

Union Calendar No. 571

110TH CONGRESS
2D SESSION

H. R. 3202

[Report No. 110-877, Part I]

To amend the Foreign Service Act of 1980 to extend comparability pay adjustments to members of the Foreign Service assigned to posts abroad, and to amend the provision relating to the death gratuity payable to surviving dependents of Foreign Service employees who die as a result of injuries sustained in the performance of duty abroad.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2007

Mr. SMITH of New Jersey (for himself, Mr. PAYNE, Mr. SCOTT of Georgia, Mr. TOM DAVIS of Virginia, Mr. VAN HOLLEN, and Mr. WOLF) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 24, 2008

Reported from the Committee on Foreign Affairs with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 24, 2008

Additional sponsors: Ms. WATSON, Mr. KIRK, Mr. MORAN of Virginia, Mr. HONDA, Mr. WEXLER, Mr. MEEKS of New York, Ms. JACKSON-LEE of Texas, Mrs. MALONEY of New York, Mr. JEFFERSON, Mr. MILLER of North Carolina, Mr. WU, Mr. FALEOMAVAEGA, Mr. McDERMOTT, Ms. LEE, Mr. SHAYS, Mr. WELCH of Vermont, Mr. FORTUÑO, Mr. HODES, Mr. SIRES, Mr. ACKERMAN, Mr. BOUSTANY, Mr. BOUCHER, Mr. RANGEL, and Mr. CARSON

SEPTEMBER 24, 2008

Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Foreign Service Act of 1980 to extend comparability pay adjustments to members of the Foreign Service assigned to posts abroad, and to amend the provision relating to the death gratuity payable to surviving dependents of Foreign Service employees who die as a result of injuries sustained in the performance of duty abroad.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Foreign Service Overseas*
 3 *Pay Equity Act of 2008”.*

4 **SEC. 2. OVERSEAS COMPARABILITY PAY ADJUSTMENT.**

5 (a) *OVERSEAS COMPARABILITY PAY ADJUSTMENT.—*

6 (1) *IN GENERAL.—Chapter 4 of the Foreign*
 7 *Service Act of 1980 (22 U.S.C. 3961 and following)*
 8 *is amended by adding at the end the following:*

9 **“SEC. 415. OVERSEAS COMPARABILITY PAY ADJUSTMENT.**

10 “(a) *IN GENERAL.—A member of the Service who is*
 11 *designated class 1 or below for purposes of section 403 and*
 12 *whose official duty station is neither in the continental*
 13 *United States nor in a non-foreign area shall receive, in*
 14 *accordance with the phase-in schedule set forth in subsection*
 15 *(c), the same locality-based comparability payment under*
 16 *section 5304 of title 5, United States Code (stated as a per-*

1 centage) as would be payable to such member if such mem-
2 ber's official duty station were in the District of Columbia.

3 “(b) *TREATMENT AS BASIC PAY.*—The amount of any
4 locality-based comparability payment which is payable to
5 a member of the Service by virtue of this section—

6 “(1) shall be considered to be part of the basic
7 pay of such member—

8 “(A) for the same purposes as provided for
9 under section 5304(c)(2)(A) of title 5, United
10 States Code; and

11 “(B) for purposes of chapter 8; and

12 “(2) shall be subject to any limitations on pay
13 applicable to locality-based comparability payments
14 under section 5304 of title 5, United States Code.

15 “(c) *PHASE-IN.*—The locality-based comparability
16 payment payable to a member of the Service under this sec-
17 tion shall—

18 “(1) beginning on the first day of the first pay
19 period beginning on or after the date that fiscal
20 year 2009 appropriations are made available by en-
21 actment of the Department of State, Foreign Oper-
22 ations, and Related Programs Appropriations Act,
23 2009, or April 1, 2009, whichever is earlier, be equal
24 to 33.33 percent of the payment which would other-
25 wise apply under subsection (a);

1 “(2) beginning on the first day of the first pay
2 period in fiscal year 2010, be equal to 66.67 percent
3 of the payment which would otherwise apply under
4 subsection (a); and

5 “(3) beginning on the first day of the first pay
6 period in fiscal year 2011 and each subsequent fiscal
7 year, be equal to the payment determined under sub-
8 section (a).

9 “(d) *NON-FOREIGN AREA DEFINED.*—For purposes of
10 this section, the term ‘non-foreign area’ has the same mean-
11 ing as is given such term in regulations carrying out sec-
12 tion 5941 of title 5, United States Code.”.

13 (2) *CONFORMING AMENDMENT.*—The table of
14 contents set forth in section 2 of such Act is amended
15 by inserting after the item relating to section 414 the
16 following:

 “Sec. 415. Overseas comparability pay adjustment.”.

17 (b) *CONFORMING AMENDMENTS RELATING TO THE*
18 *FOREIGN SERVICE RETIREMENT SYSTEMS.*—

19 (1) *CONTRIBUTIONS TO THE FUND.*—Effective as
20 of the first pay period beginning on or after October
21 1, 2010, section 805(a) of the Foreign Service Act of
22 1980 (22 U.S.C. 4045(a)) is amended—

23 (A) in paragraph (1)—

1 (i) *in the first sentence, by striking*
2 *“7.25 percent” and inserting “7 percent”;*
3 *and*

4 (ii) *in the second sentence, by striking*
5 *“The contribution by the employing agen-*
6 *cy” through “and shall be made” and in-*
7 *serting “An equal amount shall be contrib-*
8 *uted by the employing agency”;*

9 (B) *in paragraph (2)—*

10 (i) *in subparagraph (A), by striking “,*
11 *plus an amount equal to .25 percent of*
12 *basic pay”;* and

13 (ii) *in subparagraph (B), by striking*
14 *“, plus an amount equal to .25 percent of*
15 *basic pay”;* and

16 (C) *in paragraph (3), by striking all that*
17 *follows “Code” and inserting a period.*

18 (2) *COMPUTATION OF ANNUITIES.—Section*
19 *806(a)(9) of such Act (22 U.S.C. 4046(a)(9)) is*
20 *amended by striking “is outside the continental*
21 *United States shall” and inserting “was outside the*
22 *continental United States during the period begin-*
23 *ning on December 29, 2002, and ending on the day*
24 *before the first day of the first pay period beginning*
25 *on or after October 1, 2010 (or during any portion*

1 *thereof) shall, to the extent that such computation is*
 2 *based on the basic salary or basic pay of such member*
 3 *for such period (or portion thereof),”.*

4 (3) *ENTITLEMENT TO ANNUITY.—Section*
 5 *855(a)(3) of such Act (22 U.S.C. 4071d(a)(3)) is*
 6 *amended—*

7 (A) *by striking “section 8414” and insert-*
 8 *ing “section 8415”; and*

9 (B) *by striking “is outside the continental*
 10 *United States shall” and inserting “was outside*
 11 *the continental United States during the period*
 12 *beginning on December 29, 2002, and ending on*
 13 *the day before the first day of the first pay pe-*
 14 *riod beginning on or after October 1, 2010 (or*
 15 *during any portion thereof) shall, to the extent*
 16 *that such computation is based on the basic sal-*
 17 *ary or basic pay of such member for such period*
 18 *(or portion thereof),”.*

19 (4) *DEDUCTIONS AND WITHHOLDINGS FROM*
 20 *PAY.—Section 856(a)(2) of such Act (22 U.S.C.*
 21 *4071e(a)(2)) is amended to read as follows:*

22 “(2) *The applicable percentage under this subsection*
 23 *shall be as follows:*

“Percentage

Time Period

7.5

Before January 1, 1999.

7.75

January 1, 1999, to December 31, 1999.

7.9

January 1, 2000, to December 31, 2000.

“Percentage**Time Period**

7.55	<i>January 11, 2003, to the day before the first day of the first pay period beginning on or after October 1, 2010.</i>
7.5	<i>Beginning on the first day of the first pay period beginning on or after October 1, 2010.”.</i>

1 **(c) REPORTING REQUIREMENTS.—**

2 (1) *IN GENERAL.—Not later than October 1,*
3 *2010, the Secretary of State shall submit to the ap-*
4 *propriate congressional committees an assessment of*
5 *all allowances provided to members of the Foreign*
6 *Service under the Foreign Service Act of 1980 or*
7 *under title 5, United States Code, and in particular,*
8 *how such allowances have been or will be affected by*
9 *the amendments to the Foreign Service Act of 1980*
10 *made by this Act.*

11 (2) *DEFINITION.—For purposes of this sub-*
12 *section, the term “appropriate congressional commit-*
13 *tees” means the Committee on Foreign Affairs of the*
14 *House of Representatives and the Committee on For-*
15 *eign Relations of the Senate.*

16 **SEC. 3. DEATH GRATUITY.**

17 *The first sentence of section 413(a) of the Foreign Serv-*
18 *ice Act of 1980 (22 U.S.C. 3973(a)) is amended by striking*
19 *“at the time of death” and inserting “at level II of the Exec-*
20 *utive Schedule under section 5313 of title 5, United States*
21 *Code, at the time of death, except that for employees com-*
22 *pensated under local compensation plans established under*

1 *section 408, the amount shall be equal to the greater of 1*
2 *year's salary at the time of death or 1 year's salary at the*
3 *highest step of the highest grade on the local compensation*
4 *plan from which the employee was being paid at the time*
5 *of death”.*

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