

Calendar No. 429

117TH CONGRESS
2^D SESSION

S. 3487

[Report No. 117–123]

To amend title 5, United States Code, to increase death gratuities and funeral allowances for Federal employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 12 (legislative day, JANUARY 10), 2022

Ms. SINEMA (for herself, Mr. PORTMAN, Mr. PADILLA, Mr. PETERS, Mr. HAGERTY, and Mr. HAWLEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

JUNE 22, 2022

Reported by Mr. PETERS, with amendments

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

A BILL

To amend title 5, United States Code, to increase death gratuities and funeral allowances for Federal employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Honoring Civil Serv-
3 ants Killed in the Line of Duty Act”.

4 **SEC. 2. INCREASING DEATH GRATUITY FOR FEDERAL EM-**
5 **PLOYEES KILLED IN THE LINE OF DUTY.**

6 (a) AMENDMENTS TO TITLE 5, UNITED STATES
7 CODE.—

8 (1) IN GENERAL.—Subchapter VII of chapter
9 55 of title 5, United States Code, is amended by
10 adding at the end the following:

11 **“§ 5571. Employee death gratuity payments**

12 **“(a) DEFINITION.—**

13 **“(1) IN GENERAL.—**Notwithstanding section
14 5561(2), in this section, the term ‘employee’ means
15 an individual who has been determined by the Sec-
16 retary of Labor to be an employee within the mean-
17 ing of section 8101(1).

18 **“(2) EXCLUSIVE AUTHORITY.—**A determination
19 described in paragraph (1) may be made only by the
20 Secretary of Labor.

21 **“(b) GRATUITY.—**

22 **“(1) IN GENERAL.—**With respect to the death
23 of an employee occurring on or after the date of en-
24 actment of this section, notwithstanding section
25 8116, and in addition to any payment made under
26 subchapter I of chapter 81, the head of the agency

1 employing the employee shall pay from appropria-
 2 tions made available for salaries and expenses of
 3 that agency a death gratuity to the person identified
 4 under subsection (c)(2), if the death of the em-
 5 ployee—

6 “(A) results from injury sustained while in
 7 the line of duty of the employee; and

8 “(B) is not—

9 “(i) caused by willful misconduct of
 10 the employee;

11 “(ii) caused by the intention of the
 12 employee to bring about the injury or
 13 death of the employee or another; or

14 “(iii) proximately caused by the in-
 15 toxication of the injured employee.

16 “(2) AMOUNT.—

17 “(A) IN GENERAL.—Except as provided in
 18 subparagraph (B), the amount of a death gra-
 19 tuity paid under paragraph (1) with respect to
 20 an employee shall be \$100,000, as adjusted
 21 each March 1 by the amount determined by the
 22 Secretary of Labor to represent the percentage
 23 change in the Consumer Price Index for All
 24 Urban Consumers (all items; United States city
 25 average) published for December of the pre-

ceding year over that Index published for the
 December of the year prior to the preceding
 year, adjusted to the nearest $\frac{1}{10}$ of 1 percent.

“(B) LOCAL COMPENSATION PLANS.—For
 an employee compensated under a local com-
 pensation plan established under section 408 of
 the Foreign Service Act of 1980 (22 U.S.C.
 3968), the amount of a death gratuity paid
 under paragraph (1) with respect to the em-
 ployee shall be in an amount determined in
 rules issued by the Secretary of State.

“(c) RECIPIENT OF PAYMENT.—

“(1) DEFINITION.—In this subsection, the term
 ‘child’—

“(A) includes—

“(i) a natural child; and

“(ii) an adopted child; and

“(B) does not include a stepchild.

“(2) ORDER OF PRECEDENCE.—A death gra-
 tuity paid under subsection (b) with respect to an
 employee shall be paid in the following order of pre-
 cedence:

“(A)(i) To the beneficiary designated to re-
 ceive the gratuity by the employee in a signed
 and witnessed writing that is received by the

1 agency employing the employee before the date
2 of the death of the employee.

3 “(ii) A designation, change, or cancellation
4 of beneficiary in a will, or another document
5 not described in clause (i), shall have no force
6 or effect for the purposes of that clause.

7 “(B) If there is no beneficiary described in
8 subparagraph (A), to the surviving spouse of
9 the employee.

10 “(C) If neither subparagraph (A) nor (B)
11 applies, to the children of the employee (includ-
12 ing the descendant of any deceased child by
13 representation) such that each such child re-
14 ceives an equal amount of the gratuity.

15 “(D) If none of subparagraph (A), (B), or
16 (C) applies, to the surviving parents of the em-
17 ployee such that each such surviving parent re-
18 ceives an equal amount of the gratuity.

19 “(E) If none of subparagraphs (A) through
20 (D) applies, to the duly appointed executor or
21 administrator of the estate of the employee.

22 “(F) If none of subparagraphs (A) through
23 (E) applies, to the person entitled, under the
24 laws of the State in which the employee is dom-

1 iciled, as of the date on which the employee
2 dies, to receive the payment.”.

3 (2) REPEAL OF DEATH GRATUITY PAYMENT AU-
4 THORITY.—Section 651 of the Treasury, Postal
5 Service, and General Government Appropriations
6 Act, 1997 (5 U.S.C. 8133 note) is repealed.

7 ~~(3) TECHNICAL AND CONFORMING AMEND-~~
8 ~~MENTS.—~~

9 ~~(A) TABLE OF CHAPTERS.—~~In the table of
10 subchapters for chapter 55 of title 5, United
11 States Code, the item relating to subchapter
12 VII is amended to read as follows:

“SUBCHAPTER VII – PAYMENTS TO MISSING PERSONS AND PAYMENTS FOR
DISABILITY OR DEATH”.

13 ~~(B) TABLE OF SECTIONS.—~~The table of
14 sections for subchapter VII of chapter 55 of title
15 5, United States Code, is amended by adding at
16 the end *inserting after the item relating to sec-*
17 ~~tion 5570~~ the following:

“5571. Employee death gratuity payments.”.

18 (3) TECHNICAL AND CONFORMING AMEND-
19 MENTS.—

20 (A) SUBCHAPTER HEADING.—*The heading*
21 *for subchapter VII of chapter 55 of title 5,*
22 *United States Code, is amended by striking*
23 ~~“EMPLOYEES”~~ *and inserting “PERSONS*

1 *AND PAYMENTS FOR DISABILITY OR*
 2 *DEATH”.*

3 *(B) OTHER CONFORMING CHANGES.—The*
 4 *table of sections for chapter 55 of title 5, United*
 5 *States Code, is amended—*

6 *(i) by striking the item relating to sub-*
 7 *chapter VII and inserting the following:*

 “SUBCHAPTER VII—PAYMENTS TO MISSING PERSONS AND PAYMENTS FOR
 DISABILITY OR DEATH”; AND

8 *(ii) by inserting after the item relating*
 9 *to section 5570 the following:*

 “5571. Employee death gratuity payments.”.

10 (b) AMENDMENT TO TITLE 49.—Section
 11 40122(g)(2) of title 49, United States Code, is amended—

12 (1) in subparagraph (I)(iii), by striking “and”
 13 after the semicolon;

14 (2) in subparagraph (J), by striking the period
 15 at the end and inserting “; and”; and

16 (3) by inserting after subparagraph (J), the fol-
 17 lowing:

18 “(K) section 5571, relating to death gratu-
 19 ities resulting from an injury sustained in the
 20 line of duty.”.

21 **SEC. 3. FUNERAL EXPENSES.**

22 (a) IN GENERAL.—Section 8134(a) of title 5, United
 23 States Code, is amended—

1 (1) by inserting “(1)” after “(a)”;

2 (2) by striking “\$800” and inserting “\$8,800”;

3 and

4 (3) by adding at the end the following:

5 “(2) The amount described in paragraph (1) shall be
6 adjusted on March 1 of each year by the percentage
7 amount determined by the Secretary of Labor under sec-
8 tion 8146a for that year.”.

9 (b) APPLICABILITY.—The amendment made by sub-
10 section (a)(2) shall apply with respect to any death occur-
11 ring on or after the date of enactment of this Act.

12 **SEC. 4. DEATH GRATUITY FOR INJURIES INCURRED IN**
13 **CONNECTION WITH EMPLOYEE’S SERVICE**
14 **WITH AN ARMED FORCE.**

15 Section 8102a of title 5, United States Code, is
16 amended—

17 (1) in subsection (a)—

18 (A) by striking “The United States” and
19 inserting the following:

20 “(1) IN GENERAL.—The United States”;

21 (B) in paragraph (1), as so designated, by
22 striking “up to”; and

23 (C) by adding at the end the following:

24 “(2) ADJUSTMENT.—The amount described in
25 paragraph (1) shall be adjusted each March 1 by the

1 amount determined by the Secretary of Labor to
2 represent the percentage change in the Consumer
3 Price Index for All Urban Consumers (all items;
4 United States city average) published for December
5 of the preceding year over that Index published for
6 the December of the year prior to the preceding
7 year, adjusted to the nearest $\frac{1}{10}$ of 1 percent.”;

8 (2) by striking subsection (c) and inserting the
9 following:

10 “(c) RELATIONSHIP TO OTHER BENEFITS.—With re-
11 spect to a death occurring on or after the date of enact-
12 ment of the Honoring Civil Servants Killed in the Line
13 of Duty Act, the death gratuity payable under this section
14 may not be reduced by the amount of any other death
15 gratuity provided under any other provision of Federal law
16 based on the same death.”; and

17 (3) in subsection (d), by adding at the end the
18 following:

19 “(7) If a person covered by this section does
20 not have any eligible survivors, as described in this
21 subsection, and that person has not designated an
22 alternate person to receive a payment under this sec-
23 tion, the payment shall be paid to the personal rep-
24 resentative of the person’s estate.”.

1 **SEC. 5. AGENCY GRATUITY FOR DEATHS SUSTAINED IN**
2 **THE LINE OF DUTY ABROAD.**

3 Section 413 of the Foreign Service Act of 1980 (22
4 U.S.C. 3973) is amended—

5 (1) in subsection (a)—

6 (A) in the first sentence, by striking “de-
7 pendents” and inserting “beneficiaries”; and

8 (B) in the second sentence, by inserting “,
9 except as provided in subsection (e)” after
10 “payable from any source”;

11 (2) by amending subsection (b) to read as fol-
12 lows:

13 “(b) EXECUTIVE AGENCIES.—The head of an execu-
14 tive agency shall, pursuant to guidance issued under sub-
15 section (c), make a death gratuity payment authorized by
16 this section to the surviving beneficiaries of—

17 “(1) any employee of that agency who dies as
18 a result of injuries sustained in the performance of
19 duty abroad while subject to the authority of the
20 chief of mission pursuant to section 207; or

21 “(2) an individual in a special category serving
22 in an uncompensated capacity for that agency
23 abroad in support of a diplomatic mission, as identi-
24 fied in guidance issued under subsection (c), who
25 dies as a result of injuries sustained in the perform-
26 ance of duty abroad.”;

1 (3) by ~~amending subsection (d) to read as fol-~~
 2 ~~lows:~~ *striking subsection (d)*;

3 (4) *by inserting after subsection (c) the fol-*
 4 *lowing:*

5 “(d) ELIGIBILITY UNDER CHAPTER 81 OF TITLE 5,
 6 UNITED STATES CODE.—A death gratuity payment shall
 7 be made under this section only if the death is determined
 8 by the Secretary of Labor to have resulted from an injury
 9 (excluding a disease proximately caused by the employ-
 10 ment) sustained in the performance of duty under section
 11 8102 of title 5, United States Code.”;

12 ~~(4)~~(5) by redesignating subsection (e) as sub-
 13 section (f);

14 ~~(5)~~(6) by inserting after subsection (d), *as*
 15 *added by paragraph (4)*, the following:

16 “(e) OFFSET.—For deaths occurring on or after the
 17 date of enactment of ~~this subsection~~ *the Honoring Civil*
 18 *Servants Killed in the Line of Duty Act*, the death gratuity
 19 payable under this section shall be reduced by the amount
 20 of any death gratuity provided under section 5571 of title
 21 5, United States Code, based on the same death.”; and

22 ~~(6)~~(7) in subsection (f), as so redesignated by
 23 paragraph ~~(4)~~ (5), by amending paragraph (2) to
 24 read as follows:

1 “(2) the term ‘surviving beneficiaries’ means
 2 the person or persons identified pursuant to the
 3 order of precedence established under section
 4 5571(c)(2) of title 5, United States Code.”.

5 **SEC. 6. EMERGENCY SUPPLEMENTAL AUTHORIZATION.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “agency” means an agency that is
 8 authorized or required to make a payment under a
 9 covered provision; and

10 (2) the term “covered provision” means—

11 (A) section 5571 of title 5, United States
 12 Code, as added by section 2 of this Act;

13 (B) section 8102a of title 5, United States
 14 Code, as amended by section 4 of this Act; or

15 (C) section 413 of the Foreign Service Act
 16 of 1980 (22 U.S.C. 3973), as amended by sec-
 17 tion 5 of this Act.

18 (b) AUTHORIZATION.—If the head of an agency de-
 19 termines, with the concurrence of the Director of the Of-
 20 fice of Management and Budget, that a natural disaster,
 21 act of terrorism, or other incident results in the inability
 22 of the agency to make additional payments under a cov-
 23 ered provision—

1 (1) there are authorized to be appropriated to
2 the agency such sums as may be necessary to make
3 those additional payments; and

4 (2) the head of the agency may make those ad-
5 ditional payments only to the extent additional
6 amounts are made available for those purposes.

7 (c) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that, not later than 30 days after the date on which
9 the head of an agency submits to Congress a request for
10 supplemental appropriations for the purposes described in
11 subsection (b), Congress should take action with respect
12 to that request.

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