

# Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors

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## Summary

The Department of Veterans Affairs (VA) administers directly, or in conjunction with other federal agencies, programs that provide benefits and other services to veterans and their spouses, dependents, and beneficiaries.

One of the benefits that VA administers is Dependency and Indemnity Compensation (DIC) for survivors of certain servicemembers and veterans. DIC is a monthly tax-free cash payment to survivors and dependents of servicemembers killed while on active military duty and those of certain veterans. Survivors of veterans who die from service-related conditions are eligible for DIC. Survivors of veterans who die from non-service-connected conditions may be eligible for DIC if the veteran was eligible for, or was receiving, disability compensation as totally disabled (a 100% rating) for a period of time (specified in statute) before the veteran's death.

Several policy issues are associated with DIC, including the DIC offset of Survivor Benefit Plan (military retirement survivor) payments, often referred to as the "widow's tax"; adequacy of the payments for survivors compared with other retirement systems' payments to surviving spouses; the remarriage age of 57; length of time for a totally disabled rating for non-service-connected deaths to qualify for DIC; and maximum DIC payment for parents based on income levels that have not been adjusted for inflation.

This report outlines the eligibility requirements and benefit levels for DIC and related policy issues.

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The Department of Veterans Affairs (VA) offers directly, or in conjunction with other federal agencies, several benefits for surviving spouses, children, and dependent parents of deceased veterans to provide them with financial, educational, and emotional support. Among these various programs, Dependency and Indemnity Compensation (DIC) is a monthly tax-free cash payment for eligible surviving spouses, children, and dependent parents.

DIC has been paid in some form (monthly cash payments or insurance benefits) to survivors since the Revolutionary War. There were modifications after each war until the 1950s, when the federal government mandated a more streamlined process that created the system used currently for survivors of veterans and military servicemen.

Several policy issues are associated with DIC, including the DIC offset of Survivor Benefit Plan (military retirement survivor) payments, often referred to as the “widow’s tax”; adequacy of the payments for surviving spouses compared with the payments made by other retirement systems to surviving spouses; remarriage age of 57; length of time for a totally disabled rating for non-service-connected deaths to qualify for DIC; and maximum DIC payment for parents based on income levels that have not been adjusted for inflation.

This report outlines the eligibility requirements and benefit levels for DIC and the policy issues associated with DIC.

## Eligibility Requirements

The eligibility for DIC by survivors is based on (1) the eligibility of the veteran, which is determined by the circumstances of the veteran’s death and his or her disability compensation rating; and (2) the survivor meeting certain criteria related to either relationship to the veteran, age, or income.

### Veteran Eligibility

The recipients of DIC must be the survivors of qualifying veterans. By statute, a *veteran* is defined as a “person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.”<sup>1</sup> DIC is paid to eligible survivors for three categories of veterans whose deaths fit one of the following circumstances:

1. veterans who died on active duty,<sup>2</sup> active duty for training, or inactive duty for training;

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<sup>1</sup> 38 U.S.C. §101(2). Also see CRS Report R42324, *Who is a “Veteran”?—Basic Eligibility for Veterans’ Benefits*, by Noah P. Meyerson.

<sup>2</sup> Active duty is considered to include (1) full-time service in the Army, Navy, Marine Corps, Air Force, or Coast Guard, other than active duty for training (38 U.S.C. §101(21)(A); 38 C.F.R. §3.6(b)(1)); (2) full-time service as a commissioned officer in the Public Health Service (38 U.S.C. §101(21)(B); 38 C.F.R. §3.6(b)(2)); (3) full-time service as a commissioned officer at the Coast and Geodetic Survey, Environmental Science Services Administration, or National Oceanic and Atmospheric Administration (38 U.S.C. §101(21)(C); 38 C.F.R. §3.6(b)(3)); (4) service as a cadet at a military academy (38 U.S.C. §101(21)(D); 38 C.F.R. §3.6(b)(4)); (5) attendance by active-duty members at certain prep schools associated with military academies (38 C.F.R. §3.6(b)(5)); and (6) authorized travel to or from such duty or service (38 U.S.C. §101(21)(E); 38 C.F.R. §3.6(b)(6)).

2. veterans who died due to service-connected disabilities;<sup>3</sup> or
3. veterans who died from non-service-related causes not as a result of willful misconduct and were receiving, or eligible to receive, disability compensation from the VA for service-connected disabilities rated at 100% subject to the following stipulations:<sup>4</sup>
  - the disabilities were rated as 100% disabled for 10 years or more prior to death;
  - the disabilities were rated as 100% since discharge or release from active duty for at least five years prior to death; or
  - the veterans were prisoners of war who had service-connected disabilities rated at 100% for at least one year prior to death after September 30, 1999.<sup>5</sup>

The Veterans' Benefits Act of 2010 (P.L. 111-275) expanded the criteria for survivors of veterans who were prisoners of war and died from non-service-related causes by eliminating the requirement that the veteran had to have died after September 30, 1999, for certain DIC applications that were pending a final decision on or after October 1, 2011.<sup>6</sup>

The VA determines the eligibility of veterans and their entitlement to disability compensation through evidence found in military service records and circumstances of death.

## **Recipient Eligibility**

Veterans' dependents are not generally entitled to all VA benefits, but some benefits are available based on the relationship the dependent may have had with the veteran. If the eligibility criteria for DIC related to the veteran's death are met, the survivors also have certain criteria to meet to be eligible for DIC. The three different groups of recipients are spouses, children, and dependent parents of deceased veterans. Each group has specific eligibility requirements.

### **Surviving Spouses**

A surviving spouse is eligible if he or she

- was married to the veteran for at least one year before the veteran's death,<sup>7</sup> or
- has a child with the veteran, or
- if the veteran left the military due to a service-connected disability, the marriage was within 15 years of the discharge;

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<sup>3</sup> A service-connected disability is defined in 38 U.S.C. §101(16).

<sup>4</sup> Eligibility for non-service-connected deaths of certain veterans rated totally disabled was added by P.L. 100-687.

<sup>5</sup> 38 U.S.C. §1318(b)(3); 38 C.F.R. 3.22(a)(2)(iii).

<sup>6</sup> Sec. 603 of P.L. 111-275. The final rule for this provision took effect on July 10, 2012, for DIC applications: (1) received by the VA on or after October 1, 2011, (2) received by the VA prior to October 1, 2011, but that had not been adjudicated by that date, (3) appealed to the Board of Veterans' Appeals (Board) on or after October 1, 2011, (4) appealed to the board before October 1, 2011, but had not been decided on by that date, or (5) pending before the VA on or after October 1, 2011, because the Court of Appeals for Veterans Claims vacated a board decision on the application and remanded it for readjudication (77 F.R. 40525).

<sup>7</sup> This requirement does not exist for surviving spouses of servicemembers killed on active military duty.

- cohabited with the veteran for the duration of the marriage unless the couple underwent a period of separation that was not the fault of the surviving spouse; and
- has not remarried before reaching the age of 57.<sup>8</sup>

## **Surviving Children**

Surviving children<sup>9</sup> are eligible for DIC if they are independent of the surviving spouse, unmarried, and below the age of 18. If they are aged 18 to 23, they must be pursuing an approved course of education to be eligible for DIC.<sup>10</sup> Children who are permanently incapable of supporting themselves at the age of 18 or older remain entitled to DIC.<sup>11</sup>

## **Surviving Parents**

Surviving parents are required to provide evidence of financial dependence on the deceased veteran before becoming eligible for DIC. This evidence is gained through a calculation of countable income<sup>12</sup> by the VA that cannot exceed the amounts outlined in the Income for VA Purposes (IVAP) tables.<sup>13</sup>

# **Monthly Benefit Amounts**

## **Surviving Spouses**

Surviving spouses receive monthly benefits at a current base rate of \$1,254.19 in 2015, if the veteran died on or after January 1, 1993.<sup>14</sup> Otherwise, payment is based on the veteran's pay grade at the time of death with the current base rate being \$1,254.19. A higher amount may be provided to the surviving spouse for several reasons:

- if the veteran, eight years before death, was receiving or entitled to receive disability compensation for a service-connected disability rated at totally disabled (100%)—an additional \$266.32 per month;<sup>15</sup>
- if the surviving spouse has dependent children—an additional \$310.71 per month for each child;<sup>16</sup>

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<sup>8</sup> Congress passed the Veterans Benefits Act of 2003, which allowed surviving spouses to remarry after the age of 57. P.L. 108-183; 38 U.S.C. §§103, 1304.

<sup>9</sup> Definitions of who is considered a *child* for the purpose of VA benefits are outlined in 38 U.S.C. §101(4).

<sup>10</sup> Students receiving DIC are not able to concurrently receive education benefits under the G.I. Bill or from the VA Survivors' and Dependents Educational Assistance Program under 38 U.S.C. §3562.

<sup>11</sup> 38 U.S.C. §§1313, 1314.

<sup>12</sup> Exclusions for countable income are outlined at 38 C.F.R. §3.272.

<sup>13</sup> The applicable rate table is available at the VA website at <http://www.vba.va.gov/bln/21/Rates/comp04.htm#BMC1>.

<sup>14</sup> All benefits listed are adjusted for cost-of-living increases coinciding with the percentage decided for Social Security benefits in accordance with 38 U.S.C. §1311(f)(4).

<sup>15</sup> 38 U.S.C. 1311(a)(2). Only the time period for which the veteran was married to the surviving spouse counts toward the eight-year requirement.

- if the surviving spouse has a disability that requires aid and assistance—an additional \$310.71 per month;<sup>17</sup> or
- if the surviving spouse is permanently housebound—an additional \$145.55 per month.<sup>18</sup>

## Surviving Children

Surviving children under the age of 18 (or under the age of 23 if they are students, who are independent of the surviving spouse) are entitled to DIC in the following current monthly amounts: one child receives \$310.71, and each additional child receives an additional \$310.71. Moreover, if the surviving spouse has one or more children under the age of 18 on the award, an additional flat \$270 shall be received per month for two years as part of a two-year transitional benefit. For example, in 2015 a surviving spouse with two children under the age of 18 would receive monthly benefits for surviving children in the amount of \$891.42; \$310.71 per child in addition to the flat \$270 per month for the first two years. If a child is permanently incapable of self-support before the age of 18, the child remains eligible for DIC past the age of 18 in the amount of \$529.55 per month. Children in school over the age of 18 (and under the age of 23) are also eligible for benefits at the rate of \$263.23 per month.<sup>19</sup>

## Surviving Parents

Under current law, the maximum allowable DIC for surviving dependent parents is reduced for countable income above \$800, or \$1,000 if both parents are a married couple. Monthly benefits received by parents fluctuate by income. In the case of a sole surviving parent, the monthly DIC benefit ranges between \$5 and \$621. For parents who are still married to each other or have remarried other individuals, the range is between \$5 and \$422. For parents who are not living with each other nor living with different spouses, the range is between \$5 and \$449.<sup>20</sup>

## Application Process

To claim DIC benefits, a survivor must complete and submit to the local VA office VA Form 21-534a and Department of Defense (DD) Form 1300.<sup>21</sup> The effective date of DIC entitlement is the

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<sup>16</sup> 38 U.S.C. 1311(b).

<sup>17</sup> 38 U.S.C. 1311(c).

<sup>18</sup> 38 U.S.C. 1311(d).

<sup>19</sup> See VA Dependency and Indemnity Compensation rates at [http://benefits.va.gov/Compensation/current\\_rates\\_dic.asp#BM07](http://benefits.va.gov/Compensation/current_rates_dic.asp#BM07).

<sup>20</sup> These figures apply for calendar year 2015. See income level rate charts at [http://benefits.va.gov/Pension/current\\_rates\\_Parents\\_DIC\\_pen.asp](http://benefits.va.gov/Pension/current_rates_Parents_DIC_pen.asp).

<sup>21</sup> To download VA Form 21-534a, go to <http://www.vba.va.gov/survivors/21-534a.pdf>. For parental DIC, download VA Form 21-535 at <http://www.vba.va.gov/pubs/forms/VBA-21-535-ARE.pdf>. The Department of Defense Form 1300 is available at <http://www.dtic.mil/whs/directives/forms/eforms/dd1300.pdf>.

first day of the month that the death occurred for claims filed within one year of the death. After one year, the DIC entitlement starts on the date the claim is received by the VA.<sup>22</sup>

## DIC Statistics for FY2013

In FY2013, 376,979 spouses, children, and parents of veterans received more than \$5.8 billion in DIC.<sup>23</sup> On average, each spousal survivor received \$15,744 in annual compensation. Child recipients received an average of \$7,094 in annual compensation.<sup>24</sup>

## Policy Issues

Several policy issues are associated with DIC, including the DIC offset of Survivor Benefit Plan (military retirement survivor) payments, often referred to as the “widow’s tax;” adequacy of the payments for survivors compared with other retirement systems’ payments to surviving spouses; remarriage age of 57; length of time for a totally disabled rating for non-service-connected deaths to qualify for DIC; and maximum DIC payment for parents based on income levels that have not been adjusted for inflation.

### DIC and SBP Offset

The Survivor Benefit Plan (SBP) is a form of insurance provided by the Department of Defense to military retirees that does not require service-connected death or disability for survivors to receive payments.<sup>25</sup> A military retiree elects to have lower monthly retirement pay—the insurance premium for SBP is taken from retirement pay—to ensure that his or her survivors can receive a monthly payment after his or her death. However, this income is taxable, whereas DIC is tax-free. If the survivor of a military retiree is also eligible for and receives DIC, the SBP payment is reduced dollar for dollar by the DIC amount (but not below zero).<sup>26</sup>

### DIC Percentage of Income Compared with Other Pension Programs

There is a disparity between the percentage of income a DIC recipient is paid and the percentages given to recipients of other retirement and pension plans. Currently, an eligible surviving spouse would receive a basic DIC benefit of \$1,254.19 monthly. This is just under 41% of the basic compensation rate for a veteran with a spouse receiving disability compensation at the 100% disabled rating.<sup>27</sup> This has called into question the adequacy of DIC payments.

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<sup>22</sup> 38 U.S.C §5110.

<sup>23</sup> CRS analysis of Department of Veterans Affairs, *Annual Benefits Report Fiscal Year 2013*, available at [http://www.benefits.va.gov/REPORTS/abr/ABR\\_FY2013\\_Compensation\\_07172014.pdf](http://www.benefits.va.gov/REPORTS/abr/ABR_FY2013_Compensation_07172014.pdf).

<sup>24</sup> Ibid.

<sup>25</sup> For more information on the Survivor Benefit Plan, see CRS Report RL31664, *The Military Survivor Benefit Plan: A Description of Its Provisions*, by (name redacted).

<sup>26</sup> Survivors who remarry at the age of 57 or older may retain DIC benefits, and for them no other federal benefit including SBP can be reduced.

<sup>27</sup> In 2015, the rate of compensation for a 100% disabled veteran with a spouse is \$3,068.90. See the VA disability (continued...)



Private pension plans are required to pay 50% of their benefit to surviving spouses, but retirees in some plans may elect to give their surviving spouses a larger percentage. As a result of the variance in pension plans, benefits, and survivor options, it is difficult to discern what the average pension benefit for a surviving spouse in the private sector might be. SBP recipients receive 55% of the military retiree's retirement pay.<sup>28</sup> Federal employee pension plans provide 55% of retirement pay, or 50% of retirement pay along with an initial lump-sum payment, depending on the plan.<sup>29</sup>

A low-income elderly or disabled veteran may be eligible for the Improved Disability Pension, with a maximum annual rate of \$12,868 for a veteran with one dependent in 2015.<sup>30</sup> In the event of his or her death, the surviving spouse may be eligible for the Improved Death Pension Benefit, with a maximum annual rate of \$8,630 for an individual without a dependent child in 2015.<sup>31</sup> The surviving spouse could receive, under the Improved Death Pension, about 67.1% of the veteran's Improved Disability Pension.<sup>32</sup>

As a percentage of 100% disability compensation, DIC is below the 50% or more level for survivors associated with other retirement or pension benefits. However, unlike pension benefits, DIC is not structured as a percentage of the disability compensation received by the veteran. Under the current DIC structure, the surviving spouse of a veteran who died with a disability rating of 60% (\$1,156.09 per month) or less would receive a higher DIC payment (\$1,254.19 at the basic monthly rate) than the veteran received in disability compensation while alive.<sup>33</sup> However, if DIC were 50% of the disability compensation received by the veteran, a survivor would receive a basic monthly benefit (based on the veteran's disability rating) ranging from approximately \$67 to \$1,535.<sup>34</sup> This range exists because a veteran could die from a service-connected condition that is rated at less than 100%.

## DIC Remarriage Age

Until 2003, a surviving spouse could not remarry and continue to receive DIC benefits. That changed with the enactment of the Veterans Benefits Act of 2003 (P.L. 108-183), which allowed a surviving spouse aged 57 or older to remarry and keep DIC benefits. However, surviving spouses who do not remarry will continue to have their military Survivor Benefit Plan (SBP) reduced by their DIC benefits. For the military Survivor Benefit Plan and for federal employees, the remarriage age is 55 for retaining benefits, and for Social Security beneficiaries, the

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compensation rate tables at [http://www.benefits.va.gov/COMPENSATION/resources\\_comp01.asp](http://www.benefits.va.gov/COMPENSATION/resources_comp01.asp).

<sup>28</sup> For additional information regarding veterans' pension programs, see CRS Report RS22804, *Veterans' Benefits: Pension Benefit Programs*, by (name redacted) and (name redacted).

<sup>29</sup> For more information on survivor benefits for federal employees, see CRS Report RS21029, *Survivor Benefits for Families of Civilian Federal Employees and Retirees*, by (name redacted).

<sup>30</sup> See the Veterans Pension rate table at [http://www.benefits.va.gov/pension/current\\_rates\\_veteran\\_pen.asp](http://www.benefits.va.gov/pension/current_rates_veteran_pen.asp).

<sup>31</sup> See the Improved Death Pension rate table at [http://www.benefits.va.gov/pension/current\\_rates\\_survivor\\_pen.asp](http://www.benefits.va.gov/pension/current_rates_survivor_pen.asp).

<sup>32</sup> Receipt of benefits at the maximum rate is dependent on countable income levels of the beneficiary.

<sup>33</sup> Based on the 2015 disability compensation rate for a veteran with a spouse only. See the VA compensation rate table at [http://www.benefits.va.gov/COMPENSATION/resources\\_comp01.asp](http://www.benefits.va.gov/COMPENSATION/resources_comp01.asp).

<sup>34</sup> Fifty percent of the disability compensation for a veteran with a spouse at 10% and 100% disability ratings. Please note that there is no additional spousal amount paid if the veteran's disability rating is less than 30%.

remarriage age is 60. The difference in ages for remarriage means that a remarried surviving spouse may not be able to keep all of his or her benefits if he or she remarries.

## **Disability Requirement for Non-Service-Connected Deaths**

As stated earlier (see “Eligibility Requirements” section), if a veteran’s death was not service-connected, the veteran must have been receiving, or been eligible to receive, disability compensation as 100% disabled for 10 years or more prior to death to enable a survivor to be eligible for DIC. Some totally disabled veterans have expressed concern that their surviving spouses would not receive a benefit if they die from non-service-connected causes if they have not been totally disabled for at least 10 years. The 10-year disability requirement for non-service-connected deaths can be viewed as a measure of the survivor’s dependence on the veteran’s disability compensation. This view assumes that the longer the veteran was disabled, the more dependent the survivors were on the veteran’s disability compensation as a replacement of the veteran’s earnings.

## **Maximum Benefit for Dependent Parents**

For survivors, income is not a factor in DIC eligibility unless the survivor is a dependent parent. The maximum DIC amount payable to parents is only for parents below a certain income level; \$800 for a single parent and \$1,000 for a married couple. These amounts were enacted into law in 1968 and unlike other income levels related to benefits, they have not been adjusted for inflation. The \$800 income limit in 1968 is equivalent to \$5,442.21 in 2014.<sup>35</sup> Over time, dependent parents may see reductions in DIC as their incomes increase due to cost-of-living adjustments in their other income, and the \$800 and \$1,000 income limits not being adjusted for inflation.

## **Legislative History**

DIC has been paid in some form to survivors since the Revolutionary War. At that time, women and children survivors of officers received a seven-year pension amounting to half of the officer’s entitled pay (according to a 1780 act of the Continental Congress).<sup>36</sup>

During the Civil War, survivor compensation was expanded to cover all servicemembers at a rate that would be payable to totally disabled veterans.<sup>37</sup> The Civil War also led to other changes to survivor compensation, especially for survivors of servicemembers with service-connected disabilities. They were covered under the Act of July 14, 1862, which was referred to as General Law and amended various times in the 19<sup>th</sup> century.

In 1917, Congress passed the War Risk Insurance Act to eliminate the need for non-service pensions and highlighted that service-connected payments for death and disability were

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<sup>35</sup> Calculated using the Bureau of Labor Statistics CPI Inflation Calculator at [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm).

<sup>36</sup> Omar N. Bradley, Clarence G. Adamy, and William J. Donovan, et al., *Veterans' Benefits in the United States: A Report to the President by the President's Commission on Veterans' Pensions*, The Bradley Commission, Washington DC, April 1956.

<sup>37</sup> Ibid.

compensation payments.<sup>38</sup> The act changed the system to meet the current needs of World War I veterans and their survivors and eliminated the pay discrepancy between officers and soldiers.<sup>39</sup>

The Servicemen's Indemnity Act of 1951 replaced this life insurance system with a new system where the servicemembers did not contribute to the insurance program, but the government provided monthly payments to eligible survivors of \$120 with a 2.25% increase per year until a \$10,000 insurance maximum was reached.<sup>40</sup> Potentially eligible survivors included spouses, children, parents, and siblings.

Because legislation had been written in response to need, dependency and indemnity compensation was unorganized and administered by four different administrations by the mid-1950s, and congressional and executive committees were formed to make the issuance of compensation more streamlined and manageable.<sup>41</sup> Death compensation was set up similar to the way it is now by the time the final report of the President's Commission on Veterans' Pensions, *Veterans' Benefits in the United States: Report to the President by the President's Commission of Veterans Pensions* (hereafter referred to as the Bradley Report) was written in 1956.<sup>42</sup> Death compensation was provided to survivors (except for dependent parents) regardless of income. The rate of compensation depended on whether the veteran served in peacetime or wartime.

In 1969, after review of the Bradley Report, recommendations from a commission headed by Robert M. McCurdy in 1967,<sup>43</sup> and extensive testimony from several other federal administrations and veterans service organizations, Congress devised a different, more equitable system for survivor compensation that gave fixed rates to each pay grade. The base rate was adjusted for a cost-of-living increase to reflect changes in the cost of living since the last base rate had been determined in 1956, 13 years earlier.<sup>44</sup> In 1969, years of service were no longer a factor in determining DIC.<sup>45</sup> There were no subsequent changes of significance to DIC legislation until 1993, when the rate tables for surviving spouses were eliminated and one flat monthly rate was reinstated.<sup>46</sup> In 2003, surviving spouses who remarried after reaching the age of 57 were able to retain DIC.<sup>47</sup>

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<sup>38</sup> P.L. 65-105.

<sup>39</sup> Ibid.

<sup>40</sup> P.L. 82-23.

<sup>41</sup> Sen. Bob Graham, "Honor the DIC commitment," remarks in the Senate, *Congressional Record*, vol. 137 (November 12, 1991), pp. S16332-S16338.

<sup>42</sup> Bradley Report (Washington DC: April 1956), pp. 33-52.

<sup>43</sup> Sen. Bob Graham, "Honor the DIC commitment," remarks in the Senate, *Congressional Record*, vol. 137 (November 12, 1991), pp. 31116-31123.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> P.L. 102-568.

<sup>47</sup> P.L. 108-183.

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