

114TH CONGRESS
2D SESSION

S. 3473

To increase outdated death gratuities and funeral allowances for Federal civilian employees killed in the line of duty, to expand the scope of eligible beneficiaries, to codify tax treatment, to change offset requirements, to harmonize death gratuities across Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2016

Ms. MIKULSKI (for herself, Mr. CARDIN, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To increase outdated death gratuities and funeral allowances for Federal civilian employees killed in the line of duty, to expand the scope of eligible beneficiaries, to codify tax treatment, to change offset requirements, to harmonize death gratuities across Federal agencies, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Death Gratuity Equity
5 Act of 2016”.

1 **SEC. 2. INCREASING THE DEATH GRATUITY FOR A FED-**
 2 **ERAL CIVILIAN EMPLOYEE KILLED IN THE**
 3 **LINE OF DUTY.**

4 (a) AMENDMENT TO TITLE 5.—Subchapter VII of
 5 chapter 55 of title 5, United States Code, is amended by
 6 adding at the end the following:

7 **“§ 5571. Certain employee death gratuities payable by**
 8 **reason of death of a Federal civilian em-**
 9 **ployee resulting from an injury sustained**
 10 **in the line of duty**

11 “(a) DEFINITIONS.—In this section—

12 “(1) the term ‘child’—

13 “(A) includes—

14 “(i) a natural child; and

15 “(ii) an adopted child; and

16 “(B) does not include a stepchild who has
 17 not been adopted by the applicable civilian em-
 18 ployee; and

19 “(2) the term ‘civilian employee’ means an indi-
 20 vidual who the Secretary of Labor has determined is
 21 an employee, as defined in section 8101(1).

22 “(b) DEATH GRATUITY AUTHORIZED.—

23 “(1) IN GENERAL.—Notwithstanding section
 24 8116, and in addition to any payment made under
 25 subchapter I of chapter 81, the head of an agency
 26 shall pay from appropriations made available for sal-

aries and expenses of that agency a death gratuity for the death of a civilian employee of that agency occurring on or after the date of enactment of this section if the death of the civilian employee—

“(A) resulted from an injury sustained in the line of duty; and

“(B) did not result from—

“(i) natural causes; or

“(ii) serious and willful misconduct by the civilian employee.

“(2) PAYMENT.—A death gratuity paid under paragraph (1) shall be—

“(A) in the amount described in subsection (c); and

“(B) paid to a person described in subsection (d).

“(c) AMOUNTS AVAILABLE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amount of a death gratuity paid under this section shall be—

“(A) \$100,000 per civilian employee; and

“(B) adjusted annually on March 1 of each year by the amount determined by the Secretary of Labor to represent the percentage difference between the Consumer Price Index (all

1 items; United States city average) published for
 2 December of the preceding year and that price
 3 index published for the December of the year
 4 before the preceding year, adjusted to the near-
 5 est $\frac{1}{10}$ of 1 percent.

6 “(2) LOCAL COMPENSATION PLAN.—The
 7 amount of a death gratuity paid in relation to the
 8 death of a civilian employee compensated under a
 9 local compensation plan established under section
 10 408 of the Foreign Service Act of 1980 (22 U.S.C.
 11 3968) shall be determined by regulations promul-
 12 gated by the Secretary of State.

13 “(d) EXECUTION OF PAYMENT.—

14 “(1) ESTABLISHMENT OF CLAIM.—Upon the
 15 establishment of a valid claim for a death gratuity
 16 under this section, payment shall be made—

17 “(A) to a person who—

18 “(i) survives a civilian employee on
 19 the date of the death of the civilian em-
 20 ployee; and

21 “(ii) is alive on the date that title to
 22 the payment arises; and

23 “(B) in the order of precedence established
 24 under paragraph (2).

1 “(2) ORDER OF PAYMENT.—The order of prece-
2 dence established under this paragraph is as follows:

3 “(A)(i) To a beneficiary designated by the
4 civilian employee in a signed and witnessed
5 writing that—

6 “(I) is received by the agency employ-
7 ing the civilian employee before the date of
8 the death of the civilian employee; and

9 “(II) specifies that the beneficiary
10 shall receive an amount payable under this
11 section.

12 “(ii) A will or other document that is not
13 executed and filed as described in clause (i)
14 shall not constitute a writing under clause (i)
15 and such a will or other document shall have no
16 force or effect.

17 “(B) If there is no beneficiary designated
18 under subparagraph (A), to the surviving
19 spouse of the civilian employee.

20 “(C) If subparagraphs (A) and (B) do not
21 apply, to—

22 “(i) the child or children of the civil-
23 ian employee; and

1 “(ii) any descendants of a deceased
 2 child or children of the civilian employee by
 3 representation.

4 “(D) If subparagraphs (A), (B), and (C)
 5 do not apply, to the surviving parent or parents
 6 of the civilian employee.

7 “(E) If subparagraphs (A) through (D) do
 8 not apply, to the duly appointed executor or ad-
 9 ministrator of the estate of the civilian em-
 10 ployee.

11 “(F) If subparagraphs (A) through (E) do
 12 not apply, to the person entitled to the payment
 13 under the laws of the domicile of the civilian
 14 employee on the date of the death of the civilian
 15 employee.

16 “(e) PAYMENT NOT GROSS INCOME.—A payment
 17 under this section shall not be considered gross income
 18 of a person described in subsection (d)(2) under section
 19 61 of the Internal Revenue Code of 1986.”.

20 (b) AMENDMENTS TO TITLE 49.—Section
 21 40122(g)(2) of title 49, United States Code, is amended—

22 (1) by redesignating subparagraphs (C) through
 23 (J) as subparagraphs (D) through (K), respectively;
 24 and

1 (2) by inserting after subparagraph (B) the fol-
 2 lowing:

3 “(C) section 5571, relating to a death gra-
 4 tuity resulting from an injury sustained in the
 5 line of duty;”.

6 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

7 Chapter 55 of title 5, United States Code, is amended—

8 (1) in the heading for subchapter VII, by strik-
 9 ing “EMPLOYEES” and inserting “PERSONS
 10 AND PAYMENTS FOR DISABILITY OR
 11 DEATH”; and

12 (2) in the table of sections—

13 (A) by striking the item relating to sub-
 14 chapter VII and inserting the following:

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

15 and

16 (B) by inserting after the item relating to
 17 section 5570 the following:

“5571. Certain employee death gratuities payable by reason of death of a Fed-
 eral civilian employee resulting from an injury sustained in the
 line of duty.”.

18 **SEC. 3. REPEAL OF 1996 DEATH GRATUITY PAYMENT AU-**
 19 **THORITY.**

20 Section 651 of the Treasury, Postal Service, and
 21 General Government Appropriations Act, 1997 (5 U.S.C.
 22 8133 note; Public Law 104–208) is repealed.

1 **SEC. 4. FUNERAL AND BURIAL EXPENSES.**

2 (a) IN GENERAL.—Section 8134 of title 5, United
3 States Code, is amended by striking subsection (a) and
4 inserting the following:

5 “(a)(1) For deaths occurring on or after the date of
6 enactment of the Death Gratuity Equity Act of 2016, if
7 death results from an injury sustained in the performance
8 of duty, the United States shall pay, to the personal rep-
9 resentative of the deceased or otherwise, funeral and bur-
10 ial expenses not to exceed \$8,800, in the discretion of the
11 Secretary of Labor.

12 “(2) The maximum payment permitted under para-
13 graph (1) shall be adjusted annually on March 1 of each
14 year in accordance with the adjustment described in sec-
15 tion 8146a.”.

16 (b) APPLICABILITY.—Section 8134(a) of title 5,
17 United States Code, as in effect on the day before the date
18 of enactment of this Act, shall apply to a death occurring
19 before the date of enactment of this Act without regard
20 to whether payment is made before, on, or after the date
21 of enactment of this Act.

22 **SEC. 5. FEDERAL EMPLOYEES’ COMPENSATION ACT DEATH**
23 **GRATUITY.**

24 (a) IN GENERAL.—Section 8102a of title 5, United
25 States Code, is amended—

(1) by striking subsection (a) and inserting the following:

“(a) DEATH GRATUITY AUTHORIZED.—

“(1) IN GENERAL.—

“(A) PAYMENT.—Except as provided in paragraph (2), for deaths occurring on or after the date of enactment of the Death Gratuities Equity Act of 2016, the United States shall pay a death gratuity of \$100,000 to or for the eligible survivor under subsection (d) immediately upon receiving official notification of the death of an employee who dies of injuries incurred in connection with the service of that employee with an Armed Force in a contingency operation.

“(B) ADJUSTMENT.—The amount under subparagraph (A) shall be adjusted annually on March 1 of each year by the amount determined by the Secretary of Labor to represent the percentage difference between the Consumer Price Index (all items; United States city average) published for December of the preceding year and that price index published for the December of the year before the preceding year, adjusted to the nearest $\frac{1}{10}$ of 1 percent.

1 “(C) NO REDUCTION.—The death gratuity
 2 payable under subparagraph (A) shall not be
 3 reduced by the amount of any other death gra-
 4 tuity provided under any other law of the
 5 United States that is based on the same death.

6 “(2) COMPENSATION FOR NONCITIZENS AND
 7 NONRESIDENTS.—For claims arising under section
 8 8137, the amount of the death gratuity shall be sub-
 9 ject to that section and the regulations promulgated
 10 under that section.”;

11 (2) by striking subsection (c);

12 (3) by redesignating subsections (d) and (e) as
 13 subsections (c) and (d), respectively; and

14 (4) in subsection (c), as so redesignated, by
 15 adding at the end the following:

16 “(7) If there are no eligible survivors, as de-
 17 scribed in paragraphs (1) through (6), and the em-
 18 ployee has not designated another person to receive
 19 an amount payable under this section, that amount
 20 shall be paid to the personal representative of the es-
 21 tate of the employee.”.

22 (b) APPLICABILITY.—Section 8102a of title 5, United
 23 States Code, as in effect on the day before the date of
 24 enactment of this Act, shall apply to a death occurring
 25 before the date of enactment of this Act without regard

1 to whether payment is made before, on, or after the date
2 of enactment of this Act.

3 **SEC. 6. AGENCY GRATUITY FOR DEATHS SUSTAINED IN**
4 **THE PERFORMANCE OF DUTY ABROAD.**

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

7 (1) in subsection (a)—

8 (A) in the first sentence, by striking “de-
9 pendents” and inserting “beneficiary”; and

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

13 (2) by amending subsection (b) to read as fol-
14 lows:

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

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

23 “(2) an individual in a special category serving
24 in an uncompensated capacity for that agency
25 abroad in support of a diplomatic mission, as identi-

1 fied in guidance issued under subsection (c), who
2 dies as a result of injuries sustained in the perform-
3 ance of duty abroad.”;

4 (3) by amending subsection (d) to read as fol-
5 lows:

6 “(d) ELIGIBILITY UNDER CHAPTER 81 OF TITLE 5,
7 UNITED STATES CODE.—A death gratuity payment may
8 be made under this section only if the death is determined
9 by the Secretary of Labor to have resulted from an injury
10 (excluding a disease proximately caused by the employ-
11 ment) sustained in the performance of duty under section
12 8102 of title 5, United States Code.”;

13 (4) by redesignating subsection (e) as sub-
14 section (g);

15 (5) by inserting after subsection (d) the fol-
16 lowing:

17 “(e) OFFSET.—For deaths occurring on or after the
18 date of enactment of this subsection, 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.

22 “(f) TAX TREATMENT.—A payment under this sec-
23 tion shall not be considered gross income of a surviving
24 beneficiary under section 61 of the Internal Revenue Code
25 of 1986.”; and

1 (6) in subsection (g), as so redesignated, by
 2 amending paragraph (2) to read as follows:

3 “(2) the term ‘surviving beneficiary’ means the
 4 person identified under the order of precedence es-
 5 tablished under section 5571(d)(2) of title 5, United
 6 States Code.”.

7 **SEC. 7. EMERGENCY SUPPLEMENTAL AUTHORIZATION IN**
 8 **THE EVENT OF THE INABILITY OF AN AGEN-**
 9 **CY TO MEET THE REQUIREMENTS OF THIS**
 10 **ACT.**

11 (a) IN GENERAL.—If the head of an agency (as de-
 12 fined in section 5561 of title 5, United States Code) deter-
 13 mines, with the concurrence of the Director of the Office
 14 of Management and Budget, that a natural disaster, act
 15 of terrorism, or other incident results in the inability of
 16 the agency to meet the requirements of this Act and the
 17 amendments made by this Act, additional amounts are au-
 18 thorized to be appropriated to make additional pay-
 19 ments—

20 (1) under—

21 (A) section 5571(b) of title 5, United
 22 States Code, as added by section 2(a);

23 (B) section 8102a of title 5, United States
 24 Code, as amended by section 5; and

1 (C) section 413 of the Foreign Service Act
2 of 1980 (22 U.S.C. 3973), as amended by sec-
3 tion 6; and

4 (2) that would exceed the amount available to
5 the agency without the additional appropriations.

6 (b) ADDITIONAL PAYMENTS.—A payment authorized
7 under subsection (a) may be made only if additional ap-
8 propriations are provided for a purpose described in that
9 subsection.

10 (c) CONGRESSIONAL VOTE.—It is the sense of Con-
11 gress that Congress should vote on a request for additional
12 appropriations under this section not later than 30 days
13 after the date of submission of such a request to Congress.

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