

SUBCHAPTER III—TRANSPORTATION OF
REMAINS, DEPENDENTS, AND EFFECTS

§ 5741. General prohibition

Except as specifically authorized by statute, the head of an Executive department or military department may not authorize an expenditure in connection with the transportation of remains of a deceased employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 506.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 103.	June 7, 1897, ch. 3, §1 (last proviso on p. 86), 30 Stat. 86.

The words "a military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5742. Transportation of remains, dependents, and effects; death occurring away from official station or abroad

(a) For the purpose of this section, "agency" means—

- (1) an Executive agency;
- (2) a military department;
- (3) an agency in the legislative branch; and
- (4) an agency in the judicial branch.

(b) When an employee dies, the head of the agency concerned, under regulations prescribed by the President and, except as otherwise provided by law, may pay from appropriations available for the activity in which the employee was engaged—

(1) the expense of preparing and transporting the remains to the home or official station of the employee, or such other place appropriate for interment as is determined by the head of the agency concerned, if death occurred while the employee was in a travel status away from his official station in the United States or while performing official duties outside the continental United States or in transit thereto or therefrom;

(2) the expense of transporting his dependents, including expenses of packing, crating, draying, and transporting household effects and other personal property to his former home or such other place as is determined by the head of the agency concerned, if—

(A) the employee died while performing official duties outside the continental United States or in transit thereto or therefrom; or

(B) in the case of an employee who was a party to a mandatory mobility agreement that was in effect when the employee died—

(i) the employee died in the circumstances described in subparagraph (A); or

(ii)(I) the employee died as a result of disease or injury incurred while performing official duties—

(aa) in an overseas location that, at the time such employee was performing such official duties, was within the area of responsibility of the Commander of the United States Central Command; and

(bb) in direct support of or directly related to a military operation, including a contingency operation (as defined in section 101(13)¹ of title 10) or an operation in response to an emergency declared by the President; and

(II) the employee's dependents were residing either outside the continental United States or within the continental United States when the employee died; and

(3) the travel expenses of not more than 2 persons to escort the remains of a deceased employee, if death occurred while the employee was in travel status away from his official station in the United States or while performing official duties outside the United States or in transit thereto or therefrom, from the place of death to the home or official station of such person, or such other place appropriate for interment as is determined by the head of the agency concerned.

(c) When a dependent of an employee dies while residing with the employee performing official duties outside the continental United States or in Alaska or in transit thereto or therefrom, the head of the agency concerned may pay the necessary expenses of transporting the remains to the home of the dependent, or such other place appropriate for interment as is determined by the head of the agency concerned. If practicable, the agency concerned in respect of the deceased may furnish mortuary services and supplies on a reimbursable basis when—

(1) local commercial mortuary facilities and supplies are not available; or

(2) the cost of available mortuary facilities and supplies are prohibitive in the opinion of the head of the agency.

Reimbursement for the cost of mortuary services and supplies furnished under this subsection shall be collected and credited to current appropriations available for the payment of these costs.

(d) The benefits of this section may not be denied because the deceased was temporarily absent from duty when death occurred.

(e) Employees covered by this section include an employee who has been reassigned away from the employee's home of record pursuant to a mandatory mobility agreement executed as a condition of employment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 507; Pub. L. 101-510, div. A, title XII, §1206(d), Nov. 5, 1990, 104

¹ See References in Text note below.