

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To modify provisions relating to locality-based comparability payments, savings provisions, elections by employees, and for other purposes.

**IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.**

**S. 3013**

To provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. AKAKA (for  
himself and Mr. STEVENS)

Viz:

1 On page 1, line 8, strike all through page 2, line 9,

2 and insert the following:

3 (a) LOCALITY-BASED COMPARABILITY PAYMENTS.—

4 Section 5304 of title 5, United States Code, is amended—

5 (1) in subsection (f)(1), by striking subpara-  
6 graph (A) and inserting the following:

7 “(A) each General Schedule position in the

8 United States, as defined under section

1           5921(4), and its territories and possessions, in-  
2           cluding the Commonwealth of Puerto Rico and  
3           the Commonwealth of the Northern Mariana Is-  
4           lands, shall be included within a pay locality;”;  
5           (2) in subsection (g)—

6                   (A) in paragraph (2)—

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

9                           (ii) by redesignating subparagraph  
10                          (B) as subparagraph (C);

11                          (iii) by inserting after subparagraph  
12                          (A) the following:

13                          “(B) positions under subsection (h)(1)(D)  
14                          not covered by appraisal systems certified under  
15                          section 5382; and”; and

16                          (iv) in subparagraph (C) (as redesi-  
17                          gnated by this paragraph), by striking  
18                          “under subsection (h)(1)(D)” and insert-  
19                          ing “under subsection (h)(1)(E)”; and

20                          (B) by adding at the end the following:

21                          “(3) The applicable maximum under this sub-  
22                          section shall be level II of the Executive Schedule for  
23                          positions under subsection (h)(1)(D) covered by ap-  
24                          praisal systems certified under section 5307(d).”;  
25                          and

1 (3) in subsection (h)(1)—

2 (A) in subparagraph (C) by striking “and”  
3 after the semicolon;

4 (B) by redesignating subparagraph (D) as  
5 subparagraph (E);

6 (C) by inserting after subparagraph (C)  
7 the following:

8 “(D) a Senior Executive Service position  
9 under section 3132 stationed within the United  
10 States, but outside the 48 contiguous States  
11 and the District of Columbia in which the in-  
12 cumbent the day before the date of enactment  
13 of the Non-Foreign Area Retirement Equity As-  
14 surance Act of 2008 was eligible to receive a  
15 cost-of-living allowance under section 5941;  
16 and”;

17 (D) in clause (iii) in the matter following  
18 subparagraph (D), by inserting “stationed in  
19 the 48 contiguous States and the District of  
20 Columbia, or stationed within the United  
21 States, but outside the 48 contiguous States  
22 and the District of Columbia, in which the in-  
23 cumbent the day before the date of enactment  
24 of the Non-Foreign Area Retirement Equity As-  
25 surance Act of 2008 was not eligible to receive

1           a cost-of-living allowance under section 5941;  
2           and” before the semicolon.

3           On page 6, strike lines 14 through 20.

4           On page 6, line 21, strike “(b)” and insert “(a)”.

5           On page 6, after line 24, add the following:

6           (b) SENSE OF CONGRESS.—It is the sense of Con-  
7 gress that the Bureau of Labor Statistics will conduct sep-  
8 arate surveys pursuant to the establishment by the Presi-  
9 dent’s Pay Agent of 1 new locality area for the entire  
10 State of Hawaii and 1 new locality area for the entire state  
11 of Alaska, and that upon the completion of the phase in  
12 period no employee shall receive less than the Rest of the  
13 U.S. locality pay rate.

14           (c) SAVINGS PROVISIONS.—

15           (1) IN GENERAL.—During the period described  
16 under section 4 of this Act, an employee paid a spe-  
17 cial rate under 5305 of title 5, United States Code,  
18 who the day before the date of enactment of this Act  
19 was eligible to receive a cost-of-living allowance  
20 under section 5941 of title 5, United States Code,  
21 and who continues to be officially stationed in an al-  
22 lowance area, shall receive an increase in the em-

1        ployee's special rate consistent with increases in the  
2        applicable special rate schedule. For employees in al-  
3        lowance areas, the minimum step rate for any grade  
4        of a special rate schedule shall be increased at the  
5        time of an increase in the applicable locality rate  
6        percentage for the allowance area by not less than  
7        the dollar increase in the locality-based com-  
8        parability payment for a non-special rate employee  
9        at the same minimum step provided under section 4  
10       of the Act, and corresponding increases shall be pro-  
11       vided for all step rates of the given pay range.

12                (2) CONTINUATION OF COST OF LIVING ALLOW-  
13        ANCE RATE.—If an employee, who the day before  
14        the date of enactment of this Act was eligible to re-  
15        ceive a cost-of-living allowance under section 5941 of  
16        title 5, United States Code, would receive a rate of  
17        basic pay and applicable locality-based comparability  
18        payment which is in excess of the maximum rate  
19        limitation set under section 5304(g) of title 5,  
20        United States Code, for his position (but for that  
21        maximum rate limitation) due to the operation of  
22        this Act, the employee shall continue to receive the  
23        cost-of-living allowance rate in effect on December  
24        31, 2008 without adjustment until—

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

3 (B) the employee is entitled to receive  
4 basic pay (including any applicable locality-  
5 based comparability payment or similar supple-  
6 ment) at a higher rate,

7 but, when any such position becomes vacant, the pay  
8 of any subsequent appointee thereto shall be fixed in  
9 the manner provided by applicable law and regula-  
10 tion.

11 (3) LOCALITY-BASED COMPARABILITY PAY-  
12 MENTS.—Any employee covered under paragraph (2)  
13 shall receive any applicable locality-based com-  
14 parability payment extended under section 4 of this  
15 Act which is not in excess of the maximum rate set  
16 under section 5304(g) of title 5, United States Code  
17 for his position including any future increase to stat-  
18 utory pay caps under 5318 of title 5, United States  
19 Code. Notwithstanding paragraph (2), to the extent  
20 that an employee covered under that paragraph re-  
21 ceives any amount of locality-based comparability  
22 payment, the cost-of-living allowance rate under that  
23 paragraph shall be reduced accordingly, as provided  
24 under section 5941(c)(2)(B) of title 5, United States  
25 Code.

1       On page 9, line 9, strike “of title 5, United States  
2 Code” and insert “law”.

3       On page 11, strike lines 4 through 11 and insert the  
4 following:

5       (c) COMPUTATION OF ANNUITY.—

6           (1) IN GENERAL.—Except as provided under  
7 paragraph (2), for purposes of the computation of  
8 an annuity of a covered employee any cost-of-living  
9 allowance under section 5941 of title 5, United  
10 States Code, paid to that employee during the first  
11 applicable pay period beginning on or after January  
12 1, 2009 through the first applicable pay period end-  
13 ing on or after December 31, 2011, shall be consid-  
14 ered basic pay as defined under section 8331(3) or  
15 8401(4) of that title.

16           (2) LIMITATION.—The amount of the cost-of-  
17 living allowance which may be considered basic pay  
18 under paragraph (1) may not exceed the amount of  
19 the locality-based comparability payments the em-  
20 ployee would have received during that period for  
21 the applicable pay area if the limitation under sec-  
22 tion 4 of this Act did not apply.

- 1 On page 13, line 6, strike section “5491” and insert
- 2 “5941”.