20 USC 1071.

IV of the Higher Education Act of 1965, as in effect immediately prior to the enactment of such amendments, shall be effective during such period, except that (1) nothing in this joint resolution shall be deemed to affect the validity of any action taken or obligation undertaken under such part prior to the enactment of this joint resolution, and (2) section 438(b) of the Higher Education Act of 1965 shall continue to be in effect during such period. Section 431(b) of the General Education Provisions Act and section 495 of the Higher Education Act of 1965 shall not be applicable in the case of administrative action taken to effectuate this joint resolution.

Ante, p. 264.

84 Stat. 169; *Ante*, p. 326. 20 USC 1232. *Ante*, p. 280.

Approved August 19, 1972.

Public Law 92-392

August 19, 1972
[H. R. 9092]

AN ACT

To provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes.

Federal wage board employees. 80 Stat. 471; 81 Stat. 641. 5 USC 5341.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter IV of chapter 53 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER IV—PREVAILING RATE SYSTEMS

"§ 5341. Policy

"It is the policy of Congress that rates of pay of prevailing rate employees be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and be based on principles that—

"(1) there will be equal pay for substantially equal work for all prevailing rate employees who are working under similar conditions of employment in all agencies within the same local wage area;

"(2) there will be relative differences in pay within a local wage area when there are substantial or recognizable differences in duties, responsibilities, and qualification requirements among positions;

"(3) the level of rates of pay will be maintained in line with prevailing levels for comparable work within a local wage area; and

"(4) the level of rates of pay will be maintained so as to attract and retain qualified prevailing rate employees.

"§ 5342. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'agency' means an Executive agency; but does not include—

"(A) a Government controlled corporation;

"(B) the Tennessee Valley Authority;

"(C) the Alaska Railroad;

"(D) the Virgin Islands Corporation;

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"(E) the Atomic Energy Commission;
"(F) the Central Intelligence Agency;
"(G) the Panama Canal Company;
"(H) the National Security Agency, Department of Defense; or
"(I) the Bureau of Engraving and Printing, except for the purposes of section 5349 of this title; *Post*, p. 572.

"(2) 'prevailing rate employee' means—
"(A) an individual employed in or under an agency in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement;
"(B) an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement; and 80 Stat. 409. 5 USC 2105.
"(C) an employee of the Veterans' Canteen Service, Veterans' Administration, excepted from chapter 51 of this title by section 5102(c)(14) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or labor experience and knowledge as the paramount requirement; and 80 Stat. 443. 5 USC 5101.

"(3) 'position' means the work, consisting of duties and responsibilities, assignable to a prevailing rate employee.

"(b)(1) Except as provided by paragraphs (2) and (3) of this subsection, this subchapter applies to all prevailing rate employees and positions in or under an agency.

"(2) This subchapter does not apply to employees and positions described by section 5102(c) of this title other than by—
"(A) paragraph (7) of that section to the extent that such paragraph (7) applies to employees and positions other than employees and positions of the Bureau of Engraving and Printing; and
"(B) paragraph (14) of that section.

"(3) This subchapter, except section 5348, does not apply to officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title. *Post*, p. 572.

"(c) Each prevailing rate employee employed within any of the several States or the District of Columbia shall be a United States Citizenship requirement.

citizen or a bona fide resident of one of the several States or the District of Columbia unless the Secretary of Labor certifies that no United States citizen or bona fide resident of one of the several States or the District of Columbia is available to fill the particular position.

"§ 5343. Prevailing rate determinations; wage schedules; night differentials

"(a) The pay of prevailing rate employees shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided by section 206(a)(1) of title 29. To carry out this subsection—

71 Stat. 514; 80 Stat. 837. 80 Stat. 838.

"(1) the Civil Service Commission shall define, as appropriate—

"(A) with respect to prevailing rate employees other than prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

Ante, p. 564.

"(i) individual local wage areas for prevailing rate employees having regular wage schedules and rates; and

"(ii) wage areas for prevailing rate employees having special wage schedules and rates;

"(B) with respect to prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

"(i) individual local wage areas for prevailing rate employees under such paragraphs having regular wage schedules and rates (but such boundaries shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed); and

"(ii) wage areas for prevailing rate employees under such paragraphs having special wage schedules and rates;

"(2) the Civil Service Commission shall designate a lead agency for each wage area;

"(3) subject to paragraph (5) of this subsection, and subsections (c)(1)–(3) and (d) of this section, a lead agency shall conduct wage surveys, analyze wage survey data, and develop and establish appropriate wage schedules and rates for prevailing rate employees;

"(4) the head of each agency having prevailing rate employees in a wage area shall apply, to the prevailing rate employees of that agency in that area, the wage schedules and rates established by the lead agency, or by the Civil Service Commission, as appropriate, for prevailing rate employees in that area; and

"(5) the Civil Service Commission shall establish wage schedules and rates for prevailing rate employees who are United States citizens employed in any area which is outside the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

"(b) The Civil Service Commission shall schedule full-scale wage surveys every 2 years and shall schedule interim surveys to be conducted between each 2 consecutive full-scale wage surveys. The Commission may schedule more frequent surveys when conditions so suggest.

"(c) The Civil Service Commission, by regulation, shall prescribe practices and procedures for conducting wage surveys, analyzing wage survey data, developing and establishing wage schedules and rates, and administering the prevailing rate system. The regulations shall provide— Regulations.

"(1) that, subject to subsection (d) of this section, wages surveyed be those paid by private employers in the wage area for similar work performed by regular full-time employees, except that, for prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the wages surveyed shall be those paid by private employers to full-time employees in a representative number of retail, wholesale, service, and recreational establishments similar to those in which such prevailing rate employees are employed; *Ante*, p. 564.

"(2) for participation at all levels by representatives of organizations accorded recognition as the representatives of prevailing rate employees in every phase of providing an equitable system for fixing and adjusting the rates of pay for prevailing rate employees, including the planning of the surveys, the drafting of specifications, the selection of data collectors, the collection and the analysis of the data, and the submission of recommendations to the head of the lead agency for wage schedules and rates and for special wage schedules and rates where appropriate;

"(3) for requirements for the accomplishment of wage surveys and for the development of wage schedules and rates for prevailing rate employees, including, but not limited to—

"(A) nonsupervisory and supervisory prevailing rate employees paid under regular wage schedules and rates;

"(B) nonsupervisory and supervisory prevailing rate employees paid under special wage schedules and rates; and

"(C) nonsupervisory and supervisory prevailing rate employees described under paragraphs (B) and (C) of section 5342(a)(2) of this title;

"(4) for proper differentials, as determined by the Commission, for duty involving unusually severe working conditions or unusually severe hazards;

"(5) rules governing the administration of pay for individual employees on appointment, transfer, promotion, demotion, and other similar changes in employment status; and

"(6) for a continuing program of maintenance and improvement designed to keep the prevailing rate system fully abreast of changing conditions, practices, and techniques both in and out of the Government of the United States.

"(d)(1) A lead agency, in making a wage survey, shall determine whether there exists in the local wage area a number of comparable positions in private industry sufficient to establish wage schedules and rates for the principal types of positions for which the survey is

made. The determination shall be in writing and shall take into consideration all relevant evidence, including evidence submitted by employee organizations recognized as representative of prevailing rate employees in that area.

"(2) When a lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish those schedules and rates on the basis of—

"(A) local private industry rates; and

"(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.

Step increases.

"(e)(1) Each grade of a regular wage schedule for nonsupervisor prevailing rate employees shall have 5 steps with—

"(A) the first step at 96 percent of the prevailing rate;

"(B) the second step at 100 percent of the prevailing rate;

"(C) the third step at 104 percent of the prevailing rate;

"(D) the fourth step at 108 percent of the prevailing rate; and

"(E) the fifth step at 112 percent of the prevailing rate.

Automatic advancement.

"(2) A prevailing rate employee under a regular wage schedule who has a work performance rating of satisfactory or better, as determined by the head of the agency, shall advance automatically to the next higher step within the grade at the beginning of the first applicable pay period following his completion of—

"(A) 26 calendar weeks of service in step 1;

"(B) 78 calendar weeks of service in step 2; and

"(C) 104 calendar weeks of service in each of steps 3 and 4.

Benefits, preservation.

"(3) Under regulations prescribed by the Civil Service Commission, the benefits of successive step increases shall be preserved for prevailing rate employees under a regular wage schedule whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

"(4) Supervisory wage schedules and special wage schedules authorized under subsection (c)(3) of this section may have single or multiple rates or steps according to prevailing practices in the industry on which the schedule is based.

Shift differentials.

"(f) A prevailing rate employee is entitled to pay at his scheduled rate plus a night differential—

"(1) amounting to 7½ percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 3 p.m. and midnight; and

"(2) amounting to 10 percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 11 p.m. and 8 a.m.

A night differential under this subsection is a part of basic pay.

"§ 5344. Effective date of wage increase; retroactive pay

"(a) Each increase in rates of basic pay granted, pursuant to a wage survey, to prevailing rate employees is effective not later than the first day of the first pay period which begins on or after the 45th day,

excluding Saturdays and Sundays, following the date the wage survey is ordered to be made.

"(b) Retroactive pay is payable by reason of an increase in rates of basic pay referred to in subsection (a) of this section only when—

"(1) the individual is in the service of the Government of the United States, including service in the armed forces, or the government of the District of Columbia on the date of the issuance of the order granting the increase; or

"(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

For the purpose of this subsection, service in the armed forces includes the period provided by statute for the mandatory restoration of the individual to a position in or under the Government of the United States or the government of the District of Columbia after he is relieved from training and service in the armed forces or discharged from hospitalization following that training and service.

"§ 5345. Retained rate of pay on reduction in grade or reassignment

"(a) Under regulations prescribed by the Civil Service Commission, and subject to the limitation in subsection (b) of this section, a prevailing rate employee—

"(1) who is reduced in grade or reassigned to a wage schedule position having an established maximum scheduled rate of pay which is less than the employee's then existing scheduled rate of pay;

"(2) who holds a career or a career-conditional appointment in the competitive service, or an appointment of equivalent tenure in the excepted service;

"(3) whose reduction in grade or reassignment is not (A) caused by a demotion for personal cause, (B) at his request, (C) effected in a reduction in force due to lack of funds or curtailment of work, or (D) with respect to a temporary promotion, a condition of the temporary promotion to a higher grade;

"(4) who, for 2 continuous years immediately before the reduction in grade or reassignment, served (A) in the same agency and (B) in a grade or grades higher than the grade to which demoted; and

"(5) whose work performance during the 2-year period is satisfactory or better;

is entitled to basic pay at the scheduled rate to which he was entitled immediately before the reduction in grade or reassignment (including each increase in scheduled rate of pay granted pursuant to a wage survey) for a period of 2 years from the effective date of the reduction in grade or reassignment, so long as he—

"(A) continues in the same agency without a break in service of one workday or more;

"(B) is not entitled to a higher scheduled rate of pay by operation of this subchapter; and

"(C) is not demoted or reassigned (i) for personal cause, (ii) at his request, or (iii) in a reduction in force due to a lack of funds or curtailment of work.

"(b) The scheduled rate of pay to which a prevailing rate employee is entitled under subsection (a) of this section with respect to each reduction in grade or reassignment to which that subsection applies may not exceed the sum of—

"(1) the minimum scheduled rate of the grade to which he is reduced or reassigned under each reduction in grade or reassignment to which that subsection applies (including each increase

in scheduled rate of pay granted pursuant to a wage survey); and

"(2) the difference between his scheduled rate immediately before the first reduction in grade or reassignment to which that subsection applies (including each increase in scheduled rate of pay granted pursuant to a wage survey) and the minimum scheduled rate of that grade which is three grades lower than the grade from which he was reduced or reassigned under the first of the reductions in grade or reassignment (including each increase in the scheduled rate of pay granted pursuant to a wage survey).

"(c) Under regulations prescribed by the Commission, a prevailing rate employee who is reduced in grade or reassigned to a wage schedule position from another local wage area, or from another wage schedule, or from a position not subject to this subchapter, is entitled to a retained scheduled rate of pay.

Regulations.

"(d) The Commission may prescribe regulations governing the retention of the scheduled rate of pay of an employee who together with his position is brought under this subchapter. If an employee so entitled to a retained rate under these regulations is later demoted to a position under this subchapter, his scheduled rate of pay is determined under subsections (a) and (b) of this section. For the purpose of those subsections, service in the position which was brought under this subchapter is deemed service under this subchapter.

"§ 5346. Job grading system

"(a) The Civil Service Commission, after consulting with the agencies and with employee organizations, shall establish and maintain a job grading system for positions to which this subchapter applies. In carrying out this subsection, the Commission shall—

"(1) establish the basic occupational alinement and grade structure or structures for the job grading system;

"(2) establish and define individual occupations and the boundaries of each occupation;

"(3) establish job titles within occupations;

"(4) develop and publish job grading standards; and

"(5) provide a method to assure consistency in the application of job standards.

Review.

"(b) The Commission, from time to time, shall review such numbers of positions in each agency as will enable the Commission to determine whether the agency is placing positions in occupations and grades in conformance with or consistently with published job standards. When the Commission finds that a position is not placed in its proper occupation and grade in conformance with published standards or that a position for which there is no published standard is not placed in the occupation and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate occupation and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

"(c) On application, made in accordance with regulations prescribed by the Commission, by a prevailing rate employee for the review of the action of an employing agency in placing his position in an occupation and grade for pay purposes, the Commission shall—

"(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the position;

"(2) decide whether the position has been placed in the proper occupation and grade; and

"(3) approve, disapprove, or modify, in accordance with its decision, the action of the employing agency in placing the position in an occupation and grade.

The Commission shall certify to the agency concerned its action under paragraph (3) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

"§ 5347. Federal Prevailing Rate Advisory Committee

"(a) There is established a Federal Prevailing Rate Advisory Committee composed of— Establishment; membership.

"(1) the Chairman, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia, and who shall be appointed by the Chairman of the Civil Service Commission for a 4-year term;

"(2) one member from the Office of the Secretary of Defense, designated by the Secretary of Defense;

"(3) two members from the military departments, designated by the Chairman of the Civil Service Commission;

"(4) one member, designated by the Chairman of the Civil Service Commission from time to time from an agency (other than the Department of Defense, a military department, and the Civil Service Commission);

"(5) an employee of the Civil Service Commission, designated by the Chairman of the Civil Service Commission; and

"(6) five members, designated by the Chairman of the Civil Service Commission, from among the employee organizations representing, under exclusive recognition of the Government of the United States, the largest numbers of prevailing rate employees.

"(b) In designating members from among employee organizations under subsection (a)(6) of this section, the Chairman of the Civil Service Commission shall designate, as nearly as practicable, a number of members from a particular employee organization in the same proportion to the total number of employee representatives appointed to the Committee under subsection (a)(6) of this section as the number of prevailing rate employees represented by such organization is to the total number of prevailing rate employees. However, there shall not be more than two members from any one employee organization nor more than four members from a single council, federation, alliance, association, or affiliation of employee organizations.

"(c) Every 2 years the Chairman of the Civil Service Commission shall review employee organization representation to determine adequate or proportional representation under the guidelines of subsection (b) of this section.

"(d) The members from the employee organizations serve at the pleasure of the Chairman of the Civil Service Commission.

"(e) The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under this subchapter and, from time to time, advise the Civil Service Commission thereon. Conclusions and recommendations of the Committee shall be formulated by majority vote. The Chairman of the Committee may vote only to break a tie vote of the Committee. The Committee shall make an annual report to the Commission and the President for transmittal to Congress, including recommendations and other matters considered appropriate. Any member of the Committee may include in the annual report recommendations and other matters he considers appropriate. Duties. Report to President, transmittal to Congress.

"(f) The Committee shall meet at the call of the Chairman. However, a special meeting shall be called by the Chairman if 5 members make a written request to the Chairman to call a special meeting to consider matters within the purview of the Committee. Meetings.

"(g) Members of the Committee described in paragraphs (2)–(5) of subsection (a) of this section serve without additional pay. The Compensation.

5 USC 5332 note.

Chairman is entitled to a rate of pay equal to the maximum rate currently paid, from time to time, under the General Schedule. Members who represent employee organizations are not entitled to pay from the Government of the United States for services rendered to the Committee.

Clerical and professional personnel.

"(h) The Civil Service Commission shall provide such clerical and professional personnel as the Chairman of the Committee considers appropriate and necessary to carry out its functions under this subchapter. Such personnel shall be responsible to the Chairman of the Committee.

"§ 5348. Crews of vessels

"(a) Except as provided by subsections (b) and (c) of this section, the pay of officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry.

80 Stat. 443.

"(b) Vessel employees of the Panama Canal Company may be paid in accordance with the wage practices of the maritime industry.

"(c) Vessel employees in an area where inadequate maritime industry practice exists and vessel employees of the Corps of Engineers shall have their pay fixed and adjusted under the provisions of this subchapter other than this section, as appropriate.

"§ 5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia

"(a) The pay of employees, described under section 5102(c)(7) of this title, in the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Office of the Architect of the Capitol, the Bureau of Engraving and Printing, and the government of the District of Columbia, shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and in accordance with such provisions of this subchapter, including the provisions of section 5344, relating to retroactive pay, and section 5345, relating to retention of pay, as the pay-fixing authority of each such agency may determine. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided for by section 206(a)(1) of title 29. If the pay-fixing authority concerned determines that the provisions of section 5345 of this title should apply to any employee under his jurisdiction, then the employee concerned shall be deemed to have satisfied the requirements of paragraph (2) of section 5345(a) of this title if the tenure of his appointment is substantially equivalent to the tenure of any appointment referred to in such paragraph.

Ante, p. 568.

71 Stat. 514; 80 Stat. 837.

80 Stat. 838.

"(b) Subsection (a) of this section does not modify or otherwise affect section 5102(d) of this title, section 305 of title 44, and section 180 of title 31.".

80 Stat. 444. 82 Stat. 1240, 84 Stat. 693. 58 Stat. 648.

(b) The analysis of subchapter IV of chapter 53 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER IV—PREVAILING RATE SYSTEMS

"5341. Policy.
"5342. Definitions; application.
"5343. Prevailing rate determinations; wage schedules; night differentials.
"5344. Effective date of wage increase; retroactive pay.
"5345. Retained rate of pay on reduction in grade or reassignment.
"5346. Job grading system.

"5347. Federal Prevailing Rate Advisory Committee.
"5348. Crews of vessels.
"5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia.".

SEC. 2. Section 2105(c)(1) of title 5, United States Code, is amended by inserting "(other than subchapter IV of chapter 53 and sections 5550 and 7154 of this title)" immediately following "laws". 80 Stat. 409. *Ante*, p. 564. *Post*, p. 574.

SEC. 3. Section 5337 of title 5, United States Code, is amended— 80 Stat. 523; 81 Stat. 208.

(1) by striking out the words "to which this section applies" wherever they appear in subsection (b) and inserting "to which that subsection applies" in place thereof; and 80 Stat. 470.

(2) by adding at the end thereof:

"(c) Under regulations prescribed by the Civil Service Commission consistent with the provisions of subsections (a) and (b) of this section, an employee who is reduced to a grade of the General Schedule from a position to which this subchapter does not apply is entitled to a retained scheduled rate of pay.". 5 USC 5332 note.

SEC. 4. Section 5541(2)(xi) of title 5, United States Code, is amended to read as follows: 80 Stat. 485.

"(xi) an employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of this title, or by a wage board or similar administrative authority serving the same purpose, except as provided by section 5544 of this title;".

SEC. 5. The first sentence of section 5544(a) of title 5, United States Code, is amended to read as follows: "An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week.". 80 Stat. 486; 81 Stat. 641. *Ante*, pp. 566, 572.

SEC. 6. Subsection (a)(1) of section 6101 of title 5, United States Code, is amended to read as follows: 81 Stat. 207.

"(a)(1) For the purpose of this subsection, 'employee' includes an employee of the government of the District of Columbia and an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title, except as specifically provided under this paragraph.". "Employee."

SEC. 7. (a) Section 6102 of title 5, United States Code, is repealed. Repeal. 80 Stat. 515.

(b) The analysis of chapter 61 of title 5, United States Code, is amended by striking out—

"6102. Eight-hour day; 40-hour workweek; wage-board employees.".

SEC. 8. Section 7154(b) of title 5, United States Code, is amended by striking out "subchapter III of chapter 53" and inserting "subchapters III and IV of chapter 53" in place thereof. 80 Stat. 523.

SEC. 9. (a)(1) Except as provided by this subsection, an employee's initial rate of pay on conversion to a wage schedule established pursuant to the amendments made by this Act shall be determined under conversion rules prescribed by the Civil Service Commission. Service by an employee in a grade of a wage schedule performed before the effective date of the conversion of the employee to a wage schedule established pursuant to the amendments made by this Act shall be counted toward not to exceed one step increase under the time in step provisions of section 5343(e)(2) of title 5, United States Code, as amended by the first section of this Act.

(2) In the case of any employee described in section 2105(c), 5102(c) (7), (8), or (14) of title 5, United States Code, who is in the service as such an employee immediately before the effective date, with respect to him, of the amendments made by this Act, such amendments shall not be construed to decrease his rate of basic pay in effect immediately before the date on which such amendments become effective with respect to him. In addition, if an employee is receiving retained pay by virtue of law or agency policy immediately before the date on which the first wage schedule applicable to him under this Act is effective, he shall continue to retain that pay in accordance with the specific instructions under which the retained pay was granted until he leaves his position or until he becomes entitled to a higher rate.

Ante, p. 573.
80 Stat. 444.

(b) The amendments made by this Act shall not be construed to—

(1) abrogate, modify, or otherwise affect in any way the provisions of any contract in effect on the date of enactment of this Act pertaining to the wages, the terms and conditions of employment, and other employment benefits, or any of the foregoing matters, for Government prevailing rate employees and resulting from negotiations between Government agencies and organizations of Government employees;

(2) nullify, curtail, or otherwise impair in any way the right of any party to such contract to enter into negotiations after the date of enactment of this Act for the renewal, extension, modification, or improvement of the provisions of such contract or for the replacement of such contract with a new contract; or

(3) nullify, change, or otherwise affect in any way after such date of enactment any agreement, arrangement, or understanding in effect on such date with respect to the various items of subject matter of the negotiations on which any such contract in effect on such date is based or prevent the inclusion of such items of subject matter in connection with the renegotiation of any such contract, or the replacement of such contract with a new contract, after such date.

SEC. 10. (a) Subchapter V of chapter 55 of title 5, United States Code, relating to premium pay, is amended by adding at the end thereof the following new section:

80 Stat. 485.
5 USC 5550.

"§ 5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities

"A 'prevailing rate employee' described in paragraph (B) of section 5342(a)(2) of this title—

Ante, p. 564.

"(1) if his regular work schedule includes an 8-hour period of service, a part of which is on Sunday, is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour of work performed during that 8-hour period of service;

"(2) is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week, computed in accordance with paragraph (1), (2), or (3), as applicable, of section 5544(a) of this title.

80 Stat. 486;
81 Stat. 641.

However, any such employee who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week.".

(b) The table of sections of subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end thereof—

"5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities.".

SEC. 11. Paragraph (2) of section 8704(d) of title 5, United States Code, is amended to read as follows: 80 Stat. 593.

"(2) a change in rate of pay under section 5344 or 5349 of this title is deemed effective as of the date of issuance of the order granting the increase or the effective date of the increase, whichever is later, except, that in the case of an employee who dies or retires during the period beginning on the effective date of the increase and ending on the date of the issuance of the order granting the increase, a change in rate of pay under either of such sections shall be deemed as having been in effect for such employee during that period.". *Ante*, pp. 568, 572.

SEC. 12. (a) Section 5548(a) of title 5, United States Code, is amended by striking out "sections 5544 and" and inserting in lieu thereof "section". 80 Stat. 488; 81 Stat. 201.

(b) Section 5548(b) of title 5, United States Code, is amended by striking out "section 5545(d)" and inserting in lieu thereof "sections 5545(d) and 5550".

SEC. 13. (a) All laws or parts of laws inconsistent with this Act are hereby repealed to the extent of such inconsistency.

(b) Subsection (a) of this section does not repeal or otherwise affect section 5102(d) of title 5, United States Code, section 305 of title 44 of such Code, or the provisions contained in section 180 of title 31, United States Code. 80 Stat. 444. 82 Stat. 1240; 84 Stat. 693. 58 Stat. 648.

SEC. 14. (a) The last sentence of section 4(a) of the Act of January 8, 1971 (84 Stat. 1952; Public Law 91-656) is amended to read as follows: "Such rates, limitations, and allowances adjusted by the President pro tempore shall become effective on the first day of the month in which any adjustment becomes effective under such section 5305 or section 3(c) of this Act.". *Ante*, p. 146.

(b) Paragraph (1) of section 5(a) of the Act of January 8, 1971 (84 Stat. 1952; Public Law 91-656) is amended to read as follows: 84 Stat. 1946. 5 USC 5305 note.

"(1) effective on the first day of the month in which such pay adjustment by the President is made effective as described above, shall adjust—".

SEC. 15. (a) The provisions of this Act are effective on the first day of the first applicable pay period which begins on or after the ninetieth day after the date of enactment of this Act, except that, in the case of those employees referred to in section 5342(a)(2) (B) and (C) of title 5, United States Code (as amended by the first section of this Act), such provisions are effective on the first day of the first applicable pay period which begins on or after the one hundred and eightieth day after such date of enactment or on such earlier date (not earlier than the ninetieth day after such date of enactment) as the Civil Service Commission may prescribe. Notwithstanding the provisions of this subsection, section 5343(e)(1) (D) and (E) and (e)(2)(C), as enacted by the first section of this Act, shall not be effective until the first day of the first pay period commencing after (1) the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 to stabilize wages and salaries, or (2) April 30, 1973, whichever occurs first. Effective dates. *Ante*, p. 564. *Ante*, p. 566. 85 Stat. 743. 12 USC 1904 note.

(b) A wage survey conducted by an agency before the effective date (with respect to employees covered by that wage survey) of this Act, for a wage schedule which becomes effective after that effective date, is deemed to meet the requirement in this Act for a survey by a lead agency.

Approved August 19, 1972.