

Calendar No. 429

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
117-123 }

HONORING CIVIL SERVANTS KILLED IN THE
LINE OF DUTY ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3487

TO AMEND TITLE 5, UNITED STATES CODE, TO INCREASE
DEATH GRATUITIES AND FUNERAL ALLOWANCES FOR FEDERAL
EMPLOYEES, AND FOR OTHER PURPOSES



JUNE 22, 2022.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

29-010

WASHINGTON : 2022

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Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3487]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3487) to amend title 5, United States Code, to increase death gratuities and funeral allowances for Federal employees, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 3487, the *Honoring Civil Servants Killed in the Line of Duty Act*, establishes a new section of title 5, United States Code, to provide death gratuity payments to the surviving family of federal employees who die from injury or exposure to disease in the line of duty. Current law provides only \$10,000 in compensation following a death in the line of duty and \$800 toward funeral expenses. The death gratuity established in this bill would be \$100,000, adjusted each year for inflation. Compensation for funeral expenses would be increased to \$8,800. Additionally, the bill authorizes an emer-

gency supplemental appropriation for death gratuities, if needed in the event of a natural disaster, act of terrorism, or other incident.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Current statute authorizes \$10,000 to surviving family members of most federal civilian employees and a funeral expense benefit of \$800.¹ These minimal compensation levels have not changed since they were established in 1997 and 1966, respectively.² The combined compensation levels barely cover the expenses of a funeral for most families, as the average cost of a funeral in the United States is currently between \$7,000 and \$9,000, with significantly higher averages in a number of states.³

In 2012, the Office of Personnel Management (OPM) submitted a report to Congress that found “significant disparities and inequities across the Federal Government with respect to the administration of death gratuities.”⁴ According to OPM, variation in the administration of death gratuities occurs due to a range of factors, such as the particular segment of the federal workforce, the administering agency, differing rules related to offset requirements, and employee eligibility.⁵ Positions that already have higher levels of compensation include federal civilian employees killed abroad under chief of mission authority, whose survivors are entitled to \$185,100.⁶ The military compensation program provides \$100,000 to survivors of members of the Armed forces, along with monthly Dependency and Indemnity Compensation and other benefits related to health, education, and housing.⁷

In September 2016, OPM submitted a legislative proposal to the U.S. House of Representatives and Senate to provide more equitable benefits for federal employees killed in the line of duty.⁸ S. 3487 would act on OPM’s proposal. This bill would rectify the disparate benefits for the surviving family of federal civilian employees who lose their lives while carrying out their service responsibilities. The bill establishes a new death gratuity section in title 5, United States Code, and increases the benefit from \$10,000 to \$100,000, adjusted each year by the Consumer Price Index for All Urban Consumers (CPI-U). Funeral expense reimbursement would increase from \$800 to \$8,800.

The *Honoring Civil Servants Killed in the Line of Duty Act* would cover all federal workers, including interns, seasonal employees, Peace Corps volunteers, Postal employees, and Transportation Security Administration (TSA) employees. The benefit would apply to the full range of incidents impacting civil servants in which lives

¹ Pub. L. No 103–332 (1994); and 5 U.S.C. § 8134(a).

² Office of Personnel Management: *OPM Submits Legislative Proposal to Congress on Civilian Death Gratuity Benefits* (Sep. 16, 2016) (www.opm.gov/news/releases/2016/09/opm-submits-legislative-proposal-to-congress-on-civilian-death-gratuity-benefits/) (accessed on Mar. 3, 2022).

³ World Population Review, *Average Funeral Cost by State 2022* (worldpopulationreview.com/state-rankings/average-funeral-cost-by-state) (accessed Mar. 3, 2022).

⁴ Letters from Acting Director Beth Cobert, Office of Personnel Management to Speaker Paul Ryan and Vice President Joseph Biden (Sept. 16, 2016) (www.opm.gov/news/legislative-proposals/death-gratuity-for-federal-civilian-employees.pdf) (accessed Mar. 3, 2022).

⁵ *Id.*

⁶ National Treasury Employees Union: *NTEU Endorses Legislation to Increase Death Benefits for Federal Employees* (Jan. 12, 2022).

⁷ Military One Source, *Gold Star & Surviving Family Members—Benefits* (www.militaryonesource.mil/family-relationships/gold-star-surviving-family/gold-star-surviving-family-benefits/) (accessed Mar. 3, 2022).

⁸ *Letters from Acting Director Beth Cobert, supra* note 4.

are tragically lost, such as terrorist attacks, criminal acts, fire-fighting, or other loss of life while carrying out their official duties. The death gratuity established in the bill would also apply to deaths as a result of exposure to a disease in the line of service.

III. LEGISLATIVE HISTORY

Senator Kyrsten Sinema (D–AZ) introduced S. 3487, the *Honoring Civil Servants Killed in the Line of Duty Act*, on January 12, 2022, with original co-sponsors Chairman Gary Peters (D–MI), Ranking Member Robert Portman (R–OH), and Senator Alex Padilla (D–CA). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator Bill Hagerty (R–TN) joined as a cosponsor on January 31, 2022 and Senator Josh Hawley (R–MO) joined as a cosponsor on February 9, 2022.

The Committee considered S. 3487 at a business meeting on February 2, 2022. The bill was ordered reported favorably by voice vote *en bloc*. Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Lankford, Scott, and Hawley were present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Honoring Civil Servants Killed in the Line of Duty Act.”

Sec. 2. Increasing death gratuity for federal employees killed in the line of duty

Subsection (a) adds a new section to title 5 to establish a death gratuity benefit for federal employees killed in the line of duty.

Subsection (a) of the new section defines the term “employee” as a determination made the Secretary of Labor, in the context of the death gratuity benefit.

Subsection (b) of the new section directs agency heads to pay death gratuities to beneficiaries if the death of an employee resulted from injury sustained while in the line of duty, as long as the death was not caused by willful employee misconduct or intoxication. The amount of the gratuity is \$100,000, adjusted each March by CPI–U. The text specifies that the Secretary of State maintains authority in determining death gratuity amounts for employees whose compensation falls under the Foreign Service Act.

Subsection (c) of the new subsection defines the term “child” in the context of death gratuity recipients. The possible gratuity recipients, listed in order of precedence, include: a designated beneficiary, a surviving spouse, children of the employee, surviving parents, administrator of the estate of the employee, or the person entitled to benefits per the laws of the employee’s state of residence.

Subsection (b) of Section 2 of the bill amends title 49 to provide death gratuity eligibility to Federal Aviation Administration personnel. The Committee’s intent is that the increased death benefit and funeral expenses provided for in this Act shall apply to all Transportation Security Administration employees, including Transportation Security Officers.

Sec. 3. Funeral expenses

Subsection (a) amends existing language in title 5 to raise funeral expenses compensation from \$800 to \$8,800, with a cost-living-adjustment applied each March.

Subsection (b) applies the increased funeral expense compensation toward deaths on or after the date of the bill's enactment.

Sec. 4. Death gratuity for injuries incurred in connection with employee's service with an Armed Force

This section amends existing title 5 language regarding the deaths of federal employees in connection with an Armed Forces contingency operation. The changes will ensure such employees receive the same \$100,000 death gratuity as established by Section 2 of the bill, using the same annual adjustment based on CPI-U.

Sec. 5. Agency gratuity for deaths sustained in the line of duty abroad

This section amends a section of the Foreign Service Act regarding the deaths of Foreign Service employees. The text factors in the death gratuity benefit established by Section 2 and would replace the term "surviving dependents" with the more inclusive term "surviving beneficiaries."

Sec. 6. Emergency supplemental authorization

Subsection (a) defines the terms "agency" and "covered provision" in the context of this section.

Subsection (b) authorizes an emergency supplemental appropriation if the head of an agency, with the approval of the Office of Management and Budget, determines that an emergency incident results in the inability of the agency to make death gratuity payments.

Subsection (c) establishes a sense of Congress that Congress should take action on an emergency supplemental appropriations request, as described in subsection (b), within 30 days of submission.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 9, 2022.

Hon. GARY PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3487, the Honoring Civil Servants Killed in the Line of Duty Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dan Ready.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
S. 3487, Honoring Civil Servants Killed in the Line of Duty Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on February 2, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	2	3
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	2	3
Spending Subject to Appropriation (Outlays)	0	18	41
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would:

- Provide a \$100,000 payout to family (or another specified individual) of federal civilian employees killed in the line of duty
- Increase the funeral benefits paid for federal employees

Estimated budgetary effects would mainly stem from:

- Additional payouts resulting from the deaths of federal civilian employees who died while on the job

Areas of significant uncertainty include:

- The number of payouts agencies would be required to make annually

Bill summary: S. 3487 would generally increase the death gratuity benefit for federal employees who die while on the job. Currently, the executor of an estate of a federal employee who dies while performing their duties is eligible to receive a death gratuity amounting to \$10,000. S. 3487 would increase that amount to \$100,000, adjust the amount each year to account for inflation, and require agencies to make those payments to a beneficiary specified

by the federal employee prior to their death or, in the case one has not been specified, family members of that employee.

Estimated federal cost: The estimated budgetary effect of S. 3487 is shown in Table 1. The direct spending costs of the legislation fall within all budget functions except 900 (net interest), 920 (allowances), and 950 (offsetting receipts).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 3487

	By fiscal year, millions of dollars—												
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2022–2027	2022–2032
	Increases in Spending Subject to Appropriation												
Estimated Authorization	0	4	4	4	4	4	4	5	5	5	5	22	44
Estimated Outlays	0	2	4	4	4	4	4	4	5	5	5	18	41
	Increases in Direct Spending												
Estimated Budget Authority	0	*	*	*	*	*	*	*	*	*	*	2	3
Estimated Outlays	0	*	*	*	*	*	*	*	*	*	*	2	3
Memorandum: Intragovernmental Collections ^a	0	*	*	*	*	*	*	*	*	*	*	–1	–3

^a Components may not sum to totals because of rounding; * = between –\$500,000 and \$500,000.

^a Intragovernmental collections from federal agencies to the Department of Labor to pay for federal workers' funeral benefits paid to representatives of deceased federal employees.

Basis of estimate: For purposes of this estimate, CBO assumes S. 3487 would be enacted near the start of fiscal year 2023.

Spending subject to appropriation: CBO estimates that implementing S. 3487 would increase spending subject to appropriation by \$18 million over the 2022–2027 for death gratuities and funeral benefits (see Table 2).

TABLE 2.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 3487

	By fiscal year, millions of dollars—						
	2022	2023	2024	2025	2026	2027	2022–2027
Increased Death Gratuity:							
Estimated Authorization	0	4	4	4	4	4	20
Estimated Outlays	0	1	3	4	4	4	16
Funeral Benefits: ^a							
Estimated Authorization	0	*	*	*	*	*	1
Estimated Outlays	0	*	*	*	*	*	1
Total Changes:							
Estimated Authorization	0	4	4	4	4	4	22
Estimated Outlays	0	2	4	4	4	4	18

^a Components may not sum to totals because of rounding; * = between zero and \$500,000.

^a The discretionary costs for funeral benefits would be insignificant in each year after 2027 and would total \$3 million over the 2022–2032 period.

Increased Death Gratuity. Currently, federal agencies may pay death gratuities for an employee who dies while performing their duties. Those payments are generally limited to \$10,000, must be made to the executor of the employee's estate, and are subject to the availability of appropriated funds. Section 2 would boost that payment to \$100,000, adjust the amount annually to account for inflation, and allow federal employees to specify who would receive the death gratuity. If a federal employee has not specified a beneficiary by the time of their death, family members would receive the gratuity.

Using information from the Department of Labor (DOL), CBO estimates that about 40 employees die each year in the course of per-

forming their duties. Enacting S. 3487 would increase death gratuities by \$90,000 at the start of 2023, and by somewhat larger amounts in future years. On that basis, and assuming appropriation of the necessary amounts, CBO estimates that implementing this provision would cost about \$4 million a year, on average, totaling \$16 million over the 2022–2027 period and \$38million over the 2022–2032 period. Some spending would occur in years after an employee’s death because of the timing of the death and delays in processing the resulting payments.

Additionally, the bill would adjust existing death gratuities for inflation when federal employees die in connection with the employee’s service with the Armed Forces in a contingency operation. CBO does not expect that implementing that provision would have a significant cost.

Funeral Benefits. Under the Federal Employees’ Compensation Act (FECA), the current maximum amount that DOL can reimburse the personal representative of a deceased federal employee for funeral costs is \$800. S. 3487 would increase the maximum amount to \$8,800 and CBO expects that most people would receive the maximum funeral benefit. Increasing payments for FECA funeral benefits, would increase direct spending, which is discussed below under the heading “Direct Spending.” In turn, the claimant’s employing agency would reimburse the FECA account from discretionary appropriations. (Those reimbursements are shown in the memorandum line in Table 1.) CBO estimates that increasing the funeral benefit would increase spending subject to appropriation for reimbursements by \$1million over the 2022–2027 period and \$3 million over the 2022–2032 period.

Direct spending: CBO estimates that increasing the funeral benefit under FECA would increase direct spending by \$3 million over the 2022–2032 period, as shown in Table 1. That cost is slightly more than the amount agencies would reimburse DOL because reimbursements from agency appropriations are generally made some time after the benefits are paid. The receipt of those reimbursements is not counted as having an effect on the deficit because the payments are dependent on future appropriations.

Uncertainty: The number of federal employees who die in the course of their duties could vary considerably. Terrorist attacks, natural disasters, pandemics, wars, or other exogenous events could significantly increase the number federal employees who die on the job. CBO has no basis to assess the likelihood of any of those events, or the extent to which those events would change the number of employee deaths per year compared with what we estimated for purposes of this estimate.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term deficits: CBO estimates that enacting S. 3487 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2033.

Mandates: None.

Estimate prepared by: Federal Costs: Dan Ready (federal pay); Meredith Decker (FECA); Mandates: Andrew Laughlin.

Estimate reviewed by: Christine Hawley Anthony, Chief, Projections Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

UNITED STATES CODE

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TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

* * * * *

SUBPART D—PAY AND ALLOWANCES

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CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER I—GENERAL PROVISIONS

* * * * *

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SUBCHAPTER VII—PAYMENTS TO MISSING [EMPLOYEES]PERSONS AND PAYMENTS FOR DISABILITY OR DEATH

* * * * *

SEC. 5571. EMPLOYEE DEATH GRATUITY PAYMENTS

(a) *DEFINITION.*—

(1) *IN GENERAL.*—Notwithstanding section 5561(2), in this section, the term ‘employee’ means an individual who has been determined by the Secretary of Labor to be an employee within the meaning of section 8101(1).

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

(b) *GRATUITY.*—

(1) *IN GENERAL.*—With respect to the death of an employee occurring on or after the date of enactment of this section, notwithstanding section 8116, and in addition to any payment made under subchapter I of chapter 81, the head of the agency employing the employee shall pay from appropriations made available for salaries and expenses of that agency a death gratuity to the person identified under subsection (c)(2), if the death of the employee—

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

(B) is not—

(i) caused by willful misconduct of the employee;

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

or

(iii) proximately caused by the intoxication of the injured employee.

(2) *AMOUNT.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), the amount of a death gratuity paid under paragraph (1) with respect to an employee shall be \$100,000, as adjusted each March 1 by the amount determined by the Secretary of Labor to represent the percentage change in the Consumer Price Index for All Urban Consumers (all items; United States city average) published for December of the preceding year over that Index published for the December of the year prior to the preceding year, adjusted to the nearest 1/10 of 1 percent.

(B) *LOCAL COMPENSATION PLANS.*—For an employee compensated under a local compensation 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 employee 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 gratuity paid under subsection (b) with respect to an employee shall be paid in the following order of precedence:

(A)(i) To the beneficiary designated to receive the gratuity by the employee in a signed and witnessed writing that is received by the agency employing the employee before the date of the death of the employee.

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

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

(C) If neither subparagraph (A) nor (B) applies, to the children of the employee (including the descendant of any deceased child by representation) such that each such child receives an equal amount of the gratuity.

(D) If none of subparagraph (A), (B), or (C) applies, to the surviving parents of the employee such that each such surviving parent receives an equal amount of the gratuity.

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

(F) If none of subparagraphs (A) through (E) applies, to the person entitled, under the laws of the State in which the employee is domiciled, as of the date on which the employee dies, to receive the payment.

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SUBPART G—INSURANCE AND ANNUITIES

* * * * *

CHAPTER 81—COMPENSATION FOR WORK INJURIES

* * * * *

SUBCHAPTER 1—GENERALLY

* * * * *

SEC. 8102a. DEATH GRATUITY FOR INJURIES INCURRED IN CONNECTION WITH EMPLOYEE'S SERVICE WITH AN ARMED FORCE

(a) **DEATH GRATUITY AUTHORIZED.**—**[The United States]**

(1) *IN GENERAL.*—*The United States shall pay a death gratuity of [up to] \$100,000 to or for the survivor prescribed by subsection (d) immediately upon receiving official notification of the death of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation.*

(2) *ADJUSTMENT.*—*The amount described in paragraph (1) shall be adjusted each March 1 by the amount determined by the Secretary of Labor to represent the percentage change in the Consumer Price Index for All Urban Consumers (all items; United States city average) published for December of the preceding year over that Index published for the December of the year prior to the preceding year, adjusted to the nearest 1/10 of 1 percent.*

(b) * * *

[(c) RELATIONSHIP TO OTHER BENEFITS.—**The death gratuity payable under this section shall be reduced by the amount of any death gratuity provided under section 413 of the Foreign Service**

Act of 1980, section 1603 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, or any other law of the United States based on the same death.】

(c) *RELATIONSHIP TO OTHER BENEFITS.*—*With respect to a death occurring on or after the date of enactment of the Honoring Civil Servants Killed in the Line of Duty Act, the death gratuity payable under this section may not be reduced by the amount of any other death gratuity provided under any other provision of Federal law based on the same death.*

(d) **ELIGIBLE SURVIVORS.**—

(1) * * *

* * * * *

(7) *If a person covered by this section does not have any eligible survivors, as described in this subsection, and that person has not designated an alternate person to receive a payment under this section, the payment shall be paid to the personal representative of the person’s estate.*

SEC. 8133. COMPENSATION IN CASE OF DEATH

* * * * *

STATUTORY NOTES AND RELATED SUBSIDIARIES

* * * * *

【GRATUITY FOR DEATH OF CIVILIAN EMPLOYEE FROM INJURY SUSTAINED IN LINE OF DUTY

Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 651], Sept. 30, 1996, 110 Stat. 3009–314, 3009–368, provided that: “Notwithstanding section 8116 of title 5, United States Code, and in addition to any payment made under 5 U.S.C. 8101 et seq., beginning in fiscal year 1997 and thereafter, the head of any department or agency is authorized to pay from appropriations made available to the department or agency a death gratuity to the personal representative (as that term is defined by applicable law) of a civilian employee of that department or agency whose death resulted from an injury sustained in the line of duty on or after August 2, 1990: Provided, That payments made pursuant to this section, in combination with the payments made pursuant to sections 8133(f) and 8134(a) of such title 5 and section 312 of Public Law 103–332 (108 Stat. 2537) [5 U.S.C. 8134 note], may not exceed a total of \$10,000 per employee.”】

* * * * *

SEC. 8134. FUNERAL EXPENSES; TRANSPORTATION OF BODY

(a)(1) If death results from an injury sustained in the performance of duty, the United States shall pay, to the personal representative of the deceased or otherwise, funeral and burial expenses not to exceed ~~【\$800】~~\$8,800, in the discretion of the Secretary of Labor.

(2) *The amount described in paragraph (1) shall be adjusted on March 1 of each year by the percentage amount determined by the Secretary of Labor under section 8146a for that year.*

* * * * *

**TITLE 22—FOREIGN RELATIONS AND
INTERCOURSE**

* * * * *

CHAPTER 52—FOREIGN SERVICE

* * * * *

SUBCHAPTER IV—COMPENSATION

* * * * *

SEC. 3973. DEATH GRATUITIES

(a) **CRITERIA; AMOUNT; PAYMENT DEEMED GIFT.**—The Secretary may provide for payment of a gratuity to the surviving **dependents** ~~beneficiaries~~ of any Foreign Service employee, who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary at level II of the Executive Schedule under section 5313 of title 5 at the time of death, except that for employees compensated under local compensation plans established under section 3968 of this title the amount shall be equal to the greater of either one year's salary at the time of death, or one year's basic salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source *except as provided in subsection (e)*.

(b) **OTHER EXECUTIVE AGENCIES.**—The head of an executive agency shall, pursuant to guidance issued under subsection (c), make a death gratuity payment authorized by this section to the **survivors** ~~surviving beneficiaries~~ of—

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

(2) **or of** an individual in a special category serving in an uncompensated capacity for that agency *abroad in support of a diplomatic mission*, as identified in guidance issued under subsection (c), who dies as a result of injuries sustained in the performance of duty abroad **while subject to the authority of the chief of mission pursuant to section 3927 of this title**.

(c) * * *

ELIGIBILITY TO ELECT MONTHLY COMPENSATION AS CONDITION TO PAYMENT.—A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(d) **ELIGIBILITY UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE.**—A death gratuity payment shall be made under this section only if the death is determined by the Secretary of Labor to have resulted from an injury (excluding a disease proximately caused by

the employment) sustained in the performance of duty under section 8102 of title 5, United States Code.

(e) OFFSET.—For deaths occurring on or after the date of enactment of the Honoring Civil Servants Killed in the Line of Duty Act, the death gratuity payable under this section shall be reduced by the amount of any death gratuity provided under section 5571 of title 5, United States Code, based on the same death.

[(e)](f) DEFINITIONS.—As used in this section—

(1) the term “Foreign Service employee” means any member of the Service or United States representative to an international organization or commission; and

(2) **[each of]**the **[term “widow”, “widower”, “child”, and “parent”]** shall have the same meaning given each such term by section 8101 of title 5. **term ‘surviving beneficiaries’ means the person or persons identified pursuant to the order of precedence established under section 5571(c)(2) of title 5, United States Code.**

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TITLE 49—TRANSPORTATION

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART I—GENERAL

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CHAPTER 401—GENERAL PROVISIONS

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SEC. 40122. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM

(a) * * *

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(g) PERSONNEL MANAGEMENT SYSTEM.—

(1) * * *

(2) APPLICABILITY OF TITLE 5.—The provisions of title 5 shall not apply to the new personnel management system developed and implemented pursuant to paragraph (1), with the exception of—

(A) * * *

* * * * *

(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards) and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

(i) * * *

* * * * *

(iii) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; **[and]**

(J) subject to paragraph (4) of this subsection, section 6329, relating to disabled veteran leave~~[".]~~; *and*

(K) section 5571, relating to death gratuities resulting from an injury sustained in the line of duty.

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