

118TH CONGRESS
1ST SESSION

H. R. 5171

To remove cost-of-living adjustments and locality adjustment payments from the calculation of certain limits on the pay of Federal employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 8, 2023

Ms. NORTON (for herself, Mr. CONNOLLY, Mr. IVEY, Mr. RASKIN, and Mr. TRONE) introduced the following bill; which was referred to the Committee on Oversight and Accountability, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To remove cost-of-living adjustments and locality adjustment payments from the calculation of certain limits on the pay of Federal employees, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employee Pay
5 Compression Relief Act of 2023”.

1 **SEC. 2. FEDERAL EMPLOYEE COLA AND LOCALITY ADJUST-**
2 **MENT PAY CAP REMOVAL.**

3 (a) TITLE 5.—Title 5, United States Code, is amend-
4 ed—

5 (1) in section 5303, by amending subsection (f)
6 to read as follows:

7 “(f) Adjustments to the basic pay of an employee or
8 for a position under this section shall be disregarded when
9 determining if the pay of such employee or for such posi-
10 tion exceeds a limit established under this title on the total
11 or maximum of such pay.”;

12 (2) in section 5304—

13 (A) by striking subsection (g); and

14 (B) by redesignating subsections (h) and
15 (i) as subsections (g) and (h), respectively;

16 (3) in section 5305(g)—

17 (A) by striking paragraph (2);

18 (B) by striking “(1) The benefit” and in-
19 serting “The benefit”; and

20 (C) by striking “paragraph (2) and”;

21 (4) in section 5306, by striking subsection (e);

22 (5) in section 5307(a)(2)—

23 (A) in subparagraph (B), by striking “;
24 or” and inserting a semicolon;

25 (B) in subparagraph (C), by striking the
26 period at the end and inserting “; or” ; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(D) section 5304.”;

4 (6) in section 5372(b)(4)—

5 (A) by striking “Subject to paragraph (1)”
6 and inserting “(A) Subject to paragraph (1)
7 and except as provided by subparagraph (B)”;
8 and

9 (B) by adding at the end the following new
10 subparagraph:

11 “(B) For the purposes of determining whether
12 the rate of basic pay for an administrative law judge
13 meets the maximum rate of basic pay payable under
14 paragraph (1), any adjustments under subparagraph
15 (A) and any locality-based comparability payment
16 under section 5304 or similar payment shall be ex-
17 cluded from the rate of basic pay of the administra-
18 tive law judge.”;

19 (7) in section 5373—

20 (A) in subsection (b), by striking “(includ-
21 ing any portion of such pay attributable to com-
22 parability with private-sector pay in a locality)”;
23 and

24 (B) by adding at the end the following new
25 subsection:

1 “(c) Any annual pay adjustment under section 5303
2 or similar adjustment and any locality-based comparability
3 payment under section 5304 or similar payment shall be
4 excluded from—

5 “(1) the annual rate of basic pay for a position
6 or employee for the purposes of subsection (a); and

7 “(2) the pay of a civilian employee paid from
8 nonappropriated funds for the purposes of sub-
9 section (b).”;

10 (8) in section 5376(b)—

11 (A) in paragraph (1)—

12 (i) in subparagraph (B), by inserting
13 after “Executive Schedule” the following:
14 “, except that for the purpose of applying
15 such limitation, the rate of basic pay for a
16 position to which this section applies does
17 not include any adjustments under para-
18 graph (2) or any locality-based com-
19 parability payment under section 5304 or
20 similar payment”; and

21 (ii) by striking “5306(e) or”; and

22 (B) in paragraph (2), by striking “Subject
23 to paragraph (1), effective” and inserting “Ef-
24 fective”;

25 (9) in section 5377(d)(2) is amended—

1 (A) by striking “Basic pay” and inserting
2 “(A) Basic pay”; and

3 (B) by adding at the end the following new
4 subparagraph:

5 “(B) For the purposes of subparagraph
6 (A), the rate of basic pay fixed under this sec-
7 tion shall exclude any annual pay adjustment
8 under section 5303 or similar adjustment and
9 any locality-based comparability payment under
10 section 5304 or similar payment, including any
11 changes in the basic rate of pay for a position
12 made under the authority of this section to ac-
13 count for such an adjustment or payment that
14 would have applied to such position if this sec-
15 tion had never been enacted.”; and

16 (10) in section 5382—

17 (A) in subsection (a), by striking “5306(e)
18 or”; and

19 (B) by adding at the end the following new
20 subsection:

21 “(d) For the purposes of determining the highest rate
22 of basic pay payable for a position under this section, the
23 rate of basic pay for such position shall exclude the per-
24 centage of the pay of such position that is equal to the
25 percentage by which the pay of such position would in-

1 crease if, without regard to any limitation on the max-
2 imum rate of basic pay for such position, such position
3 was eligible for a locality-based comparability payment
4 under section 5304 in the same manner as a position
5 under the General Schedule that is in the same locality
6 and eligible for such a payment.”.

7 (b) MILITARY PERSONNEL.—Section 203(a) of title
8 37, United States Code, is amended by adding at the end
9 the following new paragraph:

10 “(3) For the purposes of determining the high-
11 est rate of basic pay payable for an officer or en-
12 listed member under paragraph (2), the rate of basic
13 pay for such officer or enlisted member shall ex-
14 clude—

15 “(A) any annual pay adjustment under
16 section 1009 or similar adjustment; and

17 “(B) any locality-based comparability pay-
18 ment under section 5304 of title 5 or similar
19 payment.”.

20 (c) OTHER PAY AUTHORITIES.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided in paragraph (2) and notwithstanding any
23 other provision of law, when determining if the pay
24 of the employee meets a Federal pay limit, the fol-
25 lowing shall be disregarded:

1 (A) Any portion of the basic pay of the
2 employee that is attributable to an annual pay
3 adjustment under section 5303 of title 5,
4 United States Code, or a similar adjustment.

5 (B) Any portion of the basic pay of the
6 employee that is attributable to a locality-based
7 comparability payment under section 5304 of
8 title 5, United States Code, or a similar pay-
9 ment.

10 (2) EXCEPTIONS.—Paragraph (1) does not
11 apply with respect to a Federal pay limit to the ex-
12 tent otherwise provided in—

13 (A) this Act;

14 (B) the amendments made by this Act; or

15 (C) a law that excludes the applicability of
16 paragraph (1) with respect to such Federal pay
17 limit by specific reference to this subsection.

18 (3) DEFINITIONS.—In this subsection:

19 (A) EMPLOYEE.—The term “employee”
20 means an individual holding an appointive posi-
21 tion in the executive branch, other than a posi-
22 tion in a uniformed service (as such term is de-
23 fined in section 2101 of title 5, United States
24 Code).

1 (B) FEDERAL PAY LIMIT.—The term
2 “Federal pay limit” means a limit on the max-
3 imum or total pay payable to an employee that
4 is—

5 (i) determined based on—

6 (I) a rate of pay, including a
7 maximum rate of pay, or pay scale es-
8 tablished by or under title 5, United
9 States Code; or

10 (II) the rate of pay established
11 under section 104 of title 3, United
12 States Code; and

13 (ii) established by or pursuant to a
14 law or regulation.

15 (C) PAY.—The term “pay” means
16 amounts paid by the Federal Government to an
17 employee as compensation for services per-
18 formed as an employee.

19 (d) CONFORMING AMENDMENTS.—

20 (1) Section 733(a)(3)(A) of title 31, United
21 States Code, is amended by inserting after “of title
22 5” the following: “, except that for the purpose of
23 applying such limitation on the maximum rate, sub-
24 section (d) of such section does not apply”;

1 (2) Section 3(b) of title 35, United States Code,
2 is amended—

3 (A) in paragraph (2)(B), by striking “, in-
4 cluding any applicable locality-based com-
5 parability payment that may be authorized
6 under section 5304(h)(2)(C) of title 5”; and

7 (B) in paragraph (6), by striking “section
8 5306(e) or”.

9 (3) Section 14306(a)(2) of title 40, United
10 States Code, is amended by striking “, including any
11 applicable locality-based comparability payment that
12 may be authorized under section 5304(h)(2)(C) of
13 title 5”.

14 (4) Section 15301(d)(1) of title 40, United
15 States Code, is amended by striking “, including any
16 applicable locality-based comparability payment that
17 may be authorized under section 5304(h)(2)(C) of
18 that title”.

19 (5) Section 382B(h)(5)(A)(ii) of the Consoli-
20 dated Farm and Rural Development Act (7 U.S.C.
21 2009aa-1(h)(5)(A)(ii)) is amended by striking “, in-
22 cluding any applicable locality-based comparability
23 payment that may be authorized under section
24 5304(h)(2)(C) of that title”.

1 (6) Section 383A(h)(5)(A)(ii) of the Consoli-
2 dated Farm and Rural Development Act (7 U.S.C.
3 2009bb-1(h)(5)(A)(ii)) is amended by striking “, in-
4 cluding any applicable locality-based comparability
5 payment that may be authorized under section
6 5304(h)(2)(C) of that title”.

7 (7) Section 141 of the Higher Education Act of
8 1965 (20 U.S.C. 1018) is amended—

9 (A) in subsection (d)(5)(A), by striking “,
10 including any applicable locality-based com-
11 parability payment that may be authorized
12 under section 5304(h)(2)(B) of such title”; and

13 (B) in subsection (e)(3)—

14 (i) in subparagraph (A), by striking “,
15 including any applicable locality-based
16 comparability payment that may be au-
17 thorized under section 5304(h)(2)(C) of
18 such title”; and

19 (ii) in subparagraph (B), by striking
20 “, including any applicable locality-based
21 comparability payment,”.

22 (8) Section 436(b) of the Energy Independence
23 and Security Act of 2007 (42 U.S.C. 17092(b)) is
24 amended by striking “, including any applicable lo-

1 cality-based comparability payment that may be au-
2 thorized under section 5304(h)(2)(C) of that title”.

3 (e) ANNUITY SHORTFALLS.—The Secretary of the
4 Treasury shall pay from the General Fund of the Treasury
5 into the Civil Service Retirement and Disability Fund es-
6 tablished under section 8348 of title 5, United States
7 Code, the amount determined by the Director of the Office
8 of Personnel Management to be necessary to reimburse
9 the Fund for any estimated increase resulting from this
10 Act or the amendments made by this Act in—

11 (1) the unfunded liability of the Civil Service
12 Retirement and Disability Fund (as defined in sec-
13 tion 8331 of title 5, United States Code); and

14 (2) the supplemental liability of such Fund (as
15 defined in section 8401 of title 5, United States
16 Code).

○