

“Ervin Act” after its principal author, Sam Ervin. Some provisions required no more than the 30-day congressional review period, while others required affirmative congressional approval. The amendments were intended to reinvigorate the rights of people with mental illness and encourage community-based treatment alternatives to costly and restrictive hospital confinement. The amendments are designed to ensure that people with mental illness are treated in the least restrictive setting consistent with the individual’s needs and public safety. The amendments also are designed to promote the use of private or community hospitals by people who are in need of acute psychiatric care, thus reducing the burden on St. Elizabeth’s Hospital, and increasing the amount of acute care that can be paid for by Medicaid instead of local tax dollars.

Among its significant improvements, the District’s new law sets a limit on the length of commitment and limits how long a person can be confined to a hospital while waiting for a hearing. Specifically, this bill: (1) changes the duration of civil commitment from an indeterminate period to a year period; (2) permits the Commission on Mental Health to determine the least restrictive setting for a patient’s care; (3) sets new limits on the postponement of the Commission’s hearing; and (4) permits qualified psychologists to join the panel of doctors who preside over hearings on a rotating basis.

H.R. 4302 would adopt verbatim the changes to the Commission on Mental Health proposed in the District’s law. In passing this bill, the Congress will play an important role in aiding the District to reform its mental health services and to treat its mental health patients with the dignity and respect.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I have no other speakers, urge adoption of the bill, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 4302, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

**FEDERAL WORKFORCE FLEXIBILITY ACT OF 2003**

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 129) to provide for reform relating to Federal employment, and for other purposes, as amended.

The Clerk read as follows:

S. 129

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

(b) TABLE OF CONTENTS.—The table of contents of 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.

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

Sec. 201. Agency training.

Sec. 202. Annual leave enhancements.

Sec. 203. Compensatory time off for travel.

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

Sec. 301. Corrections relating to pay administration.

Sec. 302. Technical corrections.

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

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

(a) BONUSES.—

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

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

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

“(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

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

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

“(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

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

“(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

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

“(b) The Office of Personnel Management may authorize the head of an agency to pay a bonus under this section to an individual only if—

“(1) the position to which such individual is appointed (as described in paragraph (2)(A)) or to which such individual moves or must relocate (as described in paragraph (2)(B)) is likely to be difficult to fill in the absence of such a bonus; and

“(2) the individual—

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

“(B)(i) is currently employed by the Federal Government; and

“(ii)(I) moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

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

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

“(2)(A) The agreement shall include—

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

“(ii) the amount of the bonus;

“(iii) the method of payment; and

“(iv) other terms and conditions under which the bonus is payable, subject to the re-

quirements of this section and regulations of the Office.

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

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

“(ii) the effect of the termination.

“(C) The required service period shall commence upon the commencement of service with the agency or movement to a new position or geographic area, as applicable, unless the service agreement provides for a later commencement date in circumstances and to the extent allowable under regulations of the Office, such as when there is an initial period of formal basic training.

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

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

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

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

“(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the maximum bonus allowable shall—

“(1) be equal to the maximum that would be determined if subsection (d)(1) were applied by substituting ‘50’ for ‘25’; but

“(2) in no event exceed 100 percent of the annual rate of basic pay of the employee at the beginning of the service period.

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

“(f) The Office shall require that an agency establish a plan for the payment of recruitment bonuses before paying any such bonuses, and a plan for the payment of relocation bonuses before paying any such bonuses, subject to regulations prescribed by the Office.

“(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a bonus under this section in appropriate circumstances when the agreed-upon service period has not been completed.

**“§ 5754. Retention bonuses**

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

“(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

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

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

“(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

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

“(C) a position which has been excepted from the competitive service by reason of its

confidential, policy-determining, policy-making, or policy-advocating character.

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

“(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee if—

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

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

“(A) the Federal service; or

“(B) for a different position in the Federal service under conditions described in regulations of the Office.

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

“(d)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

“(2)(A) The agreement shall include—

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

“(ii) the amount of the bonus;

“(iii) the method of payment; and

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

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

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

“(ii) the effect of the termination.

“(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in bi-weekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

“(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

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

“(e)(1) Except as provided in subsection (f), a retention bonus, which shall be stated as a percentage of the employee’s basic pay for the service period associated with the bonus, may not exceed—

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

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

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

“(B) An installment payment is derived by multiplying the amount of basic pay earned in the installment period by a percentage

not to exceed the bonus percentage rate established for the employee.

“(C) If the installment payment percentage established for the employee is less than the bonus percentage rate established for the employee, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

“(D) For purposes of this paragraph, the bonus percentage rate established for an employee means the bonus percentage rate established for such employee in accordance with paragraph (1) or subsection (f), as the case may be.

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

“(f) Upon the request of the head of an agency, the Office may waive the limit established under subsection (e)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

“(g) The Office shall require that, before paying any bonuses under this section, an agency shall establish a plan for the payment of any such bonuses, subject to regulations prescribed by the Office.

“(h) The Office may prescribe regulations to carry out this section.”.

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

“5754. Retention bonuses.”.

(3) SENSE OF CONGRESS.—It is the sense of the Congress that the Director of the Office of Personnel Management—

(A) should, each time a bonus is paid under the amendment made by paragraph (1) to recruit or relocate a Federal employee from one Government agency to another within the same geographic area or to retain a Federal employee who might otherwise leave one Government agency for another within the same geographic area, be notified of that payment within 60 days after the date on which such bonus is paid; and

(B) should monitor the payment of such bonuses (in the circumstances described in subparagraph (A)) to ensure that they are an effective use of the Federal Government’s funds and have not adversely affected the ability of those Government agencies that lost employees to other Government agencies (in such circumstances) to carry out their mission.

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

(c) REPORTS.—

(1) RECRUITMENT AND RELOCATION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5753 of title 5, United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency and each type of bonus under such section—

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

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

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

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

(2) RETENTION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5754 of title 5, United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency—

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

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

(II) if applicable, to prevent individuals from moving between positions that were in different agencies but the same geographic area (including the names of the agencies involved); and

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

(d) EFFECTIVE DATE AND APPLICATION.—

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

(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to such section as in effect on the day before such effective date.

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

#### SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

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

(1) by striking “Office of Personnel Management” each place it appears and inserting “Office of Management and Budget”;

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

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

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

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

**SEC. 201. AGENCY TRAINING.**

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

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

“(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

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

(b) SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4120 the following:

**“§ 4121. Specific training programs**

“In consultation with the Office of Personnel Management, the head of each agency shall establish—

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

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

“(A) relating to employees with unacceptable performance;

“(B) mentoring employees and improving employee performance and productivity; and

“(C) conducting employee performance appraisals.”.

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

“4121. Specific training programs.”.

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

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

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

“(e)(1) Not later than 180 days after the date of the enactment of this subsection, the Office of Personnel Management shall prescribe regulations under which, for purposes of determining years of service under subsection (a), credit shall, in the case of a newly appointed employee, be given for any prior service of such employee that would not otherwise be creditable for such purposes, if—

“(A) such service—

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

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

“(B) in the judgment of the head of the appointing agency, the application of this subsection is necessary in order to achieve an important agency mission or performance goal.

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

“(A) shall be creditable, for the purposes described in paragraph (1), as of the effective date of the employee’s appointment; and

“(B) shall not thereafter cease to be so creditable, unless the employee fails to complete a full year of continuous service with the agency.

“(3) An employee shall not be eligible for the application of paragraph (1) on the basis of any appointment if, within 90 days before the effective date of such appointment, such employee has held any position in the civil service.”.

(2) CONFORMING AMENDMENT.—The second sentence of section 6303(a) of title 5, United

States Code, is amended by striking the period and inserting “, and for all service which is creditable by virtue of subsection (e).”.

(b) OTHER ANNUAL LEAVE ENHANCEMENTS.—Section 6303 of title 5, United States Code, is amended by adding after subsection (e) (as added by subsection (a)) the following:

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

“(1) section 5376 or 5383; or

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

(c) APPLICABILITY.—None of the amendments made by subsection (a) shall apply in the case of any employee holding a position pursuant to an appointment made before the effective date of the regulations implementing such amendments.

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

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

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

“(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

“(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

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

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the effective date of any regulations prescribed to carry out such amendments; or

(2) the 90th day after the date of the enactment of this Act.

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

**SEC. 301. CORRECTIONS RELATING TO PAY ADMINISTRATION.**

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

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

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

(2) in section 5305—

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

“(a)(1) Whenever the Office of Personnel Management finds that the Government’s recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or

levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

“(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates under the last sentence of paragraph (1)) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.”;

(B) in subsection (b), by striking paragraph (4) and inserting the following:

“(4) any other circumstances which the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appropriate.”;

(C) in subsection (d)—

(i) by striking “President” and inserting “Office of Personnel Management”; and

(ii) by striking “or by such agency as he may designate” and inserting “(or by such other agency as the President may designate under the last sentence of subsection (a)(1))”;

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

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

“(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee’s special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management (or by such other agency as the President may under the last sentence of subsection (a)(1) designate).”;

(F) in subsection (g)(1)—

(i) by striking “basic pay” and inserting “pay”; and

(ii) by striking “President (or his designated agency)” and inserting “Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate)”;

(G) by striking subsection (h) and inserting the following:

“(h) An employee shall not for any purpose be considered to be entitled to a rate of pay established under this section with respect to any period for which such employee is entitled to a higher rate of basic pay under any other provision of law. For purposes of this subsection, the term ‘basic pay’ includes any applicable locality-based comparability payment under section 5304 or similar provision of law.”; and

(H) by adding at the end the following:

“(i) If an employee who is receiving a rate of pay under this section becomes subject, by virtue of moving to a new official duty station, to a different pay schedule, such employee’s new rate of pay shall be initially established under conversion rules prescribed

by the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) in conformance with the following:

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

“(2) Then, if (in addition to the change in pay schedule) the move also involves any personnel action or other change requiring a rate adjustment under any other provision of law, rule, or regulation, apply the applicable rate adjustment provisions, treating the rate determined under paragraph (1) as if it were the rate last received by the employee before the rate adjustment.

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

(3) in section 5334—

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

“If an employee’s rate after promotion or transfer is greater than the maximum rate of basic pay for the employee’s grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection.”; and

(B) by adding at the end the following:

“(g) In the case of an employee who—  
“(1) moves to a new official duty station, and

“(2) by virtue of such move, becomes subject to a different pay schedule, any rate adjustment under the preceding provisions of this section, with respect to such employee in connection with such move, shall be made—

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

“(B) then, by applying the provisions of this section that would otherwise apply (if any), treating the rate determined under subparagraph (A) as if it were the rate last received by the employee before the rate adjustment.”;

(4) in section 5361—

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

“(4) ‘rate of basic pay’ means—

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

“(i) any applicable locality-based comparability payment under section 5304 or similar provision of law;

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

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

“(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343.”;

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

(C) in paragraph (7), by striking the period and inserting “; and”; and

(D) by adding at the end the following:

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

(5) in section 5363—

(A) in subsection (a), by striking the matter following paragraph (4) and inserting the following:

“is entitled to a rate of basic pay in accordance with regulations prescribed by the Office of Personnel Management in conformity with the provisions of this section.”; and

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

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

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

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

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

“(ii) 150 percent of the maximum rate of basic pay payable for the grade of the employee’s position immediately after the occurrence of the event involved, as adjusted by subparagraph (B).

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

“(3) For purposes of this subsection, the term ‘former rate of basic pay’, as used with respect to an employee in connection with an event described in subsection (a), means the rate of basic pay last received by such employee before the occurrence of such event.

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

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

“(B) in conjunction with such move, becomes subject to both a different pay schedule and (disregarding this subsection) the preceding provisions of this section, this section shall be applied—

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

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

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

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

of moving to a new official duty station at which different pay schedules apply shall be subject to regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

“(d) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe. The Office shall, for any purpose other than any of the purposes referred to in the preceding sentence, prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

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

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

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

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

(6) in section 5365(b), by inserting after “provisions of this subchapter” the following: “(subject to any conditions or limitations the Office may establish)”.

(b) SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note) is amended by striking all after “provision of law” and inserting “and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).”.

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

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

(2) by striking subparagraph (B).

(d) EFFECTIVE DATE; CONVERSION RULES.—

(1) EFFECTIVE DATE.—This section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) CONVERSION RULES.—

(A) INDIVIDUALS RECEIVING A RETAINED RATE OR A RATE GREATER THAN THE MAXIMUM RATE FOR THE GRADE.—Subject to any regulations the Office of Personnel Management may prescribe, an employee under a covered pay schedule who, on the day before the effective date of this section, is receiving a retained rate under section 5363 of title 5, United States Code, or is receiving under similar authority a rate of basic pay that is greater than the maximum rate of basic pay payable for the grade of the employee’s position shall have that rate converted as of the effective date of this section, and the employee shall be considered to be receiving a retained rate under section 5363 of such title (as amended by this section). The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law.

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

**SEC. 302. TECHNICAL CORRECTIONS.**

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

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

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

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

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

“Administrator of the Office of Electronic Government.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

#### GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 129, the Federal Workforce Flexibility Act, is a momentous step toward effectively reforming the Federal civil service system. For 2 years, the Committee on Government Reform has worked to revitalize the management structure of specific departments and agencies: Homeland Security, Defense, NASA, the SEC and the GAO, to name a few. This legislation provides the rest of the Federal Government many of the flexibilities authorized for these specified agencies.

As we increase flexibilities provided to agencies and managers, we enhance their ability to manage their workforce. S. 129 is supported by the National Treasury Employees Union and the administration, and I urge my colleagues to support it as well.

Mr. Speaker, S. 129 will help Federal managers build a strong workforce by allowing managers to use recruitment, relocation and retention bonuses in a more strategic manner. This legislation also ensures that agencies will effectively manage their employee training efforts.

Under this bill, agencies will be required to align their training with performance plans and strategic goals, establish a comprehensive management succession program, and provide special training to managers who are dealing with unacceptable performances. In addition, it streamlines critical pay authority for positions that are difficult to fill and enhances annual leave benefits. It also allows workers to take time off in exchange for travel, and offers many other positive reforms for the Federal civil service.

Despite all of these reforms, it is our hope that the bill would include two

additional provisions that we unfortunately had to remove due to direct spending implications, as well as a provision dealing with air traffic controller retirement.

The first provision would have corrected current inequities in retirement benefit calculations for part-time Federal service under the Civil Service Retirement System. The second would have codified the current practice of providing civil service retirement credit for attendance at one of the four Federal military service academies. And the final provision would have taken the air traffic controller retirement policy that was included as part of last year’s aviation authorization bill and conformed it to existing government-wide enhanced annuity retirement policy.

Mr. Speaker, the Committee on Government Reform intends to pursue all of these legislative initiatives in the 109th Congress, and I look forward to working with my colleagues on these issues.

I want to commend the work of the Subcommittee on Civil Service on this legislation, especially our former chair, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Ranking Member DAVIS). Their good work and cooperation is reflected in this bill before us today, and their dedication to improving the Federal service generally is of great importance as we seek to make our government more competitive in the labor market.

Mr. Speaker, as chairman of the Committee on Government Reform, I have made my top priority the transformation of the Federal Government into an organization that is more efficient, effective and responsive to the needs of the American people. For this to occur, the establishment of a modernized human capital management system is of utmost importance. S. 129 is integral to this effort, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join with the gentleman from Virginia (Chairman TOM DAVIS) in consideration of S. 129, the Federal Workforce Flexibility Act of 2004, which would provide a variety of personnel flexibilities for Federal agencies.

Among other things, these government-wide flexibilities would provide Federal agencies with additional tools for recruiting employees for difficult-to-fill positions and for retaining employees with unusual qualifications. I am pleased that the flexibilities in this bill apply government-wide, and I view this as a better approach than the agency-specific reform bills that Congress has passed in recent years.

During the subcommittee markup of S. 129, this subcommittee accepted my amendment that prohibits recruit-

ment, relocation and retention bonuses from being paid to political appointees. There is no evidence that the Federal Government is having difficulty recruiting or retaining political appointees, and therefore, such bonuses are not needed for this group of employees.

In addition, my amendment requires the Office of Personnel Management to report the number of bonuses paid under the bill. This will allow Congress to evaluate whether these bonuses are effective in improving the recruitment and retention of highly qualified employees.

Earlier this month, we were reminded of how important it is to make these kinds of determinations. The Government Accounting Office, or GAO, report found that agencies are not using all of the hiring flexibilities that Congress has given them over the years. This troubling GAO finding deserves this committee’s further oversight. After all, it does no good to authorize recruiting tools that are never used.

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Furthermore, the minority amendment recommends that OPM monitor recruitment bonuses paid by one Federal agency to hire an individual working in another Federal agency that is located in the same geographic area. OPM also will have to study bonuses that are used to keep current employees from leaving a position at one Federal agency for a position at another Federal agency. It is not generally in the government’s best interest for agencies to engage in bidding wars over each other’s employees. OPM should ensure that bonuses paid to employees moving within the Federal Government are an effective use of the government’s resources and do not negatively impact the human capital needs of the entire Federal Government.

Finally, I want to highlight one provision in this bill that provides compensatory time for Federal employees when they travel on official business during nonworking hours. If it is necessary for an employee to travel on Sunday to attend an out-of-town meeting on Monday, that employee should receive some type of credit for giving up his or her weekend to travel for the government. I am pleased that an effort to place caps on compensatory time was dropped from the bill.

I want to commend the gentleman from Virginia (Mr. TOM DAVIS) and the ranking member, the gentleman from California (Mr. WAXMAN), for their leadership in bringing this legislation to the floor. I urge its support.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I again want to thank my ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS) for

their work. It has been a good bipartisan operation. I thank, of course, the sponsors from the other body as well. I urge my colleagues to support this.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in strong support of S. 129, the Federal Workforce Flexibility Act of 2004. As the original sponsor of the House version of this legislation, H.R. 1601, I am proud to see S. 129 considered on the House floor today.

This bill is an important tool as the Federal Government works to become a model employer. As the former-Chair of the Civil Service Subcommittee, I held hearings to explore what steps we can take to attract, motivate, and retain the best qualified workers to the Federal Government. S. 129 addresses the very real pay, benefit, and personal issues we investigated that keep potential employees from joining the civil service and sometimes drive our best employees and managers away.

The Federal Workforce Flexibility Act would do many things to improve the effectiveness of the Federal Government, including expanding agencies' abilities to offer recruitment, retention, and relocation bonuses, allowing agencies to offer enhanced annual leave benefits to mid-career hires, emphasizing training, streamlining critical pay authority, and making it easier for agencies to establish demonstration projects.

Mr. Speaker, S. 129 will go a long way in strengthening the Federal workforce, and I urge my colleagues to support this important legislation.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the Senate bill, S. 129, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### CONGRATULATING ANDREW WOJTANIK FOR WINNING THE 16TH ANNUAL NATIONAL GEOGRAPHIC BEE

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 815) congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, conducted by the National Geographic Society.

The Clerk read as follows:

##### H. RES. 815

Whereas the 16th Annual National Geographic Bee was held in Washington, D.C., from May 25 to May 26, 2004;

Whereas the National Geographic Bee encourages the participation of millions of students and thousands of schools nationwide;

Whereas Andrew Wojtanik, an 8th grade student at Lakewood Middle School in Overland Park, Kansas, displayed his mastery of world geography by winning the 16th Annual National Geographic Bee;

Whereas Andrew Wojtanik competed against 54 other elementary, middle, and junior high school students from across the

United States, Puerto Rico, the Virgin Islands, and the Pacific Territories;

Whereas the National Geographic Bee tests the knowledge of students in a variety of subjects related to world geography, including physical, economic, cultural, political, and environmental topics;

Whereas the creation of the National Geographic Bee is an example of the National Geographic Society's commitment to broadening the understanding of students and the general public about the world around them;

Whereas geographic literacy has become increasingly important as technology and world events more often cross borders, oceans, and continents;

Whereas surveys consistently show that the level of geographic knowledge among people in the United States lags behind citizens of other countries;

Whereas a National Geographic-Roper survey of young adults between the ages of 18 and 24 in 9 different countries recently indicated that young adults in the United States were outperformed in geographic literacy by young adults in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada;

Whereas the National Geographic-Roper survey also indicated that only 13 percent of young adults in the United States between the ages of 18 and 24 could correctly identify Iraq on a map of the Asia and the Middle East: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates Andrew Wojtanik, the champion of the 16th Annual National Geographic Bee, for his comprehensive knowledge of geography; and

(2) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Lakewood Middle School in Overland Park, Kansas, for appropriate display and to transmit an enrolled copy of this resolution to Andrew Wojtanik and his family.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

##### GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 815.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 815 congratulates Andrew Wojtanik for winning the 16th Annual National Geographic Bee conducted by the National Geographic Society.

Mr. Speaker, this is a terrific and well-deserved honor for a terrific and deserving young man. I strongly support the resolution and urge all of my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 14-year-old 8th grader Andrew Wojtanik from Lakewood Mid-

dle School in Overland Park, Kansas, took top honors at the 2004 National Geographic Bee, which was held here in Washington, D.C. in May.

Andrew should be an example for all young people because he won a \$25,000 college scholarship, a lifetime membership in the National Geographic Society, and a week at a Sea World Busch Gardens Adventure Camp.

The winning question was: "Peshawar, a city in the North-West Frontier Province of Pakistan has had strategic importance for decades because of its location near a historic pass."

Andrew answered correctly when he replied, "Khyber Pass."

How many of us would have answered that question correctly? Well, I do not know. But for a \$25,000 scholarship I am sure that there are many young people who would try.

I congratulate Andrew and urge all of my colleagues to vote affirmatively for this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Kansas (Mr. MOORE), the author of this resolution, and I urge passage and congratulate Andrew Wojtanik.

Mr. MOORE. Mr. Speaker, on behalf of his proud neighbors in Kansas' Third Congressional District, and particularly on behalf of the students and teachers at Lakewood Middle School in Overland Park, Kansas, I am honored today to speak in favor of my resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee. I have been joined in this effort by Representatives JIM RYUN and JERRY MORAN of Kansas, and by Representatives MAJOR OWENS, EARL BLUMENAUER, and MAX BURNS. This resolution is similar to H. Res. 804, which we introduced last week, and reintroduced on Monday due to some jurisdictional issues which prevented bringing the original resolution to the floor quickly.

On May 26, 2004, Andrew won the 16th Annual National Geographic Bee when he correctly answered a question about the Khyber Pass in Northern Pakistan.

While Andrew's comprehensive knowledge of geography is an inspiration to students everywhere, studies suggest that most of Andrew's peers would be unable to find Pakistan on a map, let alone be aware of the significance of the Khyber Pass. Only 13 percent of young adults in the United States between the ages of 18 and 24 can correctly identify Iraq on a map of Asia and the Middle East. Year after year, American students are consistently outperformed in geographic literacy by students in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada.

The truth is that many students in the United States receive only a minimal amount of geography education during their educational careers. In 2001, Congress acknowledged the importance of including geography education in school curriculums when it designated geography as a "core subject" in the No Child Left Behind Act; yet, geography remains the only core subject identified in that act without a Federal program designed to improve educational performance.