

107TH CONGRESS
1ST SESSION

S. 1639

To provide Federal managers with tools and flexibility in areas such as personnel, budgeting, property management and disposal, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 6, 2001

Mr. VOINOVICH (for himself and Mr. THOMPSON) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide Federal managers with tools and flexibility in areas such as personnel, budgeting, property management and disposal, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Employee Management Reform Act of 2001”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows.

Sec. 1. Short title; Table of Contents.

TITLE I—FEDERAL EMPLOYMENT RESTRUCTURING ASSISTANCE

Sec. 101. Voluntary separation incentives.

- Sec. 102. Existing authorities valid until expiration.
- Sec. 103. Effective date.

TITLE II—FEDERAL EMPLOYEE VOLUNTARY EARLY
RETIREMENT AMENDMENTS

- Sec. 201. Voluntary early retirement authority.

TITLE III—CIVIL SERVICE RECRUITMENT AND RETENTION
INCENTIVES

- Sec. 301. Recruitment, relocation, and retention bonuses.
- Sec. 302. Academic degree training.
- Sec. 303. Professional credentials.
- Sec. 304. Correction of pay administration problems.
- Sec. 305. Civil Service Retirement System computations for part-time service.
- Sec. 306. Promotional items received pursuant to official travel.
- Sec. 307. Student volunteer transit subsidy.
- Sec. 308. Effective date.

TITLE IV—PROMOTION OF RESULTS-ORIENTED PERFORMANCE
EVALUATION AND COMPENSATION FOR SENIOR EXECUTIVES

- Sec. 401. Cap on total annual compensation.
- Sec. 402. Repeal of senior executive recertification.
- Sec. 403. Annual leave enhancements.
- Sec. 404. Effective date.

TITLE V—FEDERAL HUMAN RESOURCES MANAGEMENT
INNOVATIONS

- Sec. 501. Project management and alternative personnel systems.
- Sec. 502. Effective date.

TITLE VI—FEDERAL HUMAN RESOURCES HIRING FLEXIBILITY

- Sec. 601. Employment flexibility amendments.

1 **TITLE I—FEDERAL EMPLOY-**
2 **MENT RESTRUCTURING AS-**
3 **SISTANCE**

4 **SEC. 101. VOLUNTARY SEPARATION INCENTIVES.**

5 (a) Chapter 35 of title 5, United States Code, is
6 amended—

7 (1) by amending the chapter title to read as fol-
8 lows:

1 **“CHAPTER 35—RETENTION PREFERENCE,**
 2 **VOLUNTARY SEPARATION INCENTIVE**
 3 **PAYMENTS, RESTORATION, AND RE-**
 4 **EMPLOYMENT”;**

5 (2) by inserting after subchapter I a new sub-
 6 chapter II to read as follows:

7 **“Subchapter II—Voluntary Separation**
 8 **Incentive Payments**

9 **“§ 3521. Definitions**

10 “For the purpose of this subchapter—

11 “(1) ‘agency’ means an Executive agency as de-
 12 fined by section 105; and

13 “(2) ‘employee’ means an employee as defined
 14 by section 2105 employed by an agency and an indi-
 15 vidual employed by a county committee established
 16 under section 8(b)(5) of the Soil Conservation and
 17 Domestic Allotment Act (16 U.S.C. 590h(b)(5))
 18 who—

19 “(A) is serving under an appointment
 20 without time limitation; and

21 “(B) has been currently employed for a
 22 continuous period of at least 3 years;

23 but does not include—

24 “(i) a reemployed annuitant under
 25 subchapter III of chapter 83 or chapter 84

1 or another retirement system for employees
2 of the Government;

3 “(ii) an employee having a disability
4 on the basis of which such employee is or
5 would be eligible for disability retirement
6 under subchapter III of chapter 83 or
7 chapter 84 or another retirement system
8 for employees of the Government;

9 “(iii) an employee who is in receipt of
10 a decision notice of involuntary separation
11 for misconduct or unacceptable perform-
12 ance;

13 “(iv) an employee who has previously
14 received any voluntary separation incentive
15 payment from the Federal Government
16 under this subchapter or any other author-
17 ity;

18 “(v) an employee covered by statutory
19 reemployment rights who is on transfer
20 employment with another organization; or

21 “(vi) any employee who, during the
22 24-month period preceding the employee’s
23 date of separation, received and did not
24 repay a recruitment or relocation bonus
25 under section 5753 or who, within the 12-

1 month period preceding the employee's
2 date of separation, received and did not
3 repay a retention allowance under section
4 5754, or who, within the 36 month period
5 preceding the employee's date of separa-
6 tion, received and did not repay funds pro-
7 vided for student loan repayment under
8 section 5379, unless the paying agency has
9 waived its right of recovery of those funds.

10 **“§ 3522. Agency plans; approval**

11 “(a) The head of each agency, prior to obligating any
12 resources for voluntary separation incentive payments,
13 shall submit to the Director of the Office of Management
14 and Budget a plan outlining the intended use of such in-
15 centive payments that provides such information as the
16 Director may require, including the information specified
17 in subsection (b).

18 “(b) The agency's plan under subsection (a) shall
19 include—

20 “(1) the positions and functions to be reduced
21 or eliminated;

22 “(2) a description of which categories of em-
23 ployees will be offered incentives;

24 “(3) the time period during which incentives
25 may be paid;

1 “(4) the number and amounts of voluntary sep-
2 aration incentive payments to be offered; and

3 “(5) a description of how the agency will oper-
4 ate without the eliminated positions and functions.

5 “(c) The Director of the Office of Management and
6 Budget shall review each agency’s plan and may condition
7 the Director’s approval of the plan upon the agency head’s
8 acceptance of modifications. A plan under this section may
9 not be implemented without the approval of the Director,
10 and, upon an agency head’s request, the Director may ap-
11 prove for implementation changes to a plan previously ap-
12 proved by the Director.

13 **“§ 3523. Authority to provide voluntary separation in-**
14 **centive payments**

15 “(a) A voluntary separation incentive payment under
16 this subchapter may be paid to an employee only as pro-
17 vided in the agency’s plan established under section 3522.

18 “(b) A voluntary incentive payment—

19 “(1) shall be offered to agency employees on the
20 basis of organizational unit, occupational series or
21 level, geographical location, specified periods during
22 which eligible employees may elect a voluntary sepa-
23 ration incentive payment, skills, knowledge, or other
24 such job related factors, or a combination of such fa-
25 vors;

1 “(2) shall be paid in a lump sum after the em-
2 ployee’s separation;

3 “(3) shall be equal to the lesser of—

4 “(A) an amount equal to the amount the
5 employee would be entitled to receive under sec-
6 tion 5595(c) if the employee were entitled to
7 payment under such section (without adjust-
8 ment for any previous payment made); or

9 “(B) an amount determined by the agency
10 head, not to exceed \$25,000;

11 “(4) may be made only in the case of employee
12 who voluntarily separates (whether by retirement or
13 resignation) under the provisions of this subchapter;

14 “(5) shall not be a basis for payment, and shall
15 not be included in the computation, of any other
16 type of Government benefit;

17 “(6) shall not be taken into account in deter-
18 mining the amount of any severance pay to which
19 the employee may be entitled under section 5595,
20 based on any other separation; and

21 “(7) shall be paid from appropriations or funds
22 available for the payment of the basic pay of the em-
23 ployee.

1 **“§ 3524. Effect of subsequent employment with the**
2 **Government**

3 “(a) An individual who has received a voluntary sepa-
4 ration incentive payment under this subchapter and ac-
5 cepts any employment for compensation with the Govern-
6 ment of the United States (other than the legislation
7 branch) within five years after the date of the separation
8 on which the payment is based shall be required to pay,
9 prior to the individual’s first day of employment, the entire
10 amount of the incentive payment to the agency that paid
11 the incentive payment.

12 “(b)(1) If the employment under this section is with
13 an agency (other than the General Accounting Office), the
14 United States Postal Service, or the Postal Rate Commis-
15 sion, the Director of the Office of Personnel Management
16 may, at the request of the head of the agency, waive the
17 repayment if the individual involved possesses unique abili-
18 ties, or, in the case of an emergency involving a direct
19 threat to life or property, the individual has skills directly
20 related to resolving the emergency and will serve on a tem-
21 porary basis only so long as the individual’s services are
22 made necessary by the emergency.

23 “(2) If the employment under this section is with the
24 judicial branch, the Director of the Administration Office
25 of the United States Courts may waive the repayment if

1 the individual involved possesses unique abilities and is the
2 only qualified applicant available for the position.

3 “(c) Employment under a personal services contract
4 with the Government of the United States (other than the
5 legislative branch) is included in the term ‘employment’
6 with respect to subsection (a), but is excluded with respect
7 to subsection (b).

8 **“§ 3525. Reduction of agency employment levels**

9 “(a) The total number of funded employee positions
10 in the agency shall be reduced by one position for each
11 vacancy created by the separation of any employee who
12 has received, or is due to receive, a voluntary separation
13 incentive payment under this subchapter. For the pur-
14 poses of this subsection, positions shall be counted on a
15 full-time equivalent basis.

16 “(b) The Director of the Office of Management and
17 Budget shall monitor the agency and take any action nec-
18 essary to ensure that the requirements of this section are
19 met.

20 “(c) At the request of the head of an agency, the Di-
21 rector of the Office of Management and Budget may waive
22 application of subsection (a) if the Director determines
23 that the agency plan required by section 3522 satisfac-
24 torily demonstrates downsizing or other restricting within
25 the agency would produce a cost-effective result.

1 **“§ 3526. Regulations**

2 “The Director of the Office of Personnel Manage-
3 ment, with the concurrence of the Director of the Office
4 of Management and Budget, may prescribe such regula-
5 tions as may be necessary to implement the provisions of
6 this subchapter.”; and

7 (3) in the table of sections by striking the item
8 relating to subchapter II and the item relating to
9 section 3551 and inserting in its place the following:

“SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

“3521. Definitions.

“3522. Agency plans; approval.

“3523. Authority to provide voluntary separation incentive payments.

“3524. Effect of subsequent employment with the Government.

“3525. Reduction of agency employment levels.

“3526. Regulations.”.

10 (b) The Director of the Administrative Office of the
11 United States Courts may, by regulation, establish a pro-
12 gram substantially similar to the program established by
13 subsection (a) for individuals serving in the judicial
14 branch. Waivers authorized with respect to agencies by
15 section 3525 of title 5, United States Code, as enacted
16 by subsection (a), shall, with respect to entities of the judi-
17 cial branch, be made by the Director of the Administrative
18 Office of the United States Courts.

19 **SEC. 102. PREVIOUSLY ENACTED VOLUNTARY SEPARATION**
20 **INCENTIVES.**

21 An agency head that has authority, under a statute
22 enacted before the date of enactment of the Act, to make

1 voluntary separation incentive payments, may continue to
 2 offer voluntary separation incentives under that statute in
 3 accordance with its term and amendments.

4 **SEC. 103. EFFECTIVE DATE.**

5 This subtitle and the amendments made by this sub-
 6 title shall take effect 60 days after the date of enactment.

7 **TITLE II—FEDERAL EMPLOYEE**
 8 **VOLUNTARY EARLY RETIRE-**
 9 **MENT AMENDMENTS**

10 **SEC. 201. VOLUNTARY EARLY RETIREMENT AUTHORITY.**

11 (a) Title 5, United States Code, is amended—

12 (1) by amending section 8336(d)(2) to read as
 13 follows:

14 “(2)(A) has been employed continuously, by the
 15 agency in which the employee is serving, for at least
 16 the 31-day period ending on the date on which such
 17 agency requests the determination referred to in
 18 subparagraph (D);

19 “(B) is serving under an appointment that is
 20 not time limited;

21 “(C) is not in receipt of a decision notice of in-
 22 voluntary separation for misconduct or unacceptable
 23 performance;

24 “(D) is separated from the service voluntarily
 25 during a period in which, as determined by the Of-

1 fice of Personnel Management (upon request of the
2 agency) under regulations prescribed by the Office—

3 “(i) such agency (or, if applicable, the
4 component in which the employee is serving) is
5 undergoing delayering, reorganization, reduc-
6 tion in force, or a transfer of function, or other
7 workforce restructuring (or shaping); and

8 “(ii) employees serving in such agency (or
9 component) are likely to be—

10 “(I) separated;

11 “(II) subject to an immediate reduc-
12 tion in the rate of basic pay (without re-
13 gard to subchapter VI of chapter 53, or
14 comparable provisions); or

15 “(III) identified as being in positions
16 which are becoming surplus or excess to
17 the agency’s future ability to carry out its
18 mission effectively; and

19 “(E) as determined by the agency under regula-
20 tions prescribed by the Office, is within the scope of
21 the offer of voluntary early retirement, which may be
22 made on the basis of—

23 “(i) one or more organizational units;

24 “(ii) one or more occupational series or
25 levels;

1 “(iii) one or more geographical locations;

2 “(iv) specific window periods;

3 “(v) skills, knowledge, or such other simi-
4 lar job related factors; or

5 “(vi) any appropriate combination of such
6 factors;” and

7 (2) by amending section 8414(b)(1)(B) to read
8 as follows:

9 “(B)(i) has been employed continuously, by
10 the agency in which the employee is serving, for
11 at least the 31-day period ending on the date
12 on which such agency requests the determina-
13 tion referred to in clause (iv);

14 “(ii) is serving under an appointment that
15 is not time limited;

16 “(iii) is not in receipt of a decision notice
17 of involuntary separation for misconduct or un-
18 acceptable performance;

19 “(iv) is separated from the service volun-
20 tarily during a period in which, as determined
21 by the Office of Personnel Management (upon
22 request of the agency) under regulations pre-
23 scribed by the Office—

24 “(I) such agency (or, if applicable, the
25 component in which the employee is serv-

1 ing) is undergoing delayering, reorganiza-
2 tion, reduction in force, or transfer of
3 function, or other workforce restructuring
4 (or shaping); and

5 “(II) employees serving in such agen-
6 cy (or component) are likely to be—

7 “(aa) separated;

8 “(bb) subject to an immediate re-
9 duction in the rate of basic pay (with-
10 out regard to subchapter VI of chap-
11 ter 53, or comparable provisions); or

12 “(cc) identified as being in posi-
13 tions which are becoming surplus or
14 excess to the agency’s future ability to
15 carry out its mission effectively; and

16 “(v) as determined by the agency under
17 regulations prescribed by the Office, is within
18 the scope of the offer of voluntary early retire-
19 ment, which may be made on the basis of—

20 “(I) one or more organizational units;

21 “(II) one or more occupational series
22 or levels;

23 “(III) one or more geographical loca-
24 tions;

25 “(IV) specific window periods;

1 “(V) skills, knowledge, or such other
2 similar job related factors; or

3 “(VI) any appropriate combination of
4 such factors;”.

5 (b) Section 7001 of Public Law 105–174 (112 Stat.
6 91), as amended by section 651 of Public Law 106–58
7 (113 Stat. 480), is repealed.

8 **TITLE III—CIVIL SERVICE RE-**
9 **CRUITMENT AND RETENTION**
10 **INCENTIVES**

11 **SEC. 301. RECRUITMENT, RELOCATION, AND RETENTION**
12 **BONUSES.**

13 (a) Chapter 57 of title 5, United States Code, is
14 amended—

15 (1) by amending sections 5753 and 5754 to
16 read as follows:

17 **“§ 5753. Recruitment and relocation bonuses**

18 “(a)(1) The Office of Personnel Management may
19 authorize the head of an agency to pay a bonus to an indi-
20 vidual appointed or moved to a position that is likely to
21 be difficult to fill in the absence of such a bonus, if the
22 individual—

23 “(A)(i) is newly appointed as an employee of
24 the Federal Government; or

1 “(ii) is currently employed by the Federal Gov-
2 ernment and moves to a new position in the same
3 geographic area under circumstances described in
4 regulations of the Office; or

5 “(B) is currently employed by the Federal Gov-
6 ernment and must relocate to accept a position sta-
7 tioned in a different geographic area.

8 “(2) Except as provided by subsection (g), a bonus
9 may be paid under this section only to an employee cov-
10 ered by the General Schedule pay system established
11 under subchapter III of chapter 53.

12 “(b)(1) Payment of a bonus under this section shall
13 be contingent upon the employee entering into a written
14 service agreement to complete a period of employment
15 with the agency, not to exceed four years. The Office may,
16 by regulation prescribe a minimum service period.

17 “(2) The agreement shall set forth the length of the
18 required service period, the amount of the bonus, the
19 method of payment, and other terms and conditions under
20 which the bonus is payable, subject to subsections (c) and
21 (d) and regulations of the Office. The terms and condi-
22 tions for paying a bonus, as specified in the service agree-
23 ment, shall include the conditions under which the agree-
24 ment may be terminated before the agreed-upon service

1 period has been completed and the effect of the termi-
2 nation.

3 “(3) The agreement shall be made effective upon em-
4 ployment with the agency or movement to a new position
5 or geographic area, as applicable, except that a service
6 agreement with respect to a recruitment bonus may be
7 made effective at a later date under circumstances de-
8 scribed in regulations of the Office, such as when there
9 is an initial period of formal basic training.

10 “(c)(1) Except as provided in subsection (d), a bonus
11 under this section shall not exceed 25 percent of the an-
12 nual rate of basic pay of the employee at the beginning
13 of the service period multiplied by the number of years
14 (or fractions thereof) in the service period, not to exceed
15 four years.

16 “(2) A bonus under this section may be paid as an
17 initial lump sum, in installments, as a final lump sum
18 upon the completion of the full service period, or in a com-
19 bination of these forms of payment.

20 “(3) A bonus under this section is not part of the
21 basic pay of an employee for any purpose.

22 “(4) Under regulations of the Office, a recruitment
23 bonus under this section may be paid to an eligible indi-
24 vidual before he or she enters on duty.

1 “(d) The Office may authorize the head of an agency
2 to waive the limitation in subsection (c)(1) based on a crit-
3 ical agency need, subject to regulations prescribed by the
4 Office. Under such a waiver, the amount of the bonus may
5 be up to 50 percent of the employee’s annual rate of basic
6 pay at the beginning of the service period multiplied by
7 the number of years (or fractions thereof) in the service
8 period, not to exceed 100 percent of the employee’s annual
9 rate of basic pay at the beginning of the service period.

10 “(e) The Office shall require that, before paying a
11 bonus under this section, an agency shall establish a plan
12 for paying recruitment bonuses and a plan for paying relo-
13 cation bonuses, subject to regulations prescribed by the
14 Office.

15 “(f) The Office shall prescribe such regulations as it
16 considers necessary for the administration of this section,
17 including regulations governing the repayment of a re-
18 cruitment bonus in appropriate circumstances when the
19 agreed-upon service period has not been completed.

20 “(g)(1) At the request of the head of an Executive
21 agency, the Office may extend coverage under this section
22 to categories of employees within the agency who other-
23 wise would not be covered by this section.

24 “(2) The Office shall not extend coverage to the head
25 of an Executive agency, including an Executive agency

1 headed by a board or other collegial body composed of two
2 or more individual members.

3 “(h) For purposes of this section, ‘employee’ has the
4 meaning given that term by section 2105, except that such
5 term also includes an employee described in subsection (c)
6 of such section.

7 **“§ 5754. Retention bonuses**

8 “(a) The Office of Personnel Management may au-
9 thorize the head of an agency to pay a retention bonus
10 to an employee, subject to regulations prescribed by the
11 Office, if—

12 “(1) the unusually high or unique qualifications
13 of the employee or a special need of the agency for
14 the employee’s services makes it essential to retain
15 the employee; and

16 “(2) the agency determines that, in the absence
17 of a retention bonus, the employee would be likely
18 to leave—

19 “(A) the Federal service; or

20 “(B) for a different position in the Federal
21 service under conditions described in regula-
22 tions of the Office.

23 “(b) The Office may authorize the head of an agency
24 to pay retention bonuses to a group of employees in one
25 or more categories of positions in one or more geographic

1 areas, subject to the requirements of subsection (a)(1) and
2 regulations prescribed by the Office, if there is a high risk
3 that a significant portion of employees in the group would
4 be likely to leave in the absence of retention bonuses.

5 “(c) Except as provided in subsection (i), a bonus
6 may be paid only to an employee covered by the General
7 Schedule pay system established under subchapter III of
8 chapter 53.

9 “(d)(1) Payment of a retention bonus is contingent
10 upon the employee entering into a written service agree-
11 ment with the agency to complete a period of employment
12 with the agency.

13 “(2) The agreement shall set forth the length of the
14 required service period, the amount of the bonus, the
15 method of payment, and other terms and conditions under
16 which the bonus is payable, subject to subsections (e) and
17 (f) and regulations of the Office. The terms and conditions
18 for paying a bonus, as specified in the service agreement,
19 shall include the conditions under which the agreement
20 may be terminated before the agreed-upon service period
21 has been completed and the effect of the termination.

22 “(3) Notwithstanding paragraph (1), a written serv-
23 ice agreement is not required if the agency pays a reten-
24 tion bonus in biweekly installments and sets the install-
25 ment payment at the full bonus percentage rate estab-

1 lished for the employee with no portion of the bonus de-
2 ferred. In this case, the agency shall inform the employee
3 in writing of a decision to discontinue the retention bonus
4 payments. Except as provided in regulations of the Office,
5 the employee shall continue to accrue entitlement to the
6 retention bonus through the end of the pay period in which
7 such written notice is provided.

8 “(4) An employee may not accrue entitlement to a
9 retention bonus during a service period previously estab-
10 lished for that employee under section 5753.

11 “(e)(1) Except as provided in subsection (f), a reten-
12 tion bonus, which shall be stated as a percentage of the
13 employee’s basic pay for the service period associated with
14 the bonus, may not exceed 25 percent of the employee’s
15 basic pay if paid under subsection (a) or 10 percent of
16 an employee’s basic pay if paid under subsection (b).

17 “(2) A retention bonus may be paid to an employee
18 in installments after completion of specified periods of
19 service or in a single lump sum at the end of the full pe-
20 riod of service required by the agreement. An installment
21 payment may not exceed the product derived from multi-
22 plying the amount of basic pay earned in the installment
23 period by a percentage not to exceed the bonus percentage
24 rate established for the employee. If the installment pay-
25 ment percentage is less than the bonus percentage rate,

1 the accrued but unpaid portion of the bonus is payable
2 as part of the final installment payment to the employee
3 after completion of the full service period under the terms
4 of the service agreement.

5 “(3) A retention bonus is not part of the basic pay
6 of an employee for any purpose.

7 “(f) Upon the request of the head of an agency, the
8 Office may waive the limit established under subsection
9 (e)(1) and permit the agency head to pay an otherwise
10 eligible employee or category of employees retention bo-
11 nuses of up to 50 percent of basic pay, based on a critical
12 agency need.

13 “(g) The Office shall require that, before paying a
14 bonus under this section, an agency shall establish a plan
15 for paying retention bonuses, subject to regulations pre-
16 scribed by the Office.

17 “(h) The Office shall prescribe such regulations as
18 it considers necessary for the administration of this sec-
19 tion.

20 “(i)(1) At the request of the head of an Executive
21 agency, the Office may extend coverage under his section
22 to categories of employees within the agency who other-
23 wise would not be covered by this section.

24 “(2) The Office shall not extend coverage under this
25 section to the head of an Executive agency, including an

1 Executive agency headed by a board or other collegial body
2 composed of two or more individual members.

3 “(j) For purposes of this section, ‘employee’ has the
4 meaning given that term by section 2105, except that such
5 term also includes an employee described in subsection (c)
6 of such section.”.

7 (2) in the table of sections by amending the
8 item relating to section 5754 to read as follows:

“5754. Retention bonuses.”.

9 (b) Section 407 of the Federal Employees Pay Com-
10 parability Act of 1990 (104 Stat. 1467; 5 U.S.C. 5305
11 note) is repealed.

12 **SEC. 302. ACADEMIC DEGREE TRAINING.**

13 Chapter 41 of title 5, United States Code, is
14 amended—

15 (1) by amending section 4107 to read as follows:

16 **“§ 4107. Academic degree training**

17 “(a) Subject to subsection (b), an agency may select
18 and assign an employee to academic degree training and
19 may pay or reimburse the costs of academic degree train-
20 ing from appropriated or other available funds if such
21 training—

22 “(1) contributes significantly to meeting an
23 identified agency training need, to resolving an iden-
24 tified agency staffing problem, or to accomplishing
25 goals in the agency’s strategic plan;

1 “(2) in part of a planned, systematic, and co-
2 ordinated agency employee development program
3 linked to accomplishing the agency’s strategic goals
4 and objectives; and

5 “(3) is accredited and is provided by a college
6 or university that is accredited by a nationally recog-
7 nized body.

8 “(b) In exercising authority under subsection (a), an
9 agency shall—

10 “(1) consistent with the merit system principles
11 set forth in paragraphs (2) and (7) of section
12 2301(b), take into consideration the need to—

13 “(A) maintain a balanced workforce in
14 which women, members of racial and ethnic mi-
15 nority groups, and persons with disabilities are
16 appropriately represented in Government serv-
17 ice; and

18 “(B) provide employees effective education
19 and training to improve organizational and indi-
20 vidual performance;

21 “(2) assure that the training is not for the sole
22 purpose of providing an employee an opportunity to
23 obtain an academic degree or to qualify for appoint-
24 ment to a particular position for which the academic
25 degree is a basic requirement; and

1 “(3) assure that no authority under this sub-
 2 section is exercised on behalf of any employee occu-
 3 pying or seeking to qualify for appointment to any
 4 position that is excepted from the competitive service
 5 because of its confidential policy-determining, policy-
 6 making, or policy-advocating character.”; and

7 (2) in the table of sections by amending the
 8 item relating to section 4107 to read as follows:

“4107. Academic degree training.”.

9 **SEC. 303. PROFESSIONAL CREDENTIALS.**

10 Chapter 57 of title 5, United States Code, as amend-
 11 ed by section 301, is further amended—

12 (1) by adding at the end the following new sec-
 13 tion:

14 **“§ 5757. Expenses for credentials**

15 “(a) An agency may, when consistent with the agen-
 16 cy’s strategic goals and objectives, use appropriated or
 17 other available funds to pay for—

18 “(1) employee credentials, including profes-
 19 sional accreditation, state-imposed and professional
 20 licenses, and professional certifications; and

21 “(2) examinations to obtain these credentials.

22 “(b) No authority under subsection (a) may be exer-
 23 cised on behalf of any employee occupying or seeking to
 24 qualify for appointment to any position which is excepted
 25 from the competitive service because of its confidential,

1 policy-determining, policy-making, or policy-advocating
2 character.

3 “(c) An agency may, in accordance with regulations
4 of the Office of Personnel Management and subject to the
5 same terms and conditions that apply to continued service
6 agreements under section 4108, require such an agree-
7 ment in conjunction with payment of expenses authorized
8 under subsection (a).”; and

9 (2) in the table of sections by adding at the end
10 the following new item:

“5757. Expenses for credentials.”.

11 **SEC. 304. CORRECTION OF PAY ADMINISTRATION PROB-**
12 **LEMS.**

13 (a) Chapter 53 of title 5, United States Code, is
14 amended—

15 (1) by amending section 5302(8) to read as fol-
16 lows:

17 “(8) the term ‘rates of pay under the General
18 Schedule’, ‘rates of pay for the General Schedule’, or
19 ‘scheduled rates of basic pay’ means the unadjusted
20 rates of basic pay in the General Schedule as estab-
21 lished by section 5332, excluding additional pay of
22 any kind; and”;

23 (2) in section 5305—

24 (A) by amending subsection (a) to read as
25 follows:

1 “(a)(1) Whenever the Office of Personnel Manage-
2 ment finds that the Government’s recruitment or retention
3 efforts with respect to one or more occupations in one or
4 more areas or locations are, or are likely to become, sig-
5 nificantly handicapped due to any of the circumstances de-
6 scribed in subsection (b), the Office may establish for the
7 areas or locations involved, with respect to individuals in
8 positions paid under any of the pay systems referred to
9 in subsection (c), higher minimum rates of pay for one
10 or more grades or levels, occupational groups, series, class-
11 es, or subdivisions thereof, and may make corresponding
12 increases in all rates of pay range for each such grade
13 or level. However, a minimum rate so established may not
14 exceed the maximum rate of basic pay (excluding any lo-
15 cality-based comparability payment under section 5304 or
16 similar provision of law) for the grade or level by more
17 than 30 percent, and no rate may be established under
18 this section in excess of the rate of basic pay payable for
19 level IV of the Executive Schedule. In the case of individ-
20 uals not subject to the provisions of this title governing
21 appointment in the competitive service, the President may
22 designate another agency to authorize special rates under
23 this section.

24 “(2) The head of an agency may determine that a
25 category of employees of the agency will not be covered

1 by a special rate authorization established under this sec-
2 tion. The agency head shall provide formal written notice
3 to the Office of Personnel Management (or other agency
4 designated by the President to authorize special rates)
5 which identifies the specific category or categories of em-
6 ployees that will not be covered by special rates authorized
7 under this section. If the head of an agency removes a
8 category of employees from coverage under a special rate
9 authorization after that authorization takes effect, the loss
10 of coverage will take effect on the first day of the first
11 pay period after the date of the notice.”;

12 (B) by amending subsection (b)(4) to read
13 as follows:

14 “(4) any other circumstances which the Office
15 of Personnel Management (or such agency as the
16 President may designate) considers appropriate.”;

17 (C) in subsection (d)—

18 (i) by striking “President” and insert-
19 ing “Office of Personnel Management”;
20 and

21 (ii) by striking “he” and inserting
22 “the President”;

23 (D) in subsection (e) by striking
24 “basic pay” and inserting “pay”;

1 (E) by amending subsection (f) to
2 read as follows:

3 “(f) When a schedule of special rates established
4 under this section is adjusted under subsection (d), a cov-
5 ered employees’ special rate will be adjusted in accordance
6 with conversion rules prescribed by the Office of Personnel
7 Management or by such agency as the President may des-
8 ignate.”;

9 (F) in subsection (g)(1)—

10 (i) by striking “basic pay” and insert-
11 ing “pay”; and

12 (ii) by striking “President (or his des-
13 ignated agency)” and inserting “Office of
14 Personnel Management (or such agency as
15 the President may designate)”;

16 (G) by amending subsection (h) to read as
17 follows:

18 “(h) An employee’s entitlement to a rate of pay estab-
19 lished under this section terminates when the employee is
20 entitled to a higher rate of pay (including basic pay as
21 adjusted to include any locality-based comparability pay-
22 ment under section 5304 or similar provision of law).”;

23 and

24 (H) by adding at the end the following new
25 subsections:

1 “(i) When an employee who is receiving a rate of pay
2 established under this section moves to a new official duty
3 station at which different pay schedules apply, the em-
4 ployee shall be entitled to the rates of pay applicable in
5 the new pay area based on the employee’s position, grade
6 and step (or relative position in the rate range) before the
7 movement, as determined under regulations prescribed by
8 the Office of Personnel Management or other agency des-
9 ignated by the President under subsection (a). Such pay
10 conversion upon geographic movement shall be effected be-
11 fore processing any other simultaneous pay action (other
12 than a general pay adjustment).

13 “(j) A rate established under this section shall be con-
14 sidered to be part of basic pay for purposes of subchapter
15 III of chapter 83, chapter 84, chapter 87, subchapter V
16 of chapter 55, section 5941, and for such other purposes
17 as may be expressly provided for by law or as the Office
18 of Personnel Management may by regulation prescribe.”;

19 (3) in section 5334—

20 (A) in subsection (b) by adding at the end
21 the following: “If an employee’s rate after pro-
22 motion or transfer is greater than the max-
23 imum rate of basic pay for the employee’s
24 grade, that rate shall be treated as a retained
25 rate under section 5363. The Office of Per-

1 sonnel Management shall prescribe by regula-
2 tion the circumstances under which and the ex-
3 tent to which special rates under section 5305
4 (or similar provision of law) or locality-adjusted
5 rates under section 5304 (or similar provision
6 of law) are considered to be basic pay in apply-
7 ing the provisions of this subsection.”; and

8 (B) by adding at the end the following new
9 subsection:

10 “(g) When an employee moves to a new official duty
11 station at which different pay schedules apply, the em-
12 ployee shall be entitled to the rates of pay applicable in
13 the new pay area based on the employee’s position, grade
14 and step (or relative position in the rate range) before the
15 movement. Such pay conversion upon geographic move-
16 ment shall be effected before processing any other simulta-
17 neous pay action (other than a general pay adjustment).”;

18 (4) in section 5361—

19 (A) by striking paragraphs (3) and (4) and
20 redesignating paragraphs (5)–(7) as paragraphs
21 (3)–(5);

22 (B) in paragraph (4) as redesignated by
23 striking “and” at the end;

1 (C) in paragraph (5) as redesignated by
2 striking the period and inserting a semicolon;
3 and

4 (D) by adding at the end the following new
5 paragraphs:

6 “(6) ‘rate of basic pay’ means—

7 “(A) the rate of pay prescribed by law or
8 regulation for the position held by an employee
9 before any deductions or additions of any kind,
10 but including any applicable locality-based pay-
11 ment under section 5304 or similar provision of
12 law, any applicable special salary rate under
13 section 5305 or similar provision of law, and
14 any applicable existing retained rate of pay es-
15 tablished under section 5363 or similar provi-
16 sion of law; and

17 “(B) in the case of a prevailing rate em-
18 ployee, the scheduled rate of pay determined
19 under section 5343;

20 “(7) ‘former highest applicable rate of basic
21 pay’ means the highest applicable rate of basic pay
22 payable to the employee immediately before the ac-
23 tion that triggers pay retention under section 5363;
24 and

1 “(8) ‘highest applicable basic pay rate range’
2 means the range of rates of basic pay for the grade
3 or level of the employee’s current position with the
4 highest maximum rate, except as otherwise provided
5 in regulations prescribed by the Office of Personnel
6 Management in cases where another rate range pro-
7 vides higher rates only in the lower portion of the
8 range.”;

9 (5) in section 5363—

10 (A) in subsection (a) by amending the
11 matter following paragraph (4) to read as fol-
12 lows: “is entitled to pay retention under the
13 conditions set forth in this section. Notwith-
14 standing any other provision, this section may
15 not be applied to employees whose rate of basic
16 pay is reduced solely because of the recomputa-
17 tion of pay upon movement to a new official
18 duty station at which different pay schedules
19 apply. When a geographic move is accompanied
20 by a simultaneous pay action that reduces the
21 employee’s rate of basic pay after the employ-
22 ee’s pay has been recomputed to reflect the geo-
23 graphic move, this section shall be applied, if
24 otherwise applicable.”; and

1 (B) by striking subsections (b) and (c) and
2 inserting the following new subsections:

3 “(b) If an employee is entitled to pay retention under
4 subsection (a), the following rules apply in determining the
5 employee’s rate of pay:

6 “(1) If the employee’s former highest applicable
7 rate of basic pay is less than or equal to the max-
8 imum rate of the highest applicable basic pay rate
9 range for the employee’s current position, the em-
10 ployee is entitled to the lowest payable rate of basic
11 pay in that rate range that equals or exceeds the
12 former rate, and pay retention ceases to apply; and

13 “(2) If the employee’s former highest applicable
14 rate of basic pay exceeds the maximum rate of the
15 highest applicable basic pay rate range for the em-
16 ployee’s current position, the employee is entitled to
17 a retained rate equal to the lesser of—

18 “(A) the employee’s former highest appli-
19 cable rate of basic pay; or

20 “(B) 150 percent of the maximum rate of
21 the highest applicable basic pay rate range for
22 the employee’s position.

23 “(c) An employee’s retained rate shall be increased
24 at the time of any increase in the maximum rate of the
25 highest applicable basic pay rate range for the employee’s

1 position by 50 percent of the dollar increase in that max-
2 imum rate.

3 “(d) The rate of pay for an employee who is receiving
4 a retained rate under this section and who is moved to
5 a new official duty station at which different pay schedules
6 apply shall be determined under regulations prescribed by
7 the Office of Personnel Management consistent with the
8 purposes of this section.

9 “(e) A retained rate shall be considered part of basic
10 pay for purposes of this subchapter and for purposes of
11 subchapter III of chapter 83, chapters 84 and 87, sub-
12 chapter V of chapter 55, section 5941, and for such other
13 purposes as may be expressly provided for by law or as
14 the law or as the Office of Personnel Management may
15 by regulation prescribe. For other purposes, the Office
16 shall prescribe by regulation what constitutes basic pay
17 for employees receiving a retained rate.

18 “(f) The preceding provisions of this section do not
19 apply (or shall cease to apply) to an employee who—

20 “(1) has a break in service of one workday or
21 more;

22 “(2) is entitled by operation of this subchapter
23 or chapter 51 or 53 to a rate of basic pay which is
24 equal to or higher than, or declines a reasonable
25 offer of a position the rate of basic pay for which

1 is equal to or higher than, the rate to which the em-
2 ployee is entitled under this section; or

3 “(3) is demoted for personal cause or at the
4 employee’s request.”; and

5 (6) in section 5365(b) by inserting after “this
6 subchapter” the first time it appears the following:
7 “(subject to any conditions or limitations the Office
8 may establish)”.

9 (b) Section 403(c) of the Federal Employees Pay
10 Comparability Act of 1990 (Public Law 101–509, Sec.
11 529) is amended by striking everything after the par-
12 entetical phrase and inserting the following: “and shall
13 be basic pay for all purposes. The rates shall be adjusted
14 at the time of adjustments in the General Schedule to
15 maintain the step linkage set forth in subsection (b)(2).”.

16 (c) Subject to any regulations the Office of Personnel
17 Management may prescribe, any employee in a covered
18 pay schedule who is receiving a retained rate under section
19 5363 of title 5, United States Code, or similar authority
20 on the effective date of this Act shall have his or her pay
21 converted on that date. The newly applicable retained rate
22 shall equal the formerly applicable retained rate as ad-
23 justed to include any applicable locality-based payment
24 under section 5304 of title 5, United States Code, or simi-
25 lar provision of law. Any employee in a covered pay system

1 receiving a rate that exceeds the maximum rate of the
2 highest applicable basic pay rate range for the employee's
3 position (as defined in section 5361(8) of such title 5, as
4 amended by this Act) under any authority shall be consid-
5 ered to be receiving a retained rate under section 5363
6 of title 5.

7 **SEC. 305. CIVIL SERVICE RETIREMENT SYSTEM COMPUTA-**
8 **TION FOR PART-TIME SERVICE.**

9 Section 8339(p) of title 5, United States Code, is
10 amended by adding at the end the following new para-
11 graph:

12 “(3) In the administration of paragraph (1)—

13 “(A) subparagraph (A) of such paragraph
14 shall apply to any service performed before, on,
15 or after April 7, 1986;

16 “(B) subparagraph (B) of such paragraph
17 shall apply to all service performed on a part-
18 time or full-time basis on or after April 7,
19 1986; and

20 “(C) any service performed on a part-time
21 basis before April 7, 1986, shall be credited as
22 service performed on a full-time basis.”.

1 **SEC. 306. PROMOTIONAL ITEMS RECEIVED PURSUANT TO**
2 **OFFICIAL TRAVEL.**

3 (a) TRAVEL AND TRANSPORTATION ALLOWANCES.—
4 Section 404 of title 37, United States Code, is amended—

5 (1) by redesignating subject (j) as subsection
6 (k); and

7 (2) by inserting after subsection (i) the fol-
8 lowing new subsection:

9 “(j) Promotional items a member receives as a con-
10 sequence of travel paid by the United States, or accepted
11 under the provisions of section 1353 of title 31, United
12 States Code, may be retained by the member. Promotional
13 items include but are not limited to frequent travel pro-
14 grams, upgrades, and access to carrier clubs or facilities.
15 Such items shall be obtained under the same terms as pro-
16 vided the general public and shall be at no additional
17 cost.”.

18 (b) PER DIEM ALLOWANCES.—Section 5702 of title
19 5, United States Code, is amended—

20 (1) by redesignating subsection (c) as sub-
21 section (d); and

22 (2) by inserting after subsection (b) the fol-
23 lowing new subsection (c):

24 “(c) Notwithstanding the provisions of subsection (d),
25 promotional items an employee (including justices and
26 judges) receives as a consequence of travel paid by the

1 United States, or accepted pursuant to the provisions of
2 section 1353 of title 31, United States Code, may be re-
3 tained by the employee. Promotional items include but are
4 not limited to frequent travel programs, upgrades, and ac-
5 cess to carrier clubs or facilities. Such items shall be ob-
6 tained under the same terms as provided the general pub-
7 lic and shall be at no additional cost.”.

8 (c) AMENDMENT TO FOREIGN SERVICE ACT.—Sec-
9 tion 901 of the Foreign Service Act of 1980 (22 U.S.C.
10 4081) is amended—

11 (1) by inserting “(a)” before “The Secretary”;
12 and

13 (2) by adding at the end the following new sub-
14 section (b):

15 “(b) Promotional items a member of the Service re-
16 ceives as a consequence of travel paid by the United
17 States, or accepted pursuant to the provisions of section
18 1353 of title 31, United States Code, may be retained by
19 the member. Promotional items include but are not limited
20 to frequent travel programs, upgrades, and access to car-
21 rier clubs or facilities. Such items shall be obtained under
22 the same terms as provided the general public and shall
23 be at no additional cost.”.

24 (d) REPEAL OF LIMITATION ON THE USE OF TRAVEL
25 AWARDS.—Section 6008 of the Federal Acquisition

1 Streamlining Act of 1994 (Public Law 103–355; 108 Stat.
2 3367) is repealed.

3 **SEC. 307. STUDENT VOLUNTEER TRANSIT SUBSIDY.**

4 (a) Section 7905 of Title 5, United States Code, is
5 amended in subsection (a)(1), by striking “and a member
6 of a uniformed service” and inserting “, a member of a
7 uniformed service, and a student who provides voluntary
8 services pursuant to 5 U.S.C. 3111”.

9 (b) CONFORMING AMENDMENT.—Section 3111(c)(1)
10 of title 5, United States Code, is amended by striking
11 “chapter 81 of this title” and inserting “section 7905 (re-
12 lating to commuting by means other than single-occupancy
13 motor vehicles), chapter 81”.

14 **SEC. 308. EFFECTIVE DATE.**

15 (a) Except as otherwise provided by this section, the
16 amendments made by the preceding sections shall take ef-
17 fect on the first day of the first pay period beginning on
18 or after the 180th day after enactment of this subtitle with
19 the exception of sections 306 and 307, which shall take
20 effect immediately upon enactment of this subtitle.

21 (b) A recruitment or relocation bonus service agree-
22 ment that was authorized under section 5753 of title 5,
23 United States Code, before the effective date set forth in
24 subsection (a) shall continue, until its expiration, to be

1 subject to section 5753 as in effect on the day before such
2 effective date.

3 (c) Payment of a retention allowance that was au-
4 thorized under section 5754 of title 5, United States Code,
5 before the effective date set forth in subsection (a) shall
6 continue, subject to section 5754 as in effect on the day
7 before such effective date, until the retention allowance is
8 reauthorized or terminated (but no longer than one year
9 after such effective date).

10 (d) The amendments made by section 304 shall take
11 effect on the date of enactment of this Act and shall apply
12 only with respect to individuals who, on or after such date
13 of enactment, separate from employment subject to sub-
14 chapter III of chapter 83, or chapter 84, of title 5, United
15 States Code.

16 **TITLE IV—PROMOTION OF RE-**
17 **SULTS-ORIENTED PERFORM-**
18 **ANCE EVALUATION AND COM-**
19 **PENSATION FOR SENIOR EX-**
20 **ECUTIVES**

21 **SEC. 401. CAP ON TOTAL ANNUAL COMPENSATION.**

22 Section 5307(a) of title 5, United States Code, is
23 amended by adding at the end the following new para-
24 graph:

1 “(3) Notwithstanding paragraph (1), the total
 2 payment referred to under such paragraph with re-
 3 spect to an employee paid under section 5376 or
 4 5383 shall not exceed the total annual compensation
 5 payable to the Vice President under section 104 of
 6 title 3, United States Code. Regulations prescribed
 7 under subsection (c) may extend the application of
 8 this paragraph to other equivalent categories of em-
 9 ployees.”.

10 **SEC. 402. REPEAL OF SENIOR EXECUTIVE RECERTIFI-**
 11 **CATION.**

12 (a) Title 5, United States Code, is amended—

13 (1) in chapter 33—

14 (A) in section 3393(g) by striking
 15 “3393a,”;

16 (B) by repealing section 3393a; and

17 (C) in the analysis by striking the item re-
 18 lating to section 3393a;

19 (2) in subchapter V of chapter 35—

20 (A) in section 3592(a)—

21 (i) in paragraph (1) by striking the
 22 comma at the end and inserting “; or”;

23 (ii) in paragraph (2) by striking “of
 24 this title, or” at the end and inserting a
 25 semicolon;

1 (iii) by striking paragraph (3); and

2 (iv) by striking the last sentence;

3 (B) in section 3593(a) by amending para-
4 graph (2) to read as follows:

5 “(2) the appointee left the Senior Executive
6 Service for reasons other than misconduct, neglect of
7 duty, malfeasance, or less than fully successful execu-
8 tive performance as determined under subchapter
9 II of chapter 43.”; and

10 (C) in section 3594(b)—

11 (i) in paragraph (1) by striking “of
12 this title; or” at the end and inserting “;
13 or”;

14 (ii) in paragraph (2) by striking “of
15 this title; or” at the end and inserting a
16 semicolon; and

17 (iii) by striking paragraph (3);

18 (3) in section 7701(c)(1)(A) by striking “or re-
19 moval from the Senior Executive Service for failure
20 to be recertified under section 3393a”;

21 (4) in subchapter III of chapter 83—

22 (A) in section 8336(h)(1) by striking “for
23 failure to be recertified as a senior executive
24 under section 3393a or”; and

1 (B) in section 8339(h), in the first sen-
2 tence, by striking “, except that such reduction
3 shall not apply in the case of an employee retir-
4 ing under section 8336(h) for failure to be re-
5 certified as a senior executive”; and

6 (5) in subchapter II of chapter 84—

7 (A) in section 8414(a)(1) by striking “for
8 failure to be recertified as a senior executive
9 under section 3393a or”; and

10 (B) in section 8421(a)(2) by striking “, ex-
11 cept that an individual entitled to an annuity
12 under section 8414(a) for failure to be recer-
13 tified as a senior executive shall be entitled to
14 an annuity supplement without regard to such
15 applicable minimum retirement age”.

16 (b) Notwithstanding the amendments made by sub-
17 section (a)(2)(A) of this section, an appeal under the final
18 sentence of section 3592(a) of title 5, United States Code,
19 that is pending on the day before the enactment of this
20 Act—

21 (1) shall not abate by reason of the enactment
22 of such amendments; and

23 (2) shall continue as if such amendments had
24 not been enacted.

1 (c) The amendment made by subsection (a)(2)(B)
2 shall not apply with respect to an individual who, before
3 90 days after the date of enactment of this Act, leaves
4 the Senior Executive Service for failure to be recertified
5 as a senior executive under section 3393a of title 5, United
6 States Code.

7 **SEC. 403. ANNUAL LEAVE ENHANCEMENTS.**

8 (a) Chapter 63 of title 5, United States Code, is
9 amended—

10 (1) in section 6303(a)—

11 (A) in paragraph (2) by striking “and” at
12 the end;

13 (B) in paragraph (3) by striking the period
14 at the end and inserting “; and”; and

15 (C) by inserting after paragraph (3) the
16 following:

17 “(4) one day for each full biweekly pay period
18 for an employee in a position paid under section
19 5376 or 5383, or for an employee in an equivalent
20 category for which the minimum rate of basic pay is
21 greater than GS–15, step 10, to which the applica-
22 tion of the paragraph is extended by the Office by
23 regulation under section 6311.”;

24 (2) by inserting after section 6304 the following
25 new section:

1 **“§ 6304a. Annual leave**

2 “(a) The head of an agency may provide an annual
3 leave credit to an employee who is newly appointed from
4 outside the civil service to a position paid under section
5 5376 or 5383, or for an employee in an equivalent cat-
6 egory for which the minimum rate of basic pay is greater
7 than GS–15, step 10, to which the application of this sec-
8 tion is extended by the Office by regulation under section
9 6311, when the agency head determines that the credit
10 is needed to complete the recruitment of a highly qualified
11 candidate.

12 “(b) The amount of the annual leave credit under
13 subsection (a) may not exceed 10 full days and is in addi-
14 tion to annual leave accrued by the employee under section
15 6303.

16 “(c) In the case of an employee who receives an an-
17 nual leave credit under subsection (a) and who separates
18 prior to completing one year of service, the maximum
19 amount of a lump-sum payment under section 5551 shall
20 be equal to the amount payable for annual leave actually
21 accrued.”; and

22 (3) in the table of sections by inserting the fol-
23 lowing item after the item relating to section 6304:

“6304a. Annual leave credit.”.

1 **SEC. 404. EFFECTIVE DATE.**

2 The amendments made by this subtitle shall take ef-
3 fect on the first day of the first pay period beginning on
4 or after 180 days following the date of enactment of this
5 subtitle.

6 **TITLE V—FEDERAL HUMAN RE-**
7 **SOURCES MANAGEMENT IN-**
8 **NOVATIONS**

9 **SEC. 501. PROJECT MANAGEMENT AND ALTERNATIVE PER-**
10 **SONNEL SYSTEMS.**

11 (a) Chapter 47 of title 5, United States Code, is
12 amended—

13 (1) by amending section 4701—

14 (A) in subsection (a)—

15 (i) by striking “(a)”;

16 (ii) by amending paragraph (1) to
17 read as follows:

18 “(1) ‘agency’ means an Executive agency and
19 any entity that is subject to any provision of this
20 title that could be waived under section 4703, but
21 does not include—

22 “(A) the Federal Bureau of Investigation,
23 the Central Intelligence Agency, the Defense In-
24 telligence Agency, the National Imagery and
25 Mapping Agency, the National Security Agency,
26 and, as determined by the President, any Exec-

1 utive agency or unit thereof which is designated
2 by the President and which has as its principal
3 function the conduct of foreign intelligence or
4 counterintelligence activities; or

5 “(B) the General Accounting Office;”

6 (iii) in paragraph (4) by striking
7 “and” at the end;

8 (iv) by redesignating paragraph (5) as
9 paragraph (6); and

10 (v) by inserting after paragraph (4)
11 the following new paragraph:

12 “(5) ‘modification’ means a significant change
13 in one or more of the elements of a demonstration
14 project plan as described in section 4703(b)(1);
15 and”; and

16 (B) by striking subsection (b); and

17 (2) in section 4703—

18 (A) in subsection (a)—

19 (i) by striking “conduct and evaluate
20 demonstration projects” and inserting
21 “conduct, modify, and evaluate demonstra-
22 tion projects”;

23 (ii) by striking “, including any law or
24 regulation relating to—” and all that fol-
25 lows and inserting a period; and

1 (iii) by adding at the end the fol-
2 lowing: “The decision to initiate or modify
3 a project under this section shall be made
4 by the Office.”;

5 (B) by amending subsection (b) to read as
6 follows:

7 “(b) Before conducting or entering into any agree-
8 ment or contract to conduct a demonstration project, the
9 Office shall ensure—

10 “(1) that each project has a plan which
11 describes—

12 “(A) its purpose;

13 “(B) the employees to be covered;

14 “(C) its anticipated outcomes and resource
15 implications, including how the project relates
16 to carrying out the agency’s strategic plan, in-
17 cluding meeting performance goals and objec-
18 tives, and accomplishing its mission;

19 “(D) the personnel policies and procedures
20 the project will use that differ from those other-
21 wise available and applicable, including a spe-
22 cific citation of any provisions of law, rule, or
23 regulation to be waived and a specific descrip-
24 tion of any contemplated action for which there
25 is a lack of specific authority;

1 “(E) an evaluation plan, including the
2 methodology and criteria for evaluation; and

3 “(F) the agency’s system for ensuring that
4 the project is implemented in a manner con-
5 sistent with merit system principles;

6 “(2) notification of the proposed project to em-
7 ployees who are likely to be affected by the project;

8 “(3) an appropriate comment period;

9 “(4) publication of the final plan in the Federal
10 Register;

11 “(5) notification of the final project at least 30
12 days in advance of the date any project proposed
13 under this section is to take effect to employees who
14 are likely to be affected by the project;”;

15 “(6) publication of any subsequent modification
16 in the Federal Register; and

17 “(7) notification of any subsequent modification
18 to employees who are included in the project.”;

19 (C) in subsection (c)—

20 (i) by amending paragraph (1) to read
21 as follows:

22 “(1) any provision of chapter 63 or subpart G
23 of part III of this title;”;

1 (ii) by redesignating paragraphs (4)
2 and (5) as paragraphs (6) and (7), respec-
3 tively;

4 (iii) by inserting after paragraph (3)
5 the following new paragraphs:

6 “(4) section 7342, 7351, or 7353;

7 “(5) Appendix 4 of this title;”;

8 (iv) in paragraph (6) as redesignated,
9 by striking “paragraph (1), (2), or (3) of
10 this subsection; or” and inserting “para-
11 graphs (1) through (5);”; and

12 (v) in paragraph (7) as redesignated,
13 by adding at the end the following: “Not-
14 withstanding section 2302(e)(1), for pur-
15 poses of applying section 2302(b)(11) in a
16 demonstration project under this chapter,
17 ‘veterans’ preference requirement’ means
18 any of the specific provisions of the dem-
19 onstration project plan that are designed
20 to ensure that the project is consistent
21 with veterans’ preference principles.”;

22 (D) by amending subsections (d) and (e) to
23 read as follows:

1 “(d) Before the end of the five-year period beginning
2 on the date on which a demonstration project takes effect,
3 the Office shall determine whether the project shall be—

4 “(1) terminated;

5 “(2) continued beyond the end of such five-year
6 period for purposes of evaluation; or

7 “(3) converted to an alternative personnel sys-
8 tem under chapter 49.

9 “(e) The Office may terminate a demonstration
10 project under this chapter if it determines that the
11 project—

12 “(1) is not consistent with merit system prin-
13 ciples set forth in section 2301, veterans’ preference
14 principles, or the provisions of this chapter; or

15 “(2) otherwise imposes a substantial hardship
16 on, or is not in the best interests of, the public, the
17 Government, employees, or eligibles.

18 (E) by amending subsections (h) and (i) to
19 read as follows:

20 “(h) The Office shall ensure that each demonstration
21 project is evaluated. Each evaluation shall assess—

22 “(1) the project’s compliance with the plan de-
23 veloped under subsection (b)(1); and

24 “(2) the project’s impact on improving public
25 management.

1 “(i) Upon request of the Director of the Office of Per-
 2 sonnel Management, agencies shall cooperate with and as-
 3 sist the Office in any evaluation or conversion undertaken
 4 under subsection (h) and provide the Office with requested
 5 information and reports relating to the conducting of dem-
 6 onstration projects in their respective agencies.”.

7 (b) title 5, United States Code, is amended—

8 (1) by inserting after chapter 47 the following
 9 new chapter:

10 **“CHAPTER 49—ALTERNATIVE PERSONNEL**
 11 **SYSTEMS**

12 **“§ 4901. Definitions**

13 “For the purpose of this chapter—

14 “(1) ‘agency’ has the meaning set forth in sec-
 15 tion 4701(a)(1);

16 “(2) ‘alternative personnel system’ means a sys-
 17 tem for human resources management in an agency
 18 which—

19 “(A)(i) requires a waiver (except as prohib-
 20 ited under section 4902(c)) of one or more of
 21 the provisions of this title or any rule or regula-
 22 tion prescribed under this title; or

23 “(ii) exercises authorities not specifically in
 24 law, rule, or regulation;

1 “(B) is designed to improve the agency’s
2 ability to carry out its strategic plan and ac-
3 complish its mission efficiently and effectively;
4 and

5 “(C)(i) is similar to one or more systems
6 already tested successfully in at least one other
7 agency as a demonstration project under chap-
8 ter 47; or

9 “(ii) has otherwise been determined by the
10 Office of Personnel Management not to require
11 testing as a demonstration project before being
12 implemented by the agency as an alternative
13 personnel system;

14 “(3) ‘eligible’ has the meaning set forth in sec-
15 tion 4701(a)(3);

16 “(4) ‘employee’ has the meaning set forth in
17 section 4701(a)(2); and

18 “(5) ‘modification’ means a significant change
19 in one or more of the elements of an alternative per-
20 sonnel system plan as described in section
21 4902(b)(1).

22 **“§ 4902. Alternative personnel systems**

23 “(a) An agency may implement and subsequently
24 modify one or more alternative personnel systems in ac-
25 cordance with the provisions of this chapter. An alter-

1 native personnel system shall not be limited by any lack
2 of specific authority under this title to take the action con-
3 templated or, except as otherwise provided in this section,
4 by any provision of this title or any rule or regulation pre-
5 scribed under this title which is inconsistent with the ac-
6 tion.

7 “(b) Except as provided in section 4903(b), before
8 implementing an alternative personnel system an agency
9 shall—

10 “(1) develop a plan for such system which
11 describes—

12 “(A) its purpose;

13 “(B) the employees to be covered;

14 “(C) its anticipated outcomes and resource
15 implications, including how the system relates
16 to carrying out the agency’s strategic plan, in-
17 cluding meeting performance goals and objec-
18 tives, and accomplishing its mission;

19 “(D) the personnel policies and procedures
20 the alternative system will use that differ from
21 those otherwise available and applicable, includ-
22 ing a specific citation of any provisions of law,
23 rule, or regulation to be waived and a specific
24 description of any contemplated action for
25 which there is a lack of specific authority; and

1 “(E) the agency’s system for ensuring that
2 the alternative system is consistent with merit
3 system principles;

4 “(2) submit the plan and any subsequent modi-
5 fication to the Office of Personnel Management for
6 approval; and

7 “(3) provide advance notification of the plan
8 and any subsequent modification to employees who
9 are likely to be affected by the alternative personnel
10 system.

11 “(c) No alternative personnel system under this sec-
12 tion may provide for a waiver of—

13 “(1) any provision of chapter 63 or subpart G
14 of part II of this title;

15 “(2)(A) any provision of law referred to in sec-
16 tion 2302(b)(1); or

17 “(B) any provision of law implementing any
18 provision of law referred to in section 2302(b)(1)
19 by—

20 “(i) providing for equal employment oppor-
21 tunity through affirmative action; or

22 “(ii) providing any right or remedy avail-
23 able to any employee or applicant for employ-
24 ment in the civil service;

1 “(3) any provision of chapter 15 or subchapter
2 III of chapter 73;

3 “(4) section 7342, 7351, or 7353;

4 “(5) Appendix 4 of this title;

5 “(6) any rule or regulation prescribed under
6 any provision of law referred to in paragraphs (1)
7 through (5); or

8 “(7) any provision of chapter 23, or any rule or
9 regulation prescribed under this title, if such waiver
10 is inconsistent with any merit system principle or
11 any provision thereof relating to prohibited per-
12 sonnel practices. Notwithstanding section
13 2302(e)(1), for purposes of applying section
14 2302(b)(11) in an alternative personnel system
15 under this chapter, ‘veterans’ preference require-
16 ment’ means any of the specific provisions of the al-
17 ternative personnel system plan that are designed to
18 ensure that the system is consistent with veterans’
19 preference principles.

20 “(d) Employees within a limit with respect to which
21 a labor organization is accorded exclusive recognition
22 under chapter 71 shall not be included within any alter-
23 native personnel system implemented or subsequently
24 modified under this chapter—

1 “(1) if the alternative system would violate a
2 collective bargaining agreement (as defined in sec-
3 tion 7103(8)) between the agency and the labor or-
4 ganization, unless there is another written agree-
5 ment with respect to the alternative system between
6 the agency and the organization permitting the in-
7 clusion; or

8 “(2) if the alternative system would not violate
9 a collective bargaining agreement, until there has
10 been consultation or negotiation, as appropriate, by
11 the agency with the labor organization.

12 “(e) Employees within any unit with respect to which
13 a labor organization has not been accorded exclusive rec-
14 ognition under chapter 71 shall not be included in any
15 alternative personnel system implemented or subsequently
16 modified under this chapter unless there has been agency
17 consultation regarding the alternative system with the em-
18 ployees in the unit.

19 **“§ 4903. Responsibilities of the Office of Personnel**
20 **Management**

21 “(a)(1) No alternative personnel system under this
22 chapter may be implemented or subsequently modified
23 without the approval of the Office of Personnel Manage-
24 ment. Approval shall be based on a determination that the
25 proposed alternative system or any subsequent modifica-

1 tion meets all of the requirements of this chapter. The
2 Office shall inform the agency of the approval or dis-
3 approval of its proposed alternative system within 90 days
4 after receiving a complete plan as described in section
5 4902(b)(1).

6 “(2) The Office shall publish in the Federal Register
7 a notice of its approval of each alternative personnel sys-
8 tem. The notice shall include a summary of the alternative
9 system. This notice requirement shall apply to a modifica-
10 tion of an alternative personnel system which is deter-
11 mined by the Office in its sole discretion to be sufficiently
12 significant to warrant publication.

13 “(b) At the request of the agency and subject to sec-
14 tions 4703(d)(2) and 4902(d), the Office may convert a
15 demonstration project under chapter 47 to an alternative
16 personnel system, without requiring the agency to develop
17 a plan as described in section 4902(b), when the Office
18 determines that the project has demonstrated sufficient
19 success to be implemented permanently in the agency.
20 When a project is converted under this subsection, the
21 demonstration project plan under section 4703(b)(1), in-
22 cluding any subsequent modifications, is deemed to be the
23 alternative personnel system plan under section
24 4902(b)(1).

1 “(c) The Office may terminate an alternative per-
 2 sonnel system if it determines that the alternative
 3 system—

4 “(1) is not consistent with merit system prin-
 5 ciples set forth in section 2301, veterans preference
 6 principles, or the provisions of this chapter, or

7 “(2) otherwise imposes a substantial hardship
 8 on, or is not in the best interests of, the public, the
 9 Government, employees, or eligibles.

10 **“§ 4904. Regulations**

11 “The Office of Personnel Management shall prescribe
 12 regulations needed to administer this chapter.”; and

13 (2) in the table of sections by inserting after
 14 the items relating to chapter 47 the following:

 “CHAPTER 49—ALTERNATIVE PERSONNEL SYSTEMS

 “Sec.

 “4901. Definitions.

 “4902. Alternative personnel systems.

 “4903. Responsibilities of the Office of Personnel Management.

 “4904. Regulations.”.

15 (c) The table of chapters for part III of title 5,
 16 United States Code, is amended by inserting after the
 17 item relating to chapter 47 the following new item:

 “49. Alternative Personnel Systems 4901”.

18 (d)(1) The demonstration project established under
 19 section 10 of the National Bureau of Standards Author-
 20 ization Act for Fiscal Year 1987 (15 U.S.C. 275 note)
 21 shall become an alternative personnel system under chap-

1 ter 49 of title 5, United States Code, on the effective date
2 set forth in section 502.

3 (2) Section 10 of the National Technology Transfer
4 and Advancement Act of 1995 is repealed.

5 (e)(1) The demonstration project authorized by sec-
6 tion 4703 of title 5, United States Code, at the Naval
7 Weapons Center, China Lake, California, and at the Naval
8 Ocean Systems Center, San Diego, California, as subse-
9 quently modified and continued, shall become an alter-
10 native personnel system under chapter 49 of title 5,
11 United States Code, on the effective date set forth in sec-
12 tion 502.

13 (2) Section 342(a) of the National Defense Author-
14 ization Act for Fiscal Year 1995 (Public Law 103-337;
15 108 Stat. 2663), as amended, is repealed. Any demonstra-
16 tion project authorized by such section 342(a), as amend-
17 ed, shall become a demonstration project under chapter
18 47 of title 5, United States Code, on the effective date
19 set forth in section 502.

20 (f)(1) The demonstration project authorized by sec-
21 tion 4703 of title 5, United States Code, at the United
22 States Department of Agriculture, as subsequently modi-
23 fied and continued, shall become an alternative personnel
24 system under chapter 49 of title 5 on the effective date
25 set forth in section 502.

1 (2) Section 749 of the Agriculture, Rural Develop-
2 ment, Food and Drug Administration, and Related Agen-
3 cies Appropriations Act, 1999, as contained in section
4 101(a) of the Omnibus Consolidated and Emergency Sup-
5 plemental Appropriations Act, 1999 (Public Law 105-
6 277), is repealed.

7 (g) Section 1104 of title 5, United States Code, is
8 amended—

9 (1) in subsection (b)—

10 (A) by amending paragraph (1) to read as
11 follows:

12 “(b)(1) The Office shall establish standards which
13 shall apply to—

14 “(A) the activities of the Office or any other
15 agency under authority delegated under subsection
16 (a); and

17 “(B) any agency operating a demonstration
18 project under chapter 47 or an alternative personnel
19 system under chapter 49.”; and

20 (B) in paragraph (2) by striking “of this sec-
21 tion” and inserting “and any activities under chap-
22 ter 47 or 49”; and

23 (2) in subsection (c) by striking “pursuant to
24 authority delegated under subsection (a)(2) of this
25 section” and inserting “under chapter 47 and 49 or

1 pursuant to authority delegated under subsection
2 (a)(2)”.

3 **SEC. 502. EFFECTIVE DATE.**

4 The amendments made by this subtitle shall take ef-
5 fect 180 days after enactment.

6 **TITLE VI—FEDERAL HUMAN RE-**
7 **SOURCES HIRING FLEXI-**
8 **BILITY**

9 **SEC. 601. EMPLOYMENT FLEXIBILITY AMENDMENTS.**

10 Chapter 33 of title 5, United States Code, is
11 amended—

12 (1) in section 3304(a)—

13 (A) in paragraph (2) by striking the period
14 and inserting “; and”; and

15 (B) by adding at the end the following
16 paragraph:

17 “(3) authority for agencies to appoint, without
18 regard to the provisions of sections 3309 through
19 3318, candidates directly to positions for which—

20 “(A) public notice has been given; and

21 “(B) the Office of Personnel Management
22 has determined that there exists a severe short-
23 age of candidates or there is a critical hiring
24 need. The Office shall prescribe, by regulation,
25 criteria for identifying such positions and may

1 delegate authority to make determinations
2 under such criteria.”;

3 (2) by inserting after section 3318 the following
4 new section:

5 **“§ 3319. Alternative ranking and selection procedures**

6 “(a) Notwithstanding section 2302(b)(11) or any
7 other provision of this chapter—

8 “(1) the Office, in exercising its authority
9 under section 3304; or

10 “(2) an agency to which the Office has dele-
11 gated examining authority under section
12 1104(a)(2)—

13 may establish category rating systems for evaluating job
14 applicants for positions in the competitive service, under
15 which qualified candidates are divided into two or more
16 quality categories, consistent with regulations prescribed
17 by the Office of Personnel Management, rather than as-
18 signed individual numerical ratings.

19 “(b) Within each quality category established under
20 subsection (a), a preference-eligibles shall be listed ahead
21 of individuals who are not preference eligibles. For other
22 than scientific and professional positions at GS-9 (equiva-
23 lent or higher), qualified preference-eligibles who have a
24 compensable service-connected disability of 10 percent or
25 more shall be listed in the highest quality category.

1 “(c) An appointing official may select any applicant
2 in the highest quality category or, if fewer than three can-
3 didates have been assigned to the highest quality category,
4 in a merged category consisting of the highest and the
5 second highest quality categories. Notwithstanding the
6 preceding sentence, the appointing official may not pass
7 over a preference-eligible in the same category from which
8 selection is made, unless the requirements of section
9 3317(b) or 3318(b), as applicable, are satisfied.

10 “(d) The Office of Personnel Management may pre-
11 scribe such regulations as it considers necessary to carry
12 out the provisions of this section.”; and

13 (3) in the table of sections by amending the
14 item relating to section 3319 to read as follows:

“3319. Alternative ranking and selection procedures.”.

○