

COMPENSATORY TIME OFF FOR TRAVEL BY
DEPARTMENT OF JUSTICE ATTORNEYS

MARCH 14, 2006.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government
Reform, submitted the following

R E P O R T

[To accompany H.R. 4057]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 4057) to provide that attorneys employed by the Department of Justice shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

Purpose and summary

H.R. 4057 would amend Section 5550b of title 5, U.S. Code, to extend compensatory time off for travel to attorneys in the Department of Justice.

Background and need for legislation

Section 203 of the Federal Workforce Flexibility Act of 2004 (Pub. L. 108–411, October 30, 2004) amended title 5, U.S. Code, by creating a new Sec. 5550b. Section 5550b requires an employing agency to grant an employee compensatory time off for time spent in travel status away from his or her official duty station, if the time is not otherwise compensable. An employee whose travel time is credited as compensatory time off is not entitled to pay for those hours.

When the Federal Workforce Flexibility Act of 2004 was enacted, it was understood that Sec. 5550b of title 5, U.S. Code, would apply to all Federal employees in Executive branch agencies. However, after the Federal Workforce Flexibility Act of 2004 became law, the Department of Justice stated the view that Pub. L. 106–113, div. B, Sec. 1000(a)(1) [title I, Sec. 115], Nov. 29, 1999, 113 Stat. 1535, 1501A–21, and Pub. L. 106–553, Sec. 1(a)(2) [title I, Sec. 111], Dec. 21, 2000, 114 Stat. 2762, 2762A–68 (set out as a note under 5 U.S.C. § 5541), prevented the Department from applying Sec. 5550b to any individual employed as an attorney, including an Assistant United States Attorney, in the Department of Justice. H.R. 4057 would remove any ambiguity regarding the application of Sec. 5550b of title 5, U.S. Code, to an individual employed as an attorney with the Department of Justice.

Legislative history

H.R. 4057 was introduced on October 17, 2005 by Representative Jon Porter and referred to the Committee on Government Reform. On October 20, 2005, the Committee on Government Reform held a consideration and markup hearing and the bill was reported favorably by voice vote.

SECTION-BY-SECTION

Sec. 1. Compensatory time off for travel

Subsection (a) allows attorneys, including assistant U.S. attorneys, employed with the Department of Justice to receive compensatory time for travel under the provisions of section 5550b of title, U.S. Code, without regard to the provisions of Pub. L. 106–113, div. B, Sec. 1000(a)(1) [title I, Sec. 115] and Pub. L. 106–553, Sec. 1(a)(2) [title I, Sec. 111].

Subsection (b) provides that subsection (a) applies to time spent in travel status on or after the date of enactment.

EXPLANATION OF AMENDMENTS

The provisions of the substitute are explained in this report.

COMMITTEE CONSIDERATION

On October 20, 2005, the Committee met in open session and ordered reported favorably the bill, H.R. 4057, as introduced, by voice vote, a quorum being present.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill extends an executive branch authority to provide compensatory time off for travel to attorneys in the Department of Justice. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 4057. Article I, Section 8, clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Com-

mittee of the costs that would be incurred in carrying out H.R. 4057. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and Section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4057 from the Director of the Congressional Budget Office:

H.R. 4057—A bill to provide that attorneys employed by the Department of Justice shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code

H.R. 4057 would amend the Federal Workforce Flexibility Act of 2004 (Public Law 108–411) to clarify that Department of Justice (DOJ) attorneys are eligible to receive compensatory time off for time spent in travel status if that time is not otherwise compensable. Office of Personnel Management regulations allow DOJ attorneys to receive equal time off in exchange for work-related travel outside of regular business hours. Current DOJ guidelines, however, specifically bar agency attorneys from receiving the benefit.

H.R. 4057 could increase costs for DOJ if the use of compensatory time by attorneys necessitated hiring new attorneys to complete their current workload. Based on information from DOJ and the experience of other agencies, CBO estimates that implementing H.R. 4057 would not have a significant impact on the federal budget. Enacting the bill would not affect direct spending or revenues.

H.R. 4057 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

H.R. 4057 makes no changes to existing law.