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**Senate Bill No. 394**

(By Senators Kessler (Mr. President), Barnes, Beach, Blair,  
Boley, Cann, Carmichael, Chafin, Cole, Cookman, Edgell, Facemire,  
Fitzsimmons, Green, D. Hall, M. Hall, Jenkins, Kirkendoll, Laird,  
McCabe, Miller, Nohe, Palumbo, Plymale, Prezioso, Snyder,  
Stollings, Sypolt, Tucker, Unger, Walters, Wells, Williams and  
Yost

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[Introduced February 28, 2013; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.

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A BILL to amend and reenact §15-2-33 of the Code of West Virginia,  
1931, as amended; and to amend and reenact §15-2A-12 of said  
code, all relating to providing scholarships for dependent  
children of state troopers who die in performance of duty; and  
stating amount available per year.

*Be it enacted by the Legislature of West Virginia:*

That §15-2-33 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted; and that §15-2A-12 of said code be  
amended and reenacted, all to read as follows:

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

**§15-2-33. Awards and benefits to dependents of member when the**

1           **member dies in performance of duty; to dependents of**  
2           **a duty disability retirant; dependent child**  
3           **scholarship and amount.**

4           (a) The surviving spouse or the dependent child or children or  
5 dependent parent or parents of any member who has lost or loses his  
6 or her life by reason of injury, illness or disease resulting from  
7 an occupational risk or hazard inherent in or peculiar to the  
8 service required of employees while the member was or is engaged in  
9 the performance of his or her duties as an employee of the agency,  
10 or if a retirant dies from any cause after having been retired  
11 pursuant to the provisions of section twenty-nine of this article,  
12 the surviving spouse or other dependent is entitled to receive and  
13 shall be paid from the fund benefits as follows: To the surviving  
14 spouse annually, in equal monthly installments during his or her  
15 lifetime the greater of one or the other of two amounts:

16           (1) An amount equal to five and one-half percent of the total  
17 salary which was or would have been earned by the deceased member  
18 or duty disability retirant during twenty-five years of service  
19 based on the average earnings of the member or duty disability  
20 retirant while employed by the agency; or

21           (2) The sum of \$6,000.

22           (b) In addition, the surviving spouse is entitled to receive  
23 and shall be paid \$100 monthly for each dependent child or  
24 children. If the surviving spouse dies or if there is no surviving

1 spouse, there shall be paid monthly to each dependent child or  
2 children from the fund a sum equal to twenty-five percent of the  
3 surviving spouse's entitlement. If there is no surviving spouse  
4 and no dependent child or children, there shall be paid annually in  
5 equal monthly installments from the fund to the dependent parents  
6 of the deceased member or retirant during their joint lifetimes a  
7 sum equal to the amount which a surviving spouse, without children,  
8 would have received: *Provided*, That when there is one dependent  
9 parent surviving, that parent is entitled to receive during his or  
10 her lifetime one half the amount which both parents, if living,  
11 would have been entitled to receive.

12 (c) Any person qualified as a surviving dependent child under  
13 this section, in addition to any other benefits due under this or  
14 other sections of this article, is entitled to receive a  
15 scholarship to be applied to the career development education of  
16 that person. This sum, up to but not exceeding \$7,500 per year,  
17 shall be paid from the fund to any university or college in this  
18 state or to any trade or vocational school or other entity in this  
19 state approved by the board, to offset the expenses of tuition,  
20 room and board, books, fees or other costs incurred in a course of  
21 study at any of those institutions so long as the recipient makes  
22 application to the board on an approved form and under rules as  
23 provided by the board and maintains scholastic eligibility as  
24 defined by the institution or the board. The board may by

1 appropriate rules define age requirements, physical and mental  
2 requirements, scholastic eligibility, disbursement methods,  
3 institutional qualifications and other requirements as necessary  
4 and not inconsistent with this section.

5 (d) A surviving spouse or dependent of an employee meeting the  
6 requirements of this section is entitled to receive beneficiary  
7 payments on the first day following the date the deceased employee  
8 is removed from payroll by the agency. A surviving spouse or  
9 dependent of a member who is not currently an employee meeting the  
10 requirements of this section is entitled to receive beneficiary  
11 payments on the first day following the date of the deceased  
12 member's death. A surviving spouse or dependent of a retirant  
13 meeting the requirements of this section is entitled to receive  
14 beneficiary payments on the first day of the month following the  
15 date of the deceased retirant's death. Upon receipt of properly  
16 executed forms from the agency and the surviving spouse or  
17 dependent, the board shall process the surviving spouse or  
18 dependent benefit as soon as administratively feasible.

19 (e) For the purposes of this section, the term "salary" does  
20 not include any compensation paid for overtime service.

21 **ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

22 **§15-2A-12. Awards and benefits to dependents of employees or**  
23 **retirants - When employee dies in performance of**

1                    **duty, etc.; dependent child scholarship and amount.**

2            The surviving spouse, the dependent child or children or  
3 dependent parent or parents of any employee who has lost or shall  
4 lose his or her life by reason of injury, illness or disease  
5 resulting from an occupational risk or hazard inherent in or  
6 peculiar to the service required of employees while the employee  
7 was engaged in the performance of his or her duties as an employee  
8 of the agency, or the survivor of a retirant who dies from any  
9 cause after having been retired pursuant to the provisions of  
10 section nine of this article, is entitled to receive and shall be  
11 paid from the fund benefits as follows: To the surviving spouse  
12 annually, in equal monthly installments during his or her lifetime,  
13 one or the other of two amounts, which shall become payable the  
14 first day of the month following the employee's or retirant's death  
15 and which shall be the greater of:

16            (1) An amount equal to nine-tenths of the base salary received  
17 in the preceding full twelve-month employment period by the  
18 deceased employee: *Provided*, That if the employee had not been  
19 employed with the agency for twelve full months prior to his or her  
20 death, the amount of monthly salary shall be annualized for the  
21 purpose of determining the benefit; or

22            (2) The sum of \$10,000.

23            In addition, the surviving spouse is entitled to receive and  
24 shall be paid \$150 monthly for each dependent child. If the

1 surviving spouse dies or if there is no surviving spouse, there  
2 shall be paid monthly to each dependent child or children from the  
3 fund a sum equal to one third of the surviving spouse's  
4 entitlement. If there is no surviving spouse and no dependent  
5 child or children, there shall be paid annually in equal monthly  
6 installments from the fund to the dependent parents of the deceased  
7 member during their joint lifetimes a sum equal to the amount which  
8 a surviving spouse, without children, would have received:  
9 *Provided*, That when there is one dependent parent surviving, that  
10 parent is entitled to receive during his or her lifetime one half  
11 the amount which both parents, if living, would have been entitled  
12 to receive: *Provided, however*, That if there is no surviving  
13 spouse, dependent child or dependent parent of the deceased member,  
14 the accumulated contributions shall be paid to a named beneficiary  
15 or beneficiaries: *Provided further*, That if there is no surviving  
16 spouse, dependent child, dependent parent of the deceased member or  
17 any named beneficiary or beneficiaries, then the accumulated  
18 contributions shall be paid to the estate of the deceased member.

19 Any person qualifying as a surviving dependent child under  
20 this section, in addition to any other benefits due under this or  
21 other sections of this article, is entitled to receive a  
22 scholarship to be applied to the career development education of  
23 that person. This sum, up to but not exceeding \$7,500 per year,  
24 shall be paid from the fund to any university or college in this

1 state or to any trade or vocational school or other entity in this  
2 state approved by the board to offset the expenses of tuition, room  
3 and board, books, fees or other costs incurred in a course of study  
4 at any of these institutions as long as the recipient makes  
5 application to the board on an approved form and under rules  
6 provided by the board and maintains scholastic eligibility as  
7 defined by the institution or the board. The board may by  
8 appropriate rules define age requirements, physical and mental  
9 requirements, scholastic eligibility, disbursement methods,  
10 institutional qualifications and other requirements as necessary  
11 and not inconsistent with this section.

12 A surviving spouse or dependent of an employee meeting the  
13 requirements of this section is entitled to receive beneficiary  
14 payments on the first day of the month following the date the  
15 deceased member is removed from payroll by the agency. A surviving  
16 spouse or dependent of a member who is not currently an employee  
17 meeting the requirements of this section is entitled to receive  
18 beneficiary payments on the first day of the month following the  
19 date of the deceased member's death. A surviving spouse or  
20 dependent of a retirant meeting the requirements of this section is  
21 entitled to receive beneficiary payments on the first day of the  
22 month following the date of the deceased retirant's death. Upon  
23 receipt of properly executed forms from the agency and surviving  
24 spouse or dependent, the board shall process the surviving spouse

1 or dependent benefit as soon as administratively feasible.

2       It is the intent of the Legislature that the levels of  
3 benefits provided by operation of this section from the effective  
4 date of the enactment of this section during the regular session of  
5 the Legislature, 2005, be the same levels of benefits as provided  
6 by this section as amended and reenacted during the fourth  
7 extraordinary session of the Legislature, 2005. Accordingly, the  
8 effective date of the operation of this section as amended and  
9 reenacted during the fourth extraordinary session of the  
10 Legislature, 2005, is expressly made retrospective to April 9,  
11 2005.

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(NOTE: The purpose of this bill is to provide that the amount of scholarship available to dependent children of State Troopers who die in the performance of duty is an amount up to but not exceeding \$7,500 per year.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)

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THE JUDICIARY COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill No. 394**--A BILL to amend and reenact §15-2-33 of the Code of West Virginia, 1931, as amended; and to amend and



reenact §15-2A-12 of said code, all relating to providing scholarships for dependent children of state troopers who die in performance of duty; and stating amount available per year.