

Berkley Hastings (FL)
 Berry Heinrich
 Biggert Heller
 Bilbray Herger
 Billirakis Herseeth Sandlin
 Bishop (GA) Higgins
 Bishop (NY) Hill
 Blumenauer Himes
 Blunt Hinchey
 Boccieri Hinojosa
 Bono Mack Hirono
 Boozman Hodes
 Boren Hoekstra
 Boswell Holden
 Boucher Holt
 Boustany Honda
 Boyd Insee
 Brady (PA) Israel
 Braley (IA) Issa
 Bright Jackson (IL)
 Brown (SC) Jackson-Lee
 Brown, Corrine (TX)
 Brown-Waite, Johnson (GA)
 Ginny Johnson, E. B.
 Buchanan Jordan (OH)
 Burgess Kagen
 Butterfield Kanjorski
 Buyer Kaptur
 Capps Kildee
 Capuano Kilpatrick (MI)
 Carnahan Kilroy
 Carney Kind
 Carson (IN) King (NY)
 Cassidy Kirk
 Castle Kirkpatrick (AZ)
 Castor (FL) Kissell
 Childers Klein (FL)
 Clarke Kosmas
 Cleaver Kratovil
 Clyburn Kucinich
 Cohen Lance
 Conaway Langevin
 Connolly (VA) Larsen (WA)
 Cooper Larson (CT)
 Costa LaTourette
 Costello Latta
 Courtney Lee (CA)
 Crowley Lee (NY)
 Cuellar Levin
 Cummings Linder
 Dahlkemper Lipinski
 Davis (AL) LoBiondo
 Davis (CA) Loeb sack
 Davis (IL) Lofgren, Zoe
 Davis (KY) Lowey
 Davis (TN) Lucas
 Deal (GA) Luetkemeyer
 DeFazio Luján
 DeGette Lynch
 Delahunt Mack
 DeLauro Maffei
 Dent Maloney
 Diaz-Balart, L. Manzullo
 Diaz-Balart, M. Markey (CO)
 Dingell Markey (MA)
 Doggett Marshall
 Donnelly (IN) Massa
 Dreier Matheson
 Driehaus Matsui
 Edwards (MD) McCarthy (CA)
 Ehlers McCarthy (NY)
 Ellison McClintock
 Emerson McCollum
 Engel McCotter
 Eshoo McDermott
 Etheridge McGovern
 Farr McHugh
 Fattah McIntyre
 Filner McMahan
 Fortenberry McNeerney
 Foster Meeks (NY)
 Franks (AZ) Melancon
 Fudge Mica
 Giffords Michaud
 Gonzalez Miller (FL)
 Gordon (TN) Miller (MI)
 Graves Miller (NC)
 Grayson Miller, George
 Green, Al Minnick
 Green, Gene Mitchell
 Griffith Mollohan
 Grijalva Moore (KS)
 Guthrie Moore (WI)
 Guterrez Moran (KS)
 Hall (NY) Moran (VA)
 Hall (TX) Murphy (CT)
 Halvorson Murphy (NY)
 Hare Murphy, Patrick
 Harman Murphy, Tim

Murtha
 Nadler (NY)
 Napolitano
 Neal (MA)
 Nye
 Oberstar
 Obey
 Oliver
 Ortiz
 Pallone
 Pascrell
 Pastor (AZ)
 Paulsen
 Payne
 Holt
 Perlmutter
 Perriello
 Peters
 Peterson
 Pingree (ME)
 Platts
 Poe (TX)
 Polis (CO)
 Pomeroy
 Posey
 Price (GA)
 Price (NC)
 Putnam
 Quigley
 Rahall
 Rehberg
 Reichert
 Reyes
 Richardson
 Rodriguez
 Rogers (KY)
 Rooney
 Ros-Lehtinen
 Roskam
 Ross
 Rothman (NJ)
 Roybal-Allard
 Royce
 Rush
 Ryan (OH)
 Salazar
 Sánchez, Linda
 T.
 Sanchez, Loretta
 Schakowsky
 Schauer
 Schiff
 Schrader
 Schwartz
 Scott (GA)
 Scott (VA)
 Serrano
 Sestak
 Sherman
 Sires
 Skelton
 Slaughter
 Smith (NJ)
 Smith (WA)
 Snyder
 Space
 Speier
 Spratt
 Stark
 Sutton
 Tanner
 Tauscher
 Taylor
 Teague
 Terry
 Thompson (CA)
 Thompson (MS)
 Tiberi
 Tierney
 Titus
 Tonko
 Towns
 Tsongas
 Upton
 Van Hollen
 Velázquez
 Visclosky
 Walden
 Walz
 Wasserman
 Schultz
 Waters
 Watson
 Watt
 Weiner
 Welch
 Westmoreland

Wexler
 Wilson (OH)
 Wolf
 Woolsey
 Wu
 Yarmuth
 NOT VOTING—29
 Ellsworth
 Gerlach
 Hoyer
 Kennedy
 Lewis (GA)
 Marchant
 McHenry
 Meek (FL)
 Rangel
 Ruppertsberger

□ 1105

Messrs. CUMMINGS, LUJÁN, BRALEY of Iowa, FARR, ELLISON, BUTTERFIELD, DENT, LUETKEMEYER, COSTELLO, TAYLOR, BRIGHT, BERRY, JOHNSON of Georgia, ADLER of New Jersey, COURTNEY, SERRANO and Ms. JACKSON-LEE of Texas changed their vote from “yea” to “nay.”

Messrs. DUNCAN, SCALISE, and GOODLATTE changed their vote from “nay” to “yea.”

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

DISABLED MILITARY RETIREE RELIEF ACT OF 2009

Mr. SKELTON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2990) to provide special pays and allowances to certain members of the Armed Forces, expand concurrent receipt of military retirement and VA disability benefits to disabled military retirees, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2990

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Disabled Military Retiree Relief Act of 2009”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—COMPENSATION AND BENEFITS FOR MEMBERS OF THE ARMED FORCES AND MILITARY RETIREES

Subtitle A—Bonuses and Special and Incentive Pays

Sec. 101. One-year extension of certain bonus and special pay authorities for reserve forces.

Sec. 102. One-year extension of certain bonus and special pay authorities for health care professionals.

Sec. 103. One-year extension of special pay and bonus authorities for nuclear officers.

Sec. 104. One-year extension of authorities relating to title 37 consolidated special pay, incentive pay, and bonus authorities.

Sec. 105. One-year extension of authorities relating to payment of other title 37 bonuses and special pay.

Sec. 106. One-year extension of authorities relating to payment of referral bonuses.

Sec. 107. Technical corrections and conforming amendments to reconcile conflicting amendments regarding continued payment of bonuses and similar benefits for certain members.

Subtitle B—Retired Pay Benefits

Sec. 111. Recomputation of retired pay and adjustment of retired grade of Reserve retirees to reflect service after retirement.

Sec. 112. Election to receive retired pay for non-regular service upon retirement for service in an active reserve status performed after attaining eligibility for regular retirement.

Subtitle C—Concurrent Receipt of Military Retired Pay and Veterans' Disability Compensation

Sec. 121. One-year expansion of eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include all chapter 61 disability retirees regardless of disability rating percentage or years of service.

TITLE II—FEDERAL EMPLOYEE BENEFITS

Subtitle A—General Provisions

Sec. 201. Credit for unused sick leave.

Sec. 202. Limited expansion of the class of individuals eligible to receive an actuarially reduced annuity under the civil service retirement system.

Sec. 203. Computation of certain annuities based on part-time service.

Sec. 204. Authority to deposit refunds under FERS.

Sec. 205. Retirement credit for service of certain employees transferred from District of Columbia service to Federal service.

Subtitle B—Non-Foreign Area Retirement Equity Assurance

Sec. 211. Short title.

Sec. 212. Extension of Locality Pay.

Sec. 213. Adjustment of special rates.

Sec. 214. Transition schedule for locality-based comparability payments.

Sec. 215. Savings provision.

Sec. 216. Application to other eligible employees.

Sec. 217. Election of additional basic pay for annuity computation by employees.

Sec. 218. Regulations.

Sec. 219. Effective dates.

TITLE III—DEEPWATER OIL AND GAS RESEARCH AND DEVELOPMENT FUNDING SOURCE REPEAL

Sec. 301. Repeal.

TITLE I—COMPENSATION AND BENEFITS FOR MEMBERS OF THE ARMED FORCES AND MILITARY RETIREES

Subtitle A—Bonuses and Special and Incentive Pays

SEC. 101. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

The following sections of title 37, United States Code, are amended by striking “December 31, 2009” and inserting “December 31, 2010”:

(1) Section 308b(g), relating to Selected Reserve reenlistment bonus.

(2) Section 308c(i), relating to Selected Reserve affiliation or enlistment bonus.

(3) Section 308d(c), relating to special pay for enlisted members assigned to certain high-priority units.

(4) Section 308g(f)(2), relating to Ready Reserve enlistment bonus for persons without prior service.

(5) Section 308h(e), relating to Ready Reserve enlistment and reenlistment bonus for persons with prior service.

(6) Section 308i(f), relating to Selected Reserve enlistment and reenlistment bonus for persons with prior service.

(7) Section 910(g), relating to income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.

SEC. 102. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.

(a) **TITLE 10 AUTHORITIES.**—The following sections of title 10, United States Code, are amended by striking “December 31, 2009” and inserting “December 31, 2010”:

(1) Section 2130a(a)(1), relating to nurse officer candidate accession program.

(2) Section 16302(d), relating to repayment of education loans for certain health professionals who serve in the Selected Reserve.

(b) **TITLE 37 AUTHORITIES.**—The following sections of title 37, United States Code, are amended by striking “December 31, 2009” and inserting “December 31, 2010”:

(1) Section 302c-1(f), relating to accession and retention bonuses for psychologists.

(2) Section 302d(a)(1), relating to accession bonus for registered nurses.

(3) Section 302e(a)(1), relating to incentive special pay for nurse anesthetists.

(4) Section 302g(e), relating to special pay for Selected Reserve health professionals in critically short wartime specialties.

(5) Section 302h(a)(1), relating to accession bonus for dental officers.

(6) Section 302j(a), relating to accession bonus for pharmacy officers.

(7) Section 302k(f), relating to accession bonus for medical officers in critically short wartime specialties.

(8) Section 302l(g), relating to accession bonus for dental specialist officers in critically short wartime specialties.

SEC. 103. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

The following sections of title 37, United States Code, are amended by striking “December 31, 2009” and inserting “December 31, 2010”:

(1) Section 312(f), relating to special pay for nuclear-qualified officers extending period of active service.

(2) Section 312b(c), relating to nuclear career accession bonus.

(3) Section 312c(d), relating to nuclear career annual incentive bonus.

SEC. 104. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO TITLE 37 CONSOLIDATED SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.

The following sections of title 37, United States Code, are amended by striking “De-

ember 31, 2009” and inserting “December 31, 2010”:

(1) Section 331(h), relating to general bonus authority for enlisted members.

(2) Section 332(g), relating to general bonus authority for officers.

(3) Section 333(i), relating to special bonus and incentive pay authorities for nuclear officers.

(4) Section 334(i), relating to special aviation incentive pay and bonus authorities for officers.

(5) Section 335(k), relating to special bonus and incentive pay authorities for officers in health professions.

(6) Section 351(i), relating to hazardous duty pay.

(7) Section 352(g), relating to assignment pay or special duty pay.

(8) Section 353(j), relating to skill incentive pay or proficiency bonus.

(9) Section 355(i), relating to retention incentives for members qualified in critical military skills or assigned to high priority units.

SEC. 105. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER TITLE 37 BONUSES AND SPECIAL PAY.

The following sections of chapter 5 of title 37, United States Code, are amended by striking “December 31, 2009” and inserting “December 31, 2010”:

(1) Section 301b(a), relating to aviation officer retention bonus.

(2) Section 307a(g), relating to assignment incentive pay.

(3) Section 308(g), relating to reenlistment bonus for active members.

(4) Section 309(e), relating to enlistment bonus.

(5) Section 324(g), relating to accession bonus for new officers in critical skills.

(6) Section 326(g), relating to incentive bonus for conversion to military occupational specialty to ease personnel shortage.

(7) Section 327(h), relating to incentive bonus for transfer between armed forces.

(8) Section 330(f), relating to accession bonus for officer candidates.

SEC. 106. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF REFERRAL BONUSES.

The following sections of title 10, United States Code, are amended by striking “December 31, 2009” and inserting “December 31, 2010”:

(1) Section 1030(i), relating to health professions referral bonus.

(2) Section 3252(h), relating to Army referral bonus.

SEC. 107. TECHNICAL CORRECTIONS AND CONFORMING AMENDMENTS TO RECONCILE CONFLICTING AMENDMENTS REGARDING CONTINUED PAYMENT OF BONUSES AND SIMILAR BENEFITS FOR CERTAIN MEMBERS.

(a) **TECHNICAL CORRECTIONS TO RECONCILE CONFLICTING AMENDMENTS.**—Section 303a(e) of title 37, United States Code, is amended—

(1) in paragraph (1)(A), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(3) in paragraph (5), as so redesignated, by striking “paragraph (3)(B)” and inserting “paragraph (4)(B)”;

(4) by redesignating paragraph (2), as added by section 651(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4495), as paragraph (3); and

(5) by redesignating the second subparagraph (B) of paragraph (1), originally added as paragraph (2) by section 2(a)(3) of the Hubbard Act (Public Law 110-317; 122 Stat. 3526)

and erroneously designated as subparagraph (B) by section 651(a)(3) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4495), as paragraph (2).

(b) **INCLUSION OF HUBBARD ACT AMENDMENT IN CONSOLIDATED SPECIAL PAY AND BONUS AUTHORITIES.**—Section 373(b) of such title is amended—

(1) in paragraph (2), by striking the paragraph heading and inserting “SPECIAL RULE FOR DECEASED AND DISABLED MEMBERS.—”; and

(2) by adding at the end the following new paragraph:

“(3) **SPECIAL RULE FOR MEMBERS WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**—(A) If a member of the uniformed services receives a sole survivorship discharge, the Secretary concerned—

“(i) shall not require repayment by the member of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and

“(ii) may grant an exception to the requirement to terminate the payment of any unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that termination of the payment of the unpaid amounts would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

“(B) In this paragraph, the term ‘sole survivorship discharge’ means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

“(i) the father or mother or one or more siblings—

“(I) served in the Armed Forces; and

“(II) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

“(ii) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.”

Subtitle B—Retired Pay Benefits

SEC. 111. RECOMPUTATION OF RETIRED PAY AND ADJUSTMENT OF RETIRED GRADE OF RESERVE RETIREES TO REFLECT SERVICE AFTER RETIREMENT.

(a) **RECOMPUTATION OF RETIRED PAY.**—Section 12739 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) If a member of the Retired Reserve is recalled to an active status in the Selected Reserve of the Ready Reserve under section 10145(d) of this title and completes not less than two years of service in such active status, the member is entitled to the recomputation under this section of the retired pay of the member.

“(2) The Secretary concerned may reduce the two-year service requirement specified in paragraph (1) in the case of a member who—

“(A) is recalled to serve in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general;

“(B) completes at least six months of service in such position; and

“(C) fails to complete the minimum two years of service solely because the appointment of the member to such position is terminated or vacated as described in section 324(b) of title 32.”

(b) ADJUSTMENT OF RETIRED GRADE.—Section 12771 of such title is amended—

(1) by striking “Unless” and inserting “(a) GRADE ON TRANSFER.—Unless”; and

(2) by adding at the end the following new subsection:

“(b) EFFECT OF SUBSEQUENT RECALL TO ACTIVE STATUS.—(1) If a member of the Retired Reserve who is a commissioned officer is recalled to an active status in the Selected Reserve of the Ready Reserve under section 10145(d) of this title and completes not less than two years of service in such active status, the member is entitled to an adjustment in the retired grade of the member in the manner provided in section 1370(d) of this title.

“(2) The Secretary concerned may reduce the two-year service requirement specified in paragraph (1) in the case of a member who—

“(A) is recalled to serve in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general;

“(B) completes at least six months of service in such position; and

“(C) fails to complete the minimum two years of service solely because the appointment of the member to such position is terminated or vacated as described in section 324(b) of title 32.”

(c) RETROACTIVE APPLICABILITY.—The amendments made by this section shall take effect as of January 1, 2008.

SEC. 112. ELECTION TO RECEIVE RETIRED PAY FOR NON-REGULAR SERVICE UPON RETIREMENT FOR SERVICE IN AN ACTIVE RESERVE STATUS PERFORMED AFTER ATTAINING ELIGIBILITY FOR REGULAR RETIREMENT.

(a) ELECTION AUTHORITY; REQUIREMENTS.—Subsection (a) of section 12741 of title 10, United States Code, is amended to read as follows:

“(a) AUTHORITY TO ELECT TO RECEIVE RESERVE RETIRED PAY.—(1) Notwithstanding the requirement in paragraph (4) of section 12731(a) of this title that a person may not receive retired pay under this chapter when the person is entitled, under any other provision of law, to retired pay or retainer pay, a person may elect to receive retired pay under this chapter, instead of receiving retired pay or retainer pay under chapter 65, 367, 571, or 867 of this title, if the person—

“(A) satisfies the requirements specified in paragraphs (1) and (2) of such section for entitlement to retired pay under this chapter;

“(B) served in an active status in the Selected Reserve of the Ready Reserve after becoming eligible for retirement under chapter 65, 367, 571, or 867 of this title (without regard to whether the person actually retired or received retired or retainer pay under one of those chapters); and

“(C) completed not less than two years of satisfactory service (as determined by the Secretary concerned) in such active status (excluding any period of active service).

“(2) The Secretary concerned may reduce the minimum two-year service requirement specified in paragraph (1)(C) in the case of a person who—

“(A) completed at least six months of service in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general; and

“(B) failed to complete the minimum years of service solely because the appointment of the person to such position was terminated or vacated as described in section 324(b) of title 32.”

(b) ACTIONS TO EFFECTUATE ELECTION.—Subsection (b) of such section is amended by striking paragraph (1) and inserting the following new paragraph:

“(1) terminate the eligibility of the person to retire under chapter 65, 367, 571, or 867 of this title, if the person is not already retired under one of those chapters, and terminate entitlement of the person to retired or retainer pay under one of those chapters, if the person was already receiving retired or retainer pay under one of those chapters; and”

(c) CONFORMING AMENDMENT TO REFLECT NEW VARIABLE AGE REQUIREMENT FOR RETIREMENT.—Subsection (d) of such section is amended—

(1) in paragraph (1), by striking “attains 60 years of age” and inserting “attains the eligibility age applicable to the person under section 12731(f) of this title”; and

(2) in paragraph (2)(A), by striking “attains 60 years of age” and inserting “attains the eligibility age applicable to the person under such section”.

(d) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 12741 of such title is amended to read as follows:

“§ 12741. Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement”.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 1223 of such title is amended by striking the item relating to section 12741 and inserting the following new item:

“12741. Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement.”

(e) RETROACTIVE APPLICABILITY.—The amendments made by this section shall take effect as of January 1, 2008.

Subtitle C—Concurrent Receipt of Military Retired Pay and Veterans' Disability Compensation

SEC. 121. ONE-YEAR EXPANSION OF ELIGIBILITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS' DISABILITY COMPENSATION TO INCLUDE ALL CHAPTER 61 DISABILITY RETIREES REGARDLESS OF DISABILITY RATING PERCENTAGE OR YEARS OF SERVICE.

(a) PHASED EXPANSION CONCURRENT RECEIPT.—Subsection (a) of section 1414 of title 10, United States Code, is amended to read as follows:

“(a) PAYMENT OF BOTH RETIRED PAY AND DISABILITY COMPENSATION.—

“(1) PAYMENT OF BOTH REQUIRED.—

“(A) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (in this section referred to as a ‘qualified retiree’) is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38.

“(B) APPLICABILITY OF FULL CONCURRENT RECEIPT PHASE-IN REQUIREMENT.—During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to a qualified retiree is subject to subsection (c).

“(C) PHASE-IN EXCEPTION FOR 100 PERCENT DISABLED RETIREES.—The payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following qualified retirees:

“(i) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

“(ii) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

“(D) TEMPORARY PHASE-IN EXCEPTION FOR CERTAIN CHAPTER 61 DISABILITY RETIREES; TERMINATION.—Subject to subsection (b), during the period beginning on January 1, 2010, and ending on September 30, 2010, subsection (c) shall not apply to a qualified retiree described in subparagraph (B) or (C) of paragraph (2).

“(2) QUALIFYING SERVICE-CONNECTED DISABILITY DEFINED.—In this section, the term ‘qualifying service-connected disability’ means the following:

“(A) In the case of a member or former member receiving retired pay under any provision of law other than chapter 61 of this title, or under chapter 61 with 20 years or more of service otherwise creditable under section 1405 or computed under section 12732 of this title, a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs.

“(B) In the case of a member or former member receiving retired pay under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 or computed under section 12732 of this title, a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (and, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

“(i) January 1, 2010, rated 100 percent, or a rate payable at 100 percent by reason of individual unemployability or rated 90 percent

“(ii) January 1, 2011, rated 80 percent or 70 percent.

“(iii) January 1, 2012, rated 60 percent or 50 percent.

“(C) In the case of a member or former member receiving retired pay under chapter 61 regardless of years of service, a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (and, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

“(i) January 1, 2013, rated 40 percent or 30 percent.

“(ii) January 1, 2014, any rating.

“(3) LIMITED DURATION.—Notwithstanding the effective date specified in each clause of subparagraphs (B) and (C) of paragraph (2), the clause shall apply only if the termination date specified in subparagraph (D) of paragraph (1) occurs during or after the calendar year specified in the clause, except that, eligibility may not extend beyond the termination date.”

(b) CONFORMING AMENDMENT TO SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b) of such section is amended to read as follows:

“(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES WHEN ELIGIBILITY HAS BEEN ESTABLISHED FOR SUCH RETIREES.—

“(1) GENERAL REDUCTION RULE.—The retired pay of a member retired under chapter 61 of this title is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the members retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

“(2) RETIREES WITH FEWER THAN 20 YEARS OF SERVICE.—

“(A) BEFORE TERMINATION DATE.—If a member with a qualifying service-connected disability (as defined in subsection (a)(2)) is retired under chapter 61 of this title with fewer

than 20 years of creditable service otherwise creditable under section 1405 or computed under section 12732 of this title, and the termination date specified in subsection (a)(1)(D) has not occurred, the retired pay of the member is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

“(B) AFTER TERMINATION DATE.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title, or with less than 20 years of service computed under section 12732 of this title, at the time of the retirement of the member if the termination date in paragraph (1)(D) of such subsection has occurred.”.

(c) CONFORMING AMENDMENT TO FULL CONCURRENT RECEIPT PHASE-IN.—Subsection (c) of such section is amended by striking “the second sentence of”.

(d) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

“§ 1414. Concurrent receipt of retired pay and veterans' disability compensation”.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 71 of such title is amended by striking the item related to section 1414 and inserting the following new item:

“1414. Concurrent receipt of retired pay and veterans' disability compensation.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010.

TITLE II—FEDERAL EMPLOYEE BENEFITS

Subtitle A—General Provisions

SEC. 201. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking “(l) In computing” and inserting “(1)(l) In computing”; and

(B) by adding at the end the following:

“(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.”.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking “section 8415(k)” and inserting “paragraph (1) or (2) of section 8415(l)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 202. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking “October 1, 1990” each place it appears and inserting “March 1, 1991”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 203. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

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

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

“(B) subparagraph (B) of such paragraph—

“(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

“(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 204. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

“(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

“(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

“(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking “8411(f);” and inserting “8411(f) or 8422(i);”.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: “Deposits made by an employee, Member, or survivor also shall be credited to the Fund.”.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

“§ 8422. Deductions from pay; contributions for other service; deposits”.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

“8422. Deductions from pay; contributions for other service; deposits.”.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking “based.” and inserting “based, until the employee or Member is reemployed in the service subject to this chapter.”.

SEC. 205. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1-626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, “qualifying District of Columbia service” means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) **CERTIFICATION OF SERVICE.**—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

Subtitle B—Non-Foreign Area Retirement Equity Assurance

SEC. 211. SHORT TITLE.

This subtitle may be cited as the “Non-Foreign Area Retirement Equity Assurance Act of 2009” or the “Non-Foreign AREA Act of 2009”.

SEC. 212. EXTENSION OF LOCALITY PAY.

(a) **LOCALITY-BASED COMPARABILITY PAYMENTS.**—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

“(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;”;

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “and” after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting “; and”; and

(iii) by adding after subparagraph (B) the following:

“(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and”;

(B) by adding at the end the following:

“(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).”; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking “and” after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B) the following:

“(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and”;

(D) in clause (iv) in the matter following subparagraph (D), by inserting “, except for members covered by subparagraph (C)” before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting “, except for members covered by subparagraph (C)” before the semicolon.

(b) **ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.**—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence “Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).”;

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

“(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

“(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

“(A) January 1, 2010; and

“(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 214 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

“(2)(A) In this paragraph, the term ‘applicable locality-based comparability pay percentage’ means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section 214 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

“(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

“(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

“(ii) dividing the resulting percentage determined under clause (i) by the sum of—

“(I) one; and

“(II) the applicable locality-based comparability payment percentage expressed as a numeral.

“(3) No allowance rate computed under paragraph (2) may be less than zero.

“(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).”.

SEC. 213. ADJUSTMENT OF SPECIAL RATES.

(a) **IN GENERAL.**—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 214 of this subtitle, in accordance with regu-

lations prescribed by the Director of the Office of Personnel Management under section 218 of this subtitle.

(b) **AGENCIES WITH STATUTORY AUTHORITY.**—

(1) **IN GENERAL.**—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) **STATUTORY AUTHORITY.**—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) **TEMPORARY ADJUSTMENT.**—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 214 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. 214. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this subtitle or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this subtitle, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using $\frac{1}{3}$ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using $\frac{2}{3}$ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. 215. SAVINGS PROVISION.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the application of this subtitle to any employee should not result in a decrease in the take home pay of that employee;

(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act, the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the

Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the "Rest of the United States", the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

(b) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section 214 of this subtitle, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 214 of this subtitle, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this subtitle, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 214 of this subtitle which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. 216. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term "covered employee" means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this subtitle (including the amendments made by this subtitle) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 212 of this subtitle), and section 214 of this subtitle apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this subtitle shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this subtitle including section 5941 of title 5, United States Code (as amended by section 212 of this subtitle), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking "Section 5941," and inserting "Except as provided under paragraph (2), section 5941";

(C) by striking "For purposes of such section," and inserting "Except as provided under paragraph (2), for purposes of section 5941 of that title,"; and

(D) by adding at the end the following:

"(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

"(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

"(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section 216(b)(2) of that Act shall apply."

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this subtitle (including the amendments made by this subtitle) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 214.

(B) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 217 of this subtitle.

SEC. 217. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term "covered employee" means any employee—

(1) to whom section 214 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would

have received during that period for the applicable pay area if the limitation under section 214 of this subtitle did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. 218. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this subtitle, including—

(1) rules for special rate employees described under section 213;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 214 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this subtitle with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

SEC. 219. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this subtitle (including the amendments made by this subtitle) shall

take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 212 and the provisions of section 214 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

TITLE III—DEEPWATER OIL AND GAS RESEARCH AND DEVELOPMENT FUNDING SOURCE REPEAL

SEC. 301. REPEAL.

Effective October 1, 2010, section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended—

(1) by striking subsections (a), (b), (c), and (f);

(2) by redesignating subsections (d) and (e) as subsections (a) and (b), respectively;

(3) in subsection (a), as so redesignated, by striking “obligated from the Fund under subsection (a)(1)” and inserting “available under this section”; and

(4) in subsection (b), as so redesignated, by striking “In addition to other amounts that are made available to carry out this section, there” and inserting “There”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. SKELTON) and the gentleman from South Carolina (Mr. WILSON) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. SKELTON. I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on then resolution under consideration.

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

There was no objection.

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

Madam Speaker, I rise in support of H.R. 2990, the Disabled Military Retiree Relief Act of 2009. The disabled veterans tax has, for decades, prevented retirees from receiving the full benefits they have earned in military retired pay and veterans disability compensation.

The one group of retirees that have endured great hardship but have been among the last to be embraced by reform is the disabled retiree with less than 20 years of service.

This group of retirees has been ignored by even the most reform-minded advocate until the Democratic Congress acted to include them in the Combat-Related Special Compensation program when the National Defense Authorization Act for Fiscal Year 2008 was adopted. And yet this group of retirees has perhaps the most compelling story to tell.

Many of these servicemembers were on track to serve a full military career but were blocked from serving 20 years because of their disabilities. It's this group of retirees that were disabled at younger ages and often with young families. As a result, they are often the most financially stressed.

The President took a definitive step forward in support of disabled retirees with less than 20 years of service when

he proposed legislation in his budget request for fiscal year 2010. The President's proposal would phase in full concurrent receipt of military retired pay and VA disability compensation for these deserving veterans over 5 years.

We share the President's view that our veterans and their families, and particularly disabled retirees with less than 20 years, have made tremendous sacrifices for our country, but this bill moves us closer to fulfilling the President's plans and the commitment of Congress to give disabled veterans full access to the benefits they deserve.

While H.R. 2990 is an important step, we must recognize that it is an incremental step that reaches only the most severely disabled over the first year of the President's phased implementation plan. Congress has been working to find a way to permanently eliminate the disabled veterans tax for many years, but finding this entitlement program is an immensely difficult task. I'm grateful to all of my House colleagues who have worked to find the budget offsets needed to provide this temporary fix for our veterans. As we pursue this legislation, we will continue to do all we can to honor our country's debt to our veterans and their families.

I would note that H.R. 2990 also includes a number of valuable changes that enhance the Federal civilian retirement benefits. In addition, the bill extends expiring authorities concerning a wide variety of bonuses and special pays that are critical to military recruiting and retention.

H.R. 2990 is a good bill. It's an important bill that supports the President's initiative regarding disabled retirees and fulfills the longstanding commitment of Congress to provide for the welfare of disabled veterans.

There still remains much to be done to find a permanent solution, and this bill provides the framework for our future action. Our veterans have never quit on America, and you can be certain that we will never quit on our veterans. I urge my colleagues to support the Disabled Military Retiree Relief Act of 2009.

I reserve the balance of my time.

Mr. WILSON of South Carolina. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support H.R. 2990, the Disabled Military Retiree Relief Act of 2009. This bill has a number of good provisions dealing with military and civilian personnel, which I appreciate as a 31-year Army National Guard veteran representing Parris Island, the Marine Corps Air Station at Beaufort, the Beaufort Naval Hospital, and Fort Jackson.

I want to focus on one section of the bill that would provide concurrent receipt of Department of Defense disability pay and Veterans Administration disability pay to a small number of people discharged from the services with less than 20 years' service because of injuries sustained while in the service.

This section, which is but a ghost of the proposal submitted by President Obama, is a small but important step in expanding the population eligible for full concurrent receipt. I'm glad some progress is being made.

What troubles and disappoints me most, however, is that this bill, which will be attached to the National Defense Authorization Act for 2010, could have done so much more had the Democratic leadership of the House made elimination of concurrent receipt and elimination of the widow's tax a priority from the beginning of this Congress.

Instead, we were unable to even debate my amendment at the full committee markup of the Defense Authorization dealing with concurrent receipt, the elimination of the Survivor Benefit Plan and Dependency and Indemnity Compensation offset is a widow's tax, the extension of health care to early retiring Reserve component members, and the use of the misnamed Reserve Fund in the budget resolution.

I would note that since the introduction of the amendment, the Democratic leadership has found a way to fund H.R. 2990, using resources and dollars outside the House Armed Services Committee jurisdiction to provide for just 9 months of very limited concurrent receipt for disabled military retirees.

While that is a step forward to eliminating some of the injustice inflicted on disabled retirees, it does nothing to cure the injustice still being suffered by most persons losing their rightly earned benefits because of the remaining concurrent receipt prohibitions.

Had the House leadership seen eliminating these injustices as a priority, they could have allocated a small percentage—less than 1 percent—necessary in the \$15 trillion they provided for government spending in 2010 to 2014. Or, they could have used the Reserve Fund authority as proposed in my amendment.

□ 1115

Instead we must settle for a small pittance for a small group of retirees. I hope that since the authority for this limited concurrent receipt is for only 9 months, that the Democratic leadership makes resolving all the concurrent receipt and SBP-DIC offset injustices a real, not a symbolic, priority next year. As a Nation, we owe more than our gratitude to the brave men and women in uniform and their families, past and present, for the sacrifices they make to protect our freedoms. I know firsthand of the courage of our troops. My late father-in-law Julian Dusenbury, a dedicated Marine, was awarded the Navy Cross for leading the capture of the Japanese headquarters of Shuri Castle in Okinawa. He was shot by a sniper, resulting in his being in a wheelchair for the rest of his life. He was grateful to have served America.

With that, Madam Speaker, I yield as much time as he may consume to the gentleman from Georgia, Dr. BROUN.

MOTION TO ADJOURN

Mr. BROUN of Georgia. Madam Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROUN of Georgia. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 73, nays 316, not voting 44, as follows:

[Roll No. 425]

YEAS—73

Aderholt
Akin
Alexander
Austria
Barrett (SC)
Bartlett
Barton (TX)
Blackburn
Boehner
Broun (GA)
Burton (IN)
Calvert
Camp
Capito
Carter
Chaffetz
Childers
Clay
Coffman (CO)
Cole
Deal (GA)
Fallin
Flake
Fleming
Gallegly
Garrett (NJ)
Goodlatte
Granger
Harper
Hastings (WA)
Hensarling
Inglis
Issa
Jenkins
Johnson, Sam
King (IA)
Kingston
Kline (MN)
Lamborn
Lewis (CA)
McKeon
McMorris
Rodgers
Miller, Gary
Neugebauer
Nunes
Olson
Paul
Pence
Petri

Pitts
Radanovich
Roe (TN)
Rogers (AL)
Ryan (WI)
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (TX)
Souder
Stearns
Teague
Thompson (PA)
Thornberry
Tiahrt
Turner
Wamp
Young (AK)
Young (FL)

NAYS—316

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Bachmann
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Bocchieri
Bonner
Bono Mack
Boozman
Boren
Boswell
Boustany
Boyd
Brady (PA)
Bralley (IA)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Buchanan
Butterfield
Buyer
Cantor
Cao
Capps
Capuano
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Castor (FL)
Chandler
Cleave
Clyburn
Coble
Cohen
Conaway
Connolly (VA)
Cooper
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Dreier
Driehaus
Duncan
Edwards (MD)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner

Forbes
Fortenberry
Foster
Fox
Franks (AZ)
Frelinghuysen
Fudge
Gerlach
Giffords
Gonzalez
Gordon (TN)
Graves
Grayson
Green, Al
Green, Gene
Griffith
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Hastings (FL)
Heinrich
Heller
Heger
Herseth Sandlin
Hill
Himes
Hinchev
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hunter
Inslie
Israel
Jackson (IL)
Jackson-Lee
(TX)
Johnson (GA)
Johnson, E. B.
Jones
Jordan (OH)
Kagen

Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovich
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Linder
Lipinski
LoBiondo
Loeback
Lofgren, Zoe
Lowey
Luetkemeyer
Lujan
Lummis
Lungren, Daniel
E.
Lynch
Mack
Maffei
Manzullo
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
McCarthy (CA)
McCarthy (NY)
McClintock
McCollum
McCotter
McDermott
McGovern
McHugh
McIntyre
McMahon
McNerney
Meek (FL)
Meeke (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moran (KS)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Ortiz
Pallone
Pastor (AZ)
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Wu

Salazar
Sanchez, Linda
T.
Sanchez, Loretta
Scalise
Schakowsky
Schauer
Schiff
Schradler
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Sherman
Shuler
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Tiberi
Titus
Tonko
Townes
Tsongas
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman
Schultz
Waters
Watt
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu

NOT VOTING—44

Bachus
Berman
Boucher
Brady (TX)
Burgess
Campbell
Cardoza
Clarke
Conyers
Costa
Delahunt
Doyle
Edwards (TX)
Frank (MA)
Gingrey (GA)
Gohmert
Grijalva
Harman
Higgins
Hoyer
Johnson (IL)
Kennedy
Lewis (GA)
Lucas
Maloney
Marchant
Matsui
McCaul
McHenry
Miller (NC)
Moore (WI)
Moran (VA)
Murphy (CT)
Oliver
Pascrell
Sarbanes
Shea-Porter
Stupak
Sullivan
Thompson (MS)
Tierney
Watson
Waxman
Yarmuth

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Florida) (during the vote). There are 2 minutes remaining in this vote.

□ 1140

Messrs. BUYER, BONNER, BOYD, POMEROY, Mrs. BIGGERT, Messrs. PETERSON, CANTOR, DICKS, WEST-MORELAND, and Ms. HIRONO changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated against: