

Calendar No. 385

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
118-174 }

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. 3029

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



MAY 9, 2024.—Ordered to be printed

—
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MAY 9, 2024.—Ordered to be printed

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

R E P O R T

[To accompany S. 3029]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3029) 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 an amendment and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 3029, the *Honoring Civil Servants Killed in the Line of Duty Act*, would increase death gratuity payments and financial assistance to cover funeral expenses for the families of federal employees killed in the line of duty. Current law provides \$10,000 in compensation to surviving families of civil servants and \$800 toward funeral costs. This bill would provide \$100,000 of financial support to the families of federal employees who lose their lives on-the-job, as well as \$8,800 to cover funeral expenses. The bill indexes the

amount of both payments to inflation for annual adjustments. In addition, the bill authorizes an emergency supplemental appropriation for death gratuities if needed as part of the response to major events like natural disasters.¹

II. BACKGROUND AND NEED FOR THE LEGISLATION

Current law authorizes \$10,000 in payments to surviving family members of most federal civilian employees killed in performance of their duties, in addition to a funeral expense payment of \$800.² These compensation levels have not changed since they were established by Congress in 1997 and 1966, respectively.³ Today, average funeral costs in the United States range between \$7,000 and \$9,000, with the averages in ten states rising above \$9,000.⁴ *The Honoring Civil Servants Killed in the Line of Duty Act* would increase financial assistance for funeral expenses from \$800 to \$8,800, adjusted annually for inflation. In addition, this bill would provide a death gratuity benefit to compensate surviving families beyond simply the cost of a funeral.

Some government positions already qualify for financially meaningful death gratuity payments. For example, surviving families of Foreign Service employees who lose their lives due to injuries sustained abroad are eligible for a gratuity payment equivalent to one year's salary at the rate of Level II of the Executive Schedule.⁵ The annual rate of pay for Executive Schedule Level II positions in 2023 is \$212,100.⁶ In addition, the Department of Defense death gratuity 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 This bill would provide all surviving families of federal employees with a death gratuity payment of at least \$100,000, indexed to inflation going forward.

In addition to increasing the compensation levels for families of civil servants following the death of a loved one, the bill would also address an inequitable administration of death gratuity payments across the federal government. According to the Office of Personnel Management (OPM), civilian agencies vary in the way they administer death gratuities due to a range of factors, such as the type of job held by the employee and differing rules related to offset re-

¹ On February 2, 2022, the Committee approved S. 3487, the *Honoring Civil Servants Killed in the Line of Duty Act*. That bill, as reported, is substantially similar to S. 3029. Accordingly, this committee report is, in many respects, similar to the committee report for S. 3029. See S. Rept. 117–123.

² Pub. L. No 103–332, Sec. 312 (1994); and 5 U.S.C. § 8134(a).

³ *Id.*; See also 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 Oct. 31, 2023).

⁴ World Population Review, *Average Funeral Cost by State* [Updated May 2023] (worldpopulationreview.com/state-rankings/average-funeral-cost-by-state) (accessed Oct. 31, 2023).

⁵ 22 U.S.C. § 3973(a).

⁶ Office of Personnel Management, *Salary Table No. 2023–EX: Rates of Basic Pay for the Executive Schedule (EX)* (www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/EX.pdf).

⁷ Department of Defense Military Compensation, *Death Gratuity* (militarypay.defense.gov/benefits/death-gratuity/) (accessed Oct. 31, 2023); Military One Source, *Support After Loss Benefits* (www.militaryonesource.mil/family-relationships/gold-star-surviving-family/gold-star-surviving-family-benefits/) (accessed Oct. 31, 2023).

quirements, tax treatment, and employee eligibility.⁸ In 2016, OPM submitted a legislative proposal to the U.S. House of Representatives and Senate to increase and more clearly authorize a government-wide death gratuity benefit for federal employees killed in the line of duty.⁹ The *Honoring Civil Servants Killed in the Line of Duty Act* mirrors the OPM legislative proposal and would ensure a more uniform administration of death gratuity payments. The bill would cover all federal workers, including interns, seasonal employees, Peace Corps volunteers, Postal employees, and Transportation Security Administration (TSA) employees. The death gratuity payment would apply to deaths as a result of injury or exposure to a disease in the line of service. This benefit would also apply to a range of major incidents in which the lives of civil servants are tragically lost, such as natural disasters, terrorist attacks, criminal acts, wildfires, or other life-threatening events that require response teams of federal employees.

III. LEGISLATIVE HISTORY

Senator Kyrsten Sinema (I–AZ) introduced S. 3029, the *Honoring Civil Servants Killed in the Line of Duty Act*, on October 4, 2023, with original cosponsors Senator Bill Hagerty (R–TN), Senator Alex Padilla (D–CA), and Senator Josh Hawley (R–MO). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 3029 at a business meeting on October 25, 2023. During the business meeting, Ranking Member Paul offered an amendment to the bill as well as a modification to that amendment due to negotiations with Senator Sinema. The Paul amendment as modified indexed the payments for death gratuities to the Personal Consumption Expenditure Price Index (PCE) rather than the Consumer Price Index for All Urban Consumers (CPI–U) for the purpose of annual adjustments for inflation. The amendment as modified also required the heads of agencies to submit a notification to the Government Accountability Office (GAO) within 15 days after making a death gratuity payment and required GAO to annually submit a report to Congress regarding the aggregate amount of death gratuity payments made by agencies. In addition, the amendment as modified required GAO to perform an audit of the death gratuity benefit and submit a report to Congress within three years after the bill’s enactment.

The Committee adopted the modification to the Paul amendment by voice vote with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, and Scott present. The Committee adopted the Paul amendment as modified by voice vote with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, and Scott present. The bill, as amended by the Paul amendment as modified, was ordered reported favorably by a roll call vote of 10 yeas to 0 nays, with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Lankford, Romney, and Scott voting in the affirmative, and

⁸ 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 Oct. 31, 2023).

⁹*Id.*

Senator Paul recorded as “present.” Senators Carper, Johnson, and Hawley voted yea by proxy, for the record only.

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.”

Section 2. Increasing death gratuity for Federal employees killed in the line of duty

Subsection (a) adds a new section 5571 to Title 5, United States Code, to establish a death gratuity benefit for federal employees killed in the line of duty, updating and replacing the death gratuity benefit authority that took effect in 1997.

Section 5571, subsection (a) defines the term “employee” for the purpose of federal death gratuity payments. Individuals employed by the District of Columbia government do not qualify for federal employee death gratuities.

Section 5571, subsection (b) directs agency heads to pay death gratuities to beneficiaries if the death of an employee resulted from an injury sustained by the individual 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 based on PCE. The text clarifies that the Secretary of State maintains authority for administering the death gratuity payment for certain employees whose compensation and benefits are established under the *Foreign Service Act of 1980*.

Section 5571, subsection (c) defines the term “child” in the context of death gratuity payment recipients. Payment recipients, listed in order of precedence, include: a designated beneficiary, a surviving spouse, children of the employee, surviving parents, an administrator of the employee’s estate, or the person entitled to benefits per the laws of the employee’s state of residence.

Subsection (b) amends Title 49 to provide Federal Aviation Administration personnel with eligibility for death gratuity payments under title 5. The Committee’s intent is that the increased death benefit and funeral expenses provided for in this bill shall apply to all TSA employees, including Transportation Security Officers.

Section. 3. Funeral expenses

Subsection (a) increases the amount of payment to help cover funeral expenses for federal employees killed in the line of duty from \$800 to \$8,800. It also requires a cost-of-living adjustment to the payment amount each year.

Subsection (b) applies the increased payment for funeral expenses toward deaths that occur on or after the date of the bill’s enactment.

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

This section amends section 8102a of Title 5 regarding death gratuity payments for federal employees killed in connection with an Armed Forces contingency operation. The changes would ensure the death gratuity payment for these employees is \$100,000 rather

than “up to” \$100,000 and adjusted each year for inflation. This section would also ensure the death gratuity payment is administered in the same manner as the benefits established in section 5571.

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

This section amends a section of the *Foreign Service Act of 1980* regarding the death gratuity payments for certain Foreign Service employees. It clarifies the manner in which the Secretary of State may administer the death gratuity payments under the *Foreign Service Act of 1980*, including that the payments would be offset by any death gratuity payment received by the beneficiary under section 5571 of Title 5, as established by this bill.

Section 6. Emergency supplemental authorization

Subsection (a) defines the terms “agency” and “covered provision” for the purpose 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 additional death gratuity payments.

Subsection (c) expresses a sense of Congress that Congress should take action on an emergency supplemental appropriation request, as described in subsection (b), within 30 days of an agency’s submission of the request.

Section 7. Personal Consumption Expenditures Price Index

This section changes which price index is referenced in statute, as amended by this bill, as the basis for annual adjustments to death gratuity payment amounts. The provisions replace references to CPI-U with references to PCE.

Section 8. Reporting requirements

Subsection (a) requires the head of an agency that makes a death gratuity payment as established by this bill in section 5571 of Title 5 to notify GAO within 15 business days after making the payment.

Subsection (b) requires GAO to submit an annual report to this Committee and the Committee on Oversight and Accountability of the House of Representatives regarding the aggregate amount of death gratuities paid under authorities in section 5571 of Title 5.

Subsection (c) requires GAO, within three years after the bill’s enactment, to conduct an audit regarding death gratuities paid under authorities in section 5571 of Title 5.

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

| At a Glance | | | |
|---|-----------------|---|-----------|
| S. 3029, Honoring Civil Servants Killed in the Line of Duty Act | | | |
| As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on October 25, 2023 | | | |
| By Fiscal Year, Millions of Dollars | 2024 | 2024-2028 | 2024-2033 |
| Direct Spending (Outlays) | * | 1 | 3 |
| Revenues | 0 | 0 | 0 |
| Increase or Decrease (-) in the Deficit | * | 1 | 3 |
| Spending Subject to Appropriation (Outlays) | 1 | 16 | 37 |
| Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034? | < \$2.5 billion | Statutory pay-as-you-go procedures apply? | Yes |
| | | Mandate Effects | |
| Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034? | < \$5 billion | Contains intergovernmental mandate? | No |
| | | Contains private-sector mandate? | No |
| * = between zero and \$500,000. | | | |

The bill would:

- Increase payments to family (or another specified individual) of federal civilian employees killed in the line of duty to \$100,000
- Adjust those payments annually to account for inflation
- Increase the funeral benefits paid for federal employees
- Require the Government Accountability Office to report annually on payments made under the bill and to occasionally audit those payments

Estimated budgetary effects would mainly stem from:

- Increased payments to families of federal civilian employees who died while on the job

Areas of significant uncertainty include:

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

Bill summary: S. 3029 would increase the death gratuity and funeral benefits for federal employees who die while on the job.

Estimated Federal cost: The estimated budgetary effect of S. 3029 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. 3029

| | By fiscal year, millions of dollars— | | | | | | | | | | | |
|--|--------------------------------------|------|------|------|------|------|------|------|------|------|---------------|---------------|
| | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2024– 2028 | 2024– 2033 |
| INCREASES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | | | | | | | |
| Estimated Authorization | 3 | 4 | 5 | 4 | 4 | 4 | 4 | 5 | 4 | 4 | 20 | 41 |
| Estimated Outlays | 1 | 3 | 4 | 4 | 4 | 4 | 5 | 4 | 4 | 4 | 16 | 37 |
| INCREASES IN DIRECT SPENDING | | | | | | | | | | | | |
| Estimated Budget Authority | * | * | 1 | * | * | 1 | * | * | * | 1 | * | 3 |
| Estimated Outlays | * | * | 1 | * | * | 1 | * | * | * | 1 | * | 3 |
| Memorandum: | | | | | | | | | | | | |
| Intergovernmental Collections | * | * | -1 | * | * | * | -1 | * | * | * | -1 | -2 |

* = 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. 3029 would be enacted near the start of calendar year 2024.

Spending subject to appropriation: CBO estimates that implementing S. 3029 would increase spending subject to appropriation by \$16 million over the 2024–2028 for death gratuities and funeral benefits (see Table 2).

TABLE 2.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 3029

| | By fiscal year, millions of dollars— | | | | | |
|----------------------------------|--------------------------------------|------|------|------|------|-----------|
| | 2024 | 2025 | 2026 | 2027 | 2028 | 2024–2028 |
| Increased Death Gratuity: | | | | | | |
| Estimated Authorization | 3 | 4 | 4 | 4 | 4 | 19 |
| Estimated Outlays | 1 | 3 | 3 | 4 | 4 | 15 |
| Funeral Benefits: | | | | | | |
| Estimated Authorization | * | * | 1 | * | * | 1 |
| Estimated Outlays | * | * | 1 | * | * | 1 |
| Total Changes: | | | | | | |
| Estimated Authorization | 3 | 4 | 5 | 4 | 4 | 20 |
| Estimated Outlays | 1 | 3 | 4 | 4 | 4 | 16 |

* = between zero and \$500,000.

Increased Death Gratuity. Section 2 of the bill would boost the limit on payments that federal agencies make for death gratuities for an employee who dies while performing their duties from \$10,000 to \$100,000, with subsequent adjustments each year to account for inflation. Those payments would be paid from federal agencies’ salaries and expense accounts, which are largely classified as discretionary spending.

Using information from the Department of Labor (DOL), CBO estimates that about 40 employees die each year in the course of performing their duties. Enacting section 2 would increase death gratuities by \$90,000 part way through 2024, and by somewhat larger amounts in future years. (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.) On that basis, and assuming appropriation of the necessary amounts, CBO estimates that implementing section 2 would increase discretionary costs by \$15 million over the 2024–2028 period and \$35 million over the 2024–2033 period.

Additionally, the bill would provide inflation adjustments to death gratuities paid when federal employees die in connection with the employee’s service with the Armed Forces in a contingency operation. Based on information from the Department of Defense, CBO does not expect that implementing that provision would have a significant cost.

Funeral Benefits. Section 3 of S. 3029 would increase the maximum amount that DOL can reimburse the personal representative of a deceased federal employee for funeral costs under the Federal Employees’ Compensation Act (FECA) from \$800 to \$8,800, with subsequent adjustments each year to account for inflation. CBO expects that most people would receive the maximum funeral benefit. Those payments are classified as direct spending and are 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 \$1 million over the 2024–2028 period and \$2 million over the 2024–2033 period.

Government Accountability Office (GAO) reports and audits. Section 8 of the bill would require GAO to report annually on the total amount of death gratuity payments made under the bill. No more than three years after enactment and periodically thereafter, GAO would be required to audit the payments made under the bill. Based on information from GAO, CBO estimates that implementing section 8 would increase spending subject to appropriation by an insignificant amount annually and over the 2024–2033 period.

Direct spending: CBO estimates that increasing the funeral benefit under FECA would increase direct spending by \$3 million over the 2024–2033 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 from CBO’s estimates. Terrorist attacks, natural disasters, pandemics, wars, or other exogenous events could significantly increase the number of 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 under the “Direct Spending” heading in Table 1.

Increase in long-term net direct spending and deficits: CBO estimates that enacting S. 3029 would not increase net direct spending by more than \$2.5 billion in any of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting S. 3029 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2034.

Mandates: The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

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

Estimate reviewed by: Barry Blom, Chief, Projections Unit; Elizabeth Cove Delisle, Chief, Income Security Cost Estimates Unit; Christina Hawley Anthony, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

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

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted

is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

* * * * *

SUBPART D—PAY AND ALLOWANCES

* * * * *

CHAPTER 55—PAY ADMINISTRATION

Table of sections

SUBCHAPTER I—GENERAL PROVISIONS

* * * * *

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

Sec.

5561. Definitions.

* * * * *

5570. Compensation for disability or death.

5571. *Employee death gratuity payments.*

* * * * *

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), but not including any individual described in subparagraph (D) 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 Personal Consumption Expenditures Price Index 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 $\frac{1}{10}$ 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.

* * * * *

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 Personal Consumption Expenditures Price Index 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.”]

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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.

(b) * * *

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TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

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CHAPTER 52—FOREIGN SERVICE

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SUBCHAPTER IV—COMPENSATION

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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) * * *

(d) 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) * * *

(2) [each of] the [terms “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) IN GENERAL.—

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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) * * *

(ii) * * *

(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 addi-

tion 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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