

The Honorable Joseph R. Biden, Jr.  
President of the Senate  
Washington, D.C. 20510

Dear Mr. President:

The U.S. Office of Personnel Management (OPM) is submitting the enclosed legislative proposal entitled the “Federal Civilian Employees in Zones of Armed Conflict Benefits Act of 2010.” We request that it be referred to the appropriate committee for prompt and favorable consideration.

OPM, the Department of Defense, and the Department of State have worked in partnership to develop this important legislative proposal which will provide more uniformity and transparency to the pay and benefits for deployed civilian employees. Deployed civilian employees are essential to the Federal Government’s ability to meet its mission requirements in Iraq, Afghanistan, and other areas of armed conflict. A report by the Government Accountability Office suggested that disparate treatment of civilian employees serving in such areas may exist because of the discretionary nature of various compensation authorities and the existence of independent agency authorities apart from Governmentwide provisions. Some agencies with small numbers of employees working in designated zones of armed conflict may be unfamiliar with the current authorities.

Our legislative proposal would codify benefits Federal civilian employees are eligible to receive while serving in a designated zone of armed conflict. In doing so, the proposal would amend section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902) by adding a new provision allowing the Secretary of State, in coordination with the Secretary of Defense, to designate an area where there are exceptional levels of violence as a “designated zone of armed conflict”. This designation would serve as the basis for certain pay and benefits allowable for Federal civilian employees working in a designated zone of armed conflict.

The draft proposal would amend chapter 59 of title 5, United States Code, to add a new subchapter titled “Benefits for Employees in Designated Zones of Armed Conflict.” This new subchapter would establish a central authority for the various benefits agencies could provide to their civilian employees who serve in a designated zone of armed conflict. Many of these authorities currently exist in the form of legislative provisions that must be renewed each year and are not found in one location. By placing the authorities in one central set of statutory provisions within title 5 of the United States Code, agencies will easily be able to locate the benefits they may provide.

In addition, the proposal would amend other parts of title 5 to enhance current benefits. For example, the draft proposal would establish special leave benefits for deployed civilian employees. This includes a proposal for recuperation leave to provide employees a respite from working in a designated zone of armed conflict and readjustment leave after a

deployment assignment has been completed to provide employees time to rest and attend to personal matters before returning to work.

We believe enactment of the enclosed draft bill is an essential tool the Government needs to support employees who deploy to dangerous areas often at great inconvenience and risk to themselves.

The Office of Management and Budget advises that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

A similar letter is being sent to the President of the Senate.

Sincerely,

John Berry  
Director

Enclosures

## SECTION-BY-SECTION ANALYSIS

To accompany a draft bill

“To amend the Foreign Service Act of 1980 and title 5, United States Code, to provide certain benefits for Federal civilian employees assigned to duty in a designated zone of armed conflict, and for other purposes.”

The first section provides a short title for the draft bill, the “Federal Civilian Employees in Zones of Armed Conflict Benefits Act of 2010.”

Section 2 of the draft bill would add a new definition of “designated zone of armed conflict” to section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902). The new definition will provide clarity and uniformity for agencies regarding the types of compensation and benefits civilian employees are eligible to receive when deployed to areas where there are exceptional levels of armed violence. Authority to determine whether an area is a designated zone of armed conflict rests with the Secretary of State in coordination with the Secretary of Defense.

Section 3 of the draft bill would amend chapter 59 of title 5, United States Code, by adding a new subchapter V, entitled “Benefits for Employees in Designated Zones of Armed Conflict.”

Subsection (a) of section 3, in paragraph (1), would amend the heading of chapter 59 to read “Allowances, Special Payments, and Benefits” to more accurately describe the contents of the chapter, including the new subchapter V.

Paragraph (2) of subsection (a) would add the new subchapter V, consisting of eight new sections as follows:

The new section 5951 of title 5, United States Code, provides definitions for the new subchapter. “Designated zone of armed conflict” would be defined by reference to the Foreign Service Act. “Executive agency” would be defined to exclude the Government Accountability Office. The section also defines what it means to be “assigned to duty in” a designated zone of armed conflict and includes definitions of “healthcare provider”, “pre-deployment health assessment”, “post-deployment health assessment”, and “United States”.

The new 5 U.S.C. 5952 would authorize the Secretary of State to require the head of an Executive agency to grant an employee assigned to duty in a designated zone of armed conflict, the allowances, benefits and gratuities under sections 413, 901, 902, and 906 of the Foreign Service Act of 1980 (22 U.S.C. 3973, 4081, 4082, and 4086) that the Secretary

of State prescribes by regulation. The purpose of this section is to provide uniform benefits to all employees who meet qualifying conditions. This authority could not be used, however, to provide any benefits or payments that are similar to those provided under new sections 5955 (rest and recuperation travel) and 5956 (emergency visitation travel) of title 5, as added by section 3 of the draft bill.

Currently, section 1603 of Public Law 109-234, as amended by section 1102 of Public Law 110-417 (Duncan Hunter National Defense Authorization Act for FY 2009), allows the head of an agency the discretionary authority to provide allowances, benefits, and gratuities similar to those provided by the Department of State for employees on duty in combat zones. However, this discretionary authority is temporary and will expire on September 30, 2011.

The new section 5952 of title 5 would, on a permanent basis, provide similar allowances, benefits, and gratuities to employees who are performing work in a designated zone of armed conflict as defined under the new section 5951(2).

The new section 5953 of title 5 requires pre- and post-deployment health assessments programs for employees in a designated zone of armed conflict. The programs would be carried out consistent with regulations prescribed by the Secretary of Defense or the Secretary of State, as determined by mission requirements.

The new section 5954 of title 5 establishes a special pay authority for certain employees, such as members of the Senior Executive Service, who are otherwise barred from receiving premium pay under chapter 55 of title 5, United States Code. Under subsection (a) of section 5954, the Secretary of State could require the payment of such special pay to Foreign Service officers and members of the Senior Foreign Service who perform a substantial amount of overtime work on a recurring basis while on duty in a designated zone of armed conflict. Subsection (b) of section 5954 would allow the Director of the Office of Personnel Management (OPM) to require the heads of Executive agencies to provide special pay to such employees who are not members of the Foreign Service. An employee's total compensation could not exceed the Vice President's salary (\$230,700 in 2010). The Director of OPM and the Secretary of State would each be required to prescribe regulations to implement this authority. Thus, no payments under section 5954 will be made until the regulations are published. The regulations could exclude certain categories of employees from eligibility for the special pay, specify other criteria and eligibility requirements for the payments, prescribe how the payment amounts will be determined and how they will be paid, and establish any other requirements deemed necessary for the effective implementation of this authority.

The new 5 U.S.C. 5955 would authorize the Secretary of State to require the head of an Executive agency to pay the travel and related expenses for rest and recuperation travel for a U.S. citizen employee (and accompanying family members, where applicable) who is assigned to duty in a designated zone of armed conflict and who is granted recuperation leave under 5 U.S.C. 6392, as added by section 5 of the draft bill. The new authority would cover such travel expenses in the same manner as is authorized for members of the

Foreign Service under section 901(6) of the Foreign Service Act of 1980 (22 U.S.C. 4081(6)). The Secretary of State would be authorized to issue regulations governing agencies' implementation of this requirement. The purpose of this section is to provide uniform benefits to all employees who meet qualifying conditions.

The new section 5956 would authorize the Secretary of State to require the head of an Executive agency to pay the travel and related expenses for round-trip travel to or from the employee's duty location (or temporary duty locations) to employees who are assigned to duty in a designated zone of armed conflict and their family members in cases of family emergency, including the serious illness, injury, or death of the employee or a family member. The purpose of this section is to provide uniform benefits to all employees who meet qualifying conditions. The Secretary of the State would have to prescribe implementing regulations for this section, and the agency's obligation to pay travel expenses under this section would be contingent upon a finding by the agency head that the criteria set forth in those regulations have been met.

The new section 5957 of title 5 would require agencies to pay a locality payment to eligible employees serving in a designated zone of armed conflict (as the term is defined in new section 5951). The Director of OPM could specify a minimum period of service in a designated zone of armed conflict that an employee would have to have completed in order to be eligible for a locality payment under this section. An eligible employee would receive the higher of (1) any applicable locality pay percentage for the employee's official worksite (if that worksite is in a locality pay area, because the employee is serving in a designated zone while on detail or in travel status) or (2) the locality pay percentage in effect for Washington, DC, for General Schedule employees. In other words, the locality pay percentage will not be less than the locality pay percentage applicable in Washington, DC. Locality pay under section 5957 would be in lieu of any locality-based comparability payment under 5 U.S.C. 5304 or similar authority. This new locality pay authority would not impair or affect in any way an agency's authority to pay an employee outside a designated zone of armed conflict a comparability adjustment under section 5304 or any similar payment under any other provision of law.

The new section 5 U.S.C. 5958 would require agencies to pay a gratuity to an eligible employee who sustains a qualifying traumatic injury on or after the date of enactment in a designated zone of armed conflict. A qualifying traumatic injury is one that results in a loss that is a "qualifying loss" under subsection (b) of section 1980A of title 38. The amount of the gratuity would be the applicable amount in effect under the schedule prescribed under subsection (d) of section 1980A of title 38. However, section 5958 provides flexibility to pay a lesser amount to locally employed staff outside the United States, consistent with prevailing compensation practices. The head of an agency could also pay a traumatic injury benefit under the new section 5958 to an employee who sustained a qualifying traumatic injury between November 30, 2005, and the date of enactment of section 5958 in connection with the employee's service with an Armed Force in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom, even though the area in which the injury was incurred was not a designated zone of armed conflict at the time of the injury. This new benefit would be administered by the Secretary

of Defense or the head of another agency the President may designate. Regulations to implement this new program would be prescribed in consultation with the Director of OPM, unless the President designated the Director as the administrator of the program.

Paragraph (3) of section 3(a) of the draft bill would amend the table of sections for chapter 59 of title 5 to reflect the amendments described above.

Subsection (b) of section 3 would amend the table of chapters for part III of title 5, U.S. Code, to reflect the amended title of chapter 59.

Subsection (c) of section 3, in paragraph (1)(A), would amend 5 U.S.C. 5753(a)(2)(A) to clarify that Foreign Service officers are not excluded from the recruitment and relocation bonus authority under 5 U.S.C. 5753.

Paragraph (1)(B) of subsection (c) would make a similar amendment to 5 U.S.C. 5754(a)(2)(A) with respect to retention bonus authority under 5 U.S.C. 5754.

Paragraph (2) of subsection (c) would make technical conforming amendments to section 901(9) of the Foreign Service Act of 1980 (22 U.S.C. 4081(9)).

Subsection (d) of section 3 would establish a transition period for the payment of locality pay for an employee serving in a designated zone of armed conflict whose official worksite is located in a nonforeign area and who is entitled to a cost-of-living allowance (COLA) under section 5941(a)(1) of title 5. This is necessary to reflect the provisions of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84) that provide for the termination of the nonforeign COLA program and a transition period from paying a nonforeign COLA under 5 U.S.C. 5941 to paying locality payments under 5 U.S.C. 5304 to employees in nonforeign areas. The nonforeign areas are Alaska, Hawaii, Puerto Rico, United States Virgin Islands, Guam, and the Commonwealth of the Northern Marianas. The COLA rates will gradually be reduced as locality pay increases.

Section 4 would provide agencies the permanent authority to waive certain pay limitations for employees performing duties in a designated zone of armed conflict. Currently, under section 1101 of Public Law 110-417, as amended by section 1106 of Public Law 111-84, agencies have temporary authority to waive certain pay limitations in calendar years 2009 and 2010. This authority will expire on December 31, 2010. Because of the temporary nature of this authority, legislative provisions must be enacted each year to ensure agencies may continue to use this authority for employees who perform work in an overseas location that (1) is in the area of responsibility of the Commander of the United States Central Command (CENTCOM) or (2) was formerly in the CENTCOM area of responsibility but has been moved to the area of responsibility of the Commander of the United States Africa Command (AFRICOM). Currently, the overseas work must continue to meet one of two additional qualifying conditions: (1) performance of work in direct support of or directly related to a military operation (including a contingency operation as defined in 10 U.S.C. 101(a)(13)); or (2) performance of work in direct support of or directly related to an operation in response to an emergency declared by the President.

Subsection (a) of section 4 would amend 5 U.S.C. 5547 by adding at the end a new subsection (e) relating to the waiver of the annual limitation on premium pay. Currently, agencies have the discretionary authority to waive the normal annual premium pay limitation (the greater of the locality rate for GS-15, step 10, or EX level V = \$145,700 in 2010) and apply a higher annual premium pay limitation equal to the Vice President's salary (\$230,700 in 2010). This discretionary authority to waive the premium pay limitation has been granted on a yearly basis for the last several years.

Subsection (b) of section 4 would amend 5 U.S.C. 5307 by inserting a new subsection (e) relating to the waiver of the aggregate limitation on pay. Currently, section 1106 of Public Law 111-84 provides that the aggregate limitation in 5 U.S.C. 5307 does not apply in any calendar year in which an employee is granted a premium pay waiver under section 1101(a) of Public Law 110-417.

Subsections (a) and (b) of section 4 eliminate the need to extend these temporary authorities annually.

Subsection (c) of section 4 would extend the same waiver authorities with regard to employees who are deployed to a designated zone of armed conflict and who are covered by the Department of Defense's National Security Personnel System during the transition period while that System is being phased out.

Subsection (d) of section 4 would amend 5 U.S.C. 9903(d) to provide similar compensation authorities as prescribed under subchapter V of chapter 59 of title 5 for employees who are highly qualified experts within the Department of Defense.

Section 5 of the draft bill, in subsection (a)(1), would amend chapter 63 of title 5, United States Code, by redesignating current section 6391 as section 6341 and moving it to the end of subchapter III, making room for a new subchapter VI to be added at the end of chapter 63.

Paragraph (2) of subsection (a) establishes a new subchapter VI in chapter 63, entitled "Leave Authorities for Employees in Designated Zones of Armed Conflict." The new subchapter consists of four sections.

Section 6391, the first of these new sections, provides definitions for terms used in the subchapter, including "designated zone of armed conflict" and "rest and recuperation travel".

The new section 6392 would permit the Director of OPM to require the heads of Executive agencies to grant an employee assigned to duty in a designated zone of armed conflict up to 10 workdays of recuperation leave for each rest and recuperation trip, not to exceed a total of 20 workdays for any 12 consecutive months in a designated zone of armed conflict. Employees would earn 6 hours of recuperation leave for each full biweekly pay period spent in a designated zone of armed conflict. The Director, in consultation with the Secretary of State, could prescribe regulations governing the implementation of this

section. Recuperation leave under this section is to be used in conjunction with rest and recuperation travel under section 5955 of title 5. Section 6392 includes authority for agency heads to deny the use of recuperation leave only under exceptional circumstances preventing the agency from releasing the employee from duty, as well as authority for advancing recuperation leave. Section 6392 also provides for a lump-sum payment based on the amount of any unused accrued recuperation leave an employee was not permitted to use.

The new 5 U.S.C. 6393 would permit the Director of OPM to require heads of Executive agencies to grant employees up to 15 workdays of readjustment time off when they return home from a designated zone of armed conflict after 12 consecutive months of working in such a zone. The purpose of the time off is to provide the employee with the opportunity to rest and attend to personal and family matters before returning to his or her normal duties. This new leave category will be known as “readjustment leave.” The leave will not convert to a cash payment or form a part of a lump-sum payment for accrued leave under any circumstance. It is expected that OPM regulations will provide that employees who use readjustment leave will not be entitled to use home leave in connection with the same period of service. If an employee does not use the leave within the first 90 days after completing his or her assignment, the leave will be forfeited. The Director may prescribe implementing regulations in consultation with the Secretary of State for this new leave authority.

The new section 6394 of title 5 would explicitly authorize the Director of OPM to prescribe any regulations needed for the administration of the new subchapter VI of chapter 63.

Paragraph (3) of subsection (a) of section 5 would amend the table of sections for chapter 63 to reflect the amendments described above.

Subsection (b) of section 5 would make technical conforming amendments to section 903 of the Foreign Service Act of 1980 (22 U.S.C. 4083).

Section 6 of the draft bill would establish new benefits related to an employee’s medical care or in the case of death while in a designated zone of armed conflict.

Subsection (a) of section 6 would amend 5 U.S.C. 8118, relating to injury compensation, to provide for continuation of pay for up to 135 days in the event of traumatic or occupational injury in the performance of duty in a designated zone of armed conflict. The employee would have to file a claim within 45 days after the later of the end of his or her assignment to a zone of armed conflict or his or her return to the United States.

Subsection (b) of section 6 would make technical conforming amendments to section 413(a) of the Foreign Service Act of 1980 (22 U.S.C. 3973) to provide a death gratuity at level II of the Executive Schedule (\$179,700 in 2010) for Foreign Service officers who die as a result of injuries sustained in performance of duty abroad. Foreign Service Nationals and other locally employed staff compensated under section 408 of the Foreign Service

Act would receive a death gratuity benefit in an amount equal to the greater of either 1 year's basic salary at the time of death or 1 year's basic salary at the highest step of the highest grade on the Local Compensation Plan from which the employee was being paid.

(a) CONTINUATION OF PAY FOR OCCUPATIONAL DISEASES AND ILLNESS RELATED TO EMPLOYEES IN DESIGNATED ZONES OF ARMED CONFLICT.—Section 8118 of title 5, United States Code, is amended—

(1) in subsection (a) by striking “clause (B) or (E)” and inserting “subparagraph (B) or (E)”; and

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

“(f) The United States shall authorize the continuation of pay of an employee as defined in section 8101(1) (other than those referred to in subparagraph (B) or (E)), who has filed a claim for a period of wage loss due to traumatic or occupational injury in performance of duty in a designated zone of armed conflict as defined in section 5951(2) as long as the employee files a claim for such wage loss benefit with his immediate superior no later than 45 days following termination of assignment to a zone of armed conflict or return to the United States, whichever occurs later. Continuation of pay under this subsection shall be furnished in accordance with subsections (c) and (d) for a period not to exceed 135 days without any break in time or waiting period unless controverted pursuant to regulations prescribed by the Secretary of Labor, which shall be issued after consultation with the Secretary of State and the Secretary of Defense.”.

(b) DEATH GRATUITY FOR FOREIGN SERVICE EMPLOYEES ABROAD. – Section 413(a) of the Foreign Service Act of 1980 (22 U.S.C. 3973(a)) is amended in the first sentence by striking “at the time of death” and inserting “at level II of the Executive Schedule under section 5313 of title 5, United States Code, at the time of death, except that, for employees compensated under local compensation plans established under section 408, the amount shall be equal to the greater of either one year's basic salary at the time of death, or one year's basic salary at the highest step of the highest grade on the Local Compensation Plan from which the employee was being paid at the time of death”.

## A Bill

To amend the Foreign Service Act of 1980 and title 5, United States Code, to provide certain benefits for Federal civilian employees assigned to duty in a designated zone of armed conflict, and for other purposes.

*Be in 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 “Federal Civilian Employees in Zones of Armed Conflict Benefits Act of 2010”.

### **SEC. 2. DEFINITION OF DESIGNATED ZONE OF ARMED CONFLICT.**

Section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902) is amended—

(1) by redesignating paragraphs (5) through (12) as paragraphs (6) through (13), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

“(5) ‘designated zone of armed conflict’ means a foreign country or other foreign geographic area outside of the United States (as that term is defined in section 202(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(7)) that is designated by the Secretary of State, in coordination with the Secretary of Defense, as an area where there are exceptional levels of armed violence. Any such designation shall be communicated to affected civilian agencies. In making such a designation, the Secretary of State may consider—

“(A) whether the Armed Forces of the United States are involved in hostilities in the country or area;

“(B) whether the incidence of civil insurrection, civil war, terrorism, or wartime conditions threatens physical harm or imminent danger to the health or well-being of United States civilian employees in the country or area;

“(C) whether the country or area has been designated a combat zone by the President under section 112(c) of the Internal Revenue Code of 1986 (26 U.S.C. 112(c));

“(D) whether a contingency operation involving combat operations directly affects civilian employees in the country or area; or

“(E) any other relevant conditions and factors.”.

**SEC. 3. BENEFITS FOR EMPLOYEES IN DESIGNATED ZONES OF ARMED CONFLICT.**

(a) IN GENERAL.—Chapter 59 of title 5, United States Code, is amended—

(1) by amending the chapter heading to read as follows:

**“CHAPTER 59—ALLOWANCES, SPECIAL PAYMENTS, AND BENEFITS”;**

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

**“SUBCHAPTER V—BENEFITS FOR EMPLOYEES IN DESIGNATED ZONES OF ARMED CONFLICT**

**“§ 5951. Definitions**

“For the purposes of this subchapter—

“(1) ‘assigned to duty in’ refers to an employee who is officially assigned to work or duty (including serving on temporary duty) in a designated zone of armed conflict, which may include short periods away from the zone to perform work in

connection with the assignment, subject to any limitations or requirements established by regulation or official policy;

“(2) ‘designated zone of armed conflict’ has the meaning given that term in section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902(5));

“(3) ‘Director’ means the Director of the Office of Personnel Management;

“(4) ‘Executive agency’ has the meaning given that term in section 105 but does not include the Government Accountability Office;

“(5) ‘healthcare provider’ means—

“(A) a physician (including a mental health physician);

“(B) a physician’s assistant, nurse practitioner, or advanced practice nurse;

“(C) a mental health practitioner;

“(D) a member of the Armed Forces who is an independent duty corpsman, an independent duty medical technician, or a Special Forces medical sergeant; and

“(E) any other person in a healthcare provider category designated by the Secretary of State or Secretary of Defense;

“(6) ‘pre-deployment health assessment’ means an evaluation by a healthcare provider to determine if an employee meets the requirements for deployment outside the United States and to identify any need for medical care;

“(7) ‘post-deployment health assessment’ means an evaluation by a healthcare provider to assess an employee’s physical and mental health following a deployment outside the United States and to identify any need for medical care; and

“(8) ‘United States’ has the meaning given that term in section 202(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(7)).

**“§ 5952. Authority to grant allowances, benefits, and gratuities**

“(a) The Secretary of State may require the head of an Executive agency to provide to an employee assigned to duty in a designated zone of armed conflict such allowances, benefits, and gratuities under sections 413, 901, 902, and 906 of the Foreign Service Act of 1980 (22 U.S.C. 3973, 4081, 4082, and 4086) as are prescribed in regulation by the Secretary.

“(b) The authority in subsection (a) may not be used to provide benefits that are similar to those provided in sections 5955 and 5956.

**“§ 5953. Pre- and post-deployment health assessments**

“The head of an Executive agency shall establish a pre-deployment health assessment and post-deployment health assessment program for employees assigned to duty in designated zones of armed conflict. The program shall be carried out consistent with any regulations prescribed by the Secretary of State or the Secretary of Defense, as determined appropriate by mission requirements.

**“§ 5954. Special pay for certain employees**

“(a) The Secretary of State may require the head of an Executive agency to provide, subject to regulations prescribed under subsection (d), special pay to Foreign Service officers and members of the Senior Foreign Service assigned to duty in a designated zone of armed conflict who perform additional work on a recurring basis in substantial excess of normal requirements.

“(b) The Director may require the head of an Executive agency to provide, subject to regulations prescribed under subsection (d), special pay to an employee (other than a member of the Foreign Service) assigned to duty in a designated zone of armed conflict when the employee—

“(1) is not covered by the overtime and other premium pay provisions of subchapter V of chapter 55 or similar premium pay authority; and

“(2) performs additional work on a recurring basis in substantial excess of normal requirements.

“(c) Special payments under this section are in addition to compensation otherwise authorized and are not considered to be basic pay for any purpose, nor shall they be used in computing lump-sum payments for accumulated and accrued annual leave under section 5551. No special payments may be authorized which, when added to an employee’s basic pay, would result in a total amount payable for any calendar year in excess of the annual rate of salary payable to the Vice President under section 104 of title 3.

“(d) The Director and the Secretary of State shall each prescribe regulations to carry out this section, including regulations providing for any employee exclusions, eligibility requirements, criteria and certification for special payments, payment rates and methods, and effective dates.

**“§ 5955. Rest and recuperation travel**

“(a) Subject to any regulations the Secretary of State may prescribe, the Secretary may require the head of an Executive agency to pay the travel and related expenses for rest and recuperation travel for an employee who is a United States citizen assigned to duty in a designated zone of armed conflict and who is granted recuperation leave under section

6392 and, if applicable, for members of the employee's family accompanying the employee in the designated zone of armed conflict.

“(b) Rest and recuperation travel under subsection (a) shall be provided to the same extent and subject to the same conditions as such travel is provided to members of the Foreign Service under section 901(6) of the Foreign Service Act of 1980 (22 U.S.C. 4081(6)), except that, subject to any regulations the Secretary of State may prescribe, the head of an Executive agency, in that agency head's sole discretion, may in extraordinary circumstances waive any or all conditions on rest and recuperation travel set forth in that section.

**“§ 5956. Emergency visitation travel**

“(a) Subject to regulations the Secretary of State shall prescribe, the Secretary may require the head of an Executive agency to pay the travel and related expenses for round-trip travel to or from an employee's duty location or temporary duty station for purposes of family visitation in an emergency situation involving personal hardship, including the serious illness, injury, or death of the employee or a family member, if the head of the agency determines that the criteria in those regulations are met.

“(b) Payments under subsection (a) may be provided only for the travel of an employee who is assigned to duty in a designated zone of armed conflict at the time the emergency situation arises or for the travel of the family members of such employee.

**“§ 5957. Locality payments**

“(a)(1) Notwithstanding section 5304, the head of an Executive agency shall pay, out of available resources, to an employee assigned to duty in a designated zone of armed conflict a locality payment as provided in this section and in any regulations the Director

may prescribe. The Director may prescribe a minimum period during which an employee is required to remain in a designated zone of armed conflict in order to be eligible to receive such a locality payment.

“(2) For the purpose of this section, ‘employee’ means—

“(A) an employee in a General Schedule position to which subchapter III of chapter 53 applies;

“(B) a member of the Foreign Service who is designated class 1 or below for purposes of section 403 of the Foreign Service Act of 1980 (22 U.S.C. 3963); and

“(C) an employee in a position for which locality-based comparability payments under section 5304 have been approved under subsection (h) of that section or otherwise authorized by law.

“(b) The percentage amount used to compute the locality payment paid under this section shall be determined as follows:

“(1) The percentage amount shall equal the higher of—

“(A) the applicable locality-based comparability payment percentage authorized under section 5304 for the employee’s official worksite; or

“(B) the locality-based comparability payment percentage authorized under section 5304 for Washington, DC.

“(2) If the employee’s official worksite is not covered by a locality-based comparability payment authorized under section 5304, the locality payment percentage under this section shall equal the locality-based comparability payment percentage authorized under section 5304 for Washington, DC.

“(c) Except as otherwise provided in this section and any regulations the Director may prescribe, a locality payment under this section is subject to the provisions of section 5304, including the limitations under subsection (g) of that section. A locality payment under this section is paid in lieu of any locality-based comparability payment that would otherwise be payable under section 5304 or similar locality pay authority.

“(d) A locality payment under this section shall be considered to be part of basic pay for the same purposes that a locality-based comparability payment under section 5304 is considered to be part of basic pay, for the purpose of computing post differentials under section 5925(a) and danger pay allowances under section 5928, and for such other purposes as the Director may prescribe by regulation.

“(e) Nothing in this section shall affect any authority of any agency to pay a locality-based comparability payment under section 5304, or a similar locality payment under any other provision of law, to an employee who is assigned to duty in a location outside a designated zone of armed conflict.

**“§ 5958. Traumatic injury gratuity for qualifying injuries**

“(a) The United States shall pay, out of available resources, a traumatic injury gratuity to each eligible employee who sustains a qualifying traumatic injury. Such payment shall be made promptly upon receiving official notification from the relevant agency that the employee has incurred that injury.

“(b) For purposes of this section—

“(1) an eligible employee is an employee who sustains a qualifying traumatic injury on or after the date of enactment of this section in the performance of duty in a designated zone of armed conflict; and

“(2) a qualifying traumatic injury is a traumatic injury that results in a loss that is a ‘qualifying loss’ under subsection (b) of section 1980A of title 38. The provisions of paragraph (3) of that subsection and of subsection (c)(2) of that section, including the regulations prescribed thereunder, shall apply for purposes of this section.

“(c) Notwithstanding subsections (a) and (b)(1), the head of an Executive agency, in that agency head’s sole discretion, may grant a payment under subsection (a) to an employee who sustained a qualifying traumatic injury on or after November 30, 2005, and before the date specified in subsection (b)(1) in connection with the employee’s service with an Armed Force in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom.

“(d)(1) The amount of a gratuity payment paid to an employee under this section shall be the applicable amount in effect under the schedule prescribed pursuant to subsection (d) of section 1980A of title 38 for the qualifying traumatic injury sustained by the employee. If an employee suffers more than one loss that is a ‘qualifying loss’ under section 1980A(b) of title 38 as a result of traumatic injury from the same traumatic event, payment shall be made under this section in accordance with the schedule prescribed pursuant to such subsection (d) for the single loss providing the highest payment.

“(2) Notwithstanding paragraph (1), the amount of a gratuity payment under this section paid to locally employed staff employed outside the United States may be less than the amount that would otherwise be paid under this section, consistent with prevailing compensation practices, as determined by the Secretary of State in coordination with the

head of the employing agency and the administrator of the program under subsection (e)(1).

“(e)(1) The Secretary of Defense, or the head of such other Executive agency as the President designates, shall administer the program under this section.

“(2) When the administrator of the program under paragraph (1) makes a gratuity payment under this section to an employee of another agency, that employee’s agency shall reimburse the administrator’s agency for the amount of the payment and for administrative expenses incurred in connection with such payment.

“(f)(1) The administrator of the program under subsection (e)(1) may prescribe regulations to carry out this section.

“(2) Regulations under paragraph (1) shall be issued in consultation with the Director unless the Director is the administrator.

“(g) For the purposes of this section, ‘employee’ has the meaning given that term in section 2105, except that such term also includes—

“(1) an employee described in subsection (c) of that section;

“(2) an individual employed by personal services contract, including pursuant to section 2(c) of the State Department Basic Authorities Act of 1956 and section 636(a)(3) of the Foreign Assistance Act of 1961;

“(3) locally employed staff who are employed by an Executive agency outside the United States; and

“(4) any other individual employed by the Federal Government who meets conditions prescribed in regulations issued under subsection (f)(1).”; and

(3) in the table of sections by inserting the following after the item relating to section 5949:

“SUBCHAPTER V – BENEFITS FOR EMPLOYEES IN DESIGNATED ZONES  
OF ARMED CONFLICT

- “5951. Definitions.
- “5952. Authority to grant allowances, benefits, and gratuities.
- “5953. Pre- and post-deployment health assessments.
- “5954. Special pay for certain employees.
- “5955. Rest and recuperation travel.
- “5956. Emergency visitation travel.
- “5957. Locality payments.
- “5958. Traumatic injury gratuity for qualifying injuries.”.

(b) CLERICAL AMENDMENT. —The table of chapters for part III of title 5, United States Code, is amended by amending the item relating to chapter 59 to read as follows:

“59. Allowances, Special Payments, and Benefits. . . . . 5901”.

(c) TECHNICAL AMENDMENTS.—(1) Chapter 57 of title 5, United States Code, is amended—

(A) in section 5753(a)(2)(A) by inserting “, excluding members of the Foreign Service other than chiefs of mission, ambassadors at large, and other members of the Foreign Service covered by section 302(b) of the Foreign Service Act of 1980 (22 U.S.C. 3942)” before the semicolon at the end; and

(B) in section 5754(a)(2)(A) by inserting “, excluding members of the Foreign Service other than chiefs of mission, ambassadors at large, and other members of the Foreign Service covered by section 302(b) of the Foreign Service Act of 1980 (22 U.S.C. 3942)” before the semicolon at the end.

(2) Section 901(9) of the Foreign Service Act of 1980 (22 U.S.C. 4081(9)) is amended by striking “post of assignment” each place it appears and inserting “post of

assignment or, in the case of an employee assigned to duty in a designated zone of armed conflict, temporary duty station”.

(d) TRANSITION PERIOD FOR LOCALITY PAYMENTS.—(1) This subsection applies to an employee who—

(A) is assigned to duty in a designated zone of armed conflict (as defined in section 5951(1) and (2) of title 5, United States Code) while maintaining an official worksite in a nonforeign area and an entitlement to a cost-of-living allowance under section 5941(a)(1) of that title; and

(B) is entitled to a transitional locality pay percentage equal to 1/3 or 2/3 of the applicable locality pay percentage under section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009 (subtitle B of title XIX of Public Law 111-84; 123 Stat 2621; 5 U.S.C. 5304 note).

(2) In the case of an employee described in paragraph (1), notwithstanding section 5957 of title 5, United States Code—

(A) the locality pay percentage used in applying subparagraph (A) of section 5957(b)(1) of title 5, United States Code, shall be the transitional locality pay percentage referred to in paragraph (1)(B); and

(B) the locality pay percentage used in applying subparagraph (B) of section 5957(b)(1) of title 5, United States Code, shall be the percentage resulting from multiplying the locality pay percentage authorized under section 5304 of that title for Washington, DC, by the transitional fraction, 1/3 or 2/3, as applicable.

#### **SEC. 4. WAIVER OF CERTAIN PAY LIMITATIONS.**

(a) WAIVER OF LIMITATION ON PREMIUM PAY.—Section 5547 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) Subsection (a) shall not apply to an employee who performs work while assigned to duty in a designated zone of armed conflict (as defined in section 5951(1) and (2)).

“(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in subsection (a) to the extent that the aggregate of the basic pay and premium pay under those provisions for such employee would, in any calendar year, exceed the annual rate of salary payable to the Vice President under section 104 of title 3.

“(3) To the extent that paragraph (1) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551.”.

(b) WAIVER OF LIMITATION ON AGGREGATE PAY.—Section 5307 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by striking “or as otherwise provided under subsection (d)” and inserting “or as otherwise provided by this section”; and

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

“(e) The preceding subsections of this section shall not apply to payments in addition to basic pay earned by an employee for performing work while assigned to duty in a designated zone of armed conflict (as defined in section 5951(1) and (2)). For the

purpose of this subsection, the term ‘basic pay’ includes any applicable locality-based comparability payment under section 5304, any applicable special rate supplement under section 5305, and any similar payment under any other provision of law.”.

(c) WAIVERS FOR CERTAIN DEPARTMENT OF DEFENSE EMPLOYEES. —

(1) AGGREGATE PAY LIMITATION.—Neither the limitation on aggregate pay in section 5307 of title 5, United States Code, nor any similar limitation on aggregate pay established by regulation, shall apply to payments in addition to basic pay earned by an NSPS employee for performing work while assigned to duty in a designated zone of armed conflict.

(2) PREMIUM PAY LIMITATION.—(A) Neither the limitation on premium pay in section 5547(a) of title 5, United States Code, nor any similar limitation on premium pay established by regulation, shall apply to an NSPS employee who performs work while assigned to duty in a designated zone of armed conflict.

(B) Notwithstanding subparagraph (A), no employee referred to in that subparagraph may be paid premium pay under the provisions of law cited in section 5547(a) of that title (or similar payments established for NSPS employees by regulation) to the extent that the aggregate of the basic pay and premium pay under those provisions (or such similar payments) for such employee would, in any calendar year, exceed the annual rate of salary payable to the Vice President under section 104 of title 3, United States Code.

(C) To the extent that subparagraph (A) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any

other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of such title.

(3) DEFINITIONS.—For purposes of this subsection—

(A) “NSPS employee” means an employee covered by a system established under section 9902 of title 5, United States Code, as in effect before October 28, 2009;

(B) “basic pay” includes any applicable locality-based comparability payment under section 5304 of that title, any applicable special rate supplement under section 5305 of that title, and any similar payment under any other provision of law; and

(C) “designated zone of armed conflict” has the meaning given that term in section 5951(2) of that title.

(d) DEPARTMENT OF DEFENSE HIGHLY QUALIFIED EXPERTS.—Section 9903(d) of title 5, United States Code, is amended—

(1) by amending paragraph (2) to read as follows:

“(2) An employee appointed under this section is not eligible for any bonus, monetary award, or other monetary incentive for service except for—

“(A) payments authorized under this section; and

“(B) in the case of such an employee who is assigned to duty in a designated zone of armed conflict (as defined in section 5951(1) and (2)), allowances, special payments, and benefits under chapter 59.”; and

(2) in paragraph (3), by adding at the end the following new sentence: “In computing an employee’s total annual compensation for purposes of the preceding sentence, any payment referred to in paragraph (2)(B) shall be excluded.”.

**SEC. 5. LEAVE AUTHORITIES.**

(a) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended—

(1) by redesignating section 6391 as section 6341 and transferring that section to the end of subchapter III;

(2) by amending subchapter VI to read as follows:

“SUBCHAPTER VI—LEAVE AUTHORITIES FOR EMPLOYEES IN DESIGNATED  
ZONES OF ARMED CONFLICT

**“§ 6391. Definitions**

“For purposes of this subchapter—

“(1) ‘assigned to duty in’ has the meaning given that term in section 5951(1);

“(2) ‘designated zone of armed conflict’ has the meaning given that term in section 5951(2);

“(3) ‘Director’ means the Director of the Office of Personnel Management;

“(4) ‘Executive agency’ has the meaning given that term in section 5951(4);

and

“(5) ‘rest and recuperation travel’ and ‘rest and recuperation trip’ mean travel or a trip authorized pursuant to section 5955, section 901(6) of the Foreign Service Act of 1980 (22 U.S.C. 4081(6)), or any other similar provision of law.

**“§ 6392. Recuperation leave**

“(a) Recuperation leave is intended to provide respite from the work environment in designated zones of armed conflict and to enable employees to carry out their duties more effectively for the remainder of their assignment.

“(b) The Director may require the head of an Executive agency to grant an employee assigned to duty in a designated zone of armed conflict recuperation leave, subject to the requirements of this section and any regulations the Director may prescribe in consultation with the Secretary of State.

“(c) Upon a determination to grant recuperation leave under subsection (b), an employee shall accrue three-fourths of a day of recuperation leave for each full biweekly pay period that the employee is assigned to duty in a designated zone of armed conflict.

“(d)(1) An employee may use recuperation leave under subsection (b) only if—

“(A) the employee has been assigned to duty in a designated zone of armed conflict for the minimum period established by the Director in consultation with the Secretary of State;

“(B) the recuperation leave is used in conjunction with authorized rest and recuperation travel under section 5955;

“(C) the employee is expected to return to a designated zone of armed conflict following the rest and recuperation travel; and

“(D) the recuperation leave is used while the employee is assigned to duty in a designated zone of armed conflict.

“(2) An employee may use no more than 10 workdays of recuperation leave for each rest and recuperation trip, not to exceed a total of 20 workdays for any 12 consecutive months in a designated zone of armed conflict.

“(3) An agency head may deny the use of accumulated and accrued recuperation leave only in exceptional circumstances that prevent the agency from releasing the employee from his or her duties.

“(4) An agency head may advance recuperation leave up to the number of hours the employee is expected to accrue and accumulate while assigned to duty in the designated zone of armed conflict based on the special needs of the employee.

“(e)(1) An employee who has unused accumulated and accrued recuperation leave under subsection (c) at the end of his or her assignment in a designated zone of armed conflict shall receive a lump-sum payment at the end of his or her assignment for the amount of recuperation leave the agency head denied for use by the employee under subsection (d)(3).

“(2) A lump-sum payment for recuperation leave under this subsection shall be computed using the employee’s rate of basic pay (including any applicable locality payment under section 5957, special rate of pay under section 5305, or similar payment under other legal authority) in effect on the last day the employee is assigned to duty in the designated zone of armed conflict. The lump-sum payment shall exclude overseas differentials and allowances under subchapter III of chapter 59.

**“§ 6393. Readjustment leave**

“(a) Readjustment leave is intended to provide employees a period of paid time off following duty in a designated zone of armed conflict to rest and attend to personal and family matters before returning to work.

“(b) Subject to any regulations the Director may prescribe in consultation with the Secretary of State, the Director may require the head of an Executive agency to grant an employee assigned to duty in a designated zone of armed conflict readjustment leave of up to 15 workdays for any 12 consecutive months in a designated zone of armed conflict, contingent upon the employee entering into a written service agreement for a period of employment of no less than 6 months.

“(c) Readjustment leave not used within the first 90 days after completion of an employee’s duty assignment in a designated zone of armed conflict shall be forfeited, subject to such exceptions as the Director may approve.

“(d) Readjustment leave shall not be converted to a cash payment or form a part of a lump-sum payment for accrued leave under any circumstances.

**“§ 6394. Regulations**

“The Director may prescribe regulations necessary for the administration of this subchapter.”; and

(3) in the table of sections—

(A) by adding after the item relating to section 6340 the following new item:

“6341. Authority for leave transfer program in disasters and emergencies.”; and

(B) by amending the items relating to subchapter VI to read as follows:

“SUBCHAPTER VI – LEAVE AUTHORITIES FOR EMPLOYEES IN DESIGNATED  
ZONES OF ARMED CONFLICT

- “6391. Definitions.
- “6392. Recuperation leave.
- “6393. Readjustment leave.
- “6394. Regulations.”.

(b) CONFORMING AMENDMENT.—Section 903 of the Foreign Service Act of 1980 (22 U.S.C. 4083) is amended by adding at the end the following new subsections:

“(d) The Secretary may, in exceptional circumstances, order a member of the Service to take leave under this section upon completion by that member of fewer than 12 months of continuous service abroad—

“(1) to meet the needs of the service; or

“(2) where the member has been assigned to duty in a designated zone of armed conflict.

“(e) The Secretary may order a member of the Service to take leave under subsection (d)(2) without regard to whether such member is expected to return to service abroad.”.

**SEC. 6. OTHER BENEFITS FOR DEPLOYED EMPLOYEES IN A DESIGNATED  
ZONE OF ARMED CONFLICT.**