, or any unit, department or agency of the foregoing. Employees of the Federal Government would not be covered under the measure since civil service annuity and life insurance plans are presently available to this group.

Law enforcement officer means a person involved in crime control or reduction, or enforcement of the criminal laws, including, but not limited to, police, corrections, probation, parole, and judicial officers.

Line of duty, as used in this bill, is intended to mean that the injury resulting in the officer's death must have occurred when the officer was performing duties authorized, required, or normally associated with the responsibilities of such officer acting in his official capacity as a law enforcement officer or a fireman.

The benefits are to be paid according to a specified order of priority: First, spouse, if there is no surviving child or children and a surviving spouse, one-half to the surviving child or children and one-half to the spouse; second, if there is no surviving spouse, to the child or children of such officer in equal shares; or third, if none of the above, to the dependent parent or parents of such officer in equal shares. It is noted that the requirement of dependency attaches only in the situation where a parent could qualify as a claimant.

Certain limitations are placed on the payment of the benefits. No award shall be paid, first, if the death was caused by the intentional misconduct of the officer, or by such officer's intention to bring about his death; second, if voluntary intoxication of the officer was the proximate cause of such officer's death; or third, to any person otherwise entitled to a benefit if such person's action were a substantial contributing factor to the death of the officer.

In order to preclude double payments, the amount of any award under this act shall be reduced by payments authorized under 5 U.S.C. 8191, which provides compensation for law enforcement officers not employed by the United States killed or injured while apprehending persons

PUBLIC SAFETY OFFICERS BENEFITS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 366) to amend

suspected of committing Federal crimes; or payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

The act is to become effective and apply to deaths occurring from injuries sustained on or after the date of enactment.

I urge the enactment of this legislation.

Mr. President, I ask unanimous consent that the following members of the staff of the Subcommittee on Criminal Laws and Procedures be accorded the privilege of the floor for the duration of the consideration of H.R. 366: Paul C. Summit and Dennis C. Phelen; and Ken Feinberg of the staff of the Subcommittee on Administrative Practices.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. I also ask unanimous consent that the committee amendment in the nature of a substitute be agreed to, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Bill Coates of my staff be accorded the privilege of the floor during the consideration and action on this bill.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. THURMOND. Mr. President, I rise in support of H.R. 366. As amended by the Committee on the Judiciary, H.R. 366 contains the text of S. 2572 which was introduced by the distinguished Senator from Arkansas on October 28, 1975. I was pleased to be a cosponsor of S. 2572, and I am pleased to support H.R. 366 as reported by the Committee on the Judiciary.

This legislation would provide a \$50,000 benefit payable to the survivors of a public safety officer who is killed in the line of duty. As defined in this bill, "public safety officer" includes policemen, firemen, correction officers, probation officers, parole officers, and judicial officers.

Mr. President, in recent years many of our public safety officers have been killed by felonious assaults, and it is increasingly apparent that violent crime is spreading. Crime knows no jurisdictional boundary, nor respects the color of a law enforcement officer's uniform. Each officer, whether sheriff, deputy, highway patrolman, or policeman, must be fully cognizant that death may come to him in the performance of his sworn duties.

Mr. President, similar legislation passed the Senate in 1972. A Senate-House conference committee filed its report with the House of Representatives, but because the House failed to act, this important legislation died. The Senate passed S. 15, a similar measure, on March 29, 1973.

This legislation is designed to compensate the families of public safety officers killed in the line of duty. It is not a group insurance program and should not be modified to provide for group insurance. The purpose of this bill is to assure our public safety officers that their families will be taken care of in the event they are killed.

The alarming trend of crime can only be reversed by professional officers, who are assured that they and their families will be compensated in a manner commensurate with the risks inherent in law enforcement. Law enforcement careers must be made more acceptable to our qualified citizens. We cannot ask decent, hard-working men and women to face the constant risk of death in the line of duty and then ignore their rightful request that their families be protected from financial calamity.

Mr. President, I hope S. 366, as amended, will be approved by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, will the Senator yield me 5 minutes?

Mr. McCLELLAN. If the Senator has an amendment it will be on his own time.

Mr. ALLEN. Yes, but I wish to speak with respect to the bill, if I may.

Mr. McCLELLAN. I yield 5 minutes.

Mr. ALLEN. Mr. President, I am delighted that this measure is now being considered once again by the Senate. In the last two Congresses the Senate had passed a similar bill and the House of Representatives had done the same. But for some reason, the bills never emerged from the conference committee.

I believe now, though, that when the Senate approves this bill, lest there are changes in the bill in the Senate, of course, it would go to the President for signature. If it is amended substantially and goes to conference, I feel certain that the conferees will report the bill speedily in order that the conference report can be agreed to.

Mr. President, at a time when the suppression of crime is one of the most important needs before the country today, I feel that the passage of this bill will do more than anything that we could do in Congress to assure our moral support for public safety officers, Federal, State, and local, as they perform their duties and as they protect the lives and property of our citizens.

I am pleasantly surprised with the cost estimate of this bill, as prepared by the Budget Committee, and I am pleased to note that this program would cost only \$6.6 million a year. A public safety officer includes any person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman. This would give public safety officers a sense of security as they go about the performance of their duties. I feel that this is something that is in the public interest.

We read in the press many times each year of public safety officers being killed, leaving widows and minor children. Most police officers are young with young families. Those who are risking their lives, in the main are young, and I feel that this would be a great morale booster for our public safety officers.

I am delighted that the bill has come before the Senate again. It is a House bill. When the Senate passes it, I feel sure that in a very short while the Senate and House will agree upon the bill and that the bill will go to the President for early signature.

There seems to be no opposition that

I can ascertain to the bill. Why it has not been agreed to by both Houses is something of a mystery. But public opinion is very definitely behind this bill. It is an idea whose time has come and its time has long since come. I am hopeful that it will be agreed to by both Houses at any early date.

I yield back the remainder of my time.

UP AMENDMENT NO. 184

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment No. 184.

The amendment is as follows:

On page 7, line 17, after the word "Benefits", insert the words "and Group Life Insurance".

On page 7, line 20, strike the word "part" and insert in lieu thereof the word "parts".

On page 12, following line 5, insert the following new part:

"PART K—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"Sec. 800. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"Sec. 801. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE"

"Sec. 802. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of \$100,000,000 shall be reduced by—

- "(1) 25 per centum of the first \$100,000,000 of the excess;
- "(2) 50 per centum of the second \$100,000,000 of the excess;
- "(3) 75 per centum of the third \$100,000,000 of the excess; and
- "(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT"

"Sec. 803. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be in-

sured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—"		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	\$8,000	\$10,000	\$10,000
\$8,000	9,000	11,000	11,000
\$9,000	10,000	12,000	12,000
\$10,000	11,000	13,000	13,000
\$11,000	12,000	14,000	14,000
\$12,000	13,000	15,000	15,000
\$13,000	14,000	16,000	16,000
\$14,000	15,000	17,000	17,000
\$15,000	16,000	18,000	18,000
\$16,000	17,000	19,000	19,000
\$17,000	18,000	20,000	20,000
\$18,000	19,000	21,000	21,000
\$19,000	20,000	22,000	22,000
\$20,000	21,000	23,000	23,000
\$21,000	22,000	24,000	24,000
\$22,000	23,000	25,000	25,000
\$23,000	24,000	26,000	26,000
\$24,000	25,000	27,000	27,000
\$25,000	26,000	28,000	28,000
\$26,000	27,000	29,000	29,000
\$27,000	28,000	30,000	30,000
\$28,000	29,000	31,000	31,000
\$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss"

For loss of life.....
Loss of one hand or of one foot or loss of sight of one eye.....

Loss of two or more such members.....

Amount payable

Full amount shown in the schedule in subsection (b) of this section.

One-half of the amount shown in the schedule in subsection (b) of this section.

Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE"

"Sec. 804. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect

that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier; *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION"

"Sec. 805. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 804 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (with such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions, established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY"

"Sec. 806. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each day period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE"

"Sec. 807. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES"

"Sec. 808. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 806 of this subpart, any sums contributed by the Administration under section 807 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 815 of this part, to-

ether with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 817 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations to the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"Sec. 809. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor, or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 817 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement (either in a lump

sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"Sec. 810. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. The schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per \$1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the

amounts of premium actually accrued under the policy from its date of issue to the end of each policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"Sec. 811. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officers' Group Life Insurance Programs

"Sec. 812. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) State and unit of general local government programs eligible for assistance under this subpart shall receive assistance

on the same basis as if the officer were enrolled under subpart 1 of this part, subject to proportionate reduction if—

"(1) the program offers a lesser amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only to the extent of coverage actually afforded;

"(2) the program offers a greater amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only for the amount of coverage afforded under subpart 1 of this part;

"(3) the cost per unit of insurance is greater than for the program under subpart 1 of this part, in which case assistance shall be available only at the rate per unit of insurance provided under subpart 1 of this part; or

"(4) the amount of assistance would otherwise be a larger fraction of the total cost of the State or unit of general local government program than is granted under subpart 1 of this part, in which case assistance shall not exceed the fraction of total cost available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"Sec. 813. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"Sec. 814. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"Sec. 815. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"Sec. 816. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"Sec. 817. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

On page 12, line 12, strike the phrase "part J" and insert in lieu thereof the phrase "parts J and K."

On page 12, line 13, strike the phrase "part J" and insert in lieu thereof the phrase "parts J and K."

On page 13, line 1, strike the word "This" and insert in lieu thereof the following words: "Part J of this."

On page 13, line 3, add the following sentence after the period: "Part K of this Act shall become effective on the date of enactment."

The PRESIDING OFFICER. Is this the amendment on which the Senator desires 1 hour?

Mr. KENNEDY. Yes.

Mr. President, first of all I express my support for the legislation that is before the Senate, announce my support for that particular proposal. But I do think it is important, as we move to consider that particular legislation, that we understand what the legislation does and what it does not do.

It is extremely important that every firefighter, every police official, and every public safety officer, those involved in the frontline of the protection of the American family, have a clear understanding of what we are doing here today.

Under the pending legislation, in order to receive any benefit at all there will have to be a determination made by the Federal Government, not the local community or State agency, but by the Federal Government, that the death is actually caused by criminal activity.

As I am sure we will hear during the course of this debate and discussion about what the roles of the Federal Government, local communities, and the States are and we ought to understand that H.R. 366 requires a Federal determination that a particular firefighter or policeman has actually been killed in the line of duty as a result of a criminal act.

Such a determination will not, therefore, be made by those people in local communities who will understand the situation best.

It will be made here at the Federal level. I would have preferred that such decision be made at the local level and be spelled out in considerable detail, so that any benefit of the doubt could be resolved in favor of the families themselves.

What we are attempting to do with my amendment, Mr. President, is to recognize a very basic and fundamental reality which led to this legislation being recommended by President Nixon in 1972.

In 1968, as a result of the Federal Crime Commission report, it was recognized that law enforcement personnel and firefighters have difficulty in obtaining any type of comprehensive life insurance.

If you are a janitor in a school, you can get group life insurance; if you are a teacher in the public school, you can get life insurance. But if you are a policeman walking the beat, you cannot get

it. In instance after instance the record shows that you cannot get it. I will include in the Record statistics showing many cities in this country where public safety officers cannot get proper, comprehensive life insurance today. In my own State of Massachusetts, some policemen are able to buy only \$2,000 of insurance.

What we are doing by this amendment is recognizing that those who are in the front line in providing security to the American people should be able to receive insurance, thus assuring security for their families and for their children.

We recognized this concept when we provided insurance for the Armed Forces, for the people who are in the front line, protecting the security and defense of the United States. We should be able to provide it for those who are in the front line of our domestic security—our firefighters, court and correctional officers, and police officials—for any such official in a local community. The State is going to participate in my plan. It is strictly a voluntary program. But if they decide to participate, they will be able to get a life insurance policy.

They will be able to benefit themselves and their families—not if they are killed as a result of a criminal act defined by the Federal Government, but if they are maimed, if they lose an arm or a leg regardless of cause.

My amendment recognizes the fact that because they are public safety officers, they are denied the opportunity to get any kind of insurance—and that is part of the documented record. We have had ample testimony to that effect in our hearings here in the Senate. Under my amendment they will be eligible, and they will get coverage.

What we are talking about is a small, modest program. The Federal Government is liable only up to one-third of the insurance premiums. The program is administered through LEAA.

It is going to depend upon the participation of the State, the local community, and the local officials themselves. We are not promoting a total underwriting by the Federal Government. What we are doing is providing important incentives by providing group life insurance to local law enforcement officials, firefighters, and court and correctional officers of this country who want it. The Federal cost will be \$26 million the first year, \$27 million the second year, and \$29 million the third year—if almost 600,000 public safety officers in this country actually utilize the program. We are not, therefore, talking about great amounts of money.

Mr. President, this amendment has been agreed to by the Senate on two occasions. It was adopted in 1970 and again in 1972 by overwhelmingly votes.

We heard a great deal about an idea whose time has come. This amendment was offered years ago. The hearings on this proposal have been extensive and it seems to me that we should be prepared to give this kind of security to the people in the front line of our domestic defense and protection.

Mr. President, in my own State of Massachusetts we have what we call The Hundred Club, which was started 18 to 20 years ago, in which a group of busi-

nessmen and workers contribute \$100 a year. The money is used when an officer dies in the line of duty. The money is used to pay off the mortgage on the home and a small amount is set aside to provide education to the children. It has had an enormously powerful impact on the firefighters, policemen, and correctional officers in my State. Other One Hundred Clubs have been formed in other parts of the country, and they have been supported by people all over this Nation. I am glad to have been a charter member of the One Hundred Club in my State of Massachusetts.

But no law enforcement officials in our country, or their families, should have to rely on contributions—as generous as they may be—to assure his family of financial security in the event of his death.

It is in an attempt to deal with this issue that this amendment is offered, and I am hopeful that it will pass.

My amendment would complement H.R. 366 by adding a new part K, which provides for a nationwide, federally subsidized program of group life, accidental death and dismemberment insurance for public safety officers, including police, firefighters, correctional officers and criminal court officers. Coverage under this plan is patterned closely after the highly successful Federal employees and servicemen's group life insurance programs which are available to all Federal civilian employees and members of our Armed Forces.

Under my amendment, the Law Enforcement Assistance Administration would purchase a national group policy from eligible nationwide private life insurance carriers. Thus, program coverage and administration of the program would be undertaken by the private sector.

Any applicable unit of State or local government could apply to LEAA to participate in the program. Officers in participating groups could elect not to be covered; those remaining in the program would have their share of the premiums deducted from their wages. LEAA would pay up to one-third of the total cost of the premiums, leaving the remainder to be covered by the insured and/or the employing agency.

Coverage would be at a level of the officer's annual salary plus \$2,000, with a floor of \$10,000 coverage rising to a maximum of \$32,000. Accidental death and dismemberment insurance would be included with the usual double indemnity feature. LEAA would set the premium.

I am aware that public safety is and must remain a local responsibility. If an existing State or local group life insurance plan is already in existence which provides similar coverage for public safety officers, eligible officers would choose in a referendum between the Federal and local plan. If they choose the local plan, they would still be eligible to receive a significant Federal subsidy, without being bound by the provisions of the Federal program. The bill thus respects fully the interest of States, localities, and their officers in their existing plans.

Mr. President, the need for this type of group insurance program is just as apparent now as it was in 1970 and 1972 when the Senate passed similar measures. Today, faced with the hazards and dangers of their high risk occupations, many public safety officers find themselves unable to acquire regular life insurance. Even if they are eligible, premium costs may be prohibitive and insurance benefits restricted.

If public safety officers try, despite the possibility of such obstacles, simply to buy as much insurance as they think they need for themselves and their family, they are held back by the disgracefully low salaries we so often pay them. In a 1972 survey of 300 New York City policemen, 95 percent said they felt their salaries were too low for them to afford adequate life insurance.

Further, employer-supported group plans to remedy the insurance problems of public safety officers vary widely in their coverage and are frequently not offered at all. For example, almost 70 percent of our State and local law enforcement officers are covered by some form of insurance to which the employer contributes. But that still leaves 30 percent uncovered. More importantly, LEAA figures show very clearly that under 4 percent of all officers have coverage as

high as the \$10,000 minimum which would be provided by my amendment.

From my contact with public safety officers and groups across the Nation, the picture that emerges of available insurance is a very mixed one, with some officers enjoying good benefits at reasonable cost but many others having little or no coverage, higher cost, or less favorable conditions. Many areas are unable or unwilling to provide this benefit, which is so important both to officers personally and to the recruitment and retention of highly qualified personnel. The Federal Government has committed itself in legislation since 1968 to providing major financial aid to State and local law enforcement, in an effort to help all public safety officers attain a 20th century level of performance.

Simply stated, because of job hazards, disgracefully low salaries, and public employer inaction—all factors which are job related—many officers and their families are inadequately protected against death or major disability on or off the job.

Mr. President, we all talk about the need to support the efforts of our public safety personnel in making this Nation a safer, better place in which to live. This amendment provides us with an opportunity to back up our words with action. As was the case in 1970 and 1972, this amendment should not lead to any partisan division. In the past it has attracted support from Democrats and Republicans, liberals and conservatives. It has received wide-ranging support from the major public safety officers' organizations and the insurance industry.

Most importantly, Mr. President, this amendment will go a long way toward alleviating a serious human problem with which the Federal Government is uniquely qualified to deal. We owe these men and women no less. The time for action is now if we are to provide adequate insurance for our Nation's public service protectors.

Mr. President, I ask unanimous consent that the life insurance statistics to which I referred earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIFE INSURANCE

Name of city or jurisdiction	Amount of coverage (specify formula or amount)	Average cost of coverage per officer		Name of city or jurisdiction	Amount of coverage (specify formula or amount)	Average cost of coverage per officer	
		Paid by officer	Paid by employer			Paid by officer	Paid by employer
Atlanta.....	\$40,000 is maximum.....	\$0.70 per \$1,000 per month.	\$0.26 per \$1,000 per month.	Houston.....	\$7,000.....	0.....	See table 9A—Life and Health Insurance costs are combined.
Baltimore.....	\$10,000 on officer, \$2,000 on his wife (double indemnity) plus \$7,500 on officer.....	\$120 per year.....	\$35 per year.	Indianapolis.....	None.....	0.....	
Boston.....	\$2,000 plus additional insurance to amount equal 80 percent of salary.....	\$13 per year.....	\$13 per year.	Jacksonville.....	\$2,000.....	0.....	\$8.88 per year.
Buffalo.....	\$5,000 plus \$5,000 accidental, \$2,000 for wife and \$1,000 for each child under 19.....	\$0.....	\$78 per year.	Kansas City, Mo.....	\$3,000.....	0.....	\$18 per year.
Chicago.....	\$6,000 if 49 years old or younger, less if older.....	\$33 per year.....	0.	Officer can choose an additional coverage average limited to his salary—at his expense.....			
Cincinnati.....	None.....			Los Angeles.....	None.....		
Cleveland.....	None.....			Memphis.....	Amount equal to salary.....	Average of \$26 per year.	Average of \$41 per year.
Columbus.....	\$2,000.....	0.....	\$12 per year.	Milwaukee.....	1½ times officer's salary to next highest \$1,000. Patrolmen have \$18,000 of coverage. Sergeants and detectives \$20,000.	\$20 per year.....	\$133 per year
Dallas.....	\$5,000.....	\$36 per year.....	0.	Minneapolis.....	\$3,000.....	0.....	\$20 per year.
Denver.....	None.....	\$71 per year.....	0.	Nashville.....	1½ times salary.....	\$18 per year.....	Varies.
Detroit.....	\$14,900.....	\$55 per year.....	\$58 per year.	New Orleans.....	None.....		
Ft. Worth.....	\$5,000.....	\$26 per year.....	\$39 per year.				

Name of city or jurisdiction	Amount of coverage (specify formula or amount)	Average cost of coverage per officer		Name of city or jurisdiction	Amount of coverage (specify formula or amount)	Average cost of coverage per officer	
		Paid by officer	Paid by employer			Paid by officer	Paid by employer
New York	\$2,000 or \$4,000	0	Not available.	San Antonio	One-half of annual salary	0	\$11 per year.
Philadelphia	\$4,000	0	30.	San Diego	\$1,000	0	\$4.32 per year.
Phoenix	\$4,000	0	\$19 per year.	San Francisco	None	0	
Pittsburgh	\$10,000	\$68.16 per year	\$84.24 per year.	San Jose	\$5,000	0	\$36 per year.
St. Louis	\$10,000 plus additional \$1,000 for each 6 years of service.	0	\$91 per year for \$10,000 coverage plus \$9.10 per \$1,000 per year for any additional coverage.	Seattle	\$5,000	0	\$6.20 per year.
				Toledo	\$5,000	0	Not available.
				Washington	Employee's salary to next highest \$1,000 plus \$2,000.	\$96 per year	\$46 per year.

LIFE INSURANCE

	Amount of coverage
Mean (including cities that have no life insurance program)	\$7,424
Median (including cities that have no life insurance program)	5,000
Mean (excluding cities that have no life insurance program)	10,096
Median (excluding cities that have no life insurance program)	7,000

Note: NB. Where amounts vary, they are averaged; where the entry of a city is impossible to determine, that city is excluded from that particular entry.

Mr. McGOVERN. Mr. President, will the Senator from Massachusetts yield to me?

Mr. KENNEDY. I yield.

Mr. McGOVERN. Mr. President, first, I commend the Senator from Massachusetts for what I think is obviously an attempt on his part to achieve simple justice in dealing fairly with the public safety employees of this Nation—the firemen and policemen who protect us and look after our security.

On two previous occasions, the Senator guided this measure through the Senate by an overwhelming vote. It certainly should be approved today.

I suggest to the Senator one change in wording in an amendment I suggest for his consideration. The language he has now offered covers full-time employees—full-time firemen, full-time policemen. Would the Senator accept a modification in that language so that it also could cover part-time firemen and part-time policemen?

As the Senator knows, in a great many parts of the country, we depend upon volunteers to assist in the fighting of fires, in particular. There are other times when the police force has to be supplemented by part-time employees. In some cases, both the police services and the fire services are supplemented by people who work for nothing, who volunteer their services, but who may die in the line of duty.

It seems to me that it would be in line with what the Senator is trying to accomplish if we simply were to change that language from full-time service to include full or part time, with or without compensation.

I wonder whether the Senator would accept that as a modification to his amendment.

Mr. KENNEDY. Mr. President, I feel that this suggestion would be a useful and valuable one, for the reasons that the Senator from South Dakota has mentioned. It would benefit not only rural

areas of this country but even industrial States such as my own State of Massachusetts. There are a number of areas in rural Massachusetts which are dependent upon volunteer fire services. It seems to me that this addition would be useful and helpful.

What we are talking about here are those people who are risking a considerable amount for the protection of a community, and we should be providing this small degree of security to them.

This is not asking a great deal. So I would modify my amendment to conform with the McGovern amendment.

Mr. McGOVERN. I thank the Senator. I shall give him the language. I appreciate his modifying it in that degree.

The PRESIDING OFFICER. Is there objection to the amendment being modified? It takes unanimous consent.

If there be no objection, the amendment is so modified.

The modification is as follows:

On page 2, lines 8 and 9, strike out "is employed full time by" and insert in lieu thereof "serves full time or part-time, with or without compensation."

On page 5, line 23, strike out "employed on a full-time basis" and insert in lieu thereof "who serves."

On page 6, line 1, strike out "by."

On page 6, line 3, immediately after "(2)" insert "in the case of an officer serving with compensation."

On page 6, lines 12 and 13, strike out "the payroll" and insert in lieu thereof "duty."

On page 6, line 14, strike out "full-time."

On page 7, between lines 2 and 3, immediately before the zero on the first line of the schedule insert "or equal to."

On page 8, line 24, strike out "full-time."

On page 8, line 25, immediately after "(2)" insert "in the case of an officer serving with compensation."

On page 10, line 6, immediately after "officer" insert "serving with compensation."

On page 10, line 9, strike out "full-time."

On page 10, line 14, strike out "full-time."

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. Yes, I yield.

Mr. ALLEN. I wish to commend the distinguished Senator from Massachusetts for offering this amendment at this time. I supported this same concept in the two previous times that this issue was before the Senate. I do feel that this is a good amendment. I feel that firemen and policemen—law enforcement officers generally, public safety officers—perform such a valuable service and they receive so little in benefits from the Federal Government that I believe that it is entirely appropriate that this group life insurance plan be set up so that the Federal Government will participate to the extent of one-third of the premium,

leaving local governments and the officers themselves to pay the balance if they desire to come under the program. I think the cost is reasonable. I think it will be a big morale booster; it will afford a sense of security to the law enforcement officers. I feel that it is something that we should have done long ago and I am delighted that the Senator is offering this amendment at this time to accomplish this end. I commend him for his amendment.

Mr. KENNEDY. I thank the Senator from Alabama.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment presents us with a difficulty—at least, it does me—with respect to the practicality of adopting this language, now pending on the Senate Calendar as S. 230, as an amendment to the pending measure. I just want to point out, for the information of the Senate, the record of this particular bill. I am apprehensive that placing it on the pending measure will tend to jeopardize any prospect of agreement with the House in conference. I may be wrong, but I am persuaded that the House will not look with favor on it, as it has not in the past. I hope that the Senator will let the bill stand on its own merits as a separate measure and send it to the House in a form that will permit the House to have an opportunity to accept or reject it on its merits without involving this very important legislation.

I think the Senator from Massachusetts knows that I am not opposed to what he is trying to do. I have supported him on three or four occasions in the Senate in the past. I cooperated with him in getting this bill out of committee so that it would be on the calendar and it is now on the calendar. It is not an attitude of antagonism toward the measure itself, Mr. President, that prompts me to take the position I am taking today. I am trying to be practical to get the legislation through that is now the pending business of the Senate.

Originally, the pending amendment of the Senator was, I believe, included in the Crime Control Act of 1970. That provision was not accepted at that time in conference by the House. The Senate had to strike it in conference.

Again this bill passed the Senate as S. 33 in the 92d Congress on September 18, 1972, by a vote of 61 to 6. Again, the House failed to act on it.

Then the bill passed the Senate again as S. 33 in the 93d Congress. It also passed in the 93d Congress as title II of S. 800. That was on March 29, 1973. The House failed to act on this measure in any of those instances.

Mr. President, as I recall, S. 800 was an omnibus bill. It contained not only the bill before us as an amendment by the distinguished Senator from Massachusetts; it also contained the Mansfield victims of crime bill, and provisions for civil remedies for victims of racketeering activity and theft. It also contained the Public Safety Officer's Benefits Act that is pending before us now.

Mr. President, with all of these instances in which the distinguished Senator's amendment has gone to the House over the last 6 years, it seems inadvisable to put it on this bill unless we want to risk jeopardizing the enactment of any bill at all. I hope that the Senator will let us pass his proposal separately and let it go to the House. Hopefully, the House will take action on it. I believe that if we put it on this bill, after it has been over there four times and no action taken on it, we may be confronted with an adamant conference and might not get the pending bill enacted that we have worked on so long.

I hope that the distinguished Senator from Massachusetts will not press his amendment. I cannot do more than pledge my cooperation, as I have given it in the past. If it is attached to this bill, of course, I shall undertake to support the Senate version of it in conference and, as I have in the past, do what I can. But I think the Senator can appreciate my position. I hope that this time we may get this bill providing benefits for the survivors of law enforcement officers and firemen who are killed in the line of duty, while actually performing their duties, enacted into law in this session.

I am ready to yield my time.

Mr. KENNEDY. Mr. President, I want to say on the record how helpful and accommodating the chairman of the Criminal Laws Subcommittee, the Senator from Arkansas, has been in permitting hearings on this legislation and supporting it in the past.

This legislation, I believe, directly complements H.R. 366 that is before the Senate at the present time.

As a matter of fact, it was introduced and passed in the Senate prior to the time that H.R. 366 had even been introduced or had been the subject of any hearings. So this is not a new idea. It is not a new suggestion. It is one that has very broad support among police officials, firefighters, and others involved in court and correctional activities.

As I understand it, we are going to have to go to conference in any event on this legislation. Bringing this major piece of legislation to the conference with this amendment is not going to endanger or jeopardize it.

Only in the last half hour I have talked to the chairman of the House Judiciary Committee, Chairman ROBINO, who is familiar with the general thrust of this legislation. I asked him specifically, if we did pass it would he give us assurance of

a good faith examination of this particular proposal and a fair consideration in conference, and he said that I was authorized to indicate to the Senate that that would be his position.

He is familiar with the issue, and I feel he is sympathetic to it. He was unable to speak, of course, for the other members of the House Judiciary Committee.

That is really all we are asking. So I would hope we could take this matter to conference.

I do want to state again my appreciation for the accommodation that has been made in order to permit this amendment to be debated and discussed. The Senate has overwhelmingly supported this idea in the past. It is not a new idea, it is not a revolutionary idea. It is a rather standard idea but it is one that is strongly supported by the law enforcement and public safety officer community.

I hope that we can get action on it by the Senate. Then I would give assurances to my colleague, the chairman, to support the proposal in the conference and strongly support the chairman on the basic legislation which is before us at this time.

Mr. FORD. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

UP AMENDMENT NO. 186

Mr. FORD. I applaud the Senator from Massachusetts for his effort, and I endorse his amendment to this bill 100 percent.

There is one small problem that confronts my State and, maybe, several other States where the State legislature would have to approve any such State plan.

Since my State will not go into session, unless they have a special session, for 2 additional years, I wonder if the Senator would entertain an amendment which would be on, I believe, page 18, line 11, and just change it, merely amend it, to say: "during the first year or 2 years where the State legislatures meet every 2 years" after the effective date of this part?

Mr. KENNEDY. I would be more than glad to accept it for the reasons that have been stated by the Senator from Kentucky. He is quite right in drawing this to our attention. It results from a technical oversight.

Quite clearly, as the Senator points out, there are a number of States that meet biennially, and this amendment, quite clearly, would provide for those States to participate if, and only if, they so desire.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and the Amendment is so modified.

The modification is as follows:

On page 18, line 11, after the word "year" insert the following: ", or two years where State legislatures meet every two years."

Mr. FORD. I thank the Senator from Massachusetts for his cooperation and ask him to move hard in this area. I shall support him in any way I can.

Mr. KENNEDY. Mr. President, I am prepared to yield back my time, although I would withhold from yielding my time

if there is going to be further comment.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment.

Mr. McCLELLAN. How much time does the Senator want?

Mr. THURMOND. Just about 3 or 4 minutes.

Mr. McCLELLAN. I yield the Senator 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment. The amendment offered by the distinguished Senator from Massachusetts is now embodied in a bill which is on the calendar. There is no reason why there cannot be an up or down vote directly on the Senator's bill without affecting and complicating this bill, which has been considered here for years and years.

If this amendment is agreed to, we might well expect trouble in reaching an agreement in conference. The House has shown its displeasure with this amendment. Why jeopardize this important bill?

Since 1972 when we first passed this bill in the Senate, a lot of public safety officers have been killed in line of duty. Policemen have been killed, as well as other public safety officers. Their widows and their children have gone without any aid. Why not go ahead and pass the bill like it is and not jeopardize final action on this bill? Then let the bill by the distinguished Senator from Massachusetts come up on its own merits. It is on the calendar now, and it can be brought up at such time as he wishes to bring it up.

Mr. President, this bill is long overdue. It should not be delayed by any obstacle of any kind. This amendment, if adopted, might delay it. A policeman might be killed any day after the Senate passes this bill and before an agreement is reached by the conference committee.

I am sorry the Senator is offering this amendment at this time. He can get a vote on his bill; he can get a direct vote, an up-or-down vote. Why does he want to attach it here to this important bill, a bill we have worked on here for years and years to try to help the families and the dependents of public safety officers?

Public safety officers do not make much money, and many of their families are left practically penniless when the breadwinner in the family is killed.

I hope the Senator will withdraw this amendment. If he does not do that, I hope the Senate will reject the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. Mr. President, I listened with some interest to my colleague from South Carolina. I just want to correct the record on some of the Senator's comments. He said this matter, H.R. 366, has been before the Senate for some years. That is true. But the amendment we are considering now was before the Senate 2 years before the survivors' benefits program was even considered by the Senate. It was recommended in the Crime Commission report of 1968.

The idea has been around for a long time. I question the argument which says "why should we offer this as an amendment? Let us consider it as a special bill."

The Senator from South Carolina is too good a Senator not to understand that that is the sentence of death for this particular proposal this year. This is no corresponding legislation in the House of Representatives. If you want to turn your thumbs down, or turn your back on the police officials and public safety officials of our Nation you vote with the Senator from South Carolina. Go ahead and vote with him. But it will be a clear message to all the safety officials in this country that the Senate and the Congress of the United States are too much involved in procedure and parliamentary device to face up to a vital public safety issue.

I say we have an opportunity this afternoon to vote, and vote strongly, for a measure that is supported overwhelmingly by the police officials, by the firefighters, and by other officers throughout this country.

It seems to me that is our responsibility. I have never seen the Senator from South Carolina shirk from going through a conference with the House of Representatives on a difficult issue, let alone an issue which now at least, from the initial inquiry of the chairman of the Judiciary Committee, has been responded to in a sympathetic way, and in a way which I think could guarantee us at least an open forum and an open mind.

So, Mr. President, I welcome the chance to vote on this measure. I think it is about time we passed it. I am not prepared to go back and talk to law enforcement officials of my State and say, "Well, we got involved in an amendment to an amendment, and there were those who thought it was too complex to take to conference."

Maybe the Senator from South Carolina can use that as a justification when he sits across the table from men who are trying to protect their communities.

But here is one Senator who will not be put in that position.

I withhold the remainder of my time.
Mr. THURMOND. Will the Senator yield me 2 or 3 minutes?

Mr. McCLELLAN. I yield 2 minutes to the Senator.

Mr. THURMOND. Mr. President, I am not discussing the merits of the amendment of the Senator from Massachusetts. I have made the statement and I make it again, there is no use to jeopardize this bill when it goes to conference by having the Kennedy amendment attached.

Why does the Senator not have a vote on his bill on its own merits? Does he feel the amendment is weak and he has to attach it to this strong bill to which practically nobody will be opposed? Why does he not let it come up on its own merits?

This bill that the distinguished Senator from Arkansas has proposed for years—and I have joined him along with the Senator from Nebraska (Mr. Hruska)—is a very important bill. It means a lot to the families of the public safety officers of this Nation, and I say there is no use to jeopardize it with any amendment.

The Senator from Massachusetts can vote on his own amendment. He can get a direct vote. Why run any risk?

I want to help the public safety officers. That is the reason I am trying to keep this bill clear and clean—just as the able chairman of the Appropriations Committee who is handling this bill here is trying to do.

We want to be sure that we get this bill through this time. As I said, for years this bill has been stopped with one amendment or one technicality after another. Now is the time to pass it clean, clear, and fair, and to be sure we get it through.

Mr. KENNEDY. Mr. President, I yield myself 2 more minutes.

I have complete confidence in this amendment in terms of its purpose and in terms of the support of those that will be most affected by it.

What I do not have confidence in is the Congress of the United States taking fresh action in the final few hours of this session.

I think the law enforcement officials and firefighters have waited long enough. They have waited long enough and there should be no problem, no delay. Let us pass this amendment now, go to conference, get this enacted into law and meet our responsibilities to those who are meeting their responsibilities in securing our communities and homes.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McCLELLAN. Mr. President, I yield myself a minute.

I want to make my position very clear. I do not oppose the Kennedy amendment. I have supported this amendment as a bill.

It is on the calendar. I helped to get it on the calendar so we could act on it this session, along with H.R. 366.

As to his apprehension with respect to passing it this late—it has not been acted upon in the House—I can appreciate that it has some merit. But, Mr. President, it also has some merit that, if we attach it to this bill, we will get neither bill. That is my concern.

If the Senate accepts the amendment, we will do our best. But I am of the opinion, since the House has had it four times before without action that it will not just immediately capitulate and accept it.

For that reason, and that reason only, I shall vote against the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER (Mr. Curtis). Without objection, it is so ordered.

Does the Senator from Arkansas yield back the remainder of his time?

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, may I 2 minutes to the Senator from Maine?

Mr. McCLELLAN. Mr. President, I withhold yielding back the remainder of my time. I thought time had been yielded back.

Mr. MOSS. It was.

The PRESIDING OFFICER. All time has been yielded back.

Mr. McCLELLAN. Mr. President, I yield 2 minutes on the bill to the distinguished Senator.

The PRESIDING OFFICER. Very well.

Mr. HATHAWAY. Mr. President, I thank the distinguished Senator for yielding me time.

Mr. President, I support both H.R. 366, the Public Safety Officers' Benefits Act, and Senator KENNEDY's amendment to that act, which would add a public safety officers' life insurance program. Together, I believe these two programs constitute a comprehensive, well-reasoned approach to the problems experienced by both police and fire protection officers in providing for the welfare and security of their dependents.

Senator McCLELLAN's measure, which is supported by the administration, would provide a \$50,000 death benefit to public safety officers killed in the line of duty as a result of a criminal act.

Senator KENNEDY's amendment, which has been accepted by the Senate on two previous occasions, would establish a federally administered group life insurance program making such insurance available for the first time at reasonable rates to public safety officers.

These two programs complement one another nicely. The McClellan approach would guarantee the payment of survivor benefits to dependents of officers killed in the line of duty, on a fair and equitable basis. The Kennedy amendment would provide broader coverage for officers, paying benefits regardless of the cause of death, at affordable premiums not presently available to such officers.

There is clear need for equitable treatment of public safety officers with regard to fringe benefits normally available to all other employees, such as life insurance and survivor benefits. With the enactment of these two programs, I believe that need will be fulfilled.

There is a bill coming before the Senate shortly, however, which would further expand the Government's role in underwriting benefits for public safety officers, in ways which I consider both overly specific and disruptive of the integrity of other Federal programs. I am referring to S. 972, the Public Safety Officers Memorial Scholarship Act, which I would like to take a moment to discuss briefly at this time.

S. 972 was originally proposed by Senator Moss to the Judiciary Committee

as a part of H.R. 366, the bill before us at the present time. However, it was rejected by that committee, and it was subsequently proposed as a separate measure to the Committee on Labor and Public Welfare. It was reported by the latter committee earlier this spring, with four dissenting votes, including my own.

My reasons for opposing S. 972 concern several of its aspects and implications, including the discriminatory nature of the benefit among public safety officers—those with no dependents would get no benefits; those with many would realize a substantial sum; the discriminatory nature of the benefit as opposed to benefits available to other governmental employees; and the inequitable implications of the specific education provisions of the bill for our national education policy. I elaborated on those objections in my dissenting views to the committee report on S. 972, and I ask that those views be included in the RECORD at the conclusion of these remarks.

After careful research into this matter, I determined that the Kennedy and McClellan approaches to the problem of inadequate public safety officer survivor benefits made considerable more sense and were more equitable. Indeed, if S. 972 had come up on the floor at an earlier date, I had already determined to offer a proposal similar to Senator KENNEDY's group life insurance proposal as a substitute to S. 972. However, the Senate's action today in passing both the McClellan bill and the Kennedy amendment will obviate the need for such a substitute, and I strongly believe it will also obviate the need for S. 972. Accordingly, if the Senate passes the bill before us today, with the Kennedy amendment, I will move at an appropriate time either to lay S. 972 on the table, or to recommit that measure to the Committee on Labor and Public Welfare for additional study in light of the Senate's action today.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered and the clerk will call the roll. The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Rhode Island (Mr. PELL), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), and the Senator from Maryland (Mr. MATHIAS), are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT), is absent on official business.

I further announce that the Senator from Nebraska (Mr. KRUSKA), is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea."

The result was announced—yeas 62, nays 17, as follows:

(Rollcall Vote No. 385 Leg.)

YEAS—62

Abourezk	Ford	Moss
Allen	Glenn	Nelson
Baker	Gravel	Nunn
Beall	Hart, Gary	Pastore
Bellmon	Hartke	Pearson
Bentsen	Haskell	Percy
Biden	Hathaway	Proxmire
Brook	Helms	Randolph
Brooke	Huddleston	Ribicoff
Bumpers	Inouye	Roth
Burdick	Jackson	Schweiker
Byrd, Robert C.	Javits	Sparkman
Cannon	Johnston	Stafford
Case	Kennedy	Stevens
Church	Long	Stevenson
Clark	Magnuson	Stone
Cranston	Mansfield	Symington
Dole	McGee	Taft
Durkin	McGovern	Weicker
Eastland	McIntyre	Williams
Fong	Morgan	

NAYS—17

Bartlett	Goldwater	Scott,
Buckley	Griffin	William L.
Curtis	Hansen	Talmadge
Domenici	McClellan	Thurmond
Fannin	McClure	Tower
Garn	Packwood	Young

NOT VOTING—21

Bayh	Hollings	Montoya
Byrd	Kruska	Muskie
Harry F., Jr.	Humphrey	Pell
Chiles	Laxalt	Scott, Hugh
Culver	Leahy	Stennis
Eagleton	Mathias	Tunney
Hart, Philip A.	Metcalfe	
Hatfield	Mondale	

So Mr. KENNEDY's amendment, as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOSS and Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOSS. I yield for a unanimous-consent request.

Mr. KENNEDY. Mr. President, I ask unanimous consent to add the Senator from New Hampshire (Mr. DURKIN), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Alabama (Mr. ALLEN) as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 230 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. KENNEDY. Mr. President, I ask unanimous consent that S. 230, which is

identical to my amendment, be placed under the heading "Subjects on the Table."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I yield to the Senator from Arkansas for a unanimous-consent request.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Bob Brown of my staff be accorded the privilege of the floor during voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 187

Mr. MOSS. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. MOSS), for himself and Mr. THURMOND, Mr. CANNON, Mr. ALLEN, Mr. GARY HART, Mr. FORD, Mr. BARTLETT, Mr. BAKER, Mr. DURKIN, and Mr. HATHAWAY, proposes unprinted amendment No. 187.

The amendment is as follows:

On page 7, line 25 and continuing into line 2 on page 8, strike out "In line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act," and insert in lieu thereof "as the direct and proximate result of a personal injury sustained in the line of duty."

On page 10, strike out lines 12 through 18. On pages 10 and 11, redesignate subsections "(c)," "(d)," "(e)," "(f)," "(g)," and "(h)" as subsections "(b)," "(c)," "(d)," "(e)," "(f)," and "(g)" respectively.

Mr. MOSS. Mr. President, I ask unanimous consent that I may be permitted to explain the amendment rather than have it read in full.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, this is a very simple amendment. It changes the language in the bill which would require that before an award be paid, a person be found to have been engaged, either directly or indirectly, in suppressing a criminal act. This amendment broadens that to say simply that the public safety officer whose death triggers the award be found to have sustained his injury in the direct line of duty. This broadens it somewhat.

Not only that, it has the effect of broadening it with respect to firemen. The only way they would qualify would be if there were a finding of arson, under the bill as it was written. This is a correction of the language with respect to eligibility with which there is wide agreement.

Mr. President, I commend the distinguished senior Senator from Arkansas for the fine work he has done on this legislation both in chairing the hearing and in managing the bill. There are few bills in the Congress about which I feel more strongly than the legislation which we are now considering, the Public Safety Officers Death Benefit Act. That conviction is best demonstrated by the testimony which I have offered many times in the past and rather than repeating that testimony now I will simply contain my remarks to those matters of the greatest importance at the moment.

Mr. President, there is a critical need for this legislation to provide both incentive and appropriate recognition for our public safety officers who willingly risk their lives to preserve an orderly society. In recent years there has been a great hew and cry for "law and order." In Congress we have responded to that cry by enacting varying forms of legislation to assist our public safety officers in the performance of their duties. Congress has made its commitment to improving the lives of this Nation's citizens through the enactment of laws which afford better protection. There has been considered many alternatives to make effective that commitment. Today we are considering another of those alternatives. We will today be enacting the Public Safety Officers Death Benefits Act to provide some measure of assurance to those who work diligently to protect our lives and property. We are assuring them that their dependents will have some future because the public safety officer was willing to act to preserve an orderly society and to protect our lives and our property.

The reason why I think the bill should be broadened this way is that there will be much uncertainty unless we have it apply in the line of duty.

For example, take the case of a public safety officer who got into an automobile which had been wired with an explosive that was intended for him, but he would not be engaged at that time in detecting or apprehending criminals or suppressing a criminal act. There are many other situations of that type.

The public safety officers are an absolute need in this Nation; without them our lives and property stand as prey to those who would attack. In providing protection to us, from 1970 through 1975 there were 735 law enforcement officers killed in the United States and Puerto Rico. There have also been approximately 943 firemen who lost their lives during that same period of time. Thus far in 1976, there have been 12 police officers killed in each month through March. If that trend continues, there will be 144 law enforcement officers killed in our Nation in 1976, more than ever before—not a very fitting tribute to our Bicentennial Year.

The public safety officers are the only public service professionals—other than those of the military forces—who are required to risk their life as a part of their job description.

Every law enforcement officer knows that he must face abuse as a part of his job, abuse which may easily turn to violent rage at any moment but he still performs the task of keeping the peace.

Every fireman is keenly aware of the risks of entering a burning building, but each one will go into a critical situation when it is necessary to save life or property. Despite the necessary risks, those men and women who serve as public safety officers do so because of a dedication. They are public servants and because of that they are paid salaries which are traditionally held low. But low salaries are not the major problem which is encountered by public safety officers, a part of being a public servant is to ex-

pect pay which is less than those in the private sector—it is a part of the dedication.

With this realization of our need for able public safety officers, I am amazed when I scan the literature in the field. I was hard-put to find any discussions of what our society intends to do when this dedicated public servant dies, leaving a young family behind with mortgage payments, bills, educational expenses, and grief from a shattered dream.

Clearly this bill will be an incentive to help in those recruitment needs. The bill will not only aid in recruitment, but it will dramatically improve the morale of our public safety officers, morale which I believe needs an uplift.

Once again I would like to commend the distinguished senior Senator from Arkansas. However, I find a serious flaw in the bill as it has been reported. We are most anxious to provide these benefits to those who are willing to give their lives to protect our lives and property. The committee's report clearly states this in the following ways:

The motivation for this legislation is obvious: The physical risks to public safety officers are great; the financial and fringe benefits are not usually generous; and the officers are generally young with growing families and heavy financial commitments. The economic and emotional burden placed on the survivors of a deceased public safety officer is often very heavy.

The dedicated public safety officer is concerned about the security of his family, and to provide the assurance of a Federal death benefit to his survivors is a very minor recognition of the value our government places on the work of this dedicated group of public servants.

Yet, by requiring that the benefit be limited to death resulting from an injury directly or proximately caused by a criminal act, the committee has failed to provide for the stated purpose and need of this legislation. This specific language leaves a loophole in the bill whereby those who should be benefited and are deserving may be excluded. There can arise a situation which may give cause to question whether a death was actually the result of a criminal act. An excellent example is the police officer who is directing traffic.

A motorist failing to obey his direction may cause the public safety officer to be fatally injured. The question arises, was the motorist committing a criminal act? There is room for debate. Why leave room for debate in this bill—we should not.

Consideration must also be given to the purpose stated by the committee. As the committee said:

It's a very minor recognition of the value our government places on the work of the dedicated group of public servants.

To compensate them for their services with this benefit which will give some assurance to the future of their dependents. We are failing to meet the stated purpose of this legislation if we provide only a partial benefit by accepting the committee limitation.

There is also an extraordinary need for recruitment of new personnel into the public safety officer professions. That recruitment need is not being fulfilled

because of low pay, inadequate fringe benefits, and the heavy emotional burden. Part of the purpose of this legislation is to compensate for those recruiting inadequacies—again the restriction placed in this bill by the committee fails that purpose.

In addition, this language would literally exclude the dependents of firemen from receiving the benefit by requiring that the cause of death be related to a criminal act. More firemen lose their lives than any other public service professional in the United States each year while protecting our lives and property, but virtually no fireman dies as a result of a criminal act. Clearly the most dangerous profession in public service in the United States is the job of the fireman. I consider it a great disservice to pass a law for the benefit of public safety officers and specifically exclude from coverage many who are deserving and in need of such coverage.

Therefore, Mr. President, I believe that it would be in the best interest of the intent and purpose of the legislation to amend it in order to provide that the dependent of a public safety officer shall be eligible for benefits under the bill if the public safety officer dies "as the direct and proximate result of a personal injury sustained in the line of duty."

Mr. President, I am joined in this amendment by a number of cosponsors, including the Senator from South Carolina (Mr. THURMOND), the Senator from Nevada (Mr. CANNON), the Senator from Alabama (Mr. ALLEN), the Senator from Colorado (Mr. GARY HARR), the Senator from Kentucky (Mr. FORD), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Tennessee (Mr. BAKER), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Maine (Mr. HATHAWAY), whose cosponsorship I appreciate very much.

Mr. President, I ask the manager of the bill, with whom I have discussed this amendment, if he will be willing to accept the amendment. If so, I think we can dispose of it rather quickly.

I have found that the Senator from Arkansas is very sympathetic to the idea. I wish to make clear for the record that if this amendment is adopted, it will include firemen as well as other public safety officers; whereas, the previous language had very little application to firemen.

I reserve the remainder of my time. Mr. McCLELLAN. I yield myself about 5 minutes.

Mr. President, I support this amendment. It does two things, in my judgment, aside from taking care of the firemen, a matter in which the Senator originally was interested. Originally, his amendment just applied to firemen, I believe. I felt that it also should apply to the law enforcement officials.

The effect of this amendment is to make the survivors of a law enforcement officer or fireman, as defined by the bill, eligible for receipt of benefits if the latter is killed in the line of duty. In other words, it is not health insurance; but it does provide for payment if an officer is killed in the line of duty, either by accident or by willful assault by a

criminal. That is one thing the amendment does:

It will be recalled that when this bill was introduced in the 92d Congress, it was following a time when we were having riots, and an effort was made to obtain some relief for the families of the officers in a period when their work, their profession, possibly was more hazardous than now. We were trying to pass some urgent legislation.

In view of developments since, if we are going to provide death benefits to the survivors of law enforcement officers and firemen, I feel it should be expanded to cover them whether or not a crime is involved, provided the injury occurs in the line of duty. I believe it should be extended that far.

The second thing the amendment does is remove doubt and uncertainty. I call attention to the House bill. The House bill defines an "eligible public safety officer" in terms of activities such officers may be engaged in at a particular time, such as trying to arrest somebody or maintaining custody of a criminal. The fourth instance in the House bill provides that payment be made if the injury occurs in the performance of his duty, where the activity is determined by the administrator to be potentially dangerous to the law enforcement officer. That qualification seems to me to be ambiguous and confusing. I do not know what it means.

When an officer is in a police station and decides to walk across the street to get a sandwich for lunch, would it be a potentially dangerous activity if he becomes the target of an assault or is run over by a car? If he is sitting at his desk making out a report or performing office duties, and someone who has been offended by him walks in and shoots him, is he doing a potentially dangerous job at the moment?

I believe it is confusing. We should make this broad enough to apply if they are killed in the line of duty.

For that reason, I support the amendment, and I am willing to accept it, unless there is objection on the part of another Member of the Senate.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. MOSS. I yield 3 minutes to the Senator.

Mr. THURMOND. Mr. President, I was pleased to join the distinguished Senator from Utah and others in sponsoring this amendment.

As the bill came from the committee, a man would have to be killed as a result of a criminal act or an apparent criminal act for recovery to be had. As it is now amended, recovery could be had or the award could be granted if a person were injured in the line of duty.

I can visualize a fire truck rushing to a fire, and if the fire truck has to turn a curve quickly and a fireman is thrown off, hits his head on the pavement and is killed, as the bill came from the committee, his family would get no award. Under this amendment, they would get an award. That is a simple illustration.

Under all the circumstances, it seems to me that this would be a fair and just

thing to do, and I hope the Senate will adopt the amendment.

Mr. MOSS. I yield myself 1 minute.

Mr. President, I appreciate very much the remarks of the chairman and the Senator from South Carolina.

Being a public safety officer is one of the difficult positions to be filled in our society. We certainly should attract the most capable and able people we can. Since it is not possible to pay them excessively high salaries because they are public officers, at least we can give assurance to those people that in the event their lives are lost in the line of duty, their survivors will have the benefits under the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. President, I yield back the remainder of my time.

Mr. ALLEN. Will the Senator yield me 2 minutes?

Mr. MOSS. Mr. President, I withhold that. I yield 2 minutes to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Utah.

Mr. President, I commend the distinguished Senator from Utah for his leadership in offering this amendment. I had a similar amendment prepared. When I learned that the distinguished Senator from Utah had this amendment, I asked him and he was kind enough to allow me to be a cosponsor of his amendment.

I thought the chief shortcoming of the bill as it came out of the committee was the provision that, in order to qualify the family of the officer for this death benefit, he would be required to have been killed as a result of a criminal act. That would always put on the family the burden of proof that a criminal act had caused the death. I think it is sufficient that the death occur while the public safety officer, including law enforcement officers and firemen, is engaged in the performance of his duty. I think this amendment will greatly improve the bill and make it equitable, make it fair, make it easier to provide benefits for those entitled to the benefits.

I again commend the distinguished Senator from Utah (Mr. Moss) for this amendment.

Mr. McCLELLAN. I am prepared to yield back the remainder of my time.

Mr. MOSS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 188

Mr. MANSFIELD. Mr. President, I send to the desk an amendment and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Montana (Mr. MANSFIELD) proposes unprinted amendment No. 188.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ALLEN. Reserving the right to object, what was the request?

Mr. MANSFIELD. That further reading of the amendment be dispensed with.

Mr. ALLEN. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following which may be referred to as the "Victims of Crime Act of 1976".

REIMBURSEMENT FOR VICTIMS OF VIOLENT CRIME

Declaration of Purpose

SEC. 101. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

"PART F—FEDERAL REIMBURSEMENT FOR VICTIMS OF VIOLENT CRIME"

"DEFINITIONS"

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Reimbursement Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Reimbursement Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for reimbursement made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'reimbursement' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(9) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(10) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(11) 'member' means a member of the Violent Crimes Reimbursement Board established by this part;

"(12) 'minor' means an unmarried person who is under eighteen years of age;

"(13) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(14) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed \$150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed \$30 per child per week, up to a maximum of \$75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss of personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of \$150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed \$30 per week per child, up to a maximum of \$75 per week for any number of children;

"(15) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(16) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"(17) 'designated agent' means any United States attorney outside the District of Columbia.

"BOARD

"Sec. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Reimbursement Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. Not more than two members shall be affiliated with the same political party. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member

of the Board shall be eight years, except that (1) the terms of office of the members first taking office shall expire as designated by the President at the time of appointment; one at the end of four years, one at the end of six years, and one at the end of eight years and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"Sec. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed \$100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the re-delegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to reimbursement under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"REIMBURSEMENT

"Sec. 453. (a) The Board shall order the payments—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of reimbursement under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of reimbursement under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments in the form of periodic payments during the protracted period of such loss of earnings, support of payments, or ten years, whichever is less.

"(d) (1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with respect to which an order of reimbursement will probably be made, the Board may order emergency reimbursement not to exceed \$1,500 pending final action on the claim.

"(2) The amount of any emergency reimbursement ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for reimbursement.

"(3) Where the amount of any emergency reimbursement ordered under paragraph (1) of this subsection exceeds the amount of the final order for reimbursement, or if there is no order for reimbursement made, the recipient of any such emergency reimbursement shall be liable for the repayment of such reimbursement. The Board may waive all or part of such repayment.

"(e) No order for reimbursement under this part shall be subject to execution or attachment.

"(f) The availability or payment of reimbursement under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part should first recover damages from any other source based upon an act, omission, or possession, giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives reimbursements under this part and subsequently recovers damage from any other source based upon an act, omission, or possession that gave rise to reimbursement under this part, the Board shall be reimbursed for reimbursements previously paid to the same extent reimbursement would have been reduced had recovery preceded reimbursement under paragraph (1) of this subsection.

"LIMITATIONS

"Sec. 454. (a) No order for reimbursement under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(b) No order for reimbursement under this part shall be made to or on behalf of an intervenor, victim, or the surviving depend-

ent or dependents of either of them unless a minimum pecuniary or net loss of \$100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(c) No order for reimbursement under this part shall be made unless the act, omission, or possession giving rise to a claim under this part was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(d) No order for reimbursement under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, or related series of such acts, omissions, or possessions, giving rise to a claim, shall be in excess of \$50,000, including a lump-sum and periodic payments.

"(e) The Board, upon finding that any claimant has not substantially cooperated with it or with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may proportionately reduce, deny, or withdraw any order for reimbursement under this part.

"(f) The Board, in determining whether to order reimbursement or the amount of the reimbursement shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for reimbursement and—

"(1) the Board shall reduce the amount of reimbursement to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied reimbursement.

"(g) No order for reimbursement under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for reimbursement to or on behalf of his accomplice, a member of the family within the third degree of affinity or consanguinity or household of either of them, or to or on behalf of any person continuing unlawful sexual relations with either of them.

"PROCEDURES

"Sec. 455. (a) The Board or its designated agent is authorized to receive claims for reimbursement under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person. If received by its designated agent such claims shall be transmitted forthwith to the Board.

"(1) may subpoena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpoena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpoena shall be made only by the Chairman, but a subpoena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations, to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have

been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6091 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e) (1) A claim for reimbursement under this part may be acted upon by a member or designated agent appointed by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant upon notification to the Board within thirty days of such disposition shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f) (1) Decisions of the full Board shall be in accord with the will of the majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g) (1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"Sec. 456. (a) The Board is authorized to order reimbursement payments under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for reimbursement occurs—

"(1) within the Federal jurisdiction of the United States;

"(2) within the special jurisdiction of the United States;

"(3) within the extraterritorial jurisdiction of the United States.

"(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;

"(2) arson;

"(3) assault;

"(4) burglary;

"(5) forcible sodomy;

"(6) kidnapping;

"(7) manslaughter;

"(8) mayhem;

"(9) murder;

"(10) negligent homicide;

"(11) rape;

"(12) robbery;

"(13) riot;

"(14) unlawful sale or exchange of drugs;

"(15) unlawful use of explosives;

"(16) unlawful use of firearms;

"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or

"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkenness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"Sec. 457. (a) Whenever an order for reimbursement under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for reimbursement was made, institute an action against such person for the recovery of the whole or any specified part of such reimbursement in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"Sec. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) amounts withheld in accordance with the provisions of section 4129, title 18, of the United States Code, (3) additional amounts that may be appropriated to the Fund as provided by law, and (4) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"Sec. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation or reimbursement programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint

an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive \$100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"Sec. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study shall include its findings and recommendations with respect to the operation of the overall limit on reimbursement under section 454(d) of part F of this title and with respect to the adequacy of State programs receiving assistance under section 301(b) (10) of this Act."

COMPENSATION OF BOARD MEMBERS

Sec. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(60) Chairman, Violent Crimes Reimbursement Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(98) Members, Violent Crimes Reimbursement Board (2)."

CRIMINAL VICTIM INDEMNITY FUND FINES

Sec. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than \$10,000 and such fine be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund."

Sec. 104A. (a) Chapter 307 of title 18, of the United States Code, is amended by adding at the end thereof the following new section:

"§ 4129. Criminal Victim Indemnity Fund, Contributions

"The Federal Prison Industries is authorized to withhold from the wages of any offender employed in such Industries, an amount not to exceed 10 per centum of such wages. The amounts withheld under this section shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of the Omnibus Crime Control and Safe Streets Act of 1968."

(b) The table of contents of chapter 307 of title 18, of the United States Code, is amended by adding at the end thereof the following new item:

"4129. Criminal Victim Indemnity Fund, Contributions."

PART B—FEDERAL GRANT PROGRAM

Sec. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended

by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to reimburse victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

Sec. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, the period, and inserting the following: ", or programs for the reimbursement of victims of violent crimes."

Sec. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Reimbursement Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for reimbursement;

"(2) the categories of crimes for which reimbursement may be ordered;

"(3) the losses for which reimbursement may be ordered; and

"(4) such other terms and conditions for the payment of such reimbursement as the Board deems necessary and appropriate."

Sec. 108. Section 301 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, no grant may be made under the provisions of subsection (a) (10) of this section after June 30, 1975, to any State, unless the Attorney General has determined that such State has enacted legislation of general applicability within such State establishing a fund similar to the Criminal Victim Indemnity Fund established under section 458 of this Act."

PART C—MISCELLANEOUS PROVISIONS

Sec. 109. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1975, \$1,000,000 for the purposes of part F."

Sec. 110. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

Sec. 111. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any persons or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Sec. 112. This Act shall become effective upon the date of enactment.

Mr. MANSFIELD. Mr. President, the Senate has, I believe, on five occasions passed the pending amendment in the form of a bill which was before it and the House has not acted on any of those occasions. It is my understanding that,

even though a bill seeking to compensate victims of crime was reported out of the Committee on the Judiciary of the House last April, it has not as yet even been reported to the full committee.

I think it is all right to talk about the constitutional rights of criminals, alleged or otherwise, but I think that it is about time that we given some consideration to victims of crime. As of now, they have no compensation. They have no relief, and, many times, their punishment is worse than the crime itself. I have been interested in two particular items: First, compensation for the victims of crime, which is now legal in six or seven of our States and in a like number of foreign countries; second, legislation which would make the carrying of a gun in the commission of a crime a crime in itself.

In that respect, I point out that if that bill ever becomes law, it would mean that a criminal engaged in such an endeavor would be tried for two separate reasons; that the sentences would not run concurrently but would follow one another; and that the first sentence would be mandatory, as would those subsequently following.

I do not want to spend too much time going into this amendment. I think it is thoroughly understood, but as long as the bill has been opened up, I think that it is appropriate that, at this time, I offer this amendment. I hope that the Senate will give the most serious consideration to the victims of crime, who almost always seem to be forgotten in the constitutional process.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Alabama?

Mr. ALLEN. Mr. President, I do not desire recognition until all time has been yielded back. At that time, I intend to make a point of order that the amendment is not germane. I do not seek to make that point at this time.

Mr. MANSFIELD. Mr. President, I wonder, is the Senator in favor of compensation for victims of crime, or is he opposed to it and, for that reason, raising the point of order?

Mr. ALLEN. I do not want to overburden the bill. I think this brings in an entirely new concept that might endanger passage of the bill. As the Senator has pointed out, this bill has passed the Senate on five occasions. I think there would be no difficulty in passing it again as a separate bill. I believe it does open up an entirely new subject. I am so interested in the passage of the original bill, as amended by the Kennedy amendment, that I do not think we ought to overburden the bill.

Mr. MANSFIELD. Mr. President, if the bill had not been overburdened already, I would not be offering my amendment. I hasten to say that, in my opinion, a point of order raised against this amendment would be most ill-advised at this time. I point out to my distinguished colleague and to the Senate that this amendment, in my opinion, is germane in that the basic bill awards benefits to public safety officers who are, themselves, victims of crime. I certainly do

not intend to differentiate between a uniformed or a nonuniformed officer and an ordinary citizen, because I think that they are entitled to just as much consideration and certainly ought to be given the full approval of the Senate in this respect.

I point out that there are five or six, maybe seven, States which have a law of this kind on the books and that there are a number of foreign countries, just about the same number, which likewise have laws of this nature which seek, at long last, to give some consideration to the victims of crime. These forgotten people ought to be given the recognition and the relief which I think they deserve.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I have supported this bill in the past when it was in the Senate, when it came up as a separate bill. I supported it in the omnibus bill a year or two ago, S. 800. That bill had four different titles, including a title that covered the pending bill in its original form, and also including the amendment that was sponsored by Senator KENNEDY. It also included, Mr. President, a title which I had introduced as a bill, "Civil Remedies for Victims of Racketeering Activity and Theft." There were four titles in that bill which passed the Senate. The House did nothing with it.

I am put in a rather difficult situation as manager of this bill. I opposed the Kennedy amendment, not on its merits; I opposed it for the very reason that the distinguished Senator from Alabama has just stated, that it will load this bill down and we may get nothing. But the Senate wanted to load it, and they have loaded it, with this other amendment. I am in a difficult situation here to vote against this amendment, which I support and have supported in the past as separate bills. If we are going to make this an omnibus bill, I cannot bring myself to vote against this amendment.

This is where we are. That is what I tried to guard against when I asked the Senate to just pass the bill in the form we thought we could get through.

I do not know; maybe it will go through. Maybe the House will take the Kennedy amendment; maybe it will take this amendment. I do not know. I do know the difficulty we have had in the past in trying to reach agreement in conference and I am apprehensive about it this time.

If I had voted, as others have, to place the Kennedy amendment on this bill, I would want to support the victims of crime and do something to alleviate their distress, as well as the distress of the survivors of victims of crime who are public safety officers. So I guess we may as well put them all on here and see what we can do in the House.

I do not want to be inconsistent. I probably shall vote against this amendment. But I am just talking to the Senate now. If we are going to make additions to the bill, this, to me, has just as much merit, possibly, as the Kennedy amendment and, on its merits, I should like to support it.

I am going to abide by whatever the Senate does. But we have created a con-

dition by putting the other amendment on the bill.

Mr. THURMOND. Mr. President, I spoke against the Kennedy amendment on the ground that it would jeopardize the passage of this bill. I want to say that I think this amendment can do the same thing.

I will remind the Senate that for years and years some of us on the Judiciary Committee, especially the able and the distinguished Senator from Arkansas (Mr. McCLELLAN), the able and distinguished Senator from Nebraska (Mr. HRUSKA), and I, have worked to get through a piece of legislation that would take care of the families of public safety officers who were killed in line of duty.

We have passed a bill through the Senate a number of times—someone said five times; if not five, a number of times. Each time the House has objected to some portion of the bill, some amendment to the bill and, at last, we thought we had a bill that we could pass through the Senate, and the House would accept it.

The Kennedy amendment was accepted by a large vote. Along comes another amendment of a new sort, to pay victims of crime. I do not know whether the House will take this or not. But the point is why run the risk, why take the chance? Why not be sure that we will get the families of policemen, sheriffs, deputies, and highway patrolmen, and other public safety officers' families, the \$50,000 to help to support the widows and the orphans of those killed in the line of duty?

I think it is a mistake to put anything on this bill except the Moss amendment. I hope this amendment will be rejected, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. MOSS. Mr. President, I have supported this matter before, and I am very much like the chairman in my concern about it that we may be getting ourselves to a place where we will get nothing this time, as has happened before, in going to the House on the bills that have to do with compensation for survivors, and now having this question of expanding it to include victims of crime.

I have been wondering about the costs involved, too, and how it would fit in with our budget joint resolution. I do not know how much is involved. May I ask the Senator from Montana to give me an estimate as to the annual costs?

Mr. MANSFIELD. Of course, I cannot—nobody can—because the law has to be put into operation first, the board has to be set up, and the matter has to be given the consideration which is its due. But the costs have not been too great in States like New York and others—Maryland as well—which have laws of this nature in effect. But I would hope we would forget the costs involved and think of the victims of crime.

Mr. MOSS. Yes, indeed, we should do that.

We do have an estimate on the amount we are talking about for the compensation of the survivors of police officers.

Mr. MANSFIELD. Mr. President, will the Senator yield there? Are they not victims of crime?

Mr. MOSS. Well, surely. If they are assaulted and injured, they are. But in their case they are people whom we seek to employ to get into that business of protecting us. This is a hazardous thing. The hazards are greater and, therefore, it is an inducement, of course, to them that we hold out that their survivors, in the event they do lose their lives, will have some compensation.

Mr. MANSFIELD. Mr. President, if the Senator will yield further, they do have protection, do they not?

Mr. MOSS. We try to protect them as well as we can.

Mr. MANSFIELD. Physically, as the other victims of crime, the ordinary citizens, do not.

Mr. MOSS. Yes. If you are talking about pain and suffering, there is no question that often the most vulnerable of our citizens, the older people and children, are subjected to.

Mr. MANSFIELD. Mr. President, if the Senator will yield further, I am in receipt of information, although it is not authenticated, I am informed that the Budget Committee has indicated that the cost for this year, if it is enacted, would be \$35 to \$50 million.

Mr. MOSS. \$35 million to \$50 million? Mr. MANSFIELD. Million.

Mr. MOSS. Well, that is the concern I have, and I certainly do not want to be recorded as opposed to the thrust of the compensation to victims of crime. Some of the most heart-rending situations that we have are those who are set upon without any defense and without any warning of any sort. But it does move us off into another area where we may have difficulty in getting the matter considered by the House, and that is the only expression of misgiving I have about the amendment.

I certainly would not want to be recorded as being opposed to it in its thrust in what it has been trying to do.

Mr. ALLEN. Mr. President, will the Senator from Arkansas yield me some time?

Mr. McCLELLAN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. McCLELLAN. I yield 3 minutes to the Senator.

Mr. ALLEN. Mr. President, this argument may be moot because I believe the Parliamentarian will rule that this amendment is not germane. The public safety officers' families are not being compensated to recompense them for being victims of a criminal act. That is out of the bill altogether, so it is not germane at that point. Of course, it is not germane because it does not have anything to do with the subject before the Senate. But I do not know where the \$35 million figure came from, and no one, I assume, knows what is in the bill. I think if it is going to pay off for all victims of crime, if somebody burned up the Empire State Building, I do not know whether that would be compensated. What about the thousands of homicides throughout the country? I think \$35 million will be mighty small compensation for the murder of thousands of American citizens. So I do not believe that these cost figures would

stand up. But I am not going to argue the point because when the time has been yielded back I am going to raise a point of order.

The PRESIDING OFFICER. The Senator's time is up.

Who yields time?

Mr. MANSFIELD. Mr. President, I yield myself 2 minutes.

I would only reiterate that it is pretty hard to differentiate between victims of crime, whether they are uniformed members of the police law forces or whether they are firemen, but I would point out that public safety officers assume certain tasks attendant to their jobs. Innocent victims of crime do not, nor do they have the protection that the public officers are accorded.

I also point out that this amendment covers the following acts, omissions, or possessions:

- "(1) aggravated assault;
- "(2) arson;
- "(3) assault;
- "(4) burglary;
- "(5) forcible sodomy;
- "(6) kidnapping;
- "(7) manslaughter;
- "(8) mayhem;
- "(9) murder;
- "(10) negligent homicide;
- "(11) rape;
- "(12) robbery;
- "(13) riot;
- "(14) unlawful sale or exchange of drugs;
- "(15) unlawful use of explosives;
- "(16) unlawful use of firearms;
- "(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
- "(18) attempts to commit any of the foregoing.

Mr. BUCKLEY. Mr. President, I have often urged that we pay more attention to the problems faced by the victims of crime. I have the concerns, however, that have been expressed about endangering the underlying bill by loading it with amendments. I also believe the Mansfield amendment should be restricted to the victims of Federal crimes. For both of these reasons, I must oppose it.

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I will yield, if I have any time.

Mr. ALLEN. Has all time been yielded back?

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I make a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. That the amendment is not germane as required by the unanimous-consent agreement.

The PRESIDING OFFICER. Will the Senator restate it?

Mr. ALLEN. I make the point of order

that the amendment submitted by the distinguished majority leader is not germane as required by the unanimous-consent agreement under which we are operating.

The PRESIDING OFFICER. The point of order is sustained.

Mr. MANSFIELD. Mr. President, I appeal the ruling by the Chair.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ALLEN. I move to table the appeal and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, what is the question?

The PRESIDING OFFICER. The question is on agreeing to the motion to table the appeal of the Chair.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

I further announce that the Senator from Nebraska (Mr. HRUSKA) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 34, nays 47, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—34

Allen	Dole	McClure
Baker	Domenici	McIntyre
Bartlett	Fannin	Packwood
Bellmon	Fong	Roth
Biden	Garn	Scott,
Brock	Goldwater	William L.
Buckley	Griffin	Sparkman
Byrd,	Hansen	Taft
Harry F., Jr.	Hart, Gary	Talmadge
Byrd, Robert C.	Helms	Thurmond
Cannon	Laxalt	Tower
Curtis	Long	Young

NAYS—47

Abourezk	Haskell	Nunn
Beall	Hathaway	Pastore
Bentsen	Huddleston	Pearson
Brooke	Inouye	Percy
Bumpers	Jackson	Proxmire
Burdick	Javits	Randolph
Case	Johnston	Ribicoff
Church	Kennedy	Schweiker
Clark	Magnuson	Stafford
Cranston	Mansfield	Stevens
Durkin	McClellan	Stevenson
Eastland	McGee	Stone
Ford	McGovern	Symington
Glenn	Morgan	Welcker
Gravel	Moss	Williams
Hartke	Nelson	

NOT VOTING—19

Bayh	Hruska	Muskie
Chiles	Humphrey	Pell
Culver	Leahy	Scott, Hugh
Eagleton	Mathias	Stennis
Hart, Philip A.	Metcalfe	Tunney
Hatfield	Montoya	
Hollings		

So the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. STAFFORD). The question now recurs on the appeal from the ruling of the Chair by the Senator from Montana. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Is this not debatable?

The PRESIDING OFFICER. The question is not debatable.

Mr. ALLEN. The unanimous-consent agreement says it is debatable.

The PRESIDING OFFICER. The Chair is advised that the unanimous-consent agreement provides for debate on points of order that have been submitted, and this has not been submitted.

The clerk will call the roll.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator agree to withdraw his unanimous-consent request? I voted with him on his motion, but it is obvious that the appeal is going to carry; why not just have a voice vote?

Mr. ALLEN. No, I do not think that would be fair. I think that on the question of the appeal itself, the majority of Senators may well feel that the Chair should interpret the rules rather than permit them to be interpreted from the floor.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Alabama be permitted to proceed for 10 minutes and I be permitted to proceed for 10 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

Mr. ALLEN. I thank the distinguished majority leader.

Mr. President, what we have before us at this time is a bill that would compensate the families of law-enforcement officers, including firemen, who are killed in line of duty. To that has been added an amendment by the distinguished Senator from Massachusetts (Mr. KENNEDY)

providing for a program of group life insurance—

Mr. BIDEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators who wish to converse will kindly remove from the floor to the cloakroom. The business of the Senate will be expedited if Senators will take their seats.

Mr. ALLEN. Group life insurance for law enforcement officers, with the Federal Government to pay one-third of the cost and the remaining two-thirds to be paid by either local governments or the officers themselves.

The unanimous-consent agreement provides that no amendment not germane will be in order. Now an effort is made to add an entirely new concept—and, by the way, the payment is made if the officer is in the line of duty, whether it comes about by criminal action or not. Now an attempt is being made to add an entirely new concept, the cost of which is unknown, and to my mind would be staggering. The distinguished majority leader has said the Budget Committee has said it probably would run \$35 million per year, but that is not reasonable, based on the terms of the amendment itself. It seeks to compensate victims of crime for the loss or injury, and, in the event of death of a person, the family, for the crime that is perpetrated upon them. It is entirely nongermane. But it would seek to compensate for aggravated assault, arson, assault, burglary, forcible, sodomy, kidnapping, manslaughter, mayhem, murder, negligent homicide, rape, robbery, riot, unlawful sale of drugs, and so forth and so on, going on much farther.

Mr. President, if the victims of an arson are to be compensated—nothing is said about any limit—suppose someone burned down the Empire State Building? \$100 million? There are thousands of homicides committed in this country, thousands of rapes. How could you compensate anyone for homicide? The courts and juries are giving verdicts of half a million dollars in death cases. So the cost of this thing could run up to hundreds of millions of dollars, if we start compensating victims of crimes.

What we have is a bill that is needed to boost the morale of law enforcement officers. But if we add a thing like this, which is not germane and the Chair has ruled it is not germane, if we add such a provision, we say goodbye to the good provisions of the bill.

The Chair has ruled that this amendment is not germane. Many Senators came in and voted to uphold the Chair, and certain employees of the policy committee were able to switch them on telling them what was involved. The question is, Is the Chair going to interpret the rules of the Senate, or are they going to be interpreted from the floor by the force and influence of the leadership?

Let us let this be a Senate of rules. Let us let the Senate be governed by rules and by law, rather than by men, Mr. President. The amendment is clearly not germane. I hope the Senate will vote to sustain the Chair, in order that we can get this simple bill passed in the interest

of the law enforcement officers of this country.

I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, if ever there was a valid question raised about a point of order, I think this is it.

I would point out again that police officers and firemen, even in the conduct of their duty, if they are assaulted or killed or wounded, are victims of crime. What I am trying to do is apply the same principle to civilians who are not as well prepared, not as well protected as are policemen and firemen, but who are U.S. citizens and who are entitled to every consideration. So I would hope that the Senate, in its wisdom, recognizing the germaneness of the question involved, will vote to overturn the ruling of the Chair in this particular instance, and this is one of the rare times that I have ever adopted this position.

I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is, Shall the ruling of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

I further announce that the Senator from Nebraska (Mr. HRUSKA) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The yeas and nays resulted—yeas 38, nays 44, as follows:

[Rollcall Vote No. 387 Leg.]

YEAS—38

Allen	Cannon	Hart, Gary
Baker	Curtis	Hartke
Bartlett	Dole	Helms
Bellmon	Domenici	Johnston
Biden	Fannin	Laxalt
Brock	Fong	McClure
Buckley	Garn	McIntyre
Byrd	Goldwater	Moss
Harry F., Jr.	Griffin	Nelson
Byrd, Robert C.	Hansen	Packwood

Proxmire
Roth
Scott,
William L.

Sparkman
Taft
Talmadge
Thurmond

Tower
Young

NAYS—44

Abourezk	Haskell	Pastore
Beall	Hathaway	Pearson
Bentsen	Huddleston	Pell
Brooke	Inouye	Percy
Bumpers	Jackson	Randolph
Burdick	Javits	Ribicoff
Case	Kennedy	Schweiker
Church	Magnuson	Stafford
Clark	Mansfield	Stevens
Cranston	McClellan	Stevenson
Durkin	McGee	Stone
Eastland	McGovern	Symington
Ford	Montoya	Welcker
Glenn	Morgan	Williams
Gravel	Numm	

NOT VOTING—18

Bayh	Hollings	Metcalfe
Chiles	Hruska	Mondale
Culver	Humphrey	Muskie
Eagleton	Leahy	Scott, Hugh
Hart, Philip A.	Long	Stennis
Hatfield	Mathias	Tunney

The PRESIDING OFFICER. On this vote the yeas are 38 and the nays are 44. The ruling of the Chair does not stand as the judgment of the Senate. The amendment is in order.

The question is on agreeing to the amendment of the Senator from Montana.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I call for a division of the amendment.

The PRESIDING OFFICER. The Senator calls for a division of the amendment.

The question is on agreeing to the first part of the amendment, beginning on page 1, line 3, continuing through page 7, line 8.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

I further announce that the Senator from Nebraska (Mr. HRUSKA) is absent due to a death in the family.

The result was announced—yeas 64, nays 20, as follows:

[Rollcall Vote No. 388 Leg.]

YEAS—64

Abourezk	Ford	Montoya
Baker	Glenn	Morgan
Beall	Gravel	Moss
Bellmon	Hart, Gary	Nunn
Bentsen	Hart, Philip A.	Packwood
Biden	Hartke	Pastore
Brooke	Haskell	Pearson
Bumpers	Hathaway	Pell
Burdick	He ms	Percy
Byrd	Huddleston	Randolph
Harry F., Jr.	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Schweiker
Cannon	Javits	Sparkman
Case	Johnston	Stafford
Church	Kennedy	Stevens
Clark	Laxalt	Stevenson
Cranston	Magnuson	Stone
Dole	Mansfield	Symington
Domenici	Mathias	Tower
Durkin	McGee	Weicker
Eastland	McGovern	Williams
Fong	McIntyre	

NAYS—20

Allen	Goldwater	Roth
Bartlett	Griffin	Scott
Brock	Hansen	William L.
Buckley	McClellan	Taft
Curtis	McClure	Talmadge
Fannin	Nelson	Thurmond
Garn	Proxmire	Young

NOT VOTING—16

Bayh	Hruska	Muskie
Chiles	Humphrey	Scott, Hugh
Culver	Leahy	Stennis
Eagleton	Long	Tunney
Hatfield	Metcalf	
Hollings	Mondale	

So division 1 of Mr. MANSFIELD'S amendment was agreed to.

Mr. MANSFIELD. Mr. President, for the information of the Senate, I would like to point out that if we vote on a division basis all the way through there will be a total of 35 votes, which is OK as far as I am concerned, but I am not at all sure it is OK as far as the Senate as a whole is concerned.

I wonder if the distinguished Senator from Alabama would consider voting on the rest of the division en bloc?

Mr. ALLEN. Not at this time.

Mr. MANSFIELD. All right, Mr. President.

Mr. President, will the Senator from Alabama consider voting on a number of divisions en bloc?

Mr. ALLEN. Let us just take them as the rules provide for the time being.

Mr. MANSFIELD. All right.

REQUEST FOR UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent—and I think the Senate can be prepared for 34 more votes if the Senator from Alabama carries through his proposal—that from now on because of the fact that the votes will be following one another, that there be a time limitation of 10 minutes attached thereto. I think this will be for the benefit of the Senate. Otherwise, it will be 15-minute votes.

Mr. CASE. Mr. President, reserving the right to object—and I hate to interpose even the hint of an objection—

Mr. MANSFIELD. That is all right.

Mr. CASE. The New Jersey delegation to the Republican Convention is meeting with the President this afternoon, and I have the honor of leading that delegation, so I would be remiss in my duty there if I do not show up at the White

House. I would be very unhappy to miss 12 votes instead of 9, and that is the only reason I would ask that something be done about it so that we do not crowd that kind of a load onto the frail shoulders of the Senator from New Jersey.

Mr. MANSFIELD. All right. I withdraw my request, so the Senate can expect 15-minute limitations on the votes.

The PRESIDING OFFICER. The question is on agreeing to division 2 of the Mansfield amendment. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that George Shanks of my staff be granted the privileges of the floor.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. If the Senator will withhold, the Chair did not hear the request of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that George Shanks of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, would the Chair have the clerk state or the Chair state himself what area of the bill we are proceeding to vote on.

The PRESIDING OFFICER. The Chair will ask the clerk to advise the Senate as to the constitution of division 2.

The legislative clerk stated as follows: Division No. 2: On page 7 of the amendment, line 9, over to line 24 on page 10.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Are these various parts subject to amendment?

The PRESIDING OFFICER. The Chair is advised that this being an amendment in the first degree, an amendment in the second degree would be available.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to division 2. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

I further announce that the Senator from Nebraska (Mr. HRUSKA) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 67, nays 19, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—67

Abourezk	Fong	McIntyre
Baker	Ford	Montoya
Bartlett	Glenn	Morgan
Beall	Goldwater	Moss
Bellmon	Gravel	Nunn
Bentsen	Hart, Gary	Packwood
Biden	Hart, Philip A.	Pastore
Brooke	Hartke	Pearson
Bumpers	Haskell	Pell
Burdick	Hathaway	Percy
Byrd	Helms	Randolph
Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Inouye	Schweiker
Cannon	Jackson	Sparkman
Case	Javits	Stafford
Chiles	Kennedy	Stevens
Church	Laxalt	Stevenson
Clark	Long	Stone
Cranston	Magnuson	Symington
Dole	Mansfield	Weicker
Domenici	Mathias	Williams
Durkin	McGee	Young
Eastland	McGovern	

NAYS—19

Allen	Hansen	Scott
Brock	Johnston	William L.
Buckley	McClellan	Taft
Curtis	McClure	Talmadge
Fannin	Nelson	Thurmond
Garn	Proxmire	Tower
Griffin	Roth	

NOT VOTING—14

Bayh	Hruska	Muskie
Culver	Humphrey	Scott, Hugh
Eagleton	Leahy	Stennis
Hatfield	Metcalf	Tunney
Hollings	Mondale	

So division 2 of Mr. MANSFIELD'S amendment was agreed to.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I would like to make a request of the distinguished Senator from Alabama, pointing out that if we continue in this fashion we will have 33 votes yet to go. The request is, Will he give consideration to the possibility of voting on the rest of the divisions en bloc?

Mr. ALLEN. I will reply to the distinguished Senator from Montana that I wish he had made his request of the entire Senate because this is a matter to be considered by the Senate. But inasmuch as the amendment offered by the distinguished majority leader, which I feel is not germane and which the Chair felt was not, but which the Senate voted to declare was germane since it has an additional 32, I believe—is that correct, may I inquire of the Chair—32 additional parts to be voted upon?

The PRESIDING OFFICER (Mr. HANSEN). Thirty-three.

Mr. ALLEN. Thirty-three additional parts to be voted upon by a rollcall vote, the Senator from Alabama, not wanting to prolong the issue, and following his uniform policy of seeking to expedite the work of the Senate, would certainly have no objection to a vote on all of the parts put into one.

I think this is an amendment that

should not be agreed to because it departs from the thrust of the bill. It adds an amendment that is highly conjectural as to cost. As I see it, it would cost hundreds of millions of dollars a year, as I outlined a few moments ago. I think it is nongermane. I think the House will rule it is nongermane. I think the conferees will say that it is nongermane. But since the distinguished majority leader has 33 parts of an amendment before us, I would certainly not wish to put the distinguished majority leader to a roll-call vote on each of the parts of his amendment. So if the Senator will make that request, I will impose no objection.

Mr. MANSFIELD. Do not put it off on me, because I am prepared to stay here ad infinitum and vote 33 times. I am thinking of the Senate. I will make that request at this time in line with the suggestion of the distinguished Senator from Alabama. I want it understood, as far as I am prepared personally, it does not make a bit of difference. I am prepared to stay here and vote ad infinitum 33 times. I make the request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

The Senate will now proceed to vote on the remainder of the amendment by the Senator from Montana.

Mr. HARRY F. BYRD, JR. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Will the Chair indicate where the rest of the amendment begins?

The PRESIDING OFFICER. It is the rest of the amendment starting at the top of page 11, all of the rest of the Mansfield amendment.

Mr. HARRY F. BYRD, JR. It goes through the remainder of the amendment?

The PRESIDING OFFICER. I did not hear the last of what the Senator said.

Mr. HARRY F. BYRD, JR. It starts at the top of page 11 and goes through the remainder of page 28.

The PRESIDING OFFICER. That is correct.

Mr. HARRY F. BYRD, JR. I thank the Chair.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

I further announce that the Senator from Nebraska (Mr. HRUSKA) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 62, nays 23, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—62

Abourezk	Goldwater	McIntyre
Baker	Gravel	Montoya
Beall	Hart, Gary	Morgan
Bentsen	Hart, Philip A.	Moss
Biden	Hartke	Nunn
Brooke	Haskell	Packwood
Bumpers	Hathaway	Pastore
Burdick	Helms	Pearson
Byrd, Robert C.	Huddleston	Pell
Cannon	Inouye	Percy
Chiles	Jackson	Randolph
Church	Javits	Ribicoff
Cranston	Johnston	Schweiker
Dole	Kennedy	Stafford
Domenici	Laxalt	Stevens
Durkin	Long	Stevenson
Eastland	Magnuson	Stone
Fong	Mansfield	Symington
Ford	Mathias	Welcker
Glenn	McGee	Williams
	McGovern	

NAYS—23

Allen	Griffin	Taft
Bartlett	Hansen	Talmadge
Bellmon	McClellan	Thurmond
Brock	McClure	Tower
Buckley	Nelson	Young
Byrd,	Proxmire	
Harry F., Jr.	Roth	
Curtis	Scott,	
Fannin	William L.	
Garn	Sparkman	

NOT VOTING—15

Bayh	Hollings	Mondale
Case	Hruska	Muskie
Culver	Humphrey	Scott, Hugh
Eagleton	Leahy	Stennis
Hatfield	Metcalfe	Tunney

So the remainder of Mr. MANSFIELD'S amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 189

Mr. ALLEN. Mr. President, I call up an unprinted amendment, which is at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 189.

Mr. ALLEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with and that the amendment be printed in full in the RECORD, and I shall explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Act, amend by adding the following new section:

Sec. . The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended (1) by redesignating title XI thereof as title XII, (2) by redesignating section 1601 as section 1701, and (3) by adding immediately after title X thereof the following new title:

"TITLE XI—LAW ENFORCEMENT OFFICERS NOT EMPLOYED BY THE UNITED STATES

"Sec. 1601. For purposes of this title—

"(1) The term 'retired officer' means a person who the Administration in its discretion determines—

"(A) was employed either as a State or local law enforcement officer or as a State or local firefighter,

"(B) retired after the enactment of this title, and

"(C) is receiving qualifying State and local retirement benefits.

"(2) The term 'State or local law enforcement officer' means a full-time, certified, law enforcement officer with power of arrest employed by a State, a political subdivision of a State, or any municipal corporation in a State, who is required by the terms of his employment, whether such employment exists by virtue of election or appointment, to give his full time to the preservation of public order and the protection of life or property, or the detection of crime in the State, and shall include enforcement officers for conservation laws and full-time coroners, but shall not include any district attorney, assistant district attorney, assistant attorney general, commissioner, deputy commissioner, any municipal inspector, county inspector, or State inspector, or any like employees of a State, any political subdivision of a State, or any municipal corporation in a State.

"(3) The term 'State or local firefighter' means a full-time, certified, fireman employed by a State, a political subdivision of a State, or any municipal corporation in a State, who is required by the terms of his employment, whether such employment exists by virtue of election or appointment, to give his full time to duties related directly to being prepared to extinguish or extinguishing accidental or maliciously initiated fires for the preservation of public order and for the protection of life or property.

"(4) The term 'State' includes the fifty States of the United States and any territory of the United States.

"(5) The term 'qualifying State or local retirement benefit' means a retirement benefit including disability retirement paid by a retirement system established by a State or a political subdivision of a State and attributable to the payee's service as a State or local law enforcement officer or as a State or local firefighter.

"(6) The term 'Administration' means the Law Enforcement Assistance Administration.

"Sec. 1602. The Administration shall furnish to each retired officer retirement benefits equal to 25 per centum of his qualifying State and local retirement benefits.

"Sec. 1603. (a) An application for any benefit under this title may be made only—

"(1) to the Administration;

"(2) by—

"(A) a retired officer,

"(B) any association of law enforcement officers which is acting on behalf of a retired officer,

"(C) any association of firefighters which is acting on behalf of a retired officer; and

"(3) in such form as the Administration may require.

"(b) Benefits under this title shall be paid at such times and in such manner as the Administration shall provide by regulation.

"(c) (1) No State or political subdivision or municipal corporation may, by reason of the receipt of benefits under this title by a retired officer, reduce benefits otherwise due such officer.

"(2) The Administration or any person described in subsection (a) (2) (A), (B), or (C) may bring a civil action (without regard to the amount in controversy) against any State or political subdivision thereof of any municipal corporation within such State in a United States district court in order to obtain

injunctive or other relief for a violation of paragraph (1)."

Mr. ALLEN. Mr. President, I am particularly pleased that the Senate is considering passage of H.R. 366, a bill reported by my distinguished colleague from the State of Arkansas, Senator McCLELLAN, which, if enacted, would provide substantial benefits to the survivors of public safety officers killed in the line of duty. As I have stated earlier in the Chamber today, I support H.R. 366 because I believe the Federal Government has a responsibility to survivors of State and local as well as Federal public safety officers who are killed in the line of duty and who are engaged throughout their careers in assisting the Federal Government in enforcing the laws of the United States.

Although I know of no study done on the subject, I believe few in this body would disagree that a substantial portion of the duties performed by State and local public safety officers are duties solely accruing to the benefit of the Federal Government through State and local enforcement of Federal criminal statutes. The occasions are clearly, but regrettably, countless upon which local public safety officers have paid with their lives in confronting criminals engaged in violating Federal law. So I believe it is appropriate and long overdue that the Federal Government assume its portion of the responsibility to the survivors of these officers. I therefore strongly support H.R. 366, and I commend Senator McCLELLAN, Senator HRUSKA, and the committee, for their fine work in studying the problem of inadequate survivors' benefits for local public safety officers and for responding to that problem by introducing this very fine measure now before us.

Mr. President, I introduced earlier today a bill closely related to this amendment which has been referred to the Committee on the Judiciary.

My bill also recognizes the very fine contribution to Federal law enforcement made by State and local public safety officers by providing a Federal supplement to qualified State and local pension plan for those officers. My bill would thus further recognize the major contributions of time, dedication, and service rendered to the Federal Government by these State and local officers who now receive no compensation whatsoever from the Federal Government and who are in many instances undercompensated by the State and local governments which they serve. Moreover, Mr. President, I believe it should be pointed out that, regardless of direct compensation, in nearly all instances, State and local pension plans for retired firemen and police officers are very inadequate and fall far short of retirement programs reflecting the actual risks taken and service rendered by police officers and firemen. In view of the Federal component of their service, I believe that Congress ought to enact legislation which would permit the Federal Government to accept its responsibility toward all police officers and firemen by supplementing their retirement benefits.

Mr. President, my bill and this amendment calls for a supplement of 25 percent of the amount being received by a retired officer under a State or local pension plan. I believe that contribution is modest when considered against the substantial services received by the Federal Government from these State and local employees. Accordingly, I urge that this bill be given prompt consideration in committee and be reported to the Senate in the very near future so that action may be taken by the Senate during this Congress.

Mr. President, I believe the legislation I have introduced today is long overdue, and with that thought in mind, I am also offering my bill to the Senate as an amendment to the pending bill, H.R. 366. I recognize that Senators may not be willing to act favorably on my amendment without full information regarding its impact on the budget and without a detailed committee report such as has been prepared so well in support of H.R. 366. And so, Mr. President, I am offering my bill as an amendment to H.R. 366 primarily for the purpose of bringing the measure to the direct attention of the Senate and the committee.

Should my amendment be rejected at this time—and I state parenthetically that I am going to withdraw it after I have called it to the attention of the managers of the bill—I would urge my distinguished colleagues who serve on the Committee on the Judiciary to hold promptly hearings on this measure so that it may be considered carefully by the committee to the end that the committee will ultimately report the measure favorably to the Senate as has been done in the case of H.R. 366.

Mr. President, the Congressional Budget Office earlier this month began to prepare a cost estimate on my bill, but unfortunately a final estimate is not available today. An estimate should be completed sometime this week or at the latest by the end of the month, and I am asking the Budget Office to make its estimate immediately available to the Committee on the Judiciary so that action on the bill will not be delayed for lack of facts regarding its cost impact.

It is my hope, therefore, Mr. President, if the Senate and the managers of H.R. 366 are not ready at this time to accept the amendment I am offering to H.R. 366, that the managers of the bill and the distinguished chairman and members of the Committee on the Judiciary will see fit to hold hearings on my bill, analyze its cost impact, and at a very early date—if it deems advisable—report the measure for reconsideration in light of all facts developed by the committee. I am confident that once hearings are held and a cost estimate obtained, the Committee on the Judiciary will support the measure I have introduced and join with me in urging its final adoption.

I call this to the attention of the distinguished chairman of the committee and the manager of the bill.

Mr. McCLELLAN. Mr. President, as I understand the bill—it would go to the Committee on the Judiciary and be re-

ferred to the Subcommittee on Criminal Laws and Procedures.

Mr. ALLEN. I am sure it would.

Mr. McCLELLAN. That would fall under my jurisdiction as chairman of that subcommittee. I will hold hearings on it at a date as early as practical. The Senator realizes the situation we are in.

Mr. ALLEN. Yes.

Mr. McCLELLAN. There is no disposition on my part to be uncooperative with the Senator. He should get a proper hearing as expeditiously as we can do it practically under the circumstances.

Mr. ALLEN. I thank the distinguished Senator.

Mr. McCLELLAN. As I understand the bill, the Federal Government would subsidize present State-municipal pension plans by 25 percent. Am I correct?

Mr. ALLEN. Yes, that is correct.

The main thrust of the bill as approved by the committee provides for benefit payments to the survivors of public health officers who are killed in line of duty, but it does nothing for those who live and who retire. This would be an effort to supplement the State and local pensions to the extent of 25 percent of the amount of the pension.

Mr. McCLELLAN. The Senator says that he does not have an estimate of the cost now but will obtain one.

Mr. ALLEN. That is correct. The request for the hearing would not be insisted upon until the figures are obtained.

Mr. McCLELLAN. Has the Senator's bill been introduced?

Mr. ALLEN. Yes; and by unanimous consent, it was referred to the Committee on the Judiciary.

Mr. McCLELLAN. It probably will be rereferred to the Subcommittee on Criminal Laws and Procedures, which I chair.

In the meantime, if the Senator obtains information from the Budget Committee with an estimate as to the cost, I hope he will submit it to us.

Mr. ALLEN. I will be glad to do that. I appreciate the Senator's friendly cooperation in this area and I appreciate his assurance that the bill will be given a hearing at an early date.

I thank the distinguished Senator from Arkansas.

Mr. President, I withdraw the amendment.

Mr. McCLELLAN. Mr. President, if there are no further amendments I yield back the remainder of my time.

Mr. THURMOND. Third reading, Mr. President.

The PRESIDING OFFICER. All time has been yielded back. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Vermont (Mr. LEAHY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

I further announce that the Senator from Nebraska (Mr. HRUSKA) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 80, nays 4, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—80

Abourezk	Ford	Montoya
Allen	Garn	Morgan
Baker	Genn	Moss
Bartlett	Gravel	Nelson
Beall	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart, Gary	Pastore
Biden	Hart, Philip A.	Pearson
Brock	Hartke	Pell
Brooke	Haskell	Percy
Buckley	Hathaway	Proxmire
Bumpers	Helms	Randolph
Burdick	Huddleston	Ribicoff
Byrd	Inouye	Roth
Harry F., Jr.	Jackson	Schweiker
Byrd, Robert C.	Javits	Sparkman
Cannon	Johnston	Stafford
Chiles	Kennedy	Stevens
Church	Laxalt	Stevenson
Clark	Long	Stone
Cranston	Magnuson	Taft
Curtis	Mansfield	Talmadge
Dole	Malhiias	Thurmond
Domenici	McClellan	Tower
Durkin	McGee	Welcker
Eastland	McGovern	Williams
Fong	McIntyre	Young

NAYS—4

Fannin	McClure	Scott,
Goldwater		William L.

NOT VOTING—16

Bayh	Hruska	Scott, Hugh
Case	Humphrey	Stennis
Culver	Leahy	Symington
Eagleton	Metcalf	Tunney
Hatfield	Mondale	
Hollings	Muskie	

So the bill (H.R. 366), as amended, was passed.

The title was amended so as to read:

An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make certain technical and clerical corrections as necessary in the engrossment of the Senate amendments to H.R. 366.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McCLELLAN, Mr. PHILIP A. HART, Mr. KENNEDY, Mr. HRUSKA, and Mr. THURMOND conferees on the part of the Senate.

around the country to adopt occupational fitness programs. Adoption of such programs will hopefully continue, thus avoiding the need to make some of the payments called for by H.R. 366.

Mr. President, I am especially opposed to the amendment to provide group life insurance for public safety officers. My opposition does not stem from any lack of appreciation or understanding for the valuable contributions made by public safety officers in this country. Rather, my opposition is based on the simple proposition that I do not believe the Federal Government should be in the business of providing general or group life insurance for public safety officers.

There are a number of reasons why I oppose enactment of this legislation. First, contrary to what many of the sponsors of this legislation claim, life insurance is readily available to public safety officers from the same sources that provide high quality life insurance to each and every one of us. The testimony during the hearings on this measure are replete with evidence that private insurance companies are ready and willing to provide this kind of coverage.

Second, many of these insurers are fully prepared to offer this coverage to public safety officers under the same terms and at the same prices as it is offered to other citizens. Where some insurers feel there is an extra hazard in insuring this kind of occupation, the additional premiums amount to only a few dollars a year.

Third, it should be noted, and with particular emphasis, that the Congress is currently considering legislation to provide a lump sum gratuity to the survivors and families of public safety officers who are killed in the line of duty by a criminal act or an apparent criminal act.

The bill, S. 2572, has been approved by the Senate Judiciary Committee and reported to the floor of the Senate.

With the availability of this death benefit during the duty hours of a public safety officer, it would seem somewhat extraordinary that the Congress approve the purchase, out of Federal funds, ordinary life insurance to protect against off-duty mishaps and natural events that are not a function of these occupations. Having provided for coverage of these officers who are exposed to certain risks, why should we now single out a particular class of citizen when other public service employees, many of them also in higher hazard classification, may legitimately feel that they are entitled to the same consideration.

Fourth, as with so many other aspects of life in this country, Federal assumption of responsibility in this area is not the answer. The Congress has declared and reaffirmed on numerous occasions, its belief that law enforcement is primarily a State and local responsibility.

The Congress has intended that law enforcement be the province of State and local governments, and that a national police force be avoided at all costs. The establishment of the Law Enforcement Assistance Administration via passage of the Omnibus Crime Control and Safe Streets Act of 1968, is evidence of

the clear intent of the Congress in this regard.

Now, this Senator does not contend that Federal life insurance policies will ipso facto result in the creation of a national police force; such a simplistic analysis would be wide of the mark. However, we should always be mindful of the maxim that "he who pays the piper, calls the tune."

In addition, the benefits for public safety officers will differ from one jurisdiction to the next. Cost and expenses vary from region to region across the country; from urban areas to the rural countryside. Other aspects of public safety officers' benefits such as pay, working conditions, hospitalization, pension plans, and so forth, differ from jurisdiction to jurisdiction. Why should life insurance be singled out for special treatment?

Most police departments now have plans of group life insurance in effect. The need for it is so tailored to the circumstances and conditions in each locality. The Federal Government should not disrupt such programs by entering the field.

Mr. President, I have set forth and I believe to be compelling arguments against the adoption of S. 230. I am not against benefits for our public safety officers, who I respect and support to the fullest degree. What I am against is the intrusion of the Federal Government one more time into an area that is clearly the domain of the private sector, and not the Federal Government. Local public safety officers deserve adequate and high quality life insurance coverage, but not at the direction and bidding of the Federal Government.

SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN LINE OF DUTY

Mr. HRUSKA. Mr. President, last Monday when the Senate passed H.R. 366, public safety officers' death benefits legislation, I was regrettably absent because of a death in the family. I have long supported legislation which would provide a gratuity to the surviving dependents of officers killed while serving the public interest, but I am opposed to a bill providing for a Federal plan of group life insurance for public safety officers. My reasons for opposition will be elaborated on later in my remarks.

While it is important that the survivors of public safety officers tragically killed be provided for, it is even more important that steps be taken to avoid unnecessary deaths of police officers and firefighters. I am informed that the Law Enforcement Assistance Administration, which will administer the new program if the legislation is enacted, strongly believes that many deaths could be avoided if preventive action was taken. By preventive action, I mean assuring that these public safety officers are in good physical and mental condition. Situations where injury or death in the line of duty are possible would occur less frequently if the officers involved were physically up to their demanding tasks.

I commend LEAA for the attention it has given to urging police agencies

H.R. 366 AS PASSED THE SENATE

H. R. 366

AN ACT

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled.
3 That this Act may be cited as the "Public Safety Officers'
4 Benefits Act of 1976".

5 SEC. 2. Title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968, as amended, is amended by adding at
7 the end thereof the following new parts:

8 "PART J. - PUBLIC SAFETY OFFICERS' BENEFITS

9 AWARDS

10 "SEC. 701. (a) In any case in which the Administration
11 determines, under regulations issued pursuant to this title,
12 that a public safety officer has died as the direct and proximate result
13 of a personal injury sustained in the line of duty, the Administra-
14 tion shall pay a benefit of \$50,000 as follows:

15 "(1) if there is no surviving child of such officer, to

1 the surviving spouse of such officer;

2 "(2) if there is a surviving child or children and
3 a surviving spouse, one-half to the surviving child or
4 children of such officer in equal shares and one-half to
5 the surviving spouse;

6 "(3) if there is no surviving spouse, to the child or
7 children of such officer in equal shares; or

8 "(4) if none of the above, to the dependent parent
9 or parents of such officer in equal shares.

10 "(b) Whenever the Administration determines, upon a
11 showing of need and prior to taking final action, that the
12 death of a public safety officer is onw with respect to which
13 a benefit will probably be paid, the Administration may make
14 an interim benefit payment not exceeding \$3,000 to the person
15 entitled to receive a benefit under subsection (a) of this
16 section.

17 "(c) The amount of any interim payment under subsection
18 (b) of this section shall be deducted from the amount of any
19 final benefit paid to such person.

20 "(d) Where there is no final benefit paid, the recipient
21 of any interim payment under subsection (b) of this section
22 shall be liable for repayment of such amount. The Adminis-
23 tration may waive all or part of such repayment, considering
24 for this purpose the hardship which would result from such
25 repayment.

1 "(e) The benefit payable under this part shall be in ad-
2 dition to any other benefit that may be due from any other
3 source, but shall be reduced by-

4 "(1) payments authorized by section 8191 of title
5 5, United States Code;

6 "(2) payments authorized by section 12(k) of the
7 Act of September 1, 1916, as amended (D.C. Code, sec.
8 4-531(1)).

9 "(f) No benefit paid under this part shall be subject to
10 execution or attachment.

11 "LIMITATIONS

12 "SEC. 702. No benefit shall be paid under this part-

13 "(a) if the death was caused by the intentional mis-
14 conduct of the public safety officer or by such officer's
15 intention to bring about his death;

16 "(b) if voluntary intoxication of the public safety
17 officer was the proximate cause of such officer's death; or

18 "(c) to any person who would otherwise be entitled to
19 a benefit under this part if such person's actions were
20 a substantial contributing factor to the death of the
21 public safety officer.

22 "SEC. 702. As used in this part-

23 "(a) 'child' means any natural, illegitimate, adopted,
24 or posthumous child or stepchild of a deceased public
25 safety officer who, at the time of the public safety

1 officer's death, is-

2 "(1) eighteen years of age or under;

3 "(2) over eighteen years of age and a student
4 as defined in section 8101 of title 5, United States
5 Code, or

6 "(3) over eighteen years of age and incapable
7 of self-support because of physical or mental disability;

8 "(b) 'dependent' means a person who was substantially
9 reliant for support upon the income of the deceased public
10 safety officer;

11 "(c) 'fireman' includes a person serving as an officially
12 recognized or designated member of a legally organized
13 volunteer fire department;

14 "(d) 'intoxication' means a disturbance of mental or
15 physical faculties resulting from the introduction of al-
16 cohol, drugs, or other substances into the body;

17 "(e) 'law enforcement officer' means a person involved
18 in crime control or reduction, or enforcement of the
19 criminal laws. This includes, but is not limited to,
20 police, corrections, probation, parole, and judicial officers;

21 "(f) 'public agency' means any State of the United States,
22 the District of Columbia, the Commonwealth of Puerto Rico,
23 and any territory or possession of the United States, or
24 any unit of local government, combination of such States
25 or units, or any department, agency, or instrumentality of

1 any of the foregoing; and

2 "(g) 'public safety officer' means a person serving
3 a public agency in an official capacity, with or without
4 compensation, as a law enforcement officer or as a fireman.

5 "ADMINISTRATIVE PROVISIONS

6 "SEC. 704. Rules, regulations, and procedures issued under
7 this title may include regulations governing the recognition
8 of agents or other persons representing claimants under this
9 part before the Administration. The Administration may prescribe
10 the maximum fees which may be charged for services performed in
11 connection with any claim under this part before the Administration,
12 and any agreement in violation of such rules and regulations
13 shall be void.

14 "SEC. 705. In making determinations under section 701, the
15 Administration may utilize such administrative and investigative
16 assistance as may be available from State and local agencies.
17 Responsibility for making final determinations shall rest with
18 the Administration.

19 "PART K—PUBLIC SAFETY OFFICERS' GROUP LIFE
20 INSURANCE

21 "DEFINITIONS

22 "SEC. 800. For the purposes of this part—

23 "(1) 'child' includes a stepchild, an adopted child,
24 an illegitimate child, and a posthumous child;

1 “(2) ‘month’ means a month that runs from a given
2 day in one month to a day of the corresponding number
3 in the next or specified succeeding month, except when
4 the last month has not so many days, in which event it
5 expires on the last day of the month; and

6 “(3) ‘public safety officer’ means a person who is
7 employed full time by a State or unit of general local
8 government in—

9 “(A) the enforcement of the criminal laws, in-
10 cluding highway patrol,

11 “(B) a correctional program, facility, or insti-
12 tution where the activity is potentially dangerous
13 because of contact with criminal suspects, defend-
14 ants, prisoners, probationers, or parolees,

15 “(C) a court having criminal or juvenile de-
16 linquent jurisdiction where the activity is potentially
17 dangerous because of contact with criminal suspects,
18 defendants, prisoners, probationers, or parolees, or

19 “(D) firefighting,

20 but does not include any person eligible to participate in
21 the insurance program established by chapter 87 of title
22 5 of the United States Code, or any person participat-
23 ing in the program established by subchapter III of
24 chapter 19 of title 38 of the United States Code.
25

1 “Subpart 1—Nationwide Program of Group Life

2 Insurance for Public Safety Officers

3 “ELIGIBLE INSURANCE COMPANIES

4 “SEC. 801. (a) The Administration is authorized,
5 without regard to section 3709 of the Revised Statutes, as
6 amended (41 U.S.C. 5), to purchase from one or more life
7 insurance companies a policy or policies of group life insur-

1 ance to provide the benefits specified in this subpart. Each
2 such life insurance company must (1) be licensed to issue
3 life, accidental death, and dismemberment insurance in each
4 of the fifty States of the United States and the District of
5 Columbia, and (2) as of the most recent December 31 for
6 which information is available to the Administration, have in
7 effect at least 1 per centum of the total amount of group life
8 insurance which all life insurance companies have in effect
9 in the United States.

10 “(b) Any life insurance company issuing such a policy
11 shall establish an administrative office at a place and under
12 a name designated by the Administration.

13 “(c) The Administration may at any time discontinue
14 any policy which it has purchased from any insurance com-
15 pany under this subpart.

16 “REINSURANCE

17 “SEC. 802. (a) The Administration shall arrange with
18 each life insurance company issuing a policy under this sub-
19 part for the reinsurance, under conditions approved by the
20 Administration, of portions of the total amount of insurance
21 under the policy, determined under this section, with other
22 life insurance companies which elect to participate in the
23 reinsurance.

24 “(b) The Administration shall determine for and in
25 advance of a policy year which companies are eligible to

1 participate as reinsurers and the amount of insurance under
 2 a policy which is to be allocated to the issuing company and
 3 to reinsurers. The Administration shall make this determina-
 4 tion at least every three years and when a participating com-
 5 pany withdraws.

6 “(c) The Administration shall establish a formula under
 7 which the amount of insurance retained by an issuing com-
 8 pany after ceding reinsurance, and the amount of reinsurance
 9 ceded to each reinsurer, is in proportion to the total amount
 10 of each company's group life insurance, excluding insurance
 11 purchased under this subpart, in force in the United States
 12 on the determination date, which is the most recent Decem-
 13 ber 31 for which information is available to the Administra-
 14 tion. In determining the proportions, the portion of a com-
 15 pany's group life insurance in force on the determination
 16 date in excess of \$100,000,000 shall be reduced by—

17 “(1) 25 per centum of the first \$100,000,000 of
 18 the excess;

19 “(2) 50 per centum of the second \$100,000,000 of
 20 the excess;

21 “(3) 75 per centum of the third \$100,000,000 of
 22 the excess; and

23 “(4) 95 per centum of the remaining excess.

24 However, the amount retained by or ceded to a company
 25 may not exceed 25 per centum of the amount of the com-

1 pany's total life insurance in force in the United States on
2 the determination date.

3 “(d) The Administration may modify the computations
4 under this section as necessary to carry out the intent of this
5 section.

6 “PERSONS INSURED; AMOUNT

7 “SEC. 803. (a) Any policy of insurance purchased by
8 the Administration under this subpart shall automatically
9 insure any public safety officer employed on a full-time basis
10 by a State or unit of general local government which has
11 (1) applied to the Administration for participation in the
12 insurance program under this subpart, and (2) agreed to
13 deduct from such officer's pay the amount of such officer's
14 contribution, if any, and forward such amount to the Admin-
15 istration or such other agency or office as is designated by
16 the Administration as the collection agency or office for such
17 contributions. The insurance provided under this subpart
18 shall take effect from the first day agreed upon by the Ad-
19 ministration and the responsible officials of the State or unit
20 of general local government making application for participa-
21 tion in the program as to public safety officers then on the
22 payroll, and as to public safety officers thereafter entering
23 on full-time duty from the first day of such duty. The insur-
24 ance provided by this subpart shall so insure all such public
25 safety officers unless any such officer elects in writing not to

1 be insured under this subpart. If any such officer elects not
 2 to be insured under this subpart he may thereafter, if eligible,
 3 be insured under this subpart upon written application, proof
 4 of good health, and compliance with such other terms and
 5 conditions as may be prescribed by the Administration.

6 “(b) A public safety officer eligible for insurance under
 7 this subpart is entitled to be insured for an amount of group
 8 life insurance, plus an equal amount of group accidental
 9 death and dismemberment insurance, in accordance with the
 10 following schedule:

“If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0.....	\$8,000	\$10,000	\$10,000
\$8,000.....	9,000	11,000	11,000
\$9,000.....	10,000	12,000	12,000
\$10,000.....	11,000	13,000	13,000
\$11,000.....	12,000	14,000	14,000
\$12,000.....	13,000	15,000	15,000
\$13,000.....	14,000	16,000	16,000
\$14,000.....	15,000	17,000	17,000
\$15,000.....	16,000	18,000	18,000
\$16,000.....	17,000	19,000	19,000
\$17,000.....	18,000	20,000	20,000
\$18,000.....	19,000	21,000	21,000
\$19,000.....	20,000	22,000	22,000
\$20,000.....	21,000	23,000	23,000
\$21,000.....	22,000	24,000	24,000
\$22,000.....	23,000	25,000	25,000
\$23,000.....	24,000	26,000	26,000
\$24,000.....	25,000	27,000	27,000
\$25,000.....	26,000	28,000	28,000
\$26,000.....	27,000	29,000	29,000
\$27,000.....	28,000	30,000	30,000
\$28,000.....	29,000	31,000	31,000
\$29,000.....		32,000	32,000

11 The amount of such insurance shall automatically increase at
 12 any time the amount of increase in the annual basic rate of
 13 pay places any such officer in a new pay bracket of the
 14 schedule and any necessary adjustment is made in his con-
 15 tribution to the total premium.

16 “(c) Subject to conditions and limitations approved by

1 the Administration which shall be included in any policy
 2 purchased by it, the group accidental death and dismember-
 3 ment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life-----	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members--	Full amount shown in the schedule in subsection (b) of this section.

4 The aggregate amount of group accidental death and dis-
 5 memberment insurance that may be paid in the case of any
 6 insured as the result of any one accident may not exceed the
 7 amount shown in the schedule in subsection (b) of this
 8 section.

9 “(d) Any policy purchased under this subpart may
 10 provide for adjustments to prevent duplication of payments
 11 under any program of Federal gratuities for killed or injured
 12 public safety officers.

13 “(e) Group life insurance shall include provisions ap-
 14 proved by the Administration for continuance of such life
 15 insurance without requirement of contribution payment dur-
 16 ing a period of disability of a public safety officer covered for
 17 such life insurance.

18 “(f) The Administration shall prescribe regulations
 19 providing for the conversion of other than annual rates of
 20 pay to annual rates of pay and shall specify the types of
 21 pay included in annual pay.

1 "TERMINATION OF COVERAGE

2 "SEC. 804. Each policy purchased under this subpart
3 shall contain a provision, in terms approved by the Admin-
4 istration, to the effect that any insurance thereunder on any
5 public safety officer shall cease two months after (1) his
6 separation or release from full-time duty as such an officer
7 or (2) discontinuance of his pay as such an officer, which-
8 ever is earlier: *Provided, however,* That coverage shall be
9 continued during periods of leave or limited disciplinary sus-
10 pension if such an officer authorizes or otherwise agrees to
11 make or continue to make any required contribution for
12 the insurance provided by this subpart.

13 "CONVERSION

14 "SEC. 805. Each policy purchased under this subpart
15 shall contain a provision, in terms approved by the Admin-
16 istration, for the conversion of the group life insurance por-
17 tion of the policy to an individual policy of life insurance
18 effective the day following the date such insurance would
19 cease as provided in section 504 of this subpart. During the
20 period such insurance is in force, the insured, upon request to
21 the Administration, shall be furnished a list of life insurance
22 companies participating in the program established under
23 this subpart and upon written application (with such period)
24 to the participating company selected by the insured and
25 payment of the required premiums, the insured shall be

1 granted life insurance without a medical examination on a
2 permanent plan then currently written by such company
3 which does not provide for the payment of any sum less
4 than the face value thereof. In addition to the life insurance
5 companies participating in the program established under
6 this subpart, such list shall include additional life insurance
7 companies (not so participating) which meet qualifying
8 criteria, terms, and conditions, established by the Adminis-
9 tration and agree to sell insurance to any eligible insured in
10 accordance with the provisions of this section.

11 "WITHHOLDING OF PREMIUMS FROM PAY

12 "SEC. 806. During any period in which a public safety
13 officer is insured under a policy of insurance purchased by
14 the Administration under this subpart, his employer shall
15 withhold each pay period from his basic or other pay until
16 separation or release from full-time duty as a public safety
17 officer an amount determined by the Administration to be
18 such officer's share of the cost of his group life insurance and
19 accidental death and dismemberment insurance. Any such
20 amount not withheld from the basic or other pay of such
21 officer insured under this subpart while on full-time duty as
22 a public safety officer, if not otherwise paid, shall be deducted
23 from the proceeds of any insurance thereafter payable. The
24 initial amount determined by the Administration to be
25 charged any public safety officer for each unit of insurance

1 under this subpart may be continued from year to year,
2 except that the Administration may redetermine such
3 amount from time to time in accordance with experience.

4 "SHARING OF COST OF INSURANCE

5 "SEC. 507. For each month any public safety officer is
6 insured under this subpart, the Administration shall bear
7 not more than one-third of the cost of insurance for such
8 officer, or such lesser amount as may from time to time be
9 determined by the Administration to be a practicable and
10 equitable obligation of the United States in assisting the
11 States and units of general local government in recruiting
12 and retaining their public safety officers.

13 "INVESTMENTS AND EXPENSES

14 "SEC. 508. (a) The amounts withheld from the basic or
15 other pay of public safety officers as contributions to premi-
16 ums for insurance under section 506 of this subpart, any sums
17 contributed by the Administration under section 507 of this
18 subpart, and any sums contributed for insurance under this
19 subpart by States and units of general local government under
20 section 515 of this part, together with the income derived
21 from any dividends or premium rate readjustment from in-
22 surers, shall be deposited to the credit of a revolving fund
23 established by section 517 of this part. All premium pay-
24 ments on any insurance policy or policies purchased under
25 this subpart and the administrative costs to the Administration

1 of the insurance program established by this subpart shall
2 be paid from the revolving fund by the Administration.

3 “(b) The Administration is authorized to set aside out
4 of the revolving fund such amounts as may be required to
5 meet the administrative costs to the Administration of the
6 program and all current premium payments on any policy
7 purchased under this subpart. The Secretary of the Treasury
8 is authorized to invest in and to sell and retire special interest-
9 bearing obligations of the United States for the account of the
10 revolving fund. Such obligations issued for this purpose
11 shall have maturities fixed with due regard for the needs of
12 the fund and shall bear interest at a rate equal to the average
13 market yield (computed by the Secretary of the Treasury on
14 the basis of market quotations as of the end of the calendar
15 month next preceding the date of issue) on all marketable
16 interest-bearing obligations of the United States then forming
17 a part of the public debt which are not due or callable until
18 after the expiration of four years from the end of such cal-
19 endar month; except that where such average market yield is
20 not a multiple of one-eighth of 1 per centum, the rate of
21 interest of such obligation shall be the multiple of one-eighth
22 of 1 per centum nearest market yield. The interest on and
23 the proceeds from the sale of these obligations, and the
24 income derived from dividends or premium rate adjustments
25 from insurers, shall become a part of the revolving fund.

1 "BENEFICIARIES; PAYMENT OF INSURANCE

2 "SEC. 809. (a) Any amount of insurance in force under
3 this subpart on any public safety officer or former public
4 safety officer on the date of his death shall be paid, upon the
5 establishment of a valid claim therefor, to the person or
6 persons surviving at the date of his death, in the following
7 order of precedence:

8 "(1) to the beneficiary or beneficiaries as the public
9 safety officer or former public safety officer may have
10 designated by a writing received in his employer's office
11 prior to his death;

12 "(2) if there is no such beneficiary, to the surviving
13 spouse of such officer or former officer;

14 "(3) if none of the above, to the child or children
15 of such officer or former officer and to the descendants of
16 deceased children by representation in equal shares;

17 "(4) if none of the above, to the parent or parents
18 of such officer or former officer, in equal shares; or

19 "(5) if none of the above, to the duly appointed
20 executor or administrator of the estate of such officer or
21 former officer.

22 *Provided, however,* That if a claim has not been made by
23 a person under this section within the period set forth in sub-
24 section (b) of this section, the amount payable shall escheat

1 to the credit of the revolving fund established by section 517
2 of this part.

3 “(b) A claim for payment shall be made by a person
4 entitled under the order of precedence set forth in subsection
5 (a) of this section within two years from the date of death
6 of a public safety officer or former public safety officer.

7 “(c) The public safety officer may elect settlement of
8 insurance under this subpart either in a lump sum or in
9 thirty-six equal monthly installments. If no such election is
10 made by such officer, the beneficiary or other person en-
11 titled to payment under this section may elect settlement
12 either in a lump sum or in thirty-six equal monthly install-
13 ments. If any such officer has elected settlement in a lump
14 sum, the beneficiary or other person entitled to payment
15 under this section may elect settlement in thirty-six equal
16 monthly installments.

17 “BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

18 “SEC. 810. (a) Each policy or policies purchased
19 under this subpart shall include for the first policy year a
20 schedule of basic premium rates by age which the Admin-
21 istration shall have determined on a basis consistent with the
22 lowest schedule of basic premium rates generally charged for
23 new group life insurance policies issued to large employers,
24 taking into account expense and risk charges and other rates
25 based on the special characteristics of the group. The sched-

1 ule of basic premium rates by age shall be applied, except as
2 otherwise provided in this section, to the distribution by age
3 of the amount of group life insurance and group accidental
4 death and dismemberment insurance under the policy at its
5 date of issue to determine an average basic premium per
6 \$1,000 of insurance, taking into account all savings based on
7 the size of the group established by this subpart. Each policy
8 so purchased shall also include provisions whereby the basic
9 rates of premium determined for the first policy year shall be
10 continued for subsequent policy years, except that they may
11 be readjusted for any subsequent year, based on the experi-
12 ence under the policy, such readjustment to be made by the
13 insurance company issuing the policy on a basis determined
14 by the Administration in advance of such year to be con-
15 sistent with the general practice of life insurance companies
16 under policies of group life insurance and group accidental
17 death and dismemberment insurance issued to large
18 employers.

19 “(b) Each policy so purchased shall include a provision
20 that, in the event the Administration determines that ascer-
21 taining the actual age distribution of the amounts of group
22 life insurance in force at the date of issue of the policy or at
23 the end of the first or any subsequent year of insurance
24 thereunder would not be possible except at a disproportion-
25 ately high expense, the Administration may approve the

1 determination of a tentative average group life premium, for
2 the first of any subsequent policy year, in lieu of using the
3 actual age distribution. Such tentative average premium rate
4 may be increased by the Administration during any policy
5 year upon a showing by the insurance company issuing the
6 policy that the assumptions made in determining the ten-
7 tative average premium rate for that policy year were
8 incorrect.

9 “(c) Each policy so purchased shall contain a provision
10 stipulating the maximum expense and risk charges for the
11 first policy year, which charges shall have been determined
12 by the Administration on a basis consistent with the general
13 level of such charges made by life insurance companies under
14 policies of group life insurance and group accidental death
15 and dismemberment insurance issued to large employers, tak-
16 ing into consideration peculiar characteristics of the group.
17 Such maximum charges shall be continued from year to year,
18 except that the Administration may redetermine such maxi-
19 mum charges for any year either by agreement with the
20 insurance company or companies issuing the policy or upon
21 written notice given by the Administration to such companies
22 at least one year in advance of the beginning of the year for
23 which such redetermined maximum charges will be effective.

24 “(d) Each such policy shall provide for an accounting
25 to the Administration not later than ninety days after the

1 end of each policy year, which shall set forth, in a form
2 approved by the Administration, (1) the amounts of pre-
3 miums actually accrued under the policy from its date of
4 issue to the end of such policy year, (2) the total of all
5 mortality, dismemberment, and other claim charges incurred
6 for that period, and (3) the amounts of the insurers' ex-
7 pense and risk charge for that period. Any excess of item
8 (1) over the sum of items (2) and (3) shall be held by the
9 insurance company issuing the policy as a special contin-
10 gency reserve to be used by such insurance company for
11 charges under such policy only, such reserve to bear interest
12 at a rate to be determined in advance of each policy year by
13 the insurance company issuing the policy, which rate shall be
14 approved by the Administration as being consistent with the
15 rates generally used by such company or companies for sim-
16 ilar funds held under other group life insurance policies. If
17 and when the Administration determines that such special
18 contingency reserve has attained an amount estimated by the
19 Administration to make satisfactory provision for adverse
20 fluctuations in future charges under the policy, any further
21 excess shall be deposited to the credit of the revolving fund
22 established under this subpart. If and when such policy is
23 discontinued, and if, after all charges have been made, there
24 is any positive balance remaining in such special contingency
25 reserve, such balance shall be deposited to the credit of the

1 revolving fund, subject to the right of the insurance company
 2 issuing the policy to make such deposit in equal monthly
 3 installments over a period of not more than two years.

4 "BENEFIT CERTIFICATES

5 "SEC. 811. The Administration shall arrange to have
 6 each public safety officer insured under a policy purchased
 7 under this subpart receive a certificate setting forth the bene-
 8 fits to which such officer is entitled thereunder, to whom such
 9 benefit shall be payable, to whom claims should be submitted,
 10 and summarizing the provisions of the policy principally
 11 affecting the officer. Such certificate shall be in lieu of the
 12 certificate which the insurance company would otherwise be
 13 required to issue.

14 "Subpart 2—Assistance to States and Localities for Public
 15 Safety Officers' Group Life Insurance Programs

16 "SEC. 812. (a) Any State or unit of general local gov-
 17 ernment having an existing program of group life insurance
 18 for, or including as eligible, public safety officers during the
 19 first year after the effective date of this part, which desires to
 20 receive assistance under the provisions of this subpart shall—

21 "(1) inform the public safety officers of the benefits
 22 and allocation of premium costs under both the Federal
 23 program established by subpart 1 of this part and the
 24 existing State or unit of general local government
 25 program;

1 “(2) hold a referendum of the eligible public safety
2 officers of the State or unit of general local government
3 to determine whether such officers want to continue in
4 the existing group life insurance program or apply for
5 inclusion in the Federal program under the provisions
6 of subpart 1 of this part; and

7 “(3) recognize the results of the referendum as
8 finally binding on the State or unit of general local gov-
9 ernment for the purposes of this part.

10 “(b) Upon an affirmative vote of a majority of such
11 officers to continue in such State or unit of general local
12 government program, a State or unit of general local govern-
13 ment may apply for assistance for such program of group
14 life insurance and the Administration shall provide assistance
15 in accordance with this subpart.

16 “(c) State and unit of general local government pro-
17 grams eligible for assistance under this subpart shall receive
18 assistance on the same basis as if the officer were enrolled
19 under subpart 1 of this part, subject to proportionate reduc-
20 tion if—

21 “(1) the program offers a lesser amount of coverage
22 than is available under subpart 1 of this part, in which
23 case assistance shall be available only to the extent of
24 coverage actually afforded;

25 “(2) the program offers a greater amount of cover-

1 age than is available under subpart 1 of this part, in
2 which case assistance shall be available only for the
3 amount of coverage afforded under subpart 1 of this
4 part;

5 “(3) the cost per unit of insurance is greater than
6 for the program under subpart 1 of this part, in which
7 case assistance shall be available only at the rate per
8 unit of insurance provided under subpart 1 of this part;
9 or

10 “(4) the amount of assistance would otherwise be
11 a larger fraction of the total cost of the State or unit
12 of general local government program than is granted
13 under subpart 1 of this part, in which case assistance
14 shall not exceed the fraction of total cost available under
15 subpart 1 of this part.

16 “(d) Assistance under this subpart shall be used to
17 reduce proportionately the contributions paid by the State or
18 unit of general local government and by the appropriate pub-
19 lic safety officers to the total premium under such program:
20 *Provided, however,* That the State or unit of general local
21 government and the insured public safety officers may by
22 agreement change the contributions to premium costs paid by
23 each, but not so that such officers must pay a higher frac-
24 tion of the total premium than before the granting of assist-
25 ance.

1 "Subpart 3—General Provisions

2 "UTILIZATION OF OTHER AGENCIES

3 "SEC. §13. In administering the provisions of this part,
4 the Administration is authorized to utilize the services and
5 facilities of any agency of the Federal Government or a State
6 or unit of general local government or a company from which
7 insurance is purchased under this part, in accordance with
8 appropriate agreements, and to pay for such services either
9 in advance or by way of reimbursement, as may be agreed
10 upon.

11 "ADVISORY COUNCIL ON PUBLIC SAFETY OFFICER'S

12 GROUP LIFE INSURANCE

13 "SEC. §14. There is hereby created an Advisory Council
14 on Public Safety Officers' Group Life Insurance consisting
15 of the Attorney General as Chairman, the Secretary of the
16 Treasury, the Secretary of Health, Education, and Wel-
17 fare, and the Director of the Office of Management and
18 Budget, each of whom shall serve without additional com-
19 pensation. The Council shall meet not less than once a year,
20 at the call of the Chairman, and shall review the administra-
21 tion of this part and advise the Administration on matters
22 of policy relating to its activity thereunder. In addition, the
23 Administration may solicit advice and recommendations from
24 any State or unit of general local government participating
25 in a public safety officers' group life insurance program

1 under this part, from any insurance company underwriting
 2 programs under this part, and from public safety officers
 3 participating in group life insurance programs under this
 4 part.

5 "PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY

6 OFFICERS

7 "SEC. §15. Nothing in this part shall be construed to
 8 preclude any State or unit of general local government from
 9 making contributions on behalf of public safety officers to
 10 the premiums required to be paid by them for any group
 11 life insurance program receiving assistance under this
 12 part.

13 "WAIVER OF SOVEREIGN IMMUNITY

14 "SEC. §16. The Administration may sue or be sued on
 15 any cause of action arising under this part.

16 "PUBLIC SAFETY OFFICERS'-GROUP INSURANCE

17 REVOLVING FUND

18 "SEC. §17. There is hereby created on the books of the
 19 Treasury of the United States a fund known as the Public
 20 Safety Officers' Group Life Insurance Revolving Fund
 21 which may be utilized only for the purposes of subpart 1 of
 22 this part."

1 MISCELLANEOUS PROVISIONS

2 SEC. 3. Section 520 of the Omnibus Crime Control and
3 Safe Streets Act of 1968, as amended, is amended by adding
4 at the end thereof the following new subsection:

5 "(c) There are authorized to be appropriated in each
6 fiscal year such sums as may be necessary to carry out the
7 purposes of parts J and K."

8 SEC. 4. The authority to make payments under part J of
9 the Omnibus Crime Control and Safe Streets Act of 1968 (as
10 added by section 2 of this Act) shall be effective only to the
11 extent provided for in advance by appropriation Acts.

12 SEC. 5. If the provisions of any part of this Act are
13 found invalid, the provisions of the other parts and their
14 application to other persons or circumstances shall not be
15 affected thereby.

16 SEC. 6. Part J of this Act shall become effective and apply
17 to deaths occurring from injuries sustained on or after the
18 date of enactment. Part K of this Act shall become effective
19 on the date of its enactment.

20 TITLE II

21 REIMBURSEMENT FOR VICTIMS OF VIOLENT CRIME

22 SEC. 7. This title may be referred to as the "Victims of
23 Crime Act of 1976".

24 SEC. 8. It is the declared purpose of Congress in this
25 Act to promote the public welfare by establishing a means of

1 meeting the financial needs of the innocent victims of violent
 2 crime or their surviving dependents and intervenors acting to
 3 prevent the commission of crime or to assist in the apprehension
 4 of suspected criminals.

5 PART A - FEDERAL REIMBURSEMENT PROGRAM

6 SEC. 9. The Omnibus Crime Control and Safe Streets Act of
 7 1968, as amended, is amended by-

8 (1) redesignating section 451 through 455, respectively,
 9 as sections 421 through 425;

10 (2) redesignating section 501 through 522, respectively,
 11 as section 550 through 571;

12 (3) redesignating parts F, G, H. and I of title I, respectively,
 13 as parts I, J, K, and L of title I; and

14 (4) adding at the end of part E of title I, as amended
 15 by this Act, the following new part:

16 "PART F - REIMBURSEMENT FOR VICTIMS OF VIOLENT CRIME

17 "DEFINITIONS

18 "SEC. 405. As used in this part-

19 "(1)'Board' means the Violent Crimes Reimbursement Board
 20 established by this part;

21 "(2)'Chairman' means the Chairman of the Violent Crimes
 22 Reimbursement Board established by this part;

23 "(3)'child' includes a stepchild, an adopted child,
 24 and an illegitimate child;

25 "(4)'claim' means a written request to the Board

1 for reimbursement made by or on behalf of an inter-
2 venor, a victim, or the surviving dependent or depend-
3 ents of either of them;

4 “(5) ‘claimant’ means an intervenor, victim, or the
5 surviving dependent or dependents of either of them;

6 “(6) ‘reimbursement’ means payment by the Board
7 for net losses or pecuniary losses to or on behalf of an
8 intervenor, a victim, or the surviving dependent or
9 dependents of either of them;

10 “(7) ‘dependent’ means—

11 “(A) a surviving spouse;

12 “(B) an individual who is a dependent of the
13 deceased victim or intervenor within the meaning of
14 section 152 of the Internal Revenue Code of 1954
15 (26 U.S.C. 152) ; or

16 “(C) a posthumous child of the deceased inter-
17 venor or victim;

18 “(8) ‘gross losses’ means all damages, including
19 pain and suffering and including property losses, in-
20 curred by an intervenor or victim, or surviving depend-
21 ent or dependents of either of them, for which the proxi-
22 mate cause is an act, omission, possession enumerated
23 in section 456 of this part, or set forth in paragraph (B)
24 of subsection (18) of this section;

25 “(9) ‘guardian’ means a person who is entitled by

1 common law or legal appointment to care for and man-
2 age the person or property, or both, of a minor or in-
3 competent intervenor or victim, or surviving dependent
4 or dependents of either of them;

5 “(10) ‘intervenor’ means a person who goes to the
6 aid of another and is killed or injured while acting not
7 recklessly to prevent the commission or reasonably sus-
8 pected commission of a crime enumerated in section 456
9 of this part, or while acting not recklessly to apprehend
10 a person reasonably suspected of having committed such
11 a crime;

12 “(11) ‘member’ means a member of the Violent
13 Crimes Reimbursement Board established by this part;

14 “(12) ‘minor’ means an unmarried person who is
15 under eighteen years of age;

16 “(13) ‘net losses’ means gross losses, excluding pain
17 and suffering, that are not otherwise recovered or re-
18 coverable—

19 “(A) under insurance programs mandated by
20 law;

21 “(B) from the United States, a State, or unit
22 of general local government for a personal injury
23 or death otherwise compensable under this part;

24 “(C) under contract or insurance wherein the
25 claimant is the insured or beneficiary; or

1 “(D) by other public or private means; .

2 “(14) ‘pecuniary losses’ means net losses which
3 cover—

4 “(A) for personal injury—

5 “(1) all appropriate and reasonable ex-
6 penses necessarily incurred for medical, hos-
7 pital, surgical, professional, nursing, dental, am-
8 bulance, and prosthetic services relating to
9 physical or psychiatric care; .

10 “(2) all appropriate and reasonable ex-
11 penses necessarily incurred for physical and
12 occupational therapy and rehabilitation;

13 “(3) actual loss of past earnings and an-
14 ticipated loss of future earnings because of a
15 disability resulting from the personal injury at
16 a rate not to exceed \$150 per week; and

17 “(4) all appropriate and reasonable ex-
18 penses necessarily incurred for the care of minor
19 children enabling a victim or his or her spouse,
20 but not both of them, to continue gainful em-
21 ployment at a rate not to exceed \$30 per child
22 per week, up to a maximum of \$75 per week
23 for any number of children;

24 “(B) for death—

25 “(1) all appropriate and reasonable ex-

1 penses necessarily incurred for funeral and burial
2 expenses;

3 “(2) loss of support to a dependent or de-
4 pendents of a victim, not otherwise compensated
5 for as a pecuniary loss for personal injury, for
6 such period of time as the dependency would
7 have existed but for the death of the victim, at
8 a rate not to exceed a total of \$150 per week for
9 all dependents; and

10 “(3) all appropriate and reasonable ex-
11 penses, not otherwise compensated for as a pecu-
12 niary loss for personal injury, which are in-
13 curred for the care of minor children, enabling
14 the surviving spouse of a victim to engage in
15 gainful employment, at a rate not to exceed \$30
16 per week per child, up to a maximum of \$75
17 per week for any number of children;

18 “(15) ‘personal injury’ means actual bodily harm
19 and includes pregnancy, mental distress, and nervous
20 shock; and

21 “(16) ‘victim’ means a person who is killed or who
22 suffers personal injury where the proximate cause of
23 such death or personal injury is—

24 “(A) a crime enumerated in section 456 of this
25 part; or

7 (17) 'designated agent' means any United States
8 attorney outside the District of Columbia.

9 "BOARD

10 "SEC. 451. (a) There is hereby established a Board
11 within the Department of Justice to be known as the Violent
12 Crimes Reimbursement Board. The Board shall be composed
13 of three members, each of whom shall have been members of
14 the bar of the highest court of State for at least eight years,
15 to be appointed by the President, by and with the advice
16 and consent of the Senate. Not more than two members
17 shall be affiliated with the same political party. The Presi-
18 dent shall designate one of the members of the Board to
19 serve as Chairman.

20 “(b) No member of the Board shall engage in any other
21 business, vocation, or employment.

22 “(c) The Board shall have an official seal.

23 “(d) The term of office of each member of the Board
24 shall be eight years, except that (1) the terms of office of
25 the members first taking office shall expire as designated by

1 the President at the time of appointment, one at the end of
2 four years, one at the end of six years, and one at the end of
3 eighty years and (2) any member appointed to fill a vacancy
4 occurring prior to the expiration of the term for which his
5 predecessor was appointed shall be appointed for the re-
6 mainder of such term.

7 “(c) Each member of the Board shall be eligible for
8 reappointment.

9 “(f) Any member of the Board may be removed by
10 the President for inefficiency, neglect of duty, or malfeasance
11 in office.

12 “(g) The principal office of the Board shall be in or
13 near the District of Columbia, but the Board or any duly
14 authorized representative may exercise any or all of its pow-
15 ers in any place.

16 “ADMINISTRATION

17 “SEC. 452. The Board is authorized in carrying out its
18 functions under this part to—

19 “(1) appoint and fix the compensation of an Exec-
20 utive Director and a General Counsel and such other
21 personnel as the Board deems necessary in accordance
22 with the provisions of title 5 of the United States Code;

23 “(2) procure temporary and intermittent services
24 to the same extent as is authorized by section 3109 of

1 title 5 of the United States Code, but at rates not to
2 exceed \$100 a day for individuals;

3 “(3) promulgate such rules and regulations as may
4 be required to carry out the provisions of this part;

5 “(4) designate representatives to serve or assist on
6 such advisory committees as the Board may determine to
7 be necessary to maintain effective liaison with Federal
8 agencies and with State and local agencies developing or
9 carrying out policies or programs related to the provi-
10 sions of this part;

11 “(5) request and use the services, personnel, fa-
12 cilities, and information (including suggestions, esti-
13 mates, and statistics) of Federal agencies and those of
14 State and local public agencies and private institutions,
15 with or without reimbursement therefor;

16 “(6) enter into and perform, without regard to
17 section 529 of title 31 of the United States Code, such
18 contracts, leases, cooperative agreements, or other trans-
19 actions as may be necessary in the conduct of its func-
20 tions, with any public agency, or with any person, firm,
21 association, corporation, or educational institution, and
22 make grants to any public agency or private nonprofit
23 organization;

24 “(7) request and use such information, data, and

1 reports from any Federal agency as the Board may from
2 time to time require and as may be produced consistent
3 with other law;

4 " (8) arrange with the heads of other Federal agen-
5 cies for the performance of any of its functions under
6 this part with or without reimbursement and, with the
7 approval of the President, delegate and authorize the
8 redelegation of any of its powers under this part;

9 " (9) request each Federal agency to make its serv-
10 ices, equipment, personnel, facilities, and information
11 (including suggestions, estimates, and statistics) avail-
12 able to the greatest practicable extent to the Board
13 in the performance of its functions;

14 " (10) pay all expenses of the Board, including all
15 necessary travel and subsistence expenses of the Board
16 outside the District of Columbia incurred by the mem-
17 bers or employees of the Board under its orders on the
18 presentation of itemized vouchers therefor approved by
19 the Chairman or his designate; and

20 " (11) establish a program to assure extensive and
21 continuing publicity for the provisions relating to
22 reimbursement under this part, including information on
23 the right to file a claim, the scope of coverage, and pro-
24 cedures to be utilized incident thereto.

“REIMBURSEMENT

“SEC. 453. (a) The Board shall order the payments—

“(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

“(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

“(b) The Board shall determine the amount of reimbursement under this part—

“(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

“(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

“(c) The Board may order the payment of reimbursement under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support of payments, or ten years, whichever is less.

“(d) (1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with

1 respect to which an order of reimbursement will probably be
2 made, the Board may order emergency reimbursement not
3 to exceed \$1,500 pending final action on the claim.

4 “(2) The amount of any emergency reimbursement or-
5 dered under paragraph (1) of this subsection shall be de-
6 ducted from the amount of any final order for reimburse-
7 ment.

8 “(3) Where the amount of any emergency reimburse-
9 ment ordered under paragraph (1) of this subsection ex-
10 ceeds the amount of the final order for reimbursement, or if
11 there is no order for reimbursement made, the recipient of
12 any such emergency reimbursement shall be liable for the
13 repayment of such reimbursement. The Board may waive
14 all or part of such repayment.

15 “(e) No order for reimbursement under this part shall
16 be subject to execution or attachment.

17 “(f) The availability or payment of reimbursement
18 under this part shall not affect the right of any person to
19 recover damages from any other person by a civil action for
20 the injury or death, subject to the limitations of this
21 part—

22 “(1) in the event an intervenor, a victim, or the
23 surviving dependent or dependents of either of them
24 who has a right to file a claim under this part should
25 first recover damages from any other source based upon

1 an act, omission, or possession giving rise to a claim
2 under this part, such damages shall be first used to offset
3 gross losses that do not qualify as net or pecuniary losses;
4 and

5 “(2) in the event an intervenor, victim, or the
6 surviving dependent or dependents of either of them re-
7 ceives reimbursement under this part and subsequently
8 recovers damage from any other source based upon an
9 act, omission, or possession that gave rise to reimburse-
10 ment under this part, the Board shall be reimbursed
11 for reimbursements previously paid to the same extent
12 reimbursement would have been reduced had recovery
13 preceded reimbursement under paragraph (1) of this
14 subsection.

15 “LIMITATIONS

16 “SEC. 454. (a) No order for reimbursement under this
17 part shall be made unless the claim has been made within
18 one year after the date of the act, omission, or possession
19 resulting in the injury or death, unless the Board finds that
20 the failure to file was justified by good cause.

21 “(b) No order for reimbursement under this part shall
22 be made to or on behalf of an intervenor, victim, or the
23 surviving dependent or dependents of either of them unless
24 a minimum pecuniary or net loss of \$100 or an amount

1 equal to a week's earnings or support, whichever is less, has
2 been incurred.

3 “(c) No order for reimbursement under this part shall
4 be made unless the act, omission, or possession giving rise to
5 a claim under this part was reported to the law enforcement
6 officials within seventy-two hours after its occurrence, unless
7 the Board finds that the failure to report was justified by good
8 cause.

9 “(d) No order for reimbursement under this part to or
10 on behalf of a victim, his surviving dependent or depend-
11 ents, as the result of any one act, omission, or possession,
12 or related series of such acts, omissions, or possessions, giving
13 rise to a claim, shall be in excess of \$50,000, including lump-
14 sum and periodic payments.

15 “(e) The Board, upon finding that any claimant has
16 not substantially cooperated with it or with all law enforce-
17 ment agencies incident to the act, omission, or possession that
18 gave rise to the claim, may proportionately reduce, deny, or
19 withdraw any order for reimbursement under this part.

20 “(f) The Board, in determining whether to order
21 reimbursement or the amount of the reimbursement shall
22 consider the behavior of the claimant and whether, because
23 of provocation or otherwise, he bears any share of responsibil-
24 ity for the act, omission, or possession that gave rise to the
25 claim for reimbursement and—

1 “(1) the Board shall reduce the amount of
2 reimbursement to the claimant in accordance with its
3 assessment of the degree of such responsibility attribut-
4 able to the claimant, or

5 “(2) in the event the claimant's behavior was a
6 substantial contributing factor to the act, omission, or
7 possession giving rise to a claim under this part, he shall
8 be denied reimbursement.

9 “(g) No order for reimbursement under this part shall
10 be made to or on behalf of a person engaging in the act,
11 omission, or possession giving rise to the claim for reimburse-
12 ment to or on behalf of his accomplice, a member of the
13 family within the third degree of affinity or consanguinity
14 or household of either of them, or to or on behalf of any
15 person maintaining continuing unlawful sexual relations
16 with either of them.

17 “PROCEDURES

18 “SEC. 455. (a) The Board or its designated agent is
19 authorized to receive claims for reimbursement under this
20 part filed by an intervenor, a victim, or the surviving de-
21 pendent or dependents of either of them, or a guardian acting
22 on behalf of such a person. If received by its designated
23 agent such claims shall be transmitted forthwith to the
24 Board.

25 “(1) may subpoena and require production of docu-

1 ments in the manner of the Securities and Exchange
2 Commission as provided in subsection (c) of section
3 (18) of the Act of August 26, 1935, except that such
4 subpena shall only be issued under the signature of the
5 Chairman, and application to any court for aid in en-
6 forcing such subpena shall be made only by the Chair-
7 man, but a subpena may be served by any person desig-
8 nated by the Chairman;

9 “(2) may administer oaths, or affirmations, to wit-
10 nesses appearing before the Board, receive in evidence
11 any statement, document, information, or matter that
12 may, in the opinion of the Chairman, contribute to its
13 functions under this part, whether or not such statement,
14 document, information, or matter would be admissible in
15 a court of law, provided it is relevant and not priv-
16 ileged;

17 “(3) shall, if hearings are held, conduct such hear-
18 ings open to the public, unless in a particular case the
19 Chairman determines that the hearing, or a portion
20 thereof, should be held in private, having regard to the
21 fact that a criminal suspect may not yet have been
22 apprehended or convicted, or to the interest of the claim-
23 ant; and

24 “(4) may, at the discretion of the Chairman, ap-
25 point an impartial licensed physician to examine any

1 claimant under this part and order the payment of rea-
2 sonable fees for such examination.

3 “(c) The Board shall be an ‘agency of the United
4 States’ under subsection (1) of section 6001 of title 18 of
5 the United States Code for the purpose of granting immunity
6 to witnesses.

7 “(d) The provisions of chapter 5 of title 5 of the
8 United States Code shall not apply to adjudicatory pro-
9 cedures to be utilized before the Board.

10 “(e) (1) A claim for reimbursement under this part
11 may be acted upon by a member or designated agent ap-
12 pointed by the Chairman to act on behalf of the Board.

13 “(2) In the event the disposition by a member as
14 authorized by paragraph (1) of this subsection is unsatis-
15 factory to the claimant, the claimant upon notification to the
16 Board within thirty days of such disposition shall be entitled
17 to a de novo hearing of record on his claim by the full Board.

18 “(f) (1) Decisions of the full Board shall be in accord
19 with the will of the majority of the members and shall be
20 based upon a preponderance of the evidence.

21 “(2) All questions as to the relevancy or privileged na-
22 ture of evidence at such times as the full Board shall sit shall
23 be decided by the Chairman.

24 “(3) A claimant at such times as the full Board shall

1 sit shall have the right to produce evidence and to cross-
2 examine such witnesses as may appear.

3 “(g) (1) The Board shall publish regulations providing
4 that an attorney may, at the conclusion of proceedings under
5 this part, file with the Board an appropriate statement for a
6 fee in connection with services rendered in such proceedings.

7 “(2) After the fee statement is filed by an attorney
8 under paragraph (1) of this subsection, the Board shall
9 award a fee to such attorney on substantially similar terms
10 and conditions as is provided for the payment of representa-
11 tion under section 3006A of title 18 of the United States
12 Code.

13 “(3) Any attorney who charges or collects for services
14 rendered in connection with any proceedings under this part
15 any fee in any amount in excess of that allowed under this
16 subsection shall be fined not more than \$1,000 or imprisoned
17 not more than one year, or both.

18 “(h) The United States Court of Appeals for the Dis-
19 trict of Columbia shall have jurisdiction to review all final
20 orders of the Board. No finding of fact supported by substan-
21 tial evidence shall be set aside.

22 “CRIMES

23 “SEC. 456. (a) The Board is authorized to order reim-
24 bursement payments under this part in any case in which
25 an intervenor, victim, or the surviving dependent or de-

pendents of either of them files a claim when the act, omission,
or possession giving rise to the claim for reimbursement
occurs—

“(1) within the Federal jurisdiction of the United
States;

“(2) within the special jurisdiction of the United
States;

“(3) within the extraterritorial jurisdiction of the
United States.

“(b) This part applies to the following acts, omissions,
or possessions:

“(1) aggravated assault;

“(2) arson;

“(3) assault;

“(4) burglary;

“(5) forcible sodomy;

“(6) kidnapping;

“(7) manslaughter;

“(8) mayhem;

“(9) murder;

“(10) negligent homicide;

“(11) rape;

“(12) robbery;

“(13) riot;

“(14) unlawful sale or exchange of drugs;

1 " (15) unlawful use of explosives;

2 " (16) unlawful use of firearms;

3 “(17) any other crime, including poisoning, which
4 poses a substantial threat of personal injury; or

5 “(18) attempts to commit any of the foregoing.

6 “(c) For the purposes of this part, the operation of a
7 motor vehicle, boat, or aircraft that results in an injury or
8 death shall not constitute a crime unless the injuries were
9 intentionally inflicted through the use of such vehicle, boat,
10 or aircraft or unless such vehicle, boat, or aircraft is an
11 implement of a crime to which this part applies.

12 “(d) For the purposes of this part, a crime may be
13 considered to have been committed notwithstanding that by
14 reason of age, insanity, drunkenness, or otherwise, the per-
15 son engaging in the act, omission, or possession was legally
16 incapable of committing a crime.

17 "SUBROGATION

18 "SEC. 457. (a) Whenever an order for reimbursement
19 under this part has been made for loss resulting from an act,
20 omission, or possession of a person, the Attorney General
21 may, within three years from the date on which the order
22 for reimbursement was made, institute an action against such
23 person for the recovery of the whole or any specified part of
24 such reimbursement in the district court of the United States

1 for any judicial district in which such person resides or is
2 found. Such court shall have jurisdiction to hear, determine,
3 and render judgment in any such action. Any amounts re-
4 covered under this subsection shall be deposited in the Crim-
5 inal Victim Indemnity Fund established by section 458 of
6 this part.

7 “(b) The Board shall provide to the Attorney General
8 such information, data, and reports as the Attorney General
9 may require to prosecute actions in accordance with this
10 section.

11 “INDEMNITY FUND

12 “SEC. 458. (a) There is hereby created on the books of
13 the Treasury of the United States a fund known as the
14 Criminal Victim Indemnity Fund (hereinafter referred to as
15 the ‘Fund’). Except as otherwise specifically provided, the
16 Fund shall be the repository of (1) criminal fines paid in
17 the various courts of the United States, (2) amounts with-
18 held in accordance with the provisions of section 4129, title
19 18, of the United States Code, (3) additional amounts that
20 may be appropriated to the Fund as provided by law, and
21 (4) such other sums as may be contributed to the Fund by
22 public or private agencies, organizations, or persons.

23 “(b) The Fund shall be utilized only for the purposes
24 of this part.

1 "ADVISORY COUNCIL

2 "SEC. 459. (a) There is hereby established an Advisory
3 Council on the Victims of Crime (hereinafter referred to as
4 the 'Council') consisting of the members of the Board and
5 one representative from each of the various State crime vic-
6 tims compensation or reimbursement programs referred to
7 in paragraph (10) of subsection (b) of section 301 of this
8 title, each of whom shall serve without additional com-
9 pensation.

10 "(b) The Chairman of the Board shall also serve as
11 the Chairman of the Council.

12 "(c) The Council shall meet not less than once a year,
13 or more frequently at the call of the Chairman, and shall
14 review the administration of this part and programs under
15 paragraph (10) of subsection (b) of section 301 of this title
16 and advise the Administration on matters of policy relating
17 to their activities thereunder.

18 "(d) The Council is authorized to appoint an advisory
19 committee to carry out the provisions of this section.

20 "(e) Each member of the advisory committee, other
21 than a member of the Board, appointed pursuant to sub-
22 section (d) of this section shall receive \$100 a day, includ-
23 ing traveltime, for each day he is engaged in the actual
24 performance of his duties as a member of the committee.

1 Each member of the Council or advisory committee shall
2 also be reimbursed for travel, subsistence, and other neces-
3 sary expenses incurred in the performance of his duties.

4 "REPORTS

5 "SEC. 460. The Board shall transmit to the Congress an
6 annual report of its activities under this part. In its third
7 annual report, the Board upon investigation and study
8 shall include its findings and recommendations with respect
9 to the operation of the overall limit on reimbursement under
10 section 454 (d) of part F of this title and with respect to the
11 adequacy of State programs receiving assistance under sec-
12 tion 301 (b) (10) of this Act."

13 COMPENSATION OF BOARD MEMBERS

14 SEC. 103. (a) Section 5314 of title 5 of the United
15 States Code is amended by adding at the end thereof the
16 following new paragraph:

17 "(60) Chairman, Violent Crimes Reimbursement
18 Board."

19 (b) Section 5315 of title 5 of the United States Code is
20 amended by adding at the end thereof the following new
21 paragraph:

22 "(98) Members, Violent Crimes Reimbursement
23 Board (2)."

1 CRIMINAL VICTIM INDEMNITY FUND FINES

2 SEC. 104. (a) Chapter 227 of title 18 of the United
3 States Code is amended by adding at the end thereof the
4 following new section:

5 **"§ 3579. Fine imposed for Criminal Victim Indemnity**
6 **Fund**

7 "In any court of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, a territory or
9 possession of the United States, upon conviction of a person
10 of an offense resulting in personal injury, property loss, or
11 death, the court shall take into consideration the financial
12 condition of such person, and may, in addition to any other
13 penalty, order such person to pay a fine in an amount of not
14 more than \$10,000 and such fine be deposited into the
15 Criminal Victim Indemnity Fund of the United States."

16 (b) The analysis of chapter 227 of title 18 of the United
17 States Code is amended by adding at the end thereof the
18 following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund."

19 SEC. 104A. (a) Chapter 307 of title 18, of the United
20 States Code, is amended by adding at the end thereof the
21 following new section:

22 **"§ 4129. Criminal Victim Indemnity Fund, contributions**

23 "The Federal Prison Industries is authorized to with-
24 hold from the wages of any offender employed in such

1 Industries, an amount not to exceed 10 per centum of such
 2 wages. The amounts withheld under this section shall be de-
 3 posited in the Criminal Victim Indemnity Fund established
 4 by section 458 of the Omnibus Crime Control and Safe
 5 Streets Act of 1968."

6 (b) The table of contents of chapter 307 of title 18, of
 7 the United States Code, is amended by adding at the end
 8 thereof the following new item:

"4129. Criminal Victim Indemnity Fund, contributions."

9 PART B—FEDERAL GRANT PROGRAM

10 SEC. 105. Subsection (b) of section 301 of part C of
 11 title I of the Omnibus Crime Control and Safe Streets Act of
 12 1968, is amended by adding at the end thereof the following
 13 new paragraph:

14 "(10) The cost of administration and that portion of
 15 the costs of State programs, other than in the District of
 16 Columbia, to reimburse victims of violent crime which are
 17 substantially comparable in coverage and limitations to part
 18 F of this title."

19 SEC. 106. Paragraph (a) of section 601 of part ~~G~~
 20 (redesignated part K by this Act) of title I of the Omnibus
 21 Crime Control and Safe Streets Act of 1968 is amended by
 22 striking "and" the second time it appears, striking "or" the
 23 sixth time it appears, striking the period, and inserting the

1 following: “, or programs for the reimbursement of victims
2 of violent crimes.”

3 SEC. 107. Section 501 of part F (redesignated as part I
4 by this Act) of the Omnibus Crime Control and Safe Streets
5 Act of 1968, as amended, is amended by inserting “(a)”
6 immediately after “501” and adding at the end thereof the
7 following new subsection:

8 “(b) In addition to the rules, regulations, and procedures
9 under subsection (a) of this section, the Administration shall,
10 after consultation with the Violent Crimes Reimbursement
11 Board, establish by rule or regulation criteria to be applied
12 under paragraph (10) of subsection (b) of section 301 of
13 this title. In addition to other matters, such criteria shall
14 include standards for—

15 “(1) the persons who shall be eligible for reimburse-
16 ment;

17 “(2) the categories of crimes for which reimburse-
18 ment may be ordered;

19 “(3) the losses for which reimbursement may be
20 ordered; and

21 “(4) such other terms and conditions for the pay-
22 ment of such reimbursement as the Board deems neces-
23 sary and appropriate.”

24 SEC. 108. Section 301 of the Omnibus Crime Control and

1 Safe Streets Act of 1968 is amended by adding at the end
2 thereof the following new subsection:

3 “(c) Notwithstanding any other provision of law, no
4 grant may be made under the provisions of subsection (a)
5 (10) of this section after June 30, 1975, to any State, unless
6 the Attorney General has determined that such State has
7 enacted legislation of general applicability within such State
8 establishing a fund similar to the Criminal Victim Indemnity
9 Fund established under section 458 of this Act.”.

10 PART C—MISCELLANEOUS PROVISIONS

11 SEC. 109. Section 569 of the Omnibus Crime Control
12 and Safe Streets Act of 1968, as amended and as redesign-
13 nated by this Act, is amended by inserting “(a)” imme-
14 diately after “569” and by adding at the end thereof the
15 following new subsection:

16 “(b) There is authorized to be appropriated for the
17 fiscal year ending June 30, 1975, \$1,000,000 for the pur-
18 poses of part F.”.

19 SEC. 110. Until specific appropriations are made for car-
20 rying out the purposes of this Act, any appropriation made
21 to the Department of Justice or the Law Enforcement Assist-
22 ance Administration shall, in the discretion of the Attorney
23 General, be available for payments of obligations arising
24 under this Act.

1 SEC. 111. If the provisions of any part of this Act are
2 found invalid or any amendments made thereby or the ap-
3 plication thereof to any persons or circumstances be held in-
4 valid, the provisions of the other parts and their application
5 to other persons or circumstances shall not be affected
6 thereby.

7 SEC. 112. This Act shall become effective upon the date
8 of enactment.

PASSED THE SENATE: July 19, 1976

CONFERENCE REPORT (H. REPT. 94-1501) ON

H.R. 366

SEPTEMBER 10, 1976

PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976

SEPTEMBER 10, 1976.—Ordered to be printed

Mr. EILBERG, from the committee of conference, submitted
the following

CONFERENCE REPORT

[To accompany H.R. 366]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of \$50,000 as follows.

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"Sec. 702. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

"Sec. 703. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(A) eighteen years of age or under;

"(B) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

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

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"SEC. 704. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration".

MISCELLANEOUS PROVISIONS

SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J."

SEC. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Sec. 6. The amendments made by this Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

PETER W. RODINO.

JOSHUA EILBERG.

PAUL S. SARBANES.

JOHN F. SEIBERLING.

TOM RAILSBACK.

HAMILTON FISH, JR.

Managers on the Part of the House.

JOHN L. MCCLELLAN.

PHILIP A. HART.

EDWARD M. KENNEDY.

ROMAN L. HRUSKA.

STROM THURMOND.

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

OCCUPATIONAL COVERAGE

The House bill provided a \$50,000 death benefit to the survivors of law enforcement officers who die in the performance of duty.

The Senate amendment provided a \$50,000 death benefit to the survivors of both law enforcement officers and firemen who die in the line of duty.

The Conference substitute conforms to the Senate amendment.

The Managers believe that coverage should be provided to both categories of public safety officers (law enforcement officers and firemen); and it is noted that the House approved separate legislation (H.R. 365) which would have provided a similar benefit to firemen.

SCOPE OF COVERAGE

The House bill authorized payment if the public safety officer's death was the result of a personal injury sustained in the line of certain hazardous duties which are specified in the bill. Such duties included: apprehending or guarding criminals; preventing crime; and other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous. The parallel House bill for firemen (H.R. 365) authorized payment whenever a fireman sustained fatal injuries while actually and directly engaged in fighting fires or in other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous.

The Senate amendment authorized payment of the death benefit to the survivors of law enforcement officers and firemen for all line of duty deaths.

(5)

The Conference substitute conforms to the Senate amendment.

The Managers believe that "line of duty" is a well established concept and that it is appropriate to extend coverage to all acts performed by the public safety officer in the discharge of those duties which are required of him in his capacity as a law enforcement officer or as a fireman.

DEFINITION OF "LAW ENFORCEMENT OFFICER"

The House bill defined "law enforcement officer" to specifically include police, corrections, probation, and parole officers as well as officials engaged in programs relating to the prevention, control, and reduction of juvenile delinquency or narcotics addiction.

The Senate amendment defined "law enforcement officer" to specifically include police, corrections, probation, parole, and judicial officers.

The Conference substitute is a combination of both the House and Senate definitions. It defines "law enforcement officer" to mean "a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers."

The Managers have not expressly included officials engaged in programs relating to narcotics addiction. It is, however, the intent of the Managers that the definition of "law enforcement officer" be construed to cover such individuals if they are exposed, on a regular basis, to criminal offenders such as those responsible for screening arrestees or prisoners for possible diversion into drug treatment programs.

DEPENDENCY TEST

The House bill required survivors of the public safety officer (other than children who are a defined category) to be dependent for more than one half of their support on the public safety officer in order to be eligible for the death benefit.

The Senate amendment provided that only a parent must be dependent on the public safety officer in order to be eligible for the death benefit, and "dependent" is defined as being "substantially reliant for support upon the income of the deceased public safety officer".

The Conference substitute conforms to the Senate amendment. It was felt that the Senate provision was more flexible than that contained in the House bill, and the Managers agreed that the language contained in the Conference substitute should be liberally interpreted.

EFFECTIVE DATE FOR DEATH BENEFITS

The House bill provided that death benefits shall apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury sustained on or after October 11, 1972.

The Senate amendment provided that the bill would become effective for deaths resulting from injuries sustained on or after the date of enactment of the bill.

The Conference substitute conforms to the Senate amendment.

GROUP LIFE INSURANCE PROGRAM

The Senate amendment contained provisions establishing a Group Life Insurance Program for public safety officers.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment.

VICTIMS OF CRIME

The Senate amendment contained provisions authorizing Federal funds to compensate the victims of crime.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment, and the Managers agreed that this subject should be handled through separate legislation.

PETER W. RODINO.

JOSHUA EILBERG.

PAUL S. SARBANES.

JOHN F. SEIBERLING.

TOM RAILSBACK.

HAMILTON FISH, Jr.

Managers on the Part of the House.

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ROMAN L. HRUSKA.

STROM THURMOND.

Managers on the Part of the Senate.

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HOUSE DEBATE AND PASSAGE OF THE

CONFERENCE REPORT

SEPTEMBER 15, 1976



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House of Representatives

Public Safety Officers: By a yea-and-nay vote of 290 yeas to 71 nays, the House agreed to the conference report on H.R. 366, Public Safety Officers' Benefits Act of 1976—clearing the measure for Senate action.

Pages H10133–H10138

port was filed resolving the differences between House and Senate versions, but the adjournment of that Congress prevented House consideration of the conference report.

In the 93d Congress, after House and Senate approval of this legislation, an impasse was reached and a conference meeting was not even held. The critical issue that could not be resolved last Congress related to the scope of coverage to be provided by this legislation. I am gratified that this was not a problem for the conferees this Congress and I am particularly pleased by the provisions contained in the conference report which we present to the House today.

In particular, the primary obstacle in earlier Congresses was the more restrictive coverage provided to public safety officers by the Senate bills. The Senate, until this year, continuously insisted on restricting coverage to those deaths which were the result of a criminal act or an apparent criminal act.

The House bills, on the other hand, in all three Congresses provided for a more expansive coverage which would include most "line of duty" deaths, such as those which occur while apprehending criminal suspects.

This year the Senate agreed as to the need for broader coverage and approved a floor amendment to the House-passed bill (H.R. 366) removing the criminal act restriction.

The conference agreement conforms with the Senate provision and authorizes payment of a \$50,000 death benefit to the survivors of public safety officers who die in the line of duty.

The managers felt that all acts which are performed by public safety officers to protect the lives and property of our citizenry should be within the scope of this legislation. The managers on both sides further believed that the concept of line of duty is well defined and that this type of coverage would greatly facilitate the administration of this act of LEAA.

With regard to occupational coverage, the conference agreement authorizes payment of the death benefit to the survivors of both law enforcement officers and firemen. My colleagues will recall that, in an effort to expedite consideration of this legislation, your Judiciary Committee processed separate bills on this subject—H.R. 365 for firemen and H.R. 366 for law enforcement officers.

The Senate provided coverage to both categories of public safety officers in its substitute amendment to H.R. 366, and this combined coverage was retained by the conference committee.

One additional matter that should be discussed is the effective date for the death benefits authorized by the legislation.

Under the provisions of the House bill, benefits were authorized for deaths occurring from injuries sustained on or after October 11, 1972.

The Senate version, on the other hand, was prospective in nature.

The conference agreement conforms to the Senate amendment and the retroactive provision is not included in the conference report.

We had been led to believe that a

Presidential veto was very likely if the retroactive provision was retained by the conferees, and it was the judgment of the managers on the part of the House that this provision had to be sacrificed in order to avoid such a possibility.

Personally, I had great difficulty in compromising the House position on retroactivity. My colleagues may remember that I successfully resisted attempts to eliminate the retroactive provision from the bill on the floor of the House on two occasions.

Nevertheless, in order to reach a conference agreement and to insure approval of this urgently needed legislation, it was necessary to agree to prospective coverage.

Finally, the conferees considered two provisions in the Senate substitute amendment which were not in the House bill. One provision would have established a group life insurance program for public safety officers, while the other would have authorized Federal funds to compensate the victims of violent crime.

The Senate conferees agreed to drop both of these provisions from the conference report.

Mr. Speaker, the managers for the House and Senate and the members of their respective legislative committees have worked long and hard to produce this legislation and I strongly urge my colleagues to approve this conference report.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just like to express my support for the gentleman's statement. I am delighted to be a party to the conference committee. I urge every Member to support the bill.

Mr. EILBERG. Mr. Speaker, I thank the gentleman.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from New York (Mr. Biaggi).

(Mr. BIAGGI asked and was given permission to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I rise in support of the conference report. I commend the gentleman from Pennsylvania (Mr. EILBERG) for the excellent work he has done over an extended period of time, and I also commend the gentleman from New York (Mr. Fish) for the work he has done.

Mr. Speaker, this is indeed a proud moment for this Congress. We are about to complete action on a piece of legislation with profound importance for the law enforcement and firefighting communities, namely the bill which will provide a \$50,000 lump sum death benefit payment for the surviving dependents of those men killed in the line of duty. Adoption of this conference report will culminate several years of intense efforts on my part and on the parts of my distinguished colleagues, Mr. EILBERG and Mr. RODINO.

I am generally pleased with this report, particularly for its acceptance of

CONFERENCE REPORT ON H.R. 366, PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976

Mr. EILBERG. Mr. Speaker, I call up the conference report on the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement see Proceeding of the House of September 10, 1976.)

Mr. EILBERG (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

(Mr. EILBERG asked and was given permission to revise and extend his remarks.)

Mr. EILBERG. Mr. Speaker, the Public Safety Benefits Act has had a long and sometimes confusing legislative history.

Despite the fact that various versions of this legislation have overwhelmingly passed both bodies in the 92d and 93d Congresses, we were not able to secure final approval of this legislation during those Congresses.

In the 92d Congress a conference re-

the House passed version which maintains the language allowing for the death benefit payment to be provided to those law enforcement personnel and firefighters who die as a direct and proximate result of injuries sustained in the line of duty. The Senate passed version sought to limit coverage to those instances where a criminal act is involved. This arbitrary restriction would have severely limited the ability of widows and survivors to obtain these benefits.

Despite my own personal objections to the deletion of the retroactive date contained in the House-passed version, I feel we are achieving the greater good in that we are enhancing the bill's prospects of being signed by the President and enacted into law. The members of our law enforcement and firefighting communities have waited patiently for final action to be completed on this legislation. While waiting, they have seen a sharp increase in the number of their colleagues killed in the line of duty. They have heard promises about this legislation. Our passage of this conference report today can transform these promises into reality.

As I speak in support of this conference report, I recall vividly my own 23 years as a member of the New York City Police Force. I remember the many funerals I have attended of friends and colleagues in the department who were killed in the line of duty. The imprint of the expressions on the faces of grief-stricken widows and survivors of these men is deeply ingrained in my memory. Oftentimes their sorrow was compounded by a genuine fear for their future economic survival. I recall the public officials and community leaders in attendance at these funerals who responded to the situation with crocodile tears and nothing more. We, as Members of Congress, have an opportunity to demonstrate our support for the work of the law-enforcement and fire-fighting communities by passing this legislation which will guarantee that their survivors will not have to suffer the indignity of poverty if they should be killed.

I am also pleased that the conference report extends eligibility to the following members of the law enforcement community—police, correction, probation, parole, and court officers as well as officers related to juvenile delinquency programs. It is also my understanding that the members of auxiliary police forces will be included. The members of auxiliary police forces also face danger daily in their work providing assistance to the regular law enforcement departments. Just last September, one of the 5,000 members of the New York City Auxiliary Police Force was brutally murdered in Central Park. Coverage for these individuals will be an important recognition of the invaluable services they provide to communities.

Since the time I entered Congress in 1968, I have fought for the passage of this kind of legislation. In the past 15 years, this Nation has witnessed a 300-percent increase in the number of law enforcement officers killed in the line of duty. The number of firefighters killed in the line of duty has also increased. To say the jobs of these men are hazardous

is almost a cruel understatement. To fail to provide for their widows and survivors would be an even crueler neglect.

As a former law enforcement officer and as a Member of this Congress, I am very proud today. We are one step closer to enacting this important bill into law. Let us demonstrate to the law enforcement and firefighting communities that we are in full support of their efforts and will not be party to the abandonment of their survivors in the event they are killed.

It would certainly be nice to think that the situation in our Nation will improve sufficiently to eliminate the threat on the lives of law enforcement personnel and firefighters. This unfortunately is only hopeful thinking. We must be realistic and deal with the situation as it is. I strongly urge adoption of this conference report this afternoon.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Georgia (Mr. BRINKLEY).

(Mr. BRINKLEY asked and was given permission to revise and extend his remarks.)

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding.

I, too, rise to compliment the gentleman from Pennsylvania (Mr. EILBERG) for the very able conference report that has been presented to us. I, too, disagree with the effective date for death benefits, but I strongly applaud the thrust of this legislation in order to include both firemen and law enforcement officers.

Mr. Speaker, while I very strongly object to the effective date for death benefits, I strongly applaud the thrust and coverage of this legislation to include firemen and law enforcement officers.

The House bill provided that death benefits of \$50,000 shall apply with respect to any eligible public safety officer who dies as a direct or proximate result of a personal injury sustained on or after October 11, 1972.

The Senate amendment provided the bill would become effective for deaths resulting from injuries sustained on or after the date of enactment of the bill.

The conference substitute conforms to the Senate amendment.

This action will be a tough financial blow to recent victims and their families, in addition to their irreplaceable loss of their loved one. What will their solace be? The threat of a Presidential veto was wrong and ill-advised.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I am pleased to join with my colleague from Pennsylvania (Mr. EILBERG), in support of the conference report on H.R. 366. As you will recall, this House passed separate bills in April of this year providing for a \$50,000 death benefit for survivors of policemen and firemen killed as a result of their hazardous duties. This House has passed similar legislation in the two previous Congresses, however, we were never successful in obtaining final pas-

sage by both Houses and thus enact this concept into law.

During this Congress, both the House and Senate passed its own version of such bills and after working out the differences between the approaches taken by each House, we are submitting a conference report which, I believe, to be the best possible resolution of this matter.

The text of the bill which your managers are reporting today, in fact combines two bills which this House originally passed. Thus, the conference report is in agreement with the substance, if not the form of previous House action, with respect to the occupations covered, that of law enforcement officers and firemen. The scope of coverage is slightly liberalized to cover deaths which occur in the line of duty, rather than the more restrictive "hazardous duty" concept which was contained in the House bills. There are also two relatively minor changes in the original House bills in the definition of law enforcement officers and in the application of dependency tests for those eligible to receive benefits. Your conferees accepted the Senate provision providing for benefits only prospectively from the date of enactment, rather than retroactively as contained in the House bills.

I believe that the text agreed to by your conferees fairly reflects the collective will of the Congress. It will provide benefits to the survivors of those special members of our society who daily risk their lives to protect the lives and property of others—a concept which our committee has worked on for over 5 years. It should be enacted into law, and I urge my colleagues' favorable vote to accept this conference report.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from New York (Mr. GILMAN), who, over the last two Congresses, during the time this bill has been before us, has been one of the forces in favor of this legislation and who has worked very hard toward this end.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I thank the gentleman from New York.

Mr. Speaker, this is an extremely important measure for our public safety officers and for our firemen. For two sessions, in both the 93d and 94th Congress, we have labored long and hard to have this measure brought before the House and the Senate and approved by both Houses.

I wish to commend the gentleman from Pennsylvania (Mr. EILBERG) and the gentleman from New York (Mr. FISH) who have worked so diligently on this legislation so that this conference report could come before us for consideration at this time.

The conference report accompanying H.R. 366, the Public Safety Officers Act of 1976, a report that combines the best features of H.R. 366, the Public Safety Officer's Benefits Act of 1976, and H.R. 365, the Firefighters Benefits Act—measures that overwhelmingly passed the House on March 30—provide a sig-

nificant benefit for the families of police and firemen killed in the line of duty.

Since 1961, more than 1,200 public safety officers have died in the line of duty and that statistic does not include those officers who were seriously injured in the performance of their duty. A similar grim roll of our firefighters discloses that since 1963, 985 courageous professional firefighters have succumbed to the flames of smoke-filled buildings.

Mr. Speaker, these grim figures and tragic events speak for themselves. They represent the courage and dedication of brave men who daily put their very lives on the line to protect the communities of our Nation. This legislation is not any giveaway program. No one wants to collect a survivors death benefit, but for the surviving dependents, particularly in those communities where such benefits are inadequate or nonexistent, this \$50,000 death benefit will be of some comfort.

Mr. Speaker, for the first time in many years, this Congress has an opportunity to provide meaningful assistance to the survivors of policemen and firemen. Let us not turn our backs on these brave men and women who so tirelessly and unselfishly dedicate their lives in the protection of the safety of our communities.

My one reservation is that it is unfortunate that we are not able to make this measure retroactive as we sought to do earlier in this body. Just this past week, for example, a courageous New York City police officer, Brian Murray, met with his death while trying to disassemble a bomb that was connected with an act of terrorism involved in the hijacking of a TWA airplane by the Croatian nationalists.

I urge my colleagues to join in support of this important measure so that we can provide for the families of our public safety officers who give so much in protecting all of us and our families.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I, too, regret very much that this legislation is not being made retroactive. This feature of the conference report is not to my satisfaction or to the satisfaction of other Members from other districts, because since the time this legislation was first reported out of the Committee on the Judiciary, officers have been killed and their families placed on the public charge because of the absence of such legislation.

However, in view of the long and difficult effort that it took to get this legislation to this stage, I think we must settle for the substance and the prospective value of the bill and yield to the difficulties of getting it made retroactive.

Mr. Speaker, I, therefore, strongly support the conference report.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his pertinent remarks.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WIGGINS).

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Speaker, the con-

ference report before us returns an old friend to us for our consideration. This legislation has been kicked around for at least 6 or 7 years. Let me tell the Members the reason why we have not reached this point heretofore. The reason is because it embodies a singularly bad idea.

This bill has been characterized by Members on both sides of the aisle in the harshest of terms. I want the Members to know that we have perhaps had our day in court; we have had a vote and lost. But, once again, this calls upon us, I think, to exercise some responsibility.

We are giving away \$50,000 not to the police officer—he has to die before the money is paid—but, rather, to his survivors, persons for whom the Federal Government has no responsibility. These are State and local police officers.

The precedent that is established here is a bad one. This is nothing short of and nothing less than a simple giveaway, and it has been characterized by Members on both sides of the aisle as irresponsible legislation.

Mr. Speaker, I do not approve of all that transpires in this Chamber, but this bill is one that is singularly bad. I urge a no vote, and I fervently hope that the President vetoes it.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I want to commend the gentleman in the well for the statement that he has just made. As the gentleman stated, we are asking the Federal Government to borrow money which we do not have to assume the responsibilities of local units of government and State governments.

It is the responsibility of State governments, it is the responsibility of local governments to enforce the overwhelming body of criminal laws in this country.

I fear that this is one of many steps toward the establishment eventually of a national police force, which I do not want to see established in this country.

If we start paying the bills, we are going to start being responsible for the police forces.

Mr. Speaker, I commend the gentleman.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, the beneficiaries of this bill are worthy. The principle is bad. The precedent is even worse.

I commend the gentleman from California (Mr. WIGGINS) for the stand he has taken and join him in asking the Members to turn down this conference report.

Mr. WIGGINS. Mr. Speaker, having spoken harshly about the bill, I want finally to compliment our subcommittee chairman for his successful effort finally, and also for his effort in cutting away two abominable provisions which the Senate sought to attach to an already burdened piece of legislation.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman for yielding.

I take this time only to pose a question to the gentleman in the well or to the chairman of the subcommittee.

That question is this: Am I correct that the benefit payable under this legislation would be payable even though the death occurred as a result of the gross negligence of the individual involved?

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, that is absolutely incorrect. If the individual involved is grossly negligent and that is the cause of his death, there would be no benefits that would flow to his next of kin.

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield further, section 702 says as follows:

No benefit shall be paid under this part—

(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

Are those not the only disqualifying factors?

Mr. SARBANES. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Maryland.

Mr. SARBANES. Mr. Speaker, before any payment can be considered, the person has to come within the limitation of having acted within the line of duty.

A person grossly negligent in exercising his responsibility would fall outside of the umbrella of the act since his action was not within the line of duty, and therefore his next of kin would not be paid.

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield further, is the gentleman telling me that if the person is within the geographic area of his employment, if he is working or acting during the hours of his employment, and he does things, even though negligently, within the scope of his employment, that he is not acting in the line of duty?

Mr. SARBANES. I think the phrase "line of duty" is a work of art. It is not defined precisely as the gentleman is defining it.

However, that is correct. That is what I am saying to the gentleman from Michigan (Mr. Brown).

Mr. BROWN of Michigan. To establish the legislative history, is the gentleman saying, then, that negligent conduct in the line of duty precludes benefits? Is that right?

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, the term "line of duty" I think is fully defined in the report, and I will read it at this point, for the purposes of legislative history.

The term "line of duty," as used in this bill—

Referring to the Senate bill—means that the officer's death must have occurred when the officer is performing duties authorized or required by law, acting in his

official capacity as a law enforcement officer or fireman.

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield further, it says nothing about whether or not his death resulted because of his own negligence.

Mr. EILBERG. As the gentleman from Maryland (Mr. SARBANES) said, there would be no coverage in that case.

Mr. WIGGINS. Mr. Speaker, I think the legislative history is now clear.

Mr. BROWN of Michigan. That may be so, but I think the language of the report should be in the law and whether in the report or in the law, I respectfully suggest it does not dispose of my questions in view of the response I have received.

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

(Mr. EILBERG asked and was given permission to revise and extend his remarks.)

Mr. EILBERG. Mr. Speaker, I want to thank the gentleman from California (Mr. WIGGINS) who just spoke in the well.

He has been a very vigorous opponent of this legislation from the outset, and he has fought a very clean fight. He is a worthy opponent.

However, I would like to respond very briefly to some of his comments by saying that this is, in fact, good legislation. It affects the morale of public safety officers presently employed to know that provisions have been made for their families in the event of death in the line of duty.

Experts who testified in hearings before us indicated that this legislation would aid in the recruitment of officers.

I would like to say there is, indeed, a responsibility on the part of the Federal Government because the States have been unable or unwilling to assume the responsibility. We are dealing with the subject of crime which has been recognized as a national condition. Finally, the cost involved is relatively small and the benefits are huge.

I strongly urge that every Member vote in favor of the conference report.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

(Mr. ASHBROOK asked and was given permission to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I had not intended to speak on this subject until I heard some of the comments that have been made against this particular measure.

Mr. Speaker, I have been known to vote against one or two of the bills that have meandered around this Chamber but I do not believe that this is one that I should vote against. I think it is a question of value and what we can expect of law enforcement. I would submit that LEAA ought to be known as the Law Enforcement Electronic Administration Act. We have given policemen all over the country two-way, four-way, and six-way radios. We have made sleuths out of them with electronics wonders. We

have provided them with television cameras so that they could scan drunks and tape their antics. We have given them every possible thing that they could need. But this is the first time we have ever had a proposal to spend even a small amount to aid their families when an officer is killed. I believe it is all a question of value and a question of comparison. I see no reason why the Federal Government should not give some help to the bereaved family of an officer if we can spend all of the money we have on the LEAA.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. SARBANES).

(Mr. SARBANES asked and was given permission to revise and extend his remarks.)

Mr. SARBANES. Mr. Speaker, I rise in strong support of the conference report. I want to compliment the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EILBERG), as well as the ranking minority member, the gentleman from New York (Mr. FISH), for their extraordinary efforts with respect to this legislation.

As has been pointed out, this measure has indeed been carried around the legislative halls for a number of years and I am pleased that that has come to an end today and that we are about to approve an extremely important and valuable bill on the floor of this House.

This legislation is long overdue. Mr. Speaker, for the benefit of those policemen, law enforcement officers and firemen who daily risk their lives. Any look at the statistical tables will clearly show us that they are engaged in the most dangerous occupation in the country.

It is all well and good to say that these benefits ought to be provided by other levels of government. The fact of the matter is that they have not been so provided. So that the beneficiaries of this legislation who have been termed, even by its opponents, as being worthy, ought not be left without any recompense for the loss of the wage earner in the family. This legislation provides benefits for the families of those people who daily assume the risks of protecting us. I am pleased that the conference report is now before us. I look forward to its enactment into law so that it can provide compensation to those families of the men and women who have served without such benefits for too long a time.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I wonder if I can have the attention of my good colleague, the gentleman from Maryland (Mr. SARBANES).

Would the gentleman from Maryland also now suggest that, in the name of equity, we ought to provide \$50,000 life insurance protection for each person in the military?

Mr. SARBANES. Mr. Speaker, if the gentleman will yield, I think that all of them are covered by very good insurance programs.

Mr. ROUSSELOT. Not to the tune of \$50,000.

Mr. SARBANES. They are covered by the Federal Government on insurance.

Mr. ROUSSELOT. I repeat, not to the tune of \$50,000.

Mr. SARBANES. If the gentleman from California is suggesting that the coverage provided for them in view of the risk involved is inadequate, I will be willing to take a look at it, as to whether we should institute another program in its place so as to cover that problem.

In this instance we will be making payments to the beneficiaries of these officers, something which has not existed with respect to policemen, law enforcement officers, and firefighters who are people who run far greater risks in terms of loss of life than is the case of the other group.

Mr. ROUSSELOT. I understand the present benefits that are provided for the military and I support that program. Does the gentleman now wish to say that we should also do the same in the name of equity for the military that is a minimum amount of \$50,000?

Mr. SARBANES. This gentleman has not had the opportunity to examine fully the benefits that flow to the military. If the gentleman from California is suggesting that that should be done, perhaps it should be done. The bill that is before us deals with law enforcement officers and firefighters. The case that was made on their behalf before the subcommittee and in the full committee was fully documented and I think is an extremely strong case; therefore, I support the legislation. I have not had the opportunity to hear the same testimony with respect to the military, although I do know that there is a benefit arrangement already in place with respect to the military which contrasts sharply with this situation in which there is no benefit arrangement in place.

Mr. ROUSSELOT. I understand the benefits that are now in place for the military. That is not my point.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FISH. I yield the gentleman from California 1 additional minute.

The SPEAKER pro tempore. The gentleman is recognized for 1 additional minute.

Mr. ROUSSELOT. I understand the benefits that we have voted for our military personnel. I have supported those programs. My point was that in the name of equity is the gentleman prepared to move the dollar amount of life insurance for the military to \$50,000? What about other Federal employees who are engaged in hazardous occupations? Does this legislation selectively provide for one group and avoid many others who are deserving?

Mr. EILBERG. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. I thank the gentleman for yielding.

For the purpose of the record, benefits received by the military presently include a gratuity equal to 6 months' pay, which may range from \$800 to \$3,000; insurance in one of the following amounts: \$5,000,

\$10,000, or \$15,000; Veterans' Administration payments to survivors of between \$184 and \$460 a month, post exchange, commissary, and medical facilities for the remainder of life for the widow and the survivors of the veteran involved.

I might say finally that if these benefits are not considered adequate, certainly I and, I am sure, other members of the subcommittee would be prepared to review the need and be prepared to support legislation before the committee of jurisdiction and on the floor.

Mr. RAILSBACK. Mr. Speaker, I am happy to concur with my colleague from New York (Mr. FISH) and the other managers of the part of this House in support of the conference report on H.R. 366 to establish a \$50,000 death benefit to the survivors of police and firemen killed in the line of duty.

In each of the past two Congresses, I have been pleased to introduce similar legislation to provide some security for the survivors of our police and firemen who daily risk their lives to protect us and our property. Few of them have adequate resources available to provide their loved ones with appropriate insurance or other survivors' benefits should anything happen to them. Many public safety officers who are killed in the line of duty are young with small children. Often, they have not served long enough for their pension rights to vest. It is therefore, most appropriate, that we provide this benefit for their survivors which will, in some way, repay for the sacrifices made by these brave men and women.

I am most pleased that we were able to resolve our differences with the other body and urge my colleagues to accept the conference report so this most worthy program which the Congress has considered for these many years, can become law.

Mr. MINISH. Mr. Speaker, I rise in strong support of the conference report on the Public Safety Officers' Benefits Act of 1976. As a long-time sponsor of this meritorious legislation I am pleased to see that it has come this close to final enactment. As many of my colleagues are aware, this same measure passed the House in both the 92d and the 93d Congress but never was sent to the President for signature.

The conference agreement before us now provides a \$50,000 death benefit to the survivors of public safety officers, including both law enforcement officers and firemen, who die in the line of duty. Benefits would be effective with enactment rather than retroactive to October 11, 1972 as in the House bill. The 1972 date was the time at which the House first passed this bill. I am disappointed that it was not included in the final version, but I nevertheless believe this legislation merits the support of all Members of the House.

Passage of this bill today by an overwhelming margin would serve as a partial and long overdue payment for the tremendous debt we owe policemen and firemen for the protection they so selflessly provide for all citizens. It would also emphasize the Nation's determination to support its dedicated law enforcement officials in deeds, as well as in words.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I urge an aye vote on the conference report.

Mr. EILBERG. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present; and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 290, nays 71, not voting 69, as follows:

[Roll No. 735]

YEAS—290

Abzug	Downing, Va.	Ketchum
Addabbo	Drinan	Koys
Alexander	Duncan, Tenn.	Koch
Ambro	du Pont	Krebs
Anderson,	Early	Krueger
Calif.	Eckhardt	LaFalce
Anderson, Ill.	Edgar	Lagomarsino
Andrews, N.O.	Edwards, Ala.	Latta
Andrews,	Ellberg	Leggett
N. Dak.	Emery	Lehman
Annunzio	English	Lent
Ashbrook	Evans, Ind.	Levitass
Aspin	Fary	Lloyd, Calif.
Badillo	Fascell	Lloyd, Tenn.
Bafalis	Fenwick	Long, La.
Baldus	Fish	Long, Md.
Baucus	Fisher	Lott
Bauman	Fithian	Luhan
Beard, Tenn.	Flood	Lundine
Bedell	Flowers	McCloskey
Beil	Flynt	McCormack
Bennett	Foley	McDade
Bevill	Ford, Mich.	McFall
Blaggi	Frey	McKinney
Blaster	Fuqua	Madigan
Blanchard	Gaydos	Mathis
Blouin	Gaimo	Mazzoli
Boggs	Gibbons	Meeds
Boland	Gilman	Melcher
Brademas	Ginn	Meyner
Breaux	Goldwater	Mezvinaky
Breckinridge	Gonzalez	Mills
Brinkley	Goodling	Mineta
Brodhead	Grassley	Minish
Brooks	Gude	Mink
Brown, Calif.	Guyer	Mitchell, N.Y.
Broyhill	Hall, Ill.	Moakley
Buchanan	Hamilton	Molett
Burgener	Hammer-	Mollohan
Burke, Calif.	schmidt	Montgomery
Burke, Fla.	Hanley	Moore
Burke, Mass.	Hannaford	Moorhead,
Burton, John	Harkin	Calif.
Byron	Harris	Moorhead, Pa.
Carney	Harsha	Morgan
Carr	Hayes, Ind.	Mosher
Cederberg	Hechler, W. Va.	Mottl
Chappell	Heckler, Mass.	Murphy, Ill.
Clancy	Hefner	Murphy, N.Y.
Clausen,	Hicks	Murtha
Don H.	Hightower	Myers, Ind.
Clay	Hillis	Myers, Pa.
Cochran	Holland	Natcher
Conte	Holt	Nedzi
Corman	Hubbard	Nichols
Cotter	Hungate	Nix
Coughlin	Hyde	Nowak
D'Amours	Jacobs	Oberstar
Daniel, Dan	Jeffords	Obey
Daniels, N.J.	Jenrette	O'Brien
Davis	Johnson, Calif.	O'Hara
de la Garza	Johnson, Pa.	O'Neill
Delaney	Jones, N.C.	Ottlinger
Dent	Jones, Tenn.	Patten, N.J.
Derrick	Jordan	Patterson,
Derwinski	Karth	Calif.
Devine	Kasten	Pepper
Dickinson	Kastenmeier	Perkins
Dodd	Kazen	Pettis
Downey, N.Y.	Kelly	Pickle

Pike	Schroeder
Pressler	Seiberling
Preyer	Sharp
Price	Shipley
Pritchard	Shriver
Quillen	Simon
Rallsback	Sisk
Randall	Skubitz
Rangel	Slack
Regula	Smith, Iowa
Reuss	Smith, Nebr.
Rhodes	Snyder
Richmond	Solarz
Roberts	Spellman
Rodino	Spence
Rogers	Staggers
Roncalio	Stanton
Rooney	J. William
Rose	Steed
Rosenthal	Steiger, Wis.
Rostenkowski	Stokes
Roush	Stratton
Rundels	Studds
Ruppe	Symington
Ryan	Talcott
St Germain	Thompson
Sarasin	Thone
Sarbanes	Thornton
Scheuer	Traxler

NAYS—71

Abdnor	Eshleman	Millford
Adams	Fountain	Miller, Calif.
Archer	Fraser	Miller, Ohio
Armstrong	Frenzel	Mitchell, Md.
Ashley	Gradison	Pattison, N.Y.
Bolling	Hagedorn	Paul
Bonker	Hall, Tex.	Poage
Brown, Mich.	Harrington	Quile
Brown, Ohio	Holtzman	Robinson
Burleson, Tex.	Hughes	Rousslet
Burrlson, Mo.	Ichord	Roybal
Butler	Jarman	Satterfield
Clawson, Del	Johnson, Colo.	Schulze
Cleveland	Jones, Okla.	Sebelius
Cohen	Kindness	Shuster
Collins, Tex.	McClory	Stark
Conable	McDonald	Taylor, Mo.
Conyers	McEwen	Taylor, N.C.
Cornell	McHugh	Teague
Daniel, R. W.	McKay	Treen
Dellums	Mahon	Waggonner
Dingell	Martin	Whitten
Duncan, Oreg.	Michel	Wiggins
Edwards, Calif.	Mikva	

NOT VOTING—69

Allen	Haley	Passman
AuCoin	Hansen	Peyster
Beard, R.I.	Hawkins	Rees
Bergland	Hébert	Riagle
Bingham	Heinz	Rinaldo
Bowen	Helstoski	Risenhoover
Broomfield	Henderson	Roe
Burton, Phillip	Hinshaw	Russo
Carter	Horton	Santini
Chisholm	Howard	Schneebeli
Collins, Ill.	Howe	Sikes
Conlan	Hutchinson	Stanton
Crane	Jones, Ala.	James V.
Danielson	Kemp	Steelman
Diggs	Landrum	Steiger, Ariz.
Eriehorn	McCollister	Stephens
Esch	Madden	Stuckey
Evans, Colo.	Maguire	Sullivan
Evins, Tenn.	Mann	Symms
Findley	Matsunaga	Vander Jagt
Florio	Metcalfe	Young, Alaska
Ford, Tenn.	Moss	Young, Ga.
Forsythe	Neal	
Green	Nolan	

The Clerk announced the following pairs:

On this vote:

Mr. Bowen for, with Mr. AuCoin against.
Mr. Phillip Burton for, with Mr. Hébert against.

Mrs. Chisholm for, with Mr. Landrum against.

Mr. Russo for, with Mr. Moss against.

Mr. Roe for, with Mr. Rees against.

Mr. Matsunaga for, with Mr. Stephens against.

Mr. Florio for, with Mr. Danielson against.

Until further notice:

Mr. Beard of Rhode Island with Mr. Broomfield.

Mr. Haley with Mr. Evins of Tennessee.

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Mr. Neal with Mr. Conlan.
Mr. Bergland with Mr. Erlenborn.
Mr. Helstoski with Mr. Forsythe.
Mr. Howard with Mr. Green.
Mr. Nolan with Mr. Findley.
Mr. Bingham with Mr. Carter.
Mr. Jones of Alabama with Mr. Hansen.
Mr. Diggs with Mr. Young of Alaska.
Mr. Henderson with Mr. Crane.
Mr. Passman with Mr. Heinz.
Mr. Ford of Tennessee with Mr. Vander

Jagt.

Mr. Maguire with Mr. Esch.
Mr. Mann with Mr. Rinaldo.
Mr. Stuckey with Mr. Hawkins.
Mr. Sikes with Mr. Riegle.
Mr. Risenhoover with Mr. Symms.
Mr. Allen with Mr. Kemp.
Mrs. Collins of Illinois with Mr. Schneebeli.
Mr. Evans of Colorado with Mr. Peyser.
Mr. Howe with Mr. Horton.
Mrs. Sullivan with Mr. Hutchinson.
Mr. Santini with Mr. Steelman.
Mr. James V. Stanton with Mr. Steiger of
Arizona.
Mr. Madden with Mr. McCollister.

Mrs. BOGGS, Messrs. ROBERTS and
SOLARZ changed their vote from "nay"
to "yea."

Mr. BOLLING changed his vote from
"yea" to "nay."

So the conference report was agreed
to.

The result of the vote was announced
as above recorded.

A motion to reconsider was laid on the
table.

SENATE DEBATE AND PASSAGE OF THE

CONFERENCE REPORT

SEPTEMBER 16, 1976



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

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No. 140

Senate

Public Safety Officers: Senate agreed to the conference report on H.R. 366, to provide benefits to survivors of certain public safety officers who die in the performance of duty, thus clearing the bill for the White House.

Pages 516009-516011

PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 366, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STAFFORD). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of September 10, 1976, beginning at page H9728.)

Mr. McCLELLAN. Mr. President, the report was signed by all conferees on the part of the Senate and the House and has been agreed to by the House by a record vote of 290 yeas to 71 nays. The report

recommends that we agree to an amendment inserting language agreed to by the conferees in lieu of the matter inserted by the Senate in its amendment to the House bill.

The purpose of H.R. 366 is to provide a \$50,000 death benefit to the survivors of public safety officers—which includes law enforcement officers and firemen—who die as the result of personal injury sustained in the line of duty.

Mr. President, the subject matter of this legislation has been before us for several years. Measures have passed the Senate on three previous occasions, but the two Houses had not been able to reconcile their differences. I am thankful that the labors of the past 6 years have now come to fruition. This legislation will stand as an appropriate manifestation and acknowledgment of the great debt owed by the people of this country to the many policemen and firemen who give such dedicated service to us all.

Mr. ALLEN. Will the Senator yield for just a moment?

Mr. HRUSKA. Will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise to express my support for the conference report on H.R. 366, a bill to provide public safety officers' death benefits. This legislation, in its present form, represents sound judgment by Congress on a matter which concerns us all—the tragic deaths of our Nation's public safety officers.

The bill which emerged from conference, Mr. President, provides only death benefits to the survivors or dependents of public safety officers who are killed in the line of duty. The Senate version had required that any such death result from a criminal act or apparent criminal act, but that test was dropped in conference.

Also rejected by the conferees was a section that would have established a group life insurance program for public safety officers. I have always opposed such a proposal and was gratified to see that my fellow conferees saw the wisdom of deferring any further consideration of it.

Mr. President, while it is important that the survivors of public safety officers who are tragically slain be provided for, it is even more important that steps be taken to avoid unnecessary deaths of police and firefighters. The Law Enforcement Assistance Administration, which will administer this program, firmly believes that many deaths could be avoided if preventive action were taken. By preventive action, I mean assuring that these public safety officers are in good physical and mental condition.

There is good reason for such preventive action, Mr. President, because recently the National Institute for Occupational Safety and Health identified police work as a most hazardous occupation in terms of the probability of developing stress-related problems. In addition, there are approximately 1,000 deaths among public safety officers annually due to illness and/or diseases associated with job environment and duties. Present evidence also indicates that more law enforcement officers are in-

capacitated because of heart-related illness than due to any other cause.

The LEAA interest here includes the concept of preventive medicine, in the hope that preventing health problems will lead to less death and disability among public safety officers. For example, attention is being given to the development and evaluation of programs that can be used to promote a high level of physical fitness among police personnel, since a lack of fitness can be related to coronary heart disease. Attempts also will be made to assess the effects of different types of exercise programs on physiological and psychological factors relating to job performance. This research is designed to provide information on the nature and effects of specific exercise programs and indicate measures that police departments can use to determine the need for physical fitness programs.

Mr. President, I think it should be recognized that although passage of this bill will qualify eligible survivors and dependents for benefits, appropriations will need to be approved by Congress before any benefits can be awarded. Moreover, when appropriations are made, I hope there will be an allowance for adequate funds to support staff and operating expenses for this program within the Law Enforcement Assistance Administration. This is necessary in order to guarantee an efficient and responsive program.

I thank the Senator from Arkansas for having so persistently pursued this matter for the last 4 or 5 years and, finally, for that degree of success, to which he is entitled.

Mr. McCLELLAN. I thank the distinguished Senator.

I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, the Senate passed an amendment offered by the distinguished Senator from Massachusetts (Mr. KENNEDY) that would have provided for a program for group insurance for public safety officers. I wonder if that survived the conference.

Mr. KENNEDY. Will the Senator yield for me to make the point of information?

Mr. McCLELLAN. Yes.

Mr. KENNEDY. Mr. President, I am pleased that the Congress of the United States has agreed on passage of a public safety officers' death benefits bill. In the interests of getting this important legislation enacted into law I agreed to drop the amendment to H.R. 366 which would have established a public safety officer national life insurance program. This amendment, which I originally introduced as S. 230, passed the Senate overwhelmingly for the third time.

Mr. President, I agreed to elimination of the insurance amendment on the representation of the distinguished chairman of the House Judiciary Committee, Mr. ROBINO, that the subject of public safety officer life insurance—so important to our police and firemen—would receive prompt consideration next session. We owe our public safety officers no less.

Mr. President, I ask unanimous consent that the following letter from the chairman, Mr. ROBINO, be printed in the

RECORD, as well as a copy of a letter I recently received from the International Conference of Police Associations sent to most police chiefs in the United States.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 1, 1976.
HON. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: It is my understanding that in the interest of expediting the approval of H.R. 366, the "Public Safety Officers Benefits Act of 1976", as amended by the Senate, you will not insist on your amendment to that bill which would establish a group life insurance program for public safety officers.

From our conversations I appreciate your interest in such a program, particularly in view of the Senate's approval of this legislation on several previous occasions. I certainly agree with you that the concept should be fully developed in hearings by the committees of both the House and Senate. In order to achieve that objective and to facilitate consideration of this legislation, I want to assure you that it is my intent to schedule your bill for a hearing early in the next Congress.

I deeply appreciate your agreement to narrow the issues to be considered by the Conferees and I feel certain that your efforts will insure the passage of this urgently-needed legislation.

With kindest personal regards,

Sincerely,

PETER W. ROBINO, Jr.,
Chairman.

INTERNATIONAL CONFERENCE OF
POLICE ASSOCIATIONS,
Washington, D.C., September 6, 1976.

DEAR CHIEF: Please be advised that this office has been notified by members of Senator Kennedy's staff in Washington, D.C., that the Public Safety Officer Benefit Act, which will provide a \$50,000 death benefit to the survivors of police officers killed in the line of duty, will indeed be approved by the House-Senate Conference Committee at their next meeting scheduled on September 8th.

As you may know, Senator Kennedy has introduced an amendment to provide a national life insurance program covering all law enforcement officers. With the assistance of the police officers of the State of Massachusetts, we hope to see a National Life Insurance bill introduced and passed into law in the next Congress.

As representatives of over 180,000 law enforcement officers throughout the United States, who have been actively involved with the \$50,000 death benefit bill since its inception, we urge you to have this letter posted for the information of the members of your Department.

Fraternally,

ROBERT D. GORDON,
Secretary-Treasurer.

Mr. KENNEDY. Mr. President, that was the third time that that particular provision passed the Senate by a very substantial vote. The House had indicated again, unfortunately and regretably, that they had not had the hearings which would be necessary in order for them to justify it to the body. I have had printed in the RECORD a letter from the chairman of the Committee on the Judiciary of the House committing Judiciary Committee to full and early hearings on this matter as the first order of business for the new Congress. With this

September 16, 1976 S 16011.

commitment, we shall be able to achieve it, hopefully, early in the next session.

Mr. ALLEN. I thank the Senator. I am proud to be one of the cosponsors of this amendment, as the Senator knows.

Mr. KENNEDY. I am thankful for the times we can work together.

Mr. THURMOND. Mr. President, I rise in support of the conference report on H.R. 366. I was one of the conferees for this bill, and I feel that it is now in a form which is suitable to both houses.

This legislation would provide a \$50,000 benefit payable to the survivors of a public safety officer who is killed in the line of duty. As defined in this bill, "public safety officer" includes policemen, firemen, correction officers, probation officers, parole officers, and judicial officers.

Law enforcement careers must be made more acceptable to our qualified citizens. We cannot ask decent, hard-working men and women to face the constant risk of death in the line of duty and then ignore their rightful request that their families be protected from financial calamity.

I introduced the first bill on this subject and have worked for 6 years to bring it about. It is gratifying to me that it has finally passed.

Mr. President, I urge adoption of the conference report.

Mr. McCLELLAN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. McCLELLAN. I move to reconsider the vote by which the conference report was adopted.

Mr. HUGH SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMARKS OF SENATOR HRUSKA ON H.R. 366

INCLUDING STATEMENT OF THE

PRESIDENT ON SIGNING

September 29, 1976

He did so on the White House lawn in the presence of a congressional delegation of Representatives and Senators who were among those actively interested and active in the passage of the measure.

It is a law establishing a new program providing for the payment by the Federal Government of a \$50,000 death benefit to the survivors of any State or local public safety officer who loses her or his life as a result of injuries sustained in the line of duty.

Similar bills were approved by the House and the Senate in the 92d and 93d Congresses, but they were not finally cleared for Presidential action until in this present 94th Congress. It gives me pleasure to note that the author and introducer of the bill in the Senate in this 94th Congress, was the senior Senator from Arkansas (Mr. McCLELLAN), chairman of the Subcommittee on Criminal Laws and Procedures, and long-time advocate and friend of law enforcement and of law enforcement officials. It was my privilege to cosponsor that bill, as well as those in previous Congresses.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point in my remarks the text of President Ford's statement made upon the signing of the bill.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 366, the Public Safety Officers' Benefits, Act of 1976.

This law establishes a new program providing for the payment by the Federal government of a \$50,000 death benefit to the survivors of any State or local public safety officer who loses her or his life as a result of injuries sustained in the line of duty.

I fully recognize that no amount of money can fill the void left when these brave officers make the supreme sacrifice in pursuit of their duties. The least the Federal government can do is to assure that their dependents have adequate financial assistance to see them through their difficulties.

The signing into law of this bill is a solemn action by a grateful people and their government. It demonstrates the esteem of a free society for those of its members entrusted with public safety.

While it is important that the survivors of public safety officers who die in the line of duty be provided for, it is infinitely more important that steps be taken to avoid unnecessary death or injury to those who protect our safety. This is why I have pledged that a top priority during the first 100 days of my next Administration will be devoted to rallying the American people behind the legislative proposals I have submitted to the Congress so that the Federal government may better do its part to reduce crime in the United States.

It is with great pride and pleasure that I have signed this act into law.

Mr. HRUSKA. Mr. President, legislation to establish a Federal death gratuity program for public safety officers was proposed in partial response to a shocking wave of public safety officer killings and the fact that some officers were inadequately covered by job-related benefits.

The original administration proposal to provide a Federal benefit to the survivors of public safety officers covered only officers killed as the result of a

criminal act. The present legislation expands this scope significantly by providing coverage for all deaths resulting from a personal injury sustained in the line of duty.

The new law establishes within the Law Enforcement Assistance Administration an entirely federally funded death benefits program.

It authorizes payment of a \$50,000 death benefit to the survivors of State and local public safety officers who have died as the direct and proximate result of a personal injury sustained in the line of duty. Eligible public safety officers would include all persons serving with or without compensation as law enforcement officers—for example, police, corrections, probation, parole, and judicial officers—or as firemen.

It provides that death benefits be in addition to any other benefits to which the decedent's survivors would be entitled, except that they would be reduced by payments made under the Federal Employees Compensation Act—FECA—to State and local law enforcement officers for injury or death resulting from apprehending persons suspected of committing Federal crimes, or the District of Columbia's statutorily authorized death benefits' program for police and firemen.

It bars payment of the benefit if the public safety officer's death was the result of his or her intentional misconduct, suicidal act, or voluntary intoxication, or the actions of a potential beneficiary.

It authorizes such sums as may be necessary for each fiscal year.

The Department of Justice has estimated an annual Federal cost of \$19.3 million. I am informed that the administration plans to seek appropriations for this program as quickly as possible.

Mr. President, it should be clear that this new law will serve the cause of law enforcement well. It is also encouraging and heartening to note the President's pledge of top priority to a rallying behind additional legislative proposals which he has submitted to Congress so that the Federal Government may better do its part to reduce crime in the United States.

THE PUBLIC SAFETY OFFICER'S
BENEFIT ACT OF 1976

Mr. HRUSKA. Mr. President, earlier today President Ford signed into law H.R. 366 the Public Officers' Benefit Act of 1976.

TEXT OF PUBLIC LAW 94-430
AS APPROVED SEPTEMBER 29, 1976



Public Law 94-430
94th Congress, H. R. 366
September 29, 1976

An Act

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of \$50,000 as follows: 42 USC 3796.

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section. Interim payment.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

Public Safety
Officers'
Benefits Act
of 1976.
42 USC 3701
note,
42 USC 3701
et seq.

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).
 "(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

42 USC 3796a. "SEC. 702. No benefit shall be paid under this part—
 "(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;
 "(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or
 "(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

42 USC 3796b. "SEC. 703. As used in this part—
 "(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—
 "(A) eighteen years of age or under;
 "(B) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or
 "(C) over eighteen years of age and incapable of self-support because of physical or mental disability;
 "(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;
 "(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;
 "(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;
 "(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;
 "(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and
 "(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

Rules and regulations.
 42 USC 3796c. "SEC. 704. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Adminis-

tration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

^a(b) In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration."

MISCELLANEOUS PROVISIONS

SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection: 42 USC 3768.

"(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J." Appropriation authorization.

SEC. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts. 42 USC 3796 note.

SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby. Severability. 42 USC 3796 note.

SEC. 6. The amendments made by this Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act. Effective date. 42 USC 3796 note.

Approved September 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1032 (Comm. on the Judiciary) and No. 94-1501 (Comm. of Conference).

SENATE REPORTS: No. 94-816 (Comm. on the Judiciary) and No. 94-825 accompanying S. 230 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 30, considered and passed House.

July 19, considered and passed Senate, amended.

Sept. 15, House agreed to conference report.

Sept. 16, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:
Sept. 29, Presidential statement.