

## Union Calendar No. 351

108TH CONGRESS  
2D SESSION

# H. R. 3737

[Report No. 108-586]

To increase the minimum and maximum rates of basic pay payable to administrative law judges, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2004

Mrs. JO ANN DAVIS of Virginia introduced the following bill; which was referred to the Committee on Government Reform

JULY 7, 2004

Additional sponsors: Mr. TOM DAVIS of Virginia, Mr. VITTER, Mr. BAKER, Ms. NORTON, and Mr. MORAN of Virginia

JULY 7, 2004

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on January 28, 2004]

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## A BILL

To increase the minimum and maximum rates of basic pay payable to administrative law judges, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; REFERENCES.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Pay*  
3 *Compression Relief Act of 2004”.*

4 (b) *REFERENCES.*—*Except as otherwise expressly pro-*  
5 *vided, whenever in this Act an amendment is expressed in*  
6 *terms of an amendment to a section or other provision, the*  
7 *reference shall be considered to be made to a section or other*  
8 *provision of title 5, United States Code.*

9 **SEC. 2. AMENDMENTS RELATING TO BASIC PAY.**

10 (a) *ADMINISTRATIVE LAW JUDGES.*—*Section*  
11 *5372(b)(1)(C) is amended by striking “may not exceed the*  
12 *rate for level IV” and inserting “may not exceed the rate*  
13 *for level III”.*

14 (b) *CONTRACT APPEALS BOARD MEMBERS.*—*Section*  
15 *5372a is amended—*

16 (1) *by striking subsection (b) and inserting the*  
17 *following:*

18 “(b)(1) *Rates of basic pay under this section—*

19 “(A) *shall consist of—*

20 “(i) *the rate for the chairman of an appeals*  
21 *board;*

22 “(ii) *the rate for the vice chairman of an*  
23 *appeals board; and*

24 “(iii) *the rate for all other contract appeals*  
25 *board members;*

1           “(B) shall be initially adjusted by the Office of  
2           Personnel Management and thereafter adjusted under  
3           paragraph (2); and

4           “(C) shall not be greater than the rate of basic  
5           pay for level III of the Executive Schedule nor less  
6           than 94 percent of the rate of basic pay for level IV  
7           of the Executive Schedule.

8           “(2) Subject to paragraph (1)(C), effective at the begin-  
9           ning of the first applicable pay period commencing on or  
10          after the first day of the month in which an adjustment  
11          takes effect under section 5303 in the rates of basic pay  
12          under the General Schedule, each rate of basic pay for con-  
13          tract appeals board members shall be adjusted by an  
14          amount determined by the President to be appropriate.”;  
15          and

16                 (2) by adding after subsection (c) the following:

17                 “(d) The Office of Personnel Management shall pre-  
18          scribe regulations necessary to administer this section.”.

19                 (c) CERTAIN SENIOR-LEVEL POSITIONS.—Section  
20          5376(b)(1)(B) is amended by striking “level IV” and insert-  
21          ing “level III”.

22          **SEC. 3. AMENDMENTS RELATING TO LOCALITY-BASED COM-**  
23                                 **PARABILITY PAYMENTS.**

24                 (a) MODIFIED MAXIMUMS.—Paragraph (2) of section  
25          5304(g), as amended by section 1125(a)(1)(A) of the Na-

1 *tional Defense Authorization Act for Fiscal Year 2004 (Pub-*  
2 *lic Law 108–136; 117 Stat. 1638), is amended to read as*  
3 *follows:*

4       “(2) *The applicable maximum under this subsection*  
5 *shall be—*

6               “(A) *level II of the Executive Schedule for posi-*  
7 *tions under subparagraphs (A)–(D) of subsection*  
8 *(h)(1); and*

9               “(B) *level III of the Executive Schedule for any*  
10 *positions under subsection (h)(1)(E) which the Presi-*  
11 *dent may determine.”.*

12       (b) *ADMINISTRATIVE APPEALS JUDGES.—Section*  
13 *5304(h)(1), as amended by section 1125(a)(1)(B) of the Na-*  
14 *tional Defense Authorization Act for Fiscal Year 2004 (Pub-*  
15 *lic Law 108–136; 117 Stat. 1638), is amended—*

16               (1) *in subparagraph (C), by striking “and” at*  
17 *the end;*

18               (2) *by redesignating subparagraph (D) as sub-*  
19 *paragraph (E); and*

20               (3) *by inserting after subparagraph (C) the fol-*  
21 *lowing:*

22               “(D) *a position to which section 5372b applies*  
23 *(relating to administrative appeals judges); and”.*

1 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

2 *Section 5304(h)(2)(B), as amended by section*  
3 *1125(a)(1)(C) of the National Defense Authorization Act for*  
4 *Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1638),*  
5 *is amended—*

6 *(1) in clause (i)—*

7 *(A) by striking “(A) through (C)” and in-*  
8 *serting “(A) through (D)”;* and

9 *(B) by striking “(vii)” and inserting “(vi)”;*

10 *and*

11 *(2) in clause (ii), by striking “(1)(D)” and in-*  
12 *serting “(1)(E)”.*

13 **SEC. 5. APPLICABILITY.**

14 *(a) IN GENERAL.—The amendments made by this Act*  
15 *shall—*

16 *(1) for purposes of computing any rate of com-*  
17 *penetration for service performed in any pay period be-*  
18 *ginning before the date specified under subsection (b),*  
19 *be treated as if they had never been enacted; and*

20 *(2) for purposes of computing any rate of com-*  
21 *penetration for service performed in any pay period be-*  
22 *ginning on or after the date specified under sub-*  
23 *section (b), take effect as if included in the enactment*  
24 *of the National Defense Authorization Act for Fiscal*  
25 *Year 2004 (Public Law 108–136; 117 Stat. 1392).*

1       (b) *DATE SPECIFIED.*—*The date specified under this*  
2 *subsection shall be the earlier of—*

3           (1) *the first day of the first pay period beginning*  
4 *at least 90 days after the date of the enactment of this*  
5 *Act; or*

6           (2) *such other date (not earlier than the date of*  
7 *the enactment of this Act) as the Office of Personnel*  
8 *Management may determine.*

9 **SEC. 6. REPORTING REQUIREMENT.**

10       (a) *IN GENERAL.*—*Not later than 6 months after the*  
11 *date of the enactment of this Act, the Office of Personnel*  
12 *Management shall submit to the Committee on Government*  
13 *Reform of the House of Representatives and the Committee*  
14 *on Governmental Affairs of the Senate a written report con-*  
15 *taining the following:*

16           (1) *A list of all Executive Schedule positions,*  
17 *and the rate of basic pay in effect for and the total*  
18 *number of individuals occupying each such position.*

19           (2) *A comparison of the rates of basic pay for*  
20 *administrative law judges, administrative appeals*  
21 *judges, and contract appeals board members (before*  
22 *and after taking comparability pay into account)*  
23 *with—*

24                   (A) *the rates of basic pay for Executive*  
25 *Schedule positions; and*

1           (B) the rates of basic pay for United States  
2           magistrate judges, United States bankruptcy  
3           judges, judges of a United States district court,  
4           and judges of a United States court of appeals,  
5           respectively.

6           (3) A determination of whether rates of basic  
7           pay for administrative law judges, administrative ap-  
8           peals judges, and contract appeals board members are  
9           incongruous with the rates of basic pay for the posi-  
10          tions referred to in paragraphs (2)(A) and (2)(B), re-  
11          spectively.

12          (4) A recommendation on the extent to which the  
13          rates of basic pay for Executive Schedule positions  
14          should be adjusted (if at all), based on any deter-  
15          mination under paragraph (3).

16          (5) Any other information or recommendation  
17          which the Office of Personnel Management considers  
18          pertinent to the issue of appropriate rates of basic  
19          pay for Executive Schedule positions.

20          (b) *DATA AND METHODOLOGY.*—The report of the Of-  
21          fice of Personnel Management under this section shall in-  
22          clude a statement identifying the data and methodology  
23          used in preparing such report.

24          (c) *DEFINITIONS.*—For purposes of this section—

1           (1) *the term “Executive Schedule positions”*  
2           *means positions under the Executive Schedule under*  
3           *subchapter II of chapter 53 of title 5, United States*  
4           *Code, and all other positions in the executive branch*  
5           *the annual rates of basic pay for which are individ-*  
6           *ually fixed, or expressly authorized to be fixed, by*  
7           *statute, at the rate provided for a level of the Execu-*  
8           *tive Schedule or at a rate determined by reference to*  
9           *a level of the Executive Schedule, but does not include*  
10          *administrative law judges, contract appeals board*  
11          *members, or administrative appeals judges;*

12          (2) *the terms “administrative law judge”, “con-*  
13          *tract appeals board member”, and “administrative*  
14          *appeals judge” have the meanings given them by sec-*  
15          *tions 5372, 5372a, and 5372b of title 5, United States*  
16          *Code, respectively; and*

17          (3) *the term “comparability pay” means com-*  
18          *parability pay under section 5304 of title 5, United*  
19          *States Code, or similar provision of law.*

Amend the title so as to read: “A bill to adjust the rates of pay payable to administrative law judges, and for other purposes.”.



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