

## COMMITTEE PRINT

[Showing the text of the bill as agreed to  
by the Subcommittee on Civil Service  
on May 18, 2004]

108TH CONGRESS  
1ST SESSION

# S. 129

To provide for reform relating to Federal employment, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2003

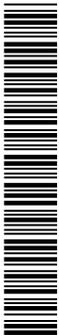
Mr. VOINOVICH introduced the following bill; which was read twice and  
referred to the Committee on Governmental Affairs

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## A BILL

To provide for reform relating to Federal employment, 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; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Federal Workforce Flexibility Act of 2004”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL  
MANAGEMENT**

Sec. 101. Recruitment, relocation, and retention bonuses.

Sec. 102. Streamlined critical pay authority.

Sec. 103. Senior Executive Service authority for White House Office of Admin-  
istration.

**TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER  
DEVELOPMENT AND BENEFITS**

**Subtitle A—General Provisions**

Sec. 201. Agency training.

Sec. 202. Annual leave enhancements.

Sec. 203. Compensatory time off for travel.

**Subtitle B—Provisions Relating to the Thrift Savings Plan**

Sec. 211. Contributions to the Thrift Savings Fund.

Sec. 212. Technical and conforming amendments.

Sec. 213. Effective date; savings provisions.

**Subtitle C—Provisions Relating to Retirement**

Sec. 221. Annuity commencement dates.

Sec. 222. Civil Service Retirement System computation for part-time service.

Sec. 223. Retirement service credit for cadet or midshipman service.

Sec. 224. Air traffic controller retirement.

**TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION**

Sec. 301. Corrections relating to pay administration.

Sec. 302. Technical corrections.



1 **TITLE I—REFORMS RELATING**  
2 **TO FEDERAL HUMAN CAP-**  
3 **ITAL MANAGEMENT**

4 **SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION**  
5 **BONUSES.**

6 (a) BONUSES.—

7 (1) IN GENERAL.—Chapter 57 of title 5, United  
8 States Code, is amended by striking sections 5753  
9 and 5754 and inserting the following:

10 **“§ 5753. Recruitment and relocation bonuses**

11 “(a)(1) This section may be applied to—

12 “(A) employees covered by the General Sched-  
13 ule pay system established under subchapter III of  
14 chapter 53; and

15 “(B) employees in a category approved by the  
16 Office of Personnel Management at the request of  
17 the head of an Executive agency.

18 “(2) A bonus may not be paid under this section to  
19 an individual who is appointed to or who holds—

20 “(A) a position to which an individual is ap-  
21 pointed by the President, by and with the advice and  
22 consent of the Senate;

23 “(B) a position in the Senior Executive Service  
24 as a noncareer appointee (as such term is defined  
25 under section 3132(a)); or



1           “(C) a position which has been excepted from  
2           the competitive service by reason of its confidential,  
3           policy-determining, policy-making, or policy-advo-  
4           cating character.

5           “(3) In this section, the term ‘employee’ has the  
6           meaning given that term in section 2105, except that such  
7           term also includes an employee described in subsection (c)  
8           of that section.

9           “(b) The Office of Personnel Management may au-  
10          thorize the head of an agency to pay a bonus under this  
11          section to an individual only if—

12           “(1) the position to which such individual is ap-  
13          pointed (as described in paragraph (2)(A)) or to  
14          which such individual moves or must relocate (as de-  
15          scribed in paragraph (2)(B)) is likely to be difficult  
16          to fill in the absence of such a bonus; and

17           “(2) the individual—

18           “(A) is newly appointed as an employee of  
19          the Federal Government; or

20           “(B)(i) is currently employed by the Fed-  
21          eral Government; and

22           “(ii)(I) moves to a new position in the  
23          same geographic area under circumstances de-  
24          scribed in regulations of the Office; or



1                   “(II) must relocate to accept a position in  
2                   a different geographic area.

3           “(c)(1) Payment of a bonus under this section shall  
4 be contingent upon the employee entering into a written  
5 service agreement to complete a period of employment  
6 with the agency, not longer than 4 years. The Office may,  
7 by regulation, prescribe a minimum service period for pur-  
8 poses of this section.

9           “(2)(A) The agreement shall include—

10                   “(i) the commencement and termination dates  
11                   of the required service period (or provisions for the  
12                   determination thereof);

13                   “(ii) the amount of the bonus;

14                   “(iii) the method of payment; and

15                   “(iv) other terms and conditions under which  
16                   the bonus is payable, subject to the requirements of  
17                   this section and regulations of the Office.

18           “(B) The terms and conditions for paying a bonus,  
19 as specified in the service agreement, shall include—

20                   “(i) the conditions under which the agreement  
21                   may be terminated before the agreed-upon service  
22                   period has been completed; and

23                   “(ii) the effect of the termination.

24           “(C) The required service period shall commence  
25 upon the commencement of service with the agency or



1 movement to a new geographic area, as applicable, unless  
2 the service agreement provides for a later commencement  
3 date in circumstances and to the extent allowable under  
4 regulations of the Office, such as when there is an initial  
5 period of formal basic training.

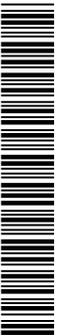
6 “(d)(1) Except as provided in subsection (e), a bonus  
7 under this section shall not exceed 25 percent of the an-  
8 nual rate of basic pay of the employee at the beginning  
9 of the service period multiplied by the number of years  
10 (including a fractional part of a year, as determined under  
11 regulations of the Office) in the required service period  
12 of the employee involved.

13 “(2) A bonus under this section may be paid as an  
14 initial lump sum, in installments, as a final lump sum  
15 upon the completion of the full period of service required  
16 by the agreement, or in a combination of these forms of  
17 payment.

18 “(3) A bonus under this section is not part of the  
19 basic pay of an employee for any purpose.

20 “(4) Under regulations of the Office, a recruitment  
21 bonus under this section may be paid to an eligible indi-  
22 vidual before that individual enters on duty.

23 “(e) The Office may authorize the head of an agency  
24 to waive the limitation under subsection (d)(1) based on  
25 a critical agency need, subject to regulations prescribed



1 by the Office. Under such a waiver, the maximum bonus  
2 allowable shall—

3 “(1) be equal to the maximum that would be  
4 determined if subsection (d)(1) were applied by sub-  
5 stituting ‘50’ for ‘25’; but

6 “(2) in no event exceed 100 percent of the an-  
7 nual rate of basic pay of the employee at the begin-  
8 ning of the service period.

9 Nothing in this subsection shall be considered to permit  
10 the waiver of any requirement under subsection (c).

11 “(f) The Office shall require that an agency establish  
12 a plan for the payment of recruitment bonuses before pay-  
13 ing any such bonuses, and a plan for the payment of relo-  
14 cation bonuses before paying any such bonuses, subject  
15 to regulations prescribed by the Office.

16 “(g) The Office may prescribe regulations to carry  
17 out this section, including regulations relating to the re-  
18 payment of a bonus under this section in appropriate cir-  
19 cumstances when the agreed-upon service period has not  
20 been completed.

21 **“§ 5754. Retention bonuses**

22 “(a) In this section, the term ‘employee’ has the  
23 meaning given that term under section 2105, except that  
24 such term also includes an employee described in sub-  
25 section (c) of that section.



1       “(b) The Office of Personnel Management may au-  
2 thorize the head of an agency to pay a retention bonus  
3 to an employee if—

4               “(1) the unusually high or unique qualifications  
5 of the employee or a special need of the agency for  
6 the employee’s services makes it essential to retain  
7 the employee; and

8               “(2) the agency determines that, in the absence  
9 of a retention bonus, the employee would be likely to  
10 leave—

11                       “(A) the Federal service; or

12                       “(B) for a different position in the Federal  
13 service under conditions described in regula-  
14 tions of the Office.

15       “(c) The Office may authorize the head of an agency  
16 to pay retention bonuses to a group of employees in 1 or  
17 more categories of positions in 1 or more geographic areas,  
18 subject to the requirements of subsection (b)(1) and regu-  
19 lations prescribed by the Office, if there is a high risk that  
20 a significant portion of employees in the group would be  
21 likely to leave in the absence of retention bonuses.

22       “(d) Except as provided in subsection (j), a bonus  
23 may be paid only to an employee covered by the General  
24 Schedule pay system established under subchapter III of  
25 chapter 53.



1           “(e)(1) Payment of a retention bonus is contingent  
2 upon the employee entering into a written service agree-  
3 ment with the agency to complete a period of employment  
4 with the agency.

5           “(2)(A) The agreement shall include—

6                   “(i) the length of the required service period;

7                   “(ii) the amount of the bonus;

8                   “(iii) the method of payment; and

9                   “(iv) other terms and conditions under which  
10 the bonus is payable, subject to the requirements of  
11 this section and regulations of the Office.

12           “(B) The terms and conditions for paying a bonus,  
13 as specified in the service agreement, shall include—

14                   “(i) the conditions under which the agreement  
15 may be terminated before the agreed-upon service  
16 period has been completed; and

17                   “(ii) the effect of the termination.

18           “(3)(A) Notwithstanding paragraph (1), a written  
19 service agreement is not required if the agency pays a re-  
20 tention bonus in biweekly installments and sets the install-  
21 ment payment at the full bonus percentage rate estab-  
22 lished for the employee with no portion of the bonus de-  
23 ferred.

24           “(B) If an agency pays a retention bonus in accord-  
25 ance with subparagraph (A) and makes a determination



1 to terminate the payments, the agency shall provide writ-  
2 ten notice to the employee of that determination. Except  
3 as provided in regulations of the Office, the employee shall  
4 continue to be paid the retention bonus through the end  
5 of the pay period in which such written notice is provided.

6 “(4) A retention bonus for an employee may not be  
7 based on any period of such service which is the basis for  
8 a recruitment or relocation bonus under section 5753.

9 “(f)(1) Except as provided in subsection (g), a reten-  
10 tion bonus, which shall be stated as a percentage of the  
11 employee’s basic pay for the service period associated with  
12 the bonus, may not exceed—

13 “(A) 25 percent of the employee’s basic pay if  
14 paid under subsection (b); or

15 “(B) 10 percent of an employee’s basic pay if  
16 paid under subsection (c).

17 “(2)(A) A retention bonus may be paid to an em-  
18 ployee in installments after completion of specified periods  
19 of service or in a single lump sum at the end of the full  
20 period of service required by the agreement.

21 “(B) An installment payment is derived by multi-  
22 plying the amount of basic pay earned in the installment  
23 period by a percentage not to exceed the bonus percentage  
24 rate established for the employee.



1       “(C) If the installment payment percentage estab-  
2 lished for the employee is less than the bonus percentage  
3 rate established for the employee, the accrued but unpaid  
4 portion of the bonus is payable as part of the final install-  
5 ment payment to the employee after completion of the full  
6 service period under the terms of the service agreement.

7       “(D) For purposes of this paragraph, the bonus per-  
8 centage rate established for an employee means the bonus  
9 percentage rate established for such employee in accord-  
10 ance with paragraph (1) or subsection (g), as the case may  
11 be.

12       “(3) A retention bonus is not part of the basic pay  
13 of an employee for any purpose.

14       “(g) Upon the request of the head of an agency, the  
15 Office may waive the limit established under subsection  
16 (f)(1) and permit the agency head to pay an otherwise  
17 eligible employee or category of employees retention bo-  
18 nuses of up to 50 percent of basic pay, based on a critical  
19 agency need.

20       “(h) The Office shall require that, before paying any  
21 bonuses under this section, an agency shall establish a  
22 plan for the payment of any such bonuses, subject to regu-  
23 lations prescribed by the Office.

24       “(i) The Office may prescribe regulations to carry out  
25 this section.



1 “(j)(1) At the request of the head of an Executive  
2 agency, the Office may extend coverage under this section  
3 to categories of employees within the agency who other-  
4 wise would not be covered by this section.

5 “(2) A bonus may not be paid under this section to  
6 an individual who is appointed to or who holds—

7 “(A) a position to which an individual is ap-  
8 pointed by the President, by and with the advice and  
9 consent of the Senate;

10 “(B) a position in the Senior Executive Service  
11 as a noncareer appointee (as such term is defined  
12 under section 3132(a); or

13 “(C) a position which has been excepted from  
14 the competitive service by reason of its confidential,  
15 policy-determining, policy-making, or policy-advo-  
16 cating character.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-  
18 tions for chapter 57 of title 5, United States Code,  
19 is amended by striking the item relating to section  
20 5754 and inserting the following:

“5754. Retention bonuses.”.

21 (3) SENSE OF CONGRESS.—It is the sense of  
22 the Congress that the Director of the Office of Per-  
23 sonnel Management—

24 (A) should, each time a bonus is paid  
25 under the amendment made by paragraph (1)



1 to recruit or relocate a Federal employee from  
2 one Government agency to another within the  
3 same geographic area or to retain a Federal  
4 employee who might otherwise leave one Gov-  
5 ernment agency for another within the same ge-  
6 ographic area, be notified of that payment with-  
7 in 60 days after the date on which such bonus  
8 is paid; and

9 (B) should monitor the payment of such  
10 bonuses (in the circumstances described in sub-  
11 paragraph (A)) to ensure that they are an ef-  
12 fective use of the Federal Government's funds  
13 and have not adversely affected the ability of  
14 those Government agencies that lost employees  
15 to other Government agencies (in such cir-  
16 cumstances) to carry out their mission.

17 (b) RELOCATION PAYMENTS.—Section 407 of the  
18 Federal Employees Pay Comparability Act of 1990 (5  
19 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

20 (c) REPORTS.—

21 (1) RECRUITMENT AND RELOCATION BO-  
22 NUSES.—

23 (A) IN GENERAL.—The Office of Personnel  
24 Management shall submit to the Committee on  
25 Governmental Affairs of the Senate and the

1 Committee on Government Reform of the  
2 House of Representatives annually, for each of  
3 the first 5 years during which section 5753 of  
4 title 5, United States Code (as amended by sub-  
5 section (a)(1)) is in effect, a report on the oper-  
6 ation of such section.

7 (B) CONTENTS.—Each report submitted  
8 under this paragraph shall include, with respect  
9 to the period covered by such report, a descrip-  
10 tion of how the authority to pay bonuses under  
11 the section of title 5, United States Code, re-  
12 ferred to in subparagraph (A) was used by the  
13 respective agencies, including, with respect to  
14 each such agency and each type of bonus under  
15 such section—

16 (i) the number and dollar-amount of  
17 bonuses paid—

18 (I) to individuals holding posi-  
19 tions within each pay grade, pay level,  
20 or other pay classification; and

21 (II) if applicable, to individuals  
22 who moved between positions that  
23 were in different agencies but the  
24 same geographic area (including the  
25 names of the agencies involved); and



1 (ii) a determination of the extent to  
2 which such bonuses furthered the purposes  
3 of such section.

4 (2) RETENTION BONUSES.—

5 (A) IN GENERAL.—The Office of Personnel  
6 Management shall submit to the Committee on  
7 Governmental Affairs of the Senate and the  
8 Committee on Government Reform of the  
9 House of Representatives annually, for each of  
10 the first 5 years during which section 5754 of  
11 title 5, United States Code (as amended by sub-  
12 section (a)(1)) is in effect, a report on the oper-  
13 ation of such section.

14 (B) CONTENTS.—Each report submitted  
15 under this paragraph shall include, with respect  
16 to the period covered by such report, a descrip-  
17 tion of how the authority to pay bonuses under  
18 the section of title 5, United States Code, re-  
19 ferred to in subparagraph (A) was used by the  
20 respective agencies, including, with respect to  
21 each such agency—

22 (i) the number and dollar-amount of  
23 bonuses paid—



1 (I) to individuals holding posi-  
2 tions within each pay grade, pay level,  
3 or other pay classification; and  
4 (II) if applicable, to prevent indi-  
5 viduals from moving between positions  
6 that were in different agencies but the  
7 same geographic area (including the  
8 names of the agencies involved); and  
9 (ii) a determination of the extent to  
10 which such bonuses furthered the purposes  
11 of such section.

12 (d) EFFECTIVE DATE AND APPLICATION.—

13 (1) EFFECTIVE DATE.—Except as provided  
14 under paragraphs (2) and (3), this section shall take  
15 effect on the first day of the first applicable pay pe-  
16 riod beginning on or after the 180th day after the  
17 date of the enactment of this Act.

18 (2) APPLICATION TO AGREEMENTS.—A recruit-  
19 ment or relocation bonus service agreement that was  
20 authorized under section 5753 of title 5, United  
21 States Code, before the effective date under para-  
22 graph (1) shall continue, until its expiration, to be  
23 subject to such section as in effect on the day before  
24 such effective date.



1           (3) APPLICATION TO ALLOWANCES.—Payment  
2 of a retention allowance that was authorized under  
3 section 5754 of title 5, United States Code, before  
4 the effective date under paragraph (1) shall con-  
5 tinue, subject to such section as in effect on the day  
6 before such effective date, until the retention allow-  
7 ance is reauthorized or terminated (but no longer  
8 than 1 year after such effective date).

9 **SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.**

10 Section 5377 of title 5, United States Code, is  
11 amended—

12           (1) by striking “Office of Personnel Manage-  
13 ment” each place it appears and inserting “Office of  
14 Management and Budget”;

15           (2) by striking “Office of Management and  
16 Budget” each place it appears and inserting “Office  
17 of Personnel Management”;

18           (3) in subsection (g), by striking “prescribing  
19 regulations under this section or”; and

20           (4) in subsection (h), by striking “Committee  
21 on Post Office and Civil Service” and inserting  
22 “Committee on Government Reform”.



1 **SEC. 103. SENIOR EXECUTIVE SERVICE AUTHORITY FOR**  
2 **WHITE HOUSE OFFICE OF ADMINISTRATION.**

3 (a) IN GENERAL.—Section 107(b)(2) of title 3,  
4 United States Code, is amended—

5 (1) by striking “to employ individuals” and all  
6 that follows through “provisions relating thereto”  
7 and inserting “(A) to employ individuals in the Of-  
8 fice of Administration in accordance with section  
9 3101 of title 5 and provisions relating thereto (ex-  
10 cluding those relating to the Senior Executive Serv-  
11 ice), and (B) to employ individuals in the Office of  
12 Administration in accordance with the provisions of  
13 title 5 relating to career appointees and career re-  
14 served positions in the Senior Executive Service”;  
15 and

16 (2) by striking “such section 3101” and insert-  
17 ing “subparagraph (A)”.

18 (b) GENERAL PAY LIMITATION.—Section 114 of title  
19 3, United States Code, is amended—

20 (1) by inserting “(a)” before “Notwith-  
21 standing”;

22 (2) by striking “minimum rate of basic pay  
23 then currently paid for GS-16” and inserting “max-  
24 imum rate of basic pay then currently paid for GS-  
25 15”; and

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



1 “(b) The limitation established in subsection (a) shall  
2 not apply to an individual appointed under section  
3 107(b)(2)(B).”.

4 (c) RULE OF CONSTRUCTION.—Nothing in any  
5 amendment made by this section shall be considered to  
6 constitute authority—

7 (1) to establish any position in the Senior Exec-  
8 utive Service that is not a career reserved position;  
9 or

10 (2) to appoint any individual to a position in  
11 the Senior Executive Service who is not a career ap-  
12 pointee.

13 (d) DEFINITIONS.—For purposes of this section, the  
14 terms “Senior Executive Service” and “career appointee”  
15 have the meanings set forth in section 3132(a) of title 5,  
16 United States Code.

17 **TITLE II—REFORMS RELATING**  
18 **TO FEDERAL EMPLOYEE CA-**  
19 **REER DEVELOPMENT AND**  
20 **BENEFITS**

21 **Subtitle A—General Provisions**

22 **SEC. 201. AGENCY TRAINING.**

23 (a) TRAINING TO ACCOMPLISH PERFORMANCE  
24 PLANS AND STRATEGIC GOALS.—Section 4103 of title 5,



1 United States Code, is amended by adding at the end the  
2 following:

3 “(c) The head of each agency shall, on a regular  
4 basis—

5 “(1) evaluate each program or plan established,  
6 operated, or maintained under subsection (a) with  
7 respect to accomplishing specific performance plans  
8 and strategic goals in performing the agency mis-  
9 sion; and

10 “(2) modify such program or plan as needed to  
11 accomplish such plans and goals.”.

12 (b) AGENCY TRAINING OFFICER.—Section 4103 of  
13 title 5, United States Code, is amended by adding at the  
14 end the following:

15 “(d) The head of each agency shall appoint a training  
16 officer to perform such advisory or other functions as the  
17 agency head considers necessary in order to carry out the  
18 preceding provisions of this section.”.

19 (c) SPECIFIC TRAINING PROGRAMS.—

20 (1) IN GENERAL.—Chapter 41 of title 5, United  
21 States Code, is amended by adding after section  
22 4119 the following:

23 **“§ 4120. Specific training programs**

24 “In consultation with the Office of Personnel Man-  
25 agement, the head of each agency shall establish—



1           “(1) a comprehensive management succession  
2           program to provide training to employees to develop  
3           managers for the agency; and

4           “(2) a program to provide training to managers  
5           on actions, options, and strategies a manager may  
6           use in—

7                   “(A) relating to employees with unaccept-  
8                   able performance; and

9                   “(B) mentoring employees and improving  
10                  employee performance and productivity.”.

11           (2) CLERICAL AMENDMENT.—The table of sec-  
12           tions for chapter 41 of title 5, United States Code,  
13           is amended by adding at the end the following:

“4120. Specific training programs.”.

14   **SEC. 202. ANNUAL LEAVE ENHANCEMENTS.**

15           (a) CREDITABILITY OF PRIOR NONGOVERNMENTAL  
16           SERVICE FOR PURPOSES OF DETERMINING RATE OF  
17           LEAVE ACCRUAL.—

18                   (1) IN GENERAL.—Section 6303 of title 5,  
19           United States Code, is amended by adding at the  
20           end the following:

21                   “(e)(1) Not later than 180 days after the date of the  
22           enactment of this subsection, the Office of Personnel Man-  
23           agement shall prescribe regulations under which, for pur-  
24           poses of determining years of service under subsection (a),  
25           credit shall, in the case of a newly appointed employee,



1 be given for any prior service of such employee that would  
2 not otherwise be creditable for such purposes, if—

3 “(A) such service—

4 “(i) was performed in a position the  
5 duties of which directly relate to the duties  
6 of the position to which such employee is  
7 so appointed; and

8 “(ii) meets such other requirements as  
9 the Office may prescribe; and

10 “(B) in the judgment of the head of the ap-  
11 pointing agency, the application of this subsection is  
12 necessary in order to achieve an important agency  
13 mission or performance goal.

14 “(2) Service described in paragraph (1)—

15 “(A) shall be creditable, for the purposes de-  
16 scribed in paragraph (1), as of the effective date of  
17 the employee’s appointment; and

18 “(B) shall not thereafter cease to be so cred-  
19 itable, unless the employee fails to complete a full  
20 year of continuous service with the agency.

21 “(3) An employee shall not be eligible for the applica-  
22 tion of paragraph (1) on the basis of any appointment if,  
23 within 90 days before the effective date of such appoint-  
24 ment, such employee has held any position in the civil  
25 service.”.



1           (2) CONFORMING AMENDMENT.—The second  
2 sentence of section 6303(a) of title 5, United States  
3 Code, is amended by striking the period and insert-  
4 ing “, and for all service which is creditable by vir-  
5 tue of subsection (e).”.

6           (b) OTHER ANNUAL LEAVE ENHANCEMENTS.—Sec-  
7 tion 6303 of title 5, United States Code, is amended by  
8 adding after subsection (e) (as added by subsection (a))  
9 the following:

10           “(f) Notwithstanding any other provision of this sec-  
11 tion, the rate of accrual of annual leave under subsection  
12 (a) shall be 1 day for each full biweekly pay period in the  
13 case of any employee who holds a position which is subject  
14 to—

15                   “(1) section 5376 or 5383; or

16                   “(2) a pay system equivalent to either of the  
17 foregoing, as determined by the Office of Personnel  
18 Management.”.

19           (c) APPLICABILITY.—None of the amendments made  
20 by subsection (a) shall apply in the case of any employee  
21 holding a position pursuant to an appointment made be-  
22 fore the effective date of the regulations implementing  
23 such amendments.



1 **SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.**

2 (a) IN GENERAL.—Subchapter V of chapter 55 of  
3 title 5, United States Code, is amended by adding at end  
4 the following:

5 **“§ 5550b. Compensatory time off for travel**

6 “(a) Notwithstanding any provision of section  
7 5542(b)(2) or 5544(a), an employee may be granted com-  
8 pensatory time off from such employee’s scheduled tour  
9 of duty for time spent by such employee in officially au-  
10 thorized travel status, away from the official duty station  
11 of such employee, if such time is not otherwise compen-  
12 sable, subject to subsection (b) and regulations under sub-  
13 section (c).

14 “(b) Nothing in this section shall be considered to  
15 permit or require—

16 “(1) the payment of any amount to an em-  
17 ployee for any hours of travel which are treated as  
18 hours of work for purposes of calculating compen-  
19 satory time off under subsection (a); or

20 “(2) the accrual of compensatory time off for  
21 any hours of travel, to the extent that the crediting  
22 of such hours would be precluded by virtue of sec-  
23 tion 5547, determined—

24 “(A) in the case of an employee who is not  
25 subject to the overtime pay provisions of the  
26 Fair Labor Standards Act of 1938, as if such



1 travel were otherwise compensable (in accord-  
2 ance with regulations under the second sentence  
3 of subsection (c)); and

4 “(B) in the case of an employee who is  
5 subject to the overtime pay provisions of the  
6 Fair Labor Standards Act of 1938, as if—

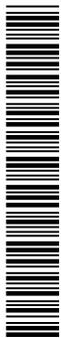
7 “(i) such travel were otherwise com-  
8 pensable (in accordance with regulations  
9 under the second sentence of subsection  
10 (c)); and

11 “(ii) the limitation under section 5547  
12 applied to amounts payable under such  
13 overtime pay provisions (in addition to any  
14 amounts to which such limitation otherwise  
15 applies).

16 “(c) The Office of Personnel Management shall pre-  
17 scribe any regulations necessary to carry out this section.  
18 Such regulations shall include provisions under which  
19 hours of compensatory time off under subsection (a) shall  
20 be assigned a dollar value, in the same manner as compen-  
21 satory time off under section 5543, for purposes of sub-  
22 section (b)(2).

23 “(d) For purposes of this section, the term ‘travel  
24 status’ includes—

25 “(1) the time spent actually traveling—



1           “(A) between an employee’s official duty  
2           station and a temporary duty station; or

3           “(B) between 2 temporary duty stations;

4           “(2) the usual waiting time that interrupts  
5           travel time described in paragraph (1), excluding  
6           any bona fide sleep and meal periods during such  
7           waiting time; and

8           “(3) such other travel time as the Office may  
9           prescribe under subsection (c).

10 Such term does not include time spent at a temporary  
11 duty station between arrival and departure.”.

12           (b) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) The table of sections for chapter 55 of title 5, United  
14 States Code, is amended by inserting after the item relat-  
15 ing to section 5550a the following:

“5550b. Compensatory time off for travel.”.

16           (2) Section 5541(2)(xi) of title 5, United States  
17 Code, is amended by inserting “or 5550b” after “5544”.

18           (c) EFFECTIVE DATE.—Nothing in any amendment  
19 made by this section shall be considered to permit or re-  
20 quire the accrual of compensatory time off for any time  
21 spent in travel status before the 180th day after the date  
22 of the enactment of this section or the effective date of  
23 regulations prescribed under section 5550b(c) of title 5,  
24 United States Code (as amended by this section), which-  
25 ever is earlier.



1 **Subtitle B—Provisions Relating to**  
2 **the Thrift Savings Plan**

3 **SEC. 211. CONTRIBUTIONS TO THE THRIFT SAVINGS FUND.**

4 (a) **ELIMINATION OF PROVISIONS LIMITING ELEC-**  
5 **TION OPPORTUNITIES.**—Section 8432(b) of title 5, United  
6 States Code, is amended—

7 (1) by striking paragraphs (2), (3), and (4);

8 (2) by redesignating paragraph (1)(A) as para-  
9 graph (1) and paragraph (1)(B) as paragraph (2);

10 (3) in paragraph (1) (as so redesignated), by  
11 striking “shall be afforded a reasonable period every  
12 6 months” and inserting “shall, in any pay period,  
13 be allowed”; and

14 (4) in paragraph (2) (as so redesignated), by  
15 striking “subparagraph (A) (or any election allow-  
16 able by virtue of paragraph (4))” and inserting  
17 “paragraph (1)”.

18 (b) **SIMPLIFICATION OF PROVISIONS RELATING TO**  
19 **AGENCY AUTOMATIC 1 PERCENT CONTRIBUTIONS GEN-**  
20 **ERALLY.**—Section 8432(c)(1) of title 5, United States  
21 Code, is amended—

22 (1) by striking “(c)(1)(A)” and inserting  
23 “(c)(1)”;

24 (2) by striking subparagraphs (B) and (C); and



1           (3) by striking “At the time” and all that fol-  
2           lows through “the employing agency” and inserting  
3           “‘At the time prescribed by the Executive Director in  
4           regulations, but no later than 12 days after the end  
5           of each pay period that applies with respect to an  
6           employee or Member, the employing agency”.

7           (c) SIMPLIFICATION OF PROVISIONS RELATING TO  
8           AGENCY MATCHING CONTRIBUTIONS GENERALLY.—Sec-  
9           tion 8432(c)(2) of title 5, United States Code, is amended  
10          by striking subparagraph (C).

11          (d) ELIMINATION OF OBSOLETE PROVISIONS RELAT-  
12          ING TO CERTAIN MAKEUP 1 PERCENT CONTRIBU-  
13          TIONS.—Section 8432 of title 5, United States Code, is  
14          amended—

15                 (1) by striking paragraph (3) of subsection (e);  
16                 and

17                 (2) by striking the second sentence of sub-  
18                 section (d).

19          **SEC. 212. TECHNICAL AND CONFORMING AMENDMENTS.**

20                 (a) PROVISIONS RELATING TO RETROACTIVE  
21                 USERRA MAKEUP CONTRIBUTIONS.—Section 8432(i) of  
22                 title 5, United States Code, is amended—

23                         (1) in paragraph (1)(B), by striking all that fol-  
24                         lows “as referred to in” and inserting “section



1 8432b(b)(2)(B)), is eligible to make an election de-  
2 scribed in subsection (b)(1).”; and

3 (2) in paragraph (2), by striking all that follows  
4 “would be allowable” and inserting “under sub-  
5 section (b).”.

6 (b) PROVISIONS RELATING TO TIMELY DISSEMINA-  
7 TION OF INFORMATION.—Section 8439(c)(2) of title 5,  
8 United States Code, is amended—

9 (1) in the first sentence, by striking “at least  
10 30 calendar days before the beginning of each elec-  
11 tion period under section 8432(b)(1)(A) of this title,  
12 and”; and

13 (2) by striking the second sentence.

14 (c) PROVISIONS RELATING TO CERTAIN GROUPS OF  
15 PARTICIPANTS.—

16 (1) CIVILIAN PERSONNEL.—Sections 8351,  
17 8440a, 8440b, 8440c, and 8440d of title 5, United  
18 States Code, are each amended in subsection (a)—

19 (A) by striking paragraph (2); and

20 (B) by striking “(a)(1)” and inserting  
21 “(a)”.

22 (2) MEMBERS OF THE UNIFORMED SERV-  
23 ICES.—Section 8440e of title 5, United States Code,  
24 is amended in subsection (b)—

25 (A) by striking paragraph (2); and



1 (B) by striking “(b)(1)” and inserting  
2 “(b)”.

3 **SEC. 213. EFFECTIVE DATE; SAVINGS PROVISIONS.**

4 (a) **EFFECTIVE DATE.**—This subtitle shall take effect  
5 as of such date as the Executive Director may by regula-  
6 tion prescribe, but in no event later than 1 year after the  
7 date of the enactment of this Act.

8 (b) **SAVINGS PROVISIONS.**—The Executive Director  
9 shall prescribe regulations to ensure that provisions com-  
10 parable to those repealed by subsections (b)(2), (c), and  
11 (d) of section 211 remain in effect for as long as necessary  
12 so that no person will be denied any benefit for which such  
13 person would have been eligible had those provisions not  
14 been so repealed.

15 (c) **DEFINITION.**—For purposes of this section, the  
16 term “Executive Director” means the Executive Director  
17 appointed by the Federal Retirement Thrift Investment  
18 Board under section 8474 of title 5, United States Code.

19 **Subtitle C—Provisions Relating to**  
20 **Retirement**

21 **SEC. 221. ANNUITY COMMENCEMENT DATES.**

22 (a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Section  
23 8345(b) of title 5, United States Code, is amended to read  
24 as follows:

25 “(b) Except as otherwise provided—



1           “(1) the annuity of an employee or Member re-  
2           tiring under section 8335, 8336, or 8337 commences  
3           on the day after—

4                   “(A) separation from the service; or

5                   “(B) pay ceases and the requirements for  
6           title to annuity are met; and

7           “(2) the annuity of an employee or Member re-  
8           tiring under section 8338 commences on the day  
9           after pay ceases and the applicable age and service  
10          requirements for title to annuity are met.”.

11          (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

12          Section 8464(a) of such title is amended to read as fol-  
13          lows:

14           “(a) Except as otherwise provided—

15                   “(1) the annuity of an employee or Member re-  
16           tiring under section 8412, 8414, or 8425 commences  
17           on the day after separation from the service;

18                   “(2) the annuity of an employee or Member re-  
19           tiring under section 8413 commences on the day  
20           after pay ceases and the applicable age and service  
21           requirements for title to annuity are met; and

22                   “(3) the annuity of an employee or Member re-  
23           tiring under section 8451 commences on the day  
24           after—

25                   “(A) separation from the service; or



1                   “(B) pay ceases and the requirements for  
2                   title to annuity are met.”.

3 **SEC. 222. CIVIL SERVICE RETIREMENT SYSTEM COMPUTA-**  
4 **TION FOR PART-TIME SERVICE.**

5                   Section 8339(p) of title 5, United States Code, is  
6 amended by adding at the end the following:

7                   “(3)(A) In the administration of paragraph (1)—

8                   “(i) subparagraph (A) of such paragraph shall  
9                   apply with respect to service performed before, on,  
10                  or after April 7, 1986; and

11                  “(ii) subparagraph (B) of such paragraph shall  
12                  apply with respect to that portion of any annuity  
13                  which is attributable to service performed on or after  
14                  April 7, 1986.

15                  “(B) This paragraph shall be effective with respect  
16 to any annuity entitlement to which is based on a separa-  
17 tion from service occurring on or after the date of the en-  
18 actment of this paragraph.”.

19 **SEC. 223. RETIREMENT SERVICE CREDIT FOR CADET OR**  
20 **MIDSHIPMAN SERVICE.**

21                  (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section  
22 8331(13) of title 5, United States Code, is amended by  
23 striking “or” at the end of subparagraph (B), by adding  
24 “or” at the end of subparagraph (C), and by inserting  
25 after subparagraph (C) the following:



1           “(D) as a cadet at the United States Mili-  
2           tary Academy, the United States Air Force  
3           Academy, or the United States Coast Guard  
4           Academy, or as a midshipman at the United  
5           States Naval Academy;”.

6           (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—  
7           Section 8401(31) of title 5, United States Code, is amend-  
8           ed by striking “or” at the end of subparagraph (B), by  
9           adding “or” at the end of subparagraph (C), and by in-  
10          serting after subparagraph (C) the following:

11           “(D) as a cadet at the United States Mili-  
12           tary Academy, the United States Air Force  
13           Academy, or the United States Coast Guard  
14           Academy, or as a midshipman at the United  
15           States Naval Academy;”.

16          (c) APPLICABILITY.—The amendments made by this  
17          section shall apply with respect to—

18           (1) any annuity entitlement to which is based  
19           on a separation from service occurring before, on, or  
20           after the date of the enactment of this Act; and

21           (2) any period of service, described in the  
22           amendment made by subsection (a) or (b), which oc-  
23           curs before, on, or after the date of the enactment  
24           of this Act.



1 **SEC. 224. AIR TRAFFIC CONTROLLER RETIREMENT.**

2 (a) IN GENERAL.—Section 226 of the Vision 100—  
3 Century of Aviation Reauthorization Act (Public Law  
4 108–176; 117 Stat. 2529) is amended to read as follows:

5 **“SEC. 226. AIR TRAFFIC CONTROLLER RETIREMENT.**

6 **“(a) AIR TRAFFIC CONTROLLER DEFINED.—**

7 **“(1) CIVIL SERVICE RETIREMENT SYSTEM.—**  
8 Section 8331 of title 5, United States Code, is  
9 amended—

10 **“(A) by striking ‘and’ at the end of para-**  
11 **graph (27);**

12 **“(B) by striking the period at the end of**  
13 **paragraph (28) and inserting ‘; and’; and**

14 **“(C) by adding at the end the following:**

15 **“(29) the term ‘air traffic controller’ or ‘con-**  
16 **troller’ means—**

17 **“(A) a controller within the meaning of**  
18 **section 2109(1); and**

19 **“(B) an employee who is transferred di-**  
20 **rectly to a supervisory or administrative posi-**  
21 **tion after performing duties referred to in sec-**  
22 **tion 2109(1) for at least 3 years.’.**

23 **“(2) FEDERAL EMPLOYEES’ RETIREMENT SYS-**  
24 **TEM.—Section 8401 of title 5, United States Code,**  
25 **is amended—**



1           “(A) by striking ‘and’ at the end of para-  
2 graph (33);

3           “(B) by striking the period at the end of  
4 paragraph (34) and inserting ‘; and’; and

5           “(C) by adding at the end the following:

6           “‘(35) the term “air traffic controller” or “con-  
7 troller” means—

8           ““(A) a controller within the meaning of  
9 section 2109(1); and

10           ““(B) an employee who is transferred di-  
11 rectly to a supervisory or administrative posi-  
12 tion after performing duties referred to in sec-  
13 tion 2109(1) for at least 3 years.’.

14           “(b) MANDATORY RETIREMENT.—An individual who  
15 is an air traffic controller, as defined by section  
16 8331(29)(B) or section 8401(35)(B) of title 5, United  
17 States Code, on the effective date of this section shall not  
18 be subject to mandatory separation under section 8335(a)  
19 or 8425(a) of such title.

20           “(c) PAYMENTS.—(1) The Department of Transpor-  
21 tation and the Department of Defense shall pay into the  
22 Civil Service Retirement and Disability Fund, based on  
23 the share of total costs arising from their employees as  
24 determined by the Director of the Office of Personnel  
25 Management, an amount determined by the Director of



1 the Office of Personnel Management to be necessary to  
2 reimburse the Fund for any estimated increase in the un-  
3 funded liability of the Fund resulting from the amend-  
4 ments related to the Civil Service Retirement System  
5 under this section, and for any estimated increase in the  
6 supplemental liability of the Fund resulting from the  
7 amendments related to the Federal Employees' Retire-  
8 ment System under this section.

9       “(2) The Departments shall pay the amount so deter-  
10 mined in 5 equal annual installments, with interest com-  
11 puted at the rate used in the most recent valuation of the  
12 Federal Employees' Retirement System.

13       “(d) EFFECTIVE DATE.—This section and the  
14 amendments made by this section—

15               “(1) shall take effect on the 60th day after the  
16 date of the enactment of this Act; and

17               “(2) shall apply with respect to—

18                       “(A) any annuity entitlement to which is  
19 based on an individual's separation from service  
20 occurring on or after the effective date of this  
21 section; and

22                       “(B) any service performed by any such in-  
23 dividual before, on, or after the effective date of  
24 this section.”.

25       (b) EFFECTIVE DATE.—



1 (1) IN GENERAL.—Except as provided in para-  
2 graph (2)—

3 (A) the amendment made by subsection (a)  
4 shall be effective as of the date of the enact-  
5 ment of the Vision 100—Century of Aviation  
6 Reauthorization Act (Public Law 108–176; 117  
7 Stat. 2529); and

8 (B) section 226 of such Act (as enacted  
9 before the date of the enactment of this Act)  
10 shall be deemed never to have been enacted,  
11 and the amendments made by such section 226  
12 (as so enacted) shall be deemed never to have  
13 been made.

14 (2) EXCEPTION.—In the case of an individual  
15 entitled to an annuity commencing before the date  
16 of the enactment of this Act, the preceding provi-  
17 sions of this section shall be disregarded.

18 **TITLE III—PROVISIONS RELAT-**  
19 **ING TO PAY ADMINISTRATION**

20 **SEC. 301. CORRECTIONS RELATING TO PAY ADMINISTRA-**  
21 **TION.**

22 (a) IN GENERAL.—Chapter 53 of title 5, United  
23 States Code, is amended—

24 (1) in section 5302, by striking paragraph (8)  
25 and inserting the following:



1           “(8) the term ‘rates of pay under the General  
2           Schedule’, ‘rates of pay for the General Schedule’, or  
3           ‘scheduled rates of basic pay’ means the rates of  
4           basic pay under the General Schedule as established  
5           by section 5332, excluding pay under section 5304  
6           and any other additional pay of any kind; and”;

7           (2) in section 5305—

8                   (A) by striking subsection (a) and insert-  
9                   ing the following:

10           “(a)(1) Whenever the Office of Personnel Manage-  
11           ment finds that the Government’s recruitment or retention  
12           efforts with respect to 1 or more occupations in 1 or more  
13           areas or locations are, or are likely to become, significantly  
14           handicapped due to any of the circumstances described in  
15           subsection (b), the Office may establish for the areas or  
16           locations involved, with respect to individuals in positions  
17           paid under any of the pay systems referred to in sub-  
18           section (c), higher minimum rates of pay for 1 or more  
19           grades or levels, occupational groups, series, classes, or  
20           subdivisions thereof, and may make corresponding in-  
21           creases in all rates of the pay range for each such grade  
22           or level. However, a minimum rate so established may not  
23           exceed the maximum rate of basic pay (excluding any lo-  
24           cality-based comparability payment under section 5304 or  
25           similar provision of law) for the grade or level by more

1 than 30 percent, and no rate may be established under  
2 this section in excess of the rate of basic pay payable for  
3 level IV of the Executive Schedule. In the case of individ-  
4 uals not subject to the provisions of this title governing  
5 appointment in the competitive service, the President may  
6 designate another agency to authorize special rates under  
7 this section.

8       “(2) The head of an agency may determine that a  
9 category of employees of the agency will not be covered  
10 by a special rate authorization established under this sec-  
11 tion. The head of an agency shall provide written notice  
12 to the Office of Personnel Management (or other agency  
13 designated by the President to authorize special rates  
14 under the last sentence of paragraph (1)) which identifies  
15 the specific category or categories of employees that will  
16 not be covered by special rates authorized under this sec-  
17 tion. If the head of an agency removes a category of em-  
18 ployees from coverage under a special rate authorization  
19 after that authorization takes effect, the loss of coverage  
20 will take effect on the first day of the first pay period  
21 after the date of the notice.”;

22                   (B) in subsection (b), by striking para-  
23 graph (4) and inserting the following:

24                   “(4) any other circumstances which the Office  
25 of Personnel Management (or such other agency as

1 the President may under the last sentence of sub-  
2 section (a)(1) designate) considers appropriate.”;

3 (C) in subsection (d)—

4 (i) by striking “President” and insert-  
5 ing “Office of Personnel Management”;  
6 and

7 (ii) by striking “or by such agency as  
8 he may designate” and inserting “(or by  
9 such other agency as the President may  
10 designate under the last sentence of sub-  
11 section (a)(1))”;

12 (D) in subsection (e), by striking “basic  
13 pay” and inserting “pay”;

14 (E) by striking subsection (f) and inserting  
15 the following:

16 “(f) When a schedule of special rates established  
17 under this section is adjusted under subsection (d), a cov-  
18 ered employee’s special rate will be adjusted in accordance  
19 with conversion rules prescribed by the Office of Personnel  
20 Management (or by such other agency as the President  
21 may under the last sentence of subsection (a)(1) des-  
22 ignate).”;

23 (F) in subsection (g)(1)—

24 (i) by striking “basic pay” and insert-  
25 ing “pay”; and



1 (ii) by striking “President (or his des-  
2 ignated agency)” and inserting “Office of  
3 Personnel Management (or such other  
4 agency as the President may under the last  
5 sentence of subsection (a)(1) designate”;

6 (G) by striking subsection (h) and insert-  
7 ing the following:

8 “(h) An employee shall not for any purpose be consid-  
9 ered to be entitled to a rate of pay established under this  
10 section with respect to any period for which such employee  
11 is entitled to a higher rate of basic pay under any other  
12 provision of law. For purposes of this subsection, the term  
13 ‘basic pay’ includes any applicable locality-based com-  
14 parability payment under section 5304 or similar provision  
15 of law.”; and

16 (H) by adding at the end the following:

17 “(i) If an employee who is receiving a rate of pay  
18 under this section becomes subject, by virtue of moving  
19 to a new official duty station, to a different pay schedule,  
20 such employee’s new rate of pay shall be initially estab-  
21 lished under conversion rules prescribed by the Office of  
22 Personnel Management (or such other agency as the  
23 President may under the last sentence of subsection (a)(1)  
24 designate) in conformance with the following:



1           “(1) First, determine the rate of pay to which  
2           such employee would be entitled at the new official  
3           duty station based on such employee’s position,  
4           grade, and step (or relative position in the rate  
5           range) before the move.

6           “(2) Then, if (in addition to the change in pay  
7           schedule) the move also involves any personnel ac-  
8           tion or other change requiring a rate adjustment  
9           under any other provision of law, rule, or regulation,  
10          apply the applicable rate adjustment provisions,  
11          treating the rate determined under paragraph (1) as  
12          if it were the rate last received by the employee be-  
13          fore the rate adjustment.

14          “(j) A rate determined under a schedule of special  
15          rates established under this section shall be considered to  
16          be part of basic pay for purposes of subchapter III of  
17          chapter 83, chapter 84, chapter 87, subchapter V of chap-  
18          ter 55, and section 5941, and for such other purposes as  
19          may be expressly provided for by law or as the Office of  
20          Personnel Management may by regulation prescribe.”;

21                 (3) in section 5334—

22                         (A) in subsection (b), by adding at the end  
23                         the following:

24           “If an employee’s rate after promotion or transfer is  
25           greater than the maximum rate of basic pay for the em-

1 ployee’s grade, that rate shall be treated as a retained rate  
2 under section 5363. The Office of Personnel Management  
3 shall prescribe by regulation the circumstances under  
4 which and the extent to which special rates under section  
5 5305 (or similar provision of law) or locality-adjusted  
6 rates under section 5304 (or similar provision of law) are  
7 considered to be basic pay in applying this subsection.”;  
8 and

9 (B) by adding at the end the following:

10 “(g) In the case of an employee who—

11 “(1) moves to a new official duty station, and

12 “(2) by virtue of such move, becomes subject to  
13 a different pay schedule,

14 any rate adjustment under the preceding provisions of this  
15 section, with respect to such employee in connection with  
16 such move, shall be made—

17 “(A) first, by determining the rate of pay to  
18 which such employee would be entitled at the new  
19 official duty station based on such employee’s posi-  
20 tion, grade, and step (or relative position in the rate  
21 range) before the move, and

22 “(B) then, by applying the provisions of this  
23 section that would otherwise apply (if any), treating  
24 the rate determined under subparagraph (A) as if it



1 were the rate last received by the employee before  
2 the rate adjustment.”;

3 (4) in section 5361—

4 (A) by amending paragraph (4) to read as  
5 follows:

6 “(4) ‘rate of basic pay’ means—

7 “(A) the rate of basic pay payable to an  
8 employee under law or regulations before any  
9 deductions or additions of any kind, but  
10 including—

11 “(i) any applicable locality-based com-  
12 parability payment under section 5304 or  
13 similar provision of law;

14 “(ii) any applicable special pay under  
15 section 5305 or similar provision of law;  
16 and

17 “(iii) subject to such regulations as  
18 the Office of Personnel Management may  
19 prescribe, any applicable existing retained  
20 rate of pay established under section 5363  
21 or similar provision of law; and

22 “(B) in the case of a prevailing rate em-  
23 ployee, the scheduled rate of pay determined  
24 under section 5343;”;



1 (B) in paragraph (6), by striking “and” at  
2 the end;

3 (C) in paragraph (7), by striking the pe-  
4 riod and inserting“; and”; and

5 (D) by adding at the end the following:

6 “(8) ‘retained rate’ means the rate of basic pay  
7 to which an employee is entitled under section  
8 5363(b)(2).”;

9 (5) in section 5363—

10 (A) in subsection (a), by striking the mat-  
11 ter following paragraph (4) and inserting the  
12 following:

13 “is entitled to a rate of basic pay in accordance with regu-  
14 lations prescribed by the Office of Personnel Management  
15 in conformity with the provisions of this section.”; and

16 (B) by striking subsections (b) and (c) and  
17 inserting the following:

18 “(b)(1)(A) If, as a result of any event described in  
19 subsection (a), the employee’s former rate of basic pay is  
20 less than or equal to the maximum rate of basic pay pay-  
21 able for the grade of the employee’s position immediately  
22 after the occurrence of the event involved, the employee  
23 is entitled to basic pay at the lowest rate of basic pay pay-  
24 able for such grade that equals or exceeds such former  
25 rate of basic pay.



1           “(B) This section shall cease to apply to an employee  
2 to whom subparagraph (A) applies once the appropriate  
3 rate of basic pay has been determined for such employee  
4 under this paragraph.

5           “(2)(A) If, as a result of any event described in sub-  
6 section (a), the employee’s former rate of basic pay is  
7 greater than the maximum rate of basic pay payable for  
8 the grade of the employee’s position immediately after the  
9 occurrence of the event involved, the employee is entitled  
10 to basic pay at a rate equal to the lesser of—

11                   “(i) the employee’s former rate of basic pay; or

12                   “(ii) 150 percent of the maximum rate of basic  
13 pay payable for the grade of the employee’s position  
14 immediately after the occurrence of the event in-  
15 volved,

16 as adjusted by subparagraph (B).

17           “(B) A rate to which an employee is entitled under  
18 this paragraph shall be increased at the time of any in-  
19 crease in the maximum rate of basic pay payable for the  
20 grade of the employee’s position by 50 percent of the dol-  
21 lar amount of each such increase.

22           “(3) For purposes of this subsection, the term  
23 ‘former rate of basic pay’, as used with respect to an em-  
24 ployee in connection with an event described in subsection

1 (a), means the rate of basic pay last received by such em-  
2 ployee before the occurrence of such event.

3 “(c)(1) Notwithstanding any other provision of this  
4 section, in the case of an employee who—

5 “(A) moves to a new official duty station, and

6 “(B) in conjunction with such move, becomes  
7 subject to both a different pay schedule and (dis-  
8 regarding this subsection) the preceding provisions  
9 of this section,

10 this section shall be applied—

11 “(i) first, by determining the rate of pay to  
12 which such employee would be entitled at the new  
13 official duty station based on such employee’s posi-  
14 tion, grade, and step (or relative position in the pay  
15 range) before the move, and

16 “(ii) then, by applying the provisions of this  
17 section that would apply (if any), treating the rate  
18 determined under clause (i) as if it were the rate  
19 last received by the employee before the application  
20 of this section.

21 “(2) A reduction in an employee’s rate of basic pay  
22 resulting from a determination under paragraph (1)(ii) is  
23 not a basis for an entitlement under this section.

24 “(3) The rate of basic pay for an employee who is  
25 receiving a retained rate at the time of moving to a new



1 official duty station at which different pay schedules apply  
2 shall be subject to regulations prescribed by the Office of  
3 Personnel Management consistent with the purposes of  
4 this section.

5 “(d) A retained rate shall be considered part of basic  
6 pay for purposes of this subchapter and for purposes of  
7 subchapter III of chapter 83, chapters 84 and 87, sub-  
8 chapter V of chapter 55, section 5941, and for such other  
9 purposes as may be expressly provided for by law or as  
10 the Office of Personnel Management may by regulation  
11 prescribe. The Office shall, for any purpose other than any  
12 of the purposes referred to in the preceding sentence, pre-  
13 scribe by regulation what constitutes basic pay for employ-  
14 ees receiving a retained rate.

15 “(e) This section shall not apply, or shall cease to  
16 apply, to an employee who—

17 “(1) has a break in service of 1 workday or  
18 more;

19 “(2) is entitled, by operation of this subchapter,  
20 chapter 51 or 53, or any other provision of law, to  
21 a rate of basic pay which is equal to or higher than,  
22 or declines a reasonable offer of a position the rate  
23 of basic pay for which is equal to or higher than, the  
24 retained rate to which the employee would otherwise  
25 be entitled; or



1           “(3) is demoted for personal cause or at the  
2           employee’s request.”; and

3           (6) in section 5365(b), by inserting after “pro-  
4           visions of this subchapter” the following: “(subject  
5           to any conditions or limitations the Office may es-  
6           tablish)”.

7           (b) SPECIAL RATES FOR LAW ENFORCEMENT OFFI-  
8           CERS.—Section 403(c) of the Federal Employees Pay  
9           Comparability Act of 1990 (5 U.S.C. 5305 note) is amend-  
10          ed by striking all after “provision of law)” and inserting  
11          “and shall be basic pay for all purposes. The rates shall  
12          be adjusted at the time of adjustments in the General  
13          Schedule to maintain the step linkage set forth in sub-  
14          section (b)(2).”.

15          (c) REPEAL.—Section 4505a(a)(2) of title 5, United  
16          States Code, is amended—

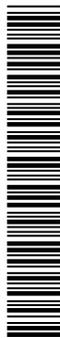
17                 (1) by striking “(2)(A)” and inserting “(2)”;  
18                 and

19                 (2) by striking subparagraph (B).

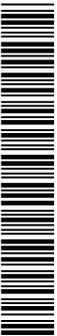
20          (d) EFFECTIVE DATE; CONVERSION RULES.—

21                 (1) EFFECTIVE DATE.—This section shall take  
22                 effect on the first day of the first applicable pay pe-  
23                 riod beginning on or after the 180th day after the  
24                 date of the enactment of this Act.

25                 (2) CONVERSION RULES.—



1 (A) INDIVIDUALS RECEIVING A RETAINED  
2 RATE OR A RATE GREATER THAN THE MAX-  
3 IMUM RATE FOR THE GRADE.—Subject to any  
4 regulations the Office of Personnel Manage-  
5 ment may prescribe, an employee under a cov-  
6 ered pay schedule who, on the day before the  
7 effective date of this section, is receiving a re-  
8 tained rate under section 5363 of title 5,  
9 United States Code, or is receiving under simi-  
10 lar authority a rate of basic pay that is greater  
11 than the maximum rate of basic pay payable for  
12 the grade of the employee’s position shall have  
13 that rate converted as of the effective date of  
14 this section, and the employee shall be consid-  
15 ered to be receiving a retained rate under sec-  
16 tion 5363 of such title (as amended by this sec-  
17 tion). The newly applicable retained rate shall  
18 equal the formerly applicable retained rate as  
19 adjusted to include any applicable locality-based  
20 payment under section 5304 of title 5, United  
21 States Code, or similar provision of law.



22 (B) DEFINITION.—For purposes of this  
23 paragraph, the term “covered pay schedule”  
24 has the meaning given such term by section  
25 5361 of title 5, United States Code.

1 **SEC. 302. TECHNICAL CORRECTIONS.**

2 (a)(1) Section 5304 of title 5, United States Code,  
3 as amended by section 1125 of the National Defense Au-  
4 thorization Act for Fiscal Year 2004 (Public Law 108-  
5 136), is amended—

6 (A) in subsection (g)(2)(A), by striking “(A)-  
7 (D)” and inserting “(A)-(C)”; and

8 (B) in subsection (h)(2)(B)(i), by striking “or  
9 (vii)” and inserting “or (vi)”.

10 (2) The amendments made by this subsection shall  
11 take effect as if included in the enactment of the National  
12 Defense Authorization Act for Fiscal Year 2004 (Public  
13 Law 108-136).

14 (b) Section 5314 of title 5, United States Code, is  
15 amended by adding at the end the following:

16 “Administrator of the Office of Electronic Gov-  
17 ernment.”.

