

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3019

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 7), 1993

Received

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## AN ACT

To amend title 5, United States Code, to provide for a temporary extension and the orderly termination of the performance management and recognition system, 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 “Performance Manage-  
5        ment and Recognition System Termination Act”.

1 **SEC. 2. TEMPORARY EXTENSION.**

2 Effective as of September 30, 1993, section 5410 of  
3 title 5, United States Code, is amended by striking “Sep-  
4 tember 30, 1993” and inserting “October 31, 1993”.

5 **SEC. 3. TERMINATION PROVISIONS.**

6 (a) IN GENERAL.—

7 (1) REPEAL.—Chapter 54 of title 5, United  
8 States Code, is repealed.

9 (2) ANALYSIS.—The analysis for part III of  
10 title 5, United States Code, is amended by striking  
11 the item relating to chapter 54.

12 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) TITLE 5, UNITED STATES CODE.—Title 5,  
14 United States Code, is amended—

15 (A) in section 3372(d) by striking “addi-  
16 tional step-increases, merit pay, and cash  
17 awards, as defined in chapters 53 and 54” and  
18 inserting “and additional step-increases, as de-  
19 fined in chapter 53”;

20 (B)(i) by striking section 4302a; and

21 (ii) in the analysis for chapter 43 by strik-  
22 ing the item relating to section 4302a;

23 (C) by amending subparagraph (A) of sec-  
24 tion 4501(2) to read as follows:

25 “(A) an employee as defined by section  
26 2105; and”;

1 (D) in section 4502(e) by striking para-  
2 graph (1) and by striking “(2)”;

3 (E) in section 5302—

4 (i) in paragraph (8)—

5 (I) in subparagraph (A) by in-  
6 serting “and” after the semicolon; and

7 (II) by striking subparagraph (B)  
8 and redesignating subparagraph (C)  
9 as subparagraph (B); and

10 (ii) in paragraph (9) by striking “ap-  
11 plies (including any position under the per-  
12 formance management and recognition sys-  
13 tem).” and inserting “applies.”;

14 (F) in section 5332(a)(1) by striking “, ex-  
15 cept an employee covered by the performance  
16 management and recognition system established  
17 under chapter 54,”;

18 (G) in section 5334—

19 (i) in subsection (c)(2) by striking  
20 “step,” and all that follows through “any  
21 dollar amount,” and inserting “step”; and

22 (ii) by striking subsection (f) and re-  
23 designating subsection (g) as subsection  
24 (f);

25 (H) in section 5335—

1 (i) in subsection (e) by striking “cov-  
2 ered by the performance management and  
3 recognition system established under chap-  
4 ter 54 of this title, or,”; and

5 (ii) by striking subsection (f) and re-  
6 designating subsection (g) as subsection  
7 (f);

8 (I) in section 5336(c) by striking “covered  
9 by the performance management and recogni-  
10 tion system established under chapter 54 of this  
11 title, or,”;

12 (J) in section 5361(5) by striking all that  
13 follows “of this chapter,” and inserting “or a  
14 special occupational pay system under sub-  
15 chapter IX;”;

16 (K) in section 5362(c)—

17 (i) in the matter before paragraph (1)  
18 by striking “chapters 54 and 55 of this  
19 title, retirement and life insurance under  
20 chapters 83 and 87” and inserting “chap-  
21 ter 55 of this title, retirement and life in-  
22 surance under chapters 83, 84, and 87”;

23 (ii) by inserting “or” at the end of  
24 paragraph (2); and

1 (iii) by striking paragraph (3) and re-  
2 designating paragraph (4) as paragraph  
3 (3);

4 (L) in section 5363(c)(2) by striking  
5 “chapter 51, 53, or 54” and inserting “chapter  
6 51 or 53”;

7 (M) in section 5948(g)(1) by striking sub-  
8 paragraph (C) and redesignating subparagraphs  
9 (D) through (L) as subparagraphs (C) through  
10 (K), respectively; and

11 (N) in section 8473(b)(8) by striking “in-  
12 dividuals subject to the Performance Manage-  
13 ment and Recognition System under chapter 54  
14 of this title;” and inserting “supervisors and  
15 management officials (as defined by section  
16 7103(a));”.

17 (2) FEPCA.—Section 302(b)(1) of the Federal  
18 Employees Pay Comparability Act of 1990 (5 U.S.C.  
19 5304 note) is amended by striking “(including an  
20 employee covered by the performance management  
21 and recognition system)”.

22 (3) TITLE 10, UNITED STATES CODE.—Title 10,  
23 United States Code, is amended—

1 (A) in section 1602 by inserting “, as in  
2 effect on October 31, 1993” after “section 5401  
3 of title 5”;

4 (B) in section 1732(b)(1)(A) by striking  
5 “Schedule (including any employee covered by  
6 chapter 54 of title 5).” and inserting “Sched-  
7 ule.”; and

8 (C) in section 1733(b)(1)(A)(i) by striking  
9 “Schedule (including an employee covered by  
10 chapter 54 of title 5),” and inserting “Sched-  
11 ule.”.

12 (4) TITLE 31, UNITED STATES CODE.—Section  
13 731(b) of title 31, United States Code, is amended  
14 by inserting “, as in effect on October 31, 1993”  
15 after “section 5401 of title 5”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect as of November 1, 1993.

18 **SEC. 4. TREATMENT OF EMPLOYEES COVERED BY THE SYS-**

19 **TEM AS OF ITS TERMINATION DATE.**

20 (a) DEFINITIONS.—For purposes of this section—

21 (1) the term “employee” means an individual  
22 employed by an agency (within the meaning of sec-  
23 tion 7103(a)(3) of title 5, United States Code);

24 (2) the term “performance management and  
25 recognition system” means the performance manage-

1       ment and recognition system under chapter 54 of  
2       title 5, United States Code;

3           (3) the term “basic pay” does not include any  
4       amount payable under section 302 or title IV of  
5       FEPCA or section 5304 or 5304a of title 5, United  
6       States Code;

7           (4) the term “pay rate”, as used in clauses (iii)  
8       through (v) of subsection (c)(2)(B), is used in the  
9       same way as such term is used under section  
10      5335(a) of title 5, United States Code; and

11          (5) the term “FEPCA” means the Federal Em-  
12      ployees Pay Comparability Act of 1990 (contained in  
13      the Treasury, Postal Service and General Govern-  
14      ment Appropriations Act, 1991 (Public Law 101-  
15      509; 104 Stat. 1427)).

16      (b)    APPLICABILITY.—Notwithstanding section  
17    5332(a)(1) of title 5, United States Code (as amended by  
18    section 3(b)(1)(F)), or any other provision of law, the rate  
19    of basic pay for an employee covered by the performance  
20    management and recognition system on October 31, 1993,  
21    shall be determined in accordance with this section so long  
22    as such employee continues, without a break in service of  
23    more than 3 days, to occupy any position—

24          (1) which is in the same grade of the General  
25      Schedule, and the same agency, as the position

1 which such employee occupied on October 31, 1993;  
2 and

3 (2) to which the provisions of chapter 54 of  
4 title 5, United States Code (as in effect on October  
5 31, 1993) would apply if such provisions had re-  
6 mained in effect.

7 (c) SPECIAL RULES.—

8 (1) IN GENERAL.—The rate of basic pay for an  
9 employee who is subject to this section shall be the  
10 rate payable to such employee on October 31, 1993,  
11 subject to paragraph (2).

12 (2) ADJUSTMENTS.—Adjustments in the rate of  
13 basic pay for an employee who is subject to this sec-  
14 tion shall be made in accordance with the relevant  
15 provisions of title 5, United States Code, or other-  
16 wise applicable provisions of law, subject to the  
17 following:

18 (A) DEEM RATES AND POSITIONS TO BE  
19 UNDER THE GENERAL SCHEDULE.—For pur-  
20 poses of applying subchapters I and III of  
21 chapter 53 of such title (and the provisions of  
22 section 302 and title IV of FEPCA with respect  
23 to any payment under any of those provi-  
24 sions)—

1 (i) the rate of basic pay determined  
2 under this section for an employee shall be  
3 treated as a rate of basic pay described in  
4 section 5302(8) of such title;

5 (ii) the position then currently occu-  
6 pied by an employee who is subject to this  
7 section shall be deemed to be a “General  
8 Schedule position” within the meaning of  
9 section 5302(9) of such title; and

10 (iii) any employee who is subject to  
11 this section shall be considered to be a  
12 “General Schedule employee” (as referred  
13 to in section 302(b) of FEPCA).

14 (B) SPECIAL RULES RELATING TO PROVI-  
15 SIONS GOVERNING STEP-INCREASES.—For pur-  
16 poses of applying the provisions of sections  
17 5335 and 5336 of title 5, United States Code,  
18 with respect to any employee who is subject to  
19 this section—

20 (i) any reference in such provisions to  
21 a “step-increase” shall be considered to  
22 mean an increase equal to one-ninth of the  
23 difference between the minimum and maxi-  
24 mum rates of pay for the applicable grade  
25 of the General Schedule;

1           (ii) any reference in such provisions to  
2           the “next higher rate within the grade”  
3           shall be considered to mean the rate of  
4           basic pay which exceeds such employee’s  
5           then current rate of basic pay by the  
6           amount of a step-increase;

7           (iii) if the employee’s rate of basic pay  
8           is less than the rate for pay rate 4 of the  
9           applicable grade, such employee’s rate of  
10          basic pay shall be governed by paragraph  
11          (1) of section 5335(a) of such title;

12          (iv) if the employee’s rate of basic pay  
13          is equal to or greater than the rate for pay  
14          rate 4 but less than the rate for pay rate  
15          7 of the applicable grade, such employee’s  
16          rate of basic pay shall be governed by  
17          paragraph (2) of section 5335(a) of such  
18          title; and

19          (v) if the employee’s rate of basic pay  
20          is equal to or greater than the rate for pay  
21          rate 7 but less than the maximum rate of  
22          the applicable grade, such employee’s rate  
23          of basic pay shall be governed by para-  
24          graph (3) of section 5335(a) of such title.

1           No rate of basic pay for an employee may be  
2           increased, as a result of this subparagraph (or  
3           any provision of law to which any clause of this  
4           subparagraph relates), if or to the extent that  
5           the resulting rate would exceed the maximum  
6           rate for the grade of the position occupied by  
7           such employee.

8           (d) REGULATIONS.—The Office of Personnel Man-  
9           agement shall prescribe any regulations which may be nec-  
10          essary for the administration of this section.

11       **SEC. 5. MISCELLANEOUS PROVISIONS.**

12          (a) COORDINATION RULE.—Notwithstanding the  
13          amendment made by section 3(b)(1)(H)(ii), an increase in  
14          pay granted under section 5404 of title 5, United States  
15          Code, before November 1, 1993, shall be deemed to be  
16          an equivalent increase in pay within the meaning of sec-  
17          tion 5335(a) of such title.

18          (b) PERFORMANCE AWARDS.—Notwithstanding sec-  
19          tion 2, for purposes of applying section 5406 of title 5,  
20          United States Code, the amount under subsection  
21          (c)(1)(A)(ii) of such section 5406 with respect to awards

- 1 for work performed during fiscal year 1994 shall, for each
- 2 agency subject to such section 5406, be deemed to be zero.

Passed the House of Representatives September 21,  
1993.

Attest: DONNALD K. ANDERSON,  
*Clerk.*