

Central Intelligence Agency



Washington D C 20505

HA 2882

24 May 1988

Ms. Andrea L. Nelson, Counsel  
 Subcommittee on Civil Service  
 122 Cannon House Office Building  
 Washington, D.C. 20515

Dear Ms. Nelson:

Last week, you requested that we provide you with the estimated costs for implementation of Section 12 of the Excellence in Government Management Act of 1988. I have asked the people responsible for managing the Agency Undergraduate Program, which is analogous to Section 12, to estimate the costs based on actual Agency experience.

The actual average cost per student, per year is placed at \$18,800.00. Item costs are as follows:

--Tuition:	\$7500.00.
--Books/Study material:	\$500.00.
--Salary (GS 2)	\$10,800.00.

The Agency also pays for room and board for the student. These costs--\$5,000.00 per year, per student-- were not included in our estimate because Section 12 of the bill did not allow for such reimbursement. Because NSA does not pay for room and board, the House Permanent Select Intelligence Committee in its Report on the FY 1989 Authorization Bill instructed the Agency and NSA to resolve this inconsistency. I have reason to believe that the CIA will probably stop paying for student room and board next year.

I hope this information is helpful. Let me know if there is anything more you need.

Office of Congressional Affairs

100TH CONGRESS }  
2d Session }

HOUSE OF REPRESENTATIVES {

REPORT  
100-759

## EXCELLENCE IN GOVERNMENT MANAGEMENT ACT OF 1988

JULY 7, 1988.—Committed to the Committee of the Whole House on the State of the  
Union and ordered to be printed

Mrs. SCHROEDER, from the Committee on Post Office and Civil  
Service, submitted the following

### REPORT

[To accompany H.R. 2882]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 2882) to amend title 5, United States Code, to increase the productivity of the Government by promoting excellence in Government management and by reducing improper political pressures on career civil servants, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Excellence in Government Management Act of 1988”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Statement of purpose.
- Sec. 3. Designation of career reserved positions.
- Sec. 4. Calculating the maximum number of noncareer appointees allowed.
- Sec. 5. Limitation on the number of positions which may be excepted from the competitive service because of their confidential, policy-making, or policy-determining character.
- Sec. 6. Report relating to individuals receiving certain appointments after holding noncareer positions.
- Sec. 7. OPM qualifications review boards relating to appointments in the Senior Executive Service.
- Sec. 8. Geographic relocation benefits.
- Sec. 9. Restriction on the authority to reassign, detail, or remove a career appointee in the Senior Executive Service within 120 days after the appointment of certain superiors.
- Sec. 10. Encouragement of sabbaticals and other forms of professional development by career appointees in the SES.
- Sec. 11. Reports on the Senior Executive Service.
- Sec. 12. Government service fellowship programs.
- Sec. 13. Training requirements for supervisors, managers, and executives.
- Sec. 14. Adjustment of Presidential rank award amounts.
- Sec. 15. Requirement that the Director of OPM periodically consult with certain advisory groups consisting of Federal employees.
- Sec. 16. Limitation on payments.

19-006

**SEC. 2. STATEMENT OF PURPOSE.**

The purpose of this Act is to increase the productivity and effectiveness of the Government by—

- (1) increasing the ability of the Government to recruit, retain, and effectively deploy the best employees;
- (2) ensuring that those who occupy management positions in Government are qualified to do so;
- (3) providing career civil servants with an expanded role in the management of the civil service; and
- (4) avoiding improper political pressures on career civil servants.

**SEC. 3. DESIGNATION OF CAREER RESERVED POSITIONS.**

The second sentence of section 3132(b)(1) of title 5, United States Code, is amended to read as follows: "The criteria and regulations shall provide that a position shall be designated as a career reserved position if the filling of the position by a career appointee is necessary to insure impartiality, or the public's confidence in the impartiality, of the Government, if the principal responsibilities of the position relate to managing career employees, or if otherwise necessary to carry out the purposes of this subchapter."

**SEC. 4. CALCULATING THE MAXIMUM NUMBER OF NONCAREER APPOINTEES ALLOWED.**

**(a) LIMITATIONS BASED ON AVERAGE LEVELS.—**

(1) **IN GENERAL.**—Section 3134 of title 5, United States Code, is amended—

(A) in subsection (b), by striking the second sentence and inserting in lieu thereof the following: "The total number of noncareer appointees in all agencies may not, during any fiscal year, exceed 10 percent of the average number of senior executives employed in Senior Executive Service positions during the preceding fiscal year, as determined under subsection (f)(1).";

(B) by amending subsection (e) to read as follows:

"(e) The total number of limited emergency appointees and limited term appointees in all agencies may not, during any fiscal year, exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions during the preceding fiscal year, as determined under subsection (f)(1).";

(C) by amending subsection (d) to read as follows:

"(d)(1) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed 25 percent of the average number of senior executives employed in Senior Executive Service positions in the agency during the preceding fiscal year, as determined under subsection (f)(2).

"(2)(A) This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.

"(B) The Office may, in the case of a newly created agency or an agency which undergoes a substantial change in function, waive the application of this subsection for not to exceed 2 years. The Office shall report any waiver under this subparagraph to the Congress in writing."; and

(D) by adding at the end the following:

"(f)(1) For purposes of subsections (b) and (e), the average number of senior executives employed in Senior Executive Service positions during a fiscal year shall be equal to—

"(A) the sum of the total number of senior executives employed in Senior Executive Service positions as of December 31, March 31, June 30, and September 30 of such fiscal year, respectively;

"(B) divided by 4.

"(2) For purposes of subsection (d)(1), the average number of senior executives employed in Senior Executive Service positions in an agency during a fiscal year shall be equal to—

"(A) the sum of the total number of senior executives employed in Senior Executive Service positions in such agency as of December 31, March 31, June 30, and September 30 of such fiscal year, respectively;

"(B) divided by 4."

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall become effective on January 20, 1989.

**(b) TEMPORARY ALTERNATIVE LIMITATION.—**

(1) **GENERAL RULE.**—Effective for the period beginning on January 20, 1989, and ending at the end of fiscal year 1990, and notwithstanding any amendment made by subsection (a)(1)(C), the number of Senior Executive Service positions in any agency which may be filled by noncareer appointees may not at any time exceed—

(A) the maximum number which would then otherwise be allowable under section 3134(d)(1) of title 5, United States Code (as amended by subsection (a)(1)(C)); or

(B) if greater, the number determined in accordance with section 3134(d)(2) of such title (as in effect on the date of the enactment of this Act).

(2) DEFINITIONS.—For purposes of paragraph (1), “Senior Executive Service position”, “agency”, and “noncareer appointee” have the meanings set forth in section 3132(a) of title 5, United States Code.

**SEC. 5. LIMITATION ON THE NUMBER OF POSITIONS WHICH MAY BE EXCEPTED FROM THE COMPETITIVE SERVICE BECAUSE OF THEIR CONFIDENTIAL, POLICY-MAKING, OR POLICY-DETERMINING CHARACTER.**

(a) IN GENERAL.—Section 3302 of title 5, United States Code, is amended—

(1) by inserting “(a)” before “The President”; and

(2) by adding at the end the following:

“(b)(1) Subject to paragraph (2), the maximum number of positions which may be excepted from the competitive service under the rules because of their confidential, policy-making, or policy-determining character may not exceed 1,000.

“(2) The limitation under this subsection shall not apply with respect to any position which is in grade GS-12 of the General Schedule or lower.”

(b) CONFORMING AMENDMENTS.—Sections 3304(b) and 3361 of title 5, United States Code, are amended by striking “3302” and inserting in lieu thereof “3302(a)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 20, 1989.

**SEC. 6. REPORT RELATING TO INDIVIDUALS RECEIVING CERTAIN APPOINTMENTS AFTER HOLDING NONCAREER POSITIONS.**

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 3328 the following:

**“§ 3329. Reporting requirement**

“(a) For the purpose of this section—

“(1) the term ‘noncareer appointment’ means an appointment—

“(A) to a position excepted from the competitive service because of its confidential, policy-making, or policy-determining character;

“(B) as a noncareer appointee in the Senior Executive Service;

“(C) as a limited term or limited emergency appointee in the Senior Executive Service, excluding any appointee who, immediately before becoming such an appointee, held an appointment in the competitive service; or

“(D) described in paragraph (2) or (4) of section 3324(a); and

“(2) the terms ‘Senior Executive Service position’, ‘career appointee’, ‘noncareer appointee’, ‘limited term appointee’, and ‘limited emergency appointee’ have the meanings set forth in section 3132(a).

“(b) The Office of Personnel Management shall submit a written report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate with respect to any individual who is appointed to a position within the competitive service or to a position within the Senior Executive Service as a career appointee if, at any time during the 6-month period ending on the effective date of the appointment, such individual served under a noncareer appointment in any agency (including the Executive Office of the President).

“(c) A report under subsection (b)—

“(1) shall be submitted no later than 30 days after the effective date of the individual’s appointment; and

“(2) shall include—

“(A) the title of the position within the competitive service or within the Senior Executive Service to which the individual is being or was most recently appointed or assigned;

“(B) the title of any position held by such individual under a noncareer appointment during the 6-month period ending on the effective date of the appointment referred to in subparagraph (A);

“(C) a brief description of the individual’s qualifications with respect to the position referred to in subparagraph (A); and

“(D) a brief description of the process by which the position under subparagraph (A) was filled.

However, the individual’s name may not be used in any such report.”

(b) CHAPTER ANALYSIS.—The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3328 the following:

"3329. Reporting requirement."

**SEC. 7. OPM QUALIFICATIONS REVIEW BOARDS RELATING TO APPOINTMENTS IN THE SENIOR EXECUTIVE SERVICE.**

**(a) CAREER APPOINTMENTS.—**

(1) **ESTABLISHMENT.**—Section 3393(c)(1) of title 5, United States Code, is amended to read as follows:

"(c)(1) The Office shall establish a qualifications review board. It is the function of the board to certify the executive qualifications of candidates for initial appointment as career appointees in accordance with regulations prescribed by the Office. Of the members of the board, more than one-half shall be appointed from among career appointees. Each appointment to the board shall be for a term of 2 years and shall be made on a non-partisan basis, the sole selection criterion being the professional knowledge of public management and knowledge of appropriate occupational fields. Any panel of board members may, if so authorized by the board, take any action which the board is authorized to take, except that any such panel shall consist of at least 3 members and more than one-half of the panel members shall be career appointees."

(2) **CONFORMING AMENDMENT.**—Section 3393(c)(2) of title 5, United States Code, is amended by striking "the various qualification review boards," and inserting in lieu thereof "the qualifications review board,".

(b) **NONCAREER AND LIMITED APPOINTMENTS.**—Section 3394 of title 5, United States Code, is amended by adding at the end the following:

"(c) The Office shall establish a qualifications review board which shall certify the executive qualifications of candidates for initial appointment as noncareer, limited term, or limited emergency appointees, in accordance with regulations prescribed by the Office. Appointments to the board shall be made subject to the same terms and conditions as apply with respect to the qualifications review board under section 3393(c), but without regard to the requirement that more than one-half of all board members (or members of a duly constituted panel) be career appointees."

**SEC. 8. GEOGRAPHIC RELOCATION BENEFITS.**

Section 3395(a) of title 5, United States Code, is amended by adding at the end the following:

"(3)(A) Subject to subparagraph (C), an agency shall pay from its appropriations a geographic relocation benefit to any career appointee reassigned to a Senior Executive Service position outside the career appointee's commuting area.

"(B) An amount under this paragraph—

"(i) shall be equal to—

"(I) 10 percent of the annual rate of basic pay payable to the career appointee immediately before the reassignment; and

"(II) any additional amount, not to exceed the amount under subclause (I), which the agency head considers appropriate, taking into account any higher costs of living resulting from the reassignment, any moving expenses not reimbursable or otherwise covered by the Government, and other similar factors;

"(ii) shall be in addition to basic pay, and any other amount otherwise payable under this title; and

"(iii) shall be paid in a lump sum.

"(C) An agency may pay a geographic relocation benefit under this paragraph only after the individual reassigned agrees in writing to remain in Government service for 12 months after the reassignment, unless separated for reasons beyond such individual's control which are acceptable to the agency concerned. If the individual violates the agreement, the amount paid under this paragraph shall be recoverable from the individual as a debt due the United States.

"(D) Benefits afforded under this paragraph in the case of a career appointee who is reassigned to another position within the same agency shall also be afforded in the case of a career appointee who is transferred to another position in a different agency. For purposes of administering this paragraph with respect to a transferred career appointee, any reference in the preceding subparagraphs to an agency shall be considered to be a reference to the receiving agency, and any reference to an agency head shall be considered to be a reference to the head of the receiving agency.

"(4)(A) Under such regulations as the President may prescribe, an agency may, at the time of a career appointee's reassignment to a Senior Executive Service position outside the career appointee's commuting area, enter into an agreement under which the employing agency agrees that, if the career appointee accepts the reassignment and satisfies the career appointee's obligations under the agreement with

respect to the reassignment, the agency will pay travel and transportation expenses (as specified in the agreement) incident to the career appointee's relocating from the place of reassignment.

"(B) The types of expenses allowable under this paragraph shall include any expenses, allowances, or other benefits (including those associated with one's immediate family and for household goods or personal effects) which would be available under subchapter II of chapter 57 if the relocation involved represented a transfer, in the interest of the Government, from one official station to another for permanent duty, as referred to in section 5724(a).

"(C) An agreement under this paragraph may not be entered into unless—

"(i) at the time of the reassignment, the career appointee meets the age and service requirements for entitlement to an immediate annuity under subchapter III of chapter 83, or under chapter 84; or

"(ii) the career appointee would meet the requirements for entitlement to an immediate annuity if such career appointee were to be involuntarily separated for failure to accept the reassignment.

"(D) An agreement under this paragraph shall include—

"(i) provisions relating to the period of time within which the relocation must be made after completing the requirements associated with the reassignment;

"(ii) provisions relating to the place to which the relocation must or may be made in order to qualify for the benefits involved; and

"(iii) such other terms or conditions as may be appropriate.

"(E)(i) Benefits under this paragraph shall not be available in connection with any relocation to any place outside the United States.

"(ii) For purposes of this subparagraph, 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(F) Benefits under this paragraph shall be in addition to any benefit provided under paragraph (3) or any other provision of law.

"(G) A career appointee may not receive benefits under this paragraph in connection with more than 1 relocation.

"(H) Under the regulations, the benefits allowable under this paragraph in the case of a career appointee who is reassigned to another position within the same agency shall also be available in the case of a career appointee who is transferred to another position in a different agency, except that any determination of eligibility shall be made without regard to subparagraph (C)(ii). Any authority under this subparagraph may be exercised only by the receiving agency."

**SEC. 9. RESTRICTION ON THE AUTHORITY TO REASSIGN, DETAIL, OR REMOVE A CAREER APPOINTEE IN THE SENIOR EXECUTIVE SERVICE WITHIN 120 DAYS AFTER THE APPOINTMENT OF CERTAIN SUPERIORS.**

(a) **REASSIGNMENT OR DETAIL.**—Section 3395(e) of title 5, United States Code, is amended—

(1) by striking subparagraph (B) of paragraph (1) and inserting in lieu thereof the following:

"(B) within 120 days after the appointment in the agency of a noncareer appointee who has the authority to reassign or detail the career appointee."; and

(2) by adding at the end the following:

"(3) For the purpose of applying paragraph (1) to any career appointee, any days (not to exceed a total of 60) during which such career appointee is serving pursuant to a detail or other temporary assignment apart from such appointee's regular position shall not be counted in determining the number of days that have elapsed since an appointment referred to in subparagraph (A) or (B) of such paragraph."

(b) **REMOVAL.**—Section 3592(b) of title 5, United States Code, is amended—

(1) by striking subparagraph (B) of paragraph (1) and inserting in lieu thereof the following:

"(B) within 120 days after the appointment in the agency of a noncareer appointee who has the authority to remove the career appointee."; and

(2) by adding at the end the following:

"(3) For the purpose of applying paragraph (1) to any career appointee, any days (not to exceed a total of 60) during which such career appointee is serving pursuant to a detail or other temporary assignment apart from such appointee's regular position shall not be counted in determining the number of days that have elapsed since an appointment referred to in subparagraph (A) or (B) of such paragraph."

**SEC. 10. ENCOURAGEMENT OF SABBATICALS AND OTHER FORMS OF PROFESSIONAL DEVELOPMENT BY CAREER APPOINTEES IN THE SES.**

Section 3396(d) of title 5, United States Code, is amended—

- (1) by inserting "(1)" after "(d)"; and
- (2) by adding at the end the following:  
“(2) In order to promote the professional development of career appointees and to assist them in achieving their maximum levels of proficiency, the Office shall, in a manner consistent with the needs of the Government, provide appropriate informational services and otherwise encourage career appointees to take advantage of any opportunities relating to—  
“(A) sabbaticals;  
“(B) training; or  
“(C) details or other temporary assignments in other agencies, State or local government, or the private sector.”.

**SEC. 11. REPORTS ON THE SENIOR EXECUTIVE SERVICE.**

(a) **INFORMATION RELATING TO SABBATICALS AND OTHER FORMS OF PROFESSIONAL DEVELOPMENT.**—Section 3135(a) of title 5, United States Code, is amended—

- (1) by striking “and” at the end of paragraph (9);
- (2) by redesignating paragraph (10) as paragraph (11); and
- (3) by inserting after paragraph (9) the following:  
“(10) in the aggregate and by agency, the number of career appointees who applied for sabbaticals under section 3396(c) during the preceding fiscal year and the number of applications granted (including the name of each individual whose application was granted and a brief description of how the sabbatical was to be used); and”.

(b) **OTHER AMENDMENTS.**—Section 3135 of title 5, United States Code, is further amended—

- (1) in the first sentence of subsection (a), by striking “during each odd-numbered” and inserting in lieu thereof “each”;
- (2) by striking “(a) The” and inserting in lieu thereof “The”; and
- (3) by striking subsection (b).

(c) **SECTION HEADING.**—

- (1) **AMENDMENT TO SECTION.**—The heading for section 3135 of title 5, United States Code, is amended to read as follows:

“§ 3135. Annual report”.

(2) **AMENDMENT TO CHAPTER ANALYSIS.**—The analysis for chapter 31 of title 5, United States Code, is amended by striking the item relating to section 3135 and inserting the following:

“3135. Annual report.”.

**SEC. 12. GOVERNMENT SERVICE FELLOWSHIP PROGRAMS.**

(a) **IN GENERAL.**—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

**“CHAPTER 37—GOVERNMENT SERVICE FELLOWSHIP PROGRAMS**

- “Sec.  
“3701. Definitions.  
“3702. Establishment.  
“3703. General requirements for fellowship programs.  
“3704. Terms and conditions for individual participation.  
“3705. Reports.

**“§ 3701. Definitions**

“For the purpose of this chapter—

- “(1) the term ‘agency’ means an Executive agency and a military department;
- “(2) the term ‘institution of higher education’ means an educational institution in any State which—
  - “(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;
  - “(B) is legally authorized within such State to provide a program of education beyond high school;
  - “(C) provides an educational program for which it awards a baccalaureate degree; and
  - “(D) is accredited by a nationally recognized accrediting agency or association; and

“(3) the term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

**“§ 3702. Establishment**

“The head of an agency may, by regulations consistent with guidelines which the Office of Personnel Management shall prescribe, establish a program under which fellowships may be awarded to individuals pursuing post-secondary degrees in fields of study as to which the agency requires, or anticipates that it will require, employees with proficiency or expertise.

**“§ 3703. General requirements for fellowship programs**

“(a)(1) Under any agency program established under this chapter, the primary bases for the selection of fellowship recipients shall be individual accomplishments and demonstrated abilities or aptitudes.

“(2) In addition to the criteria under paragraph (1), an agency may also, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b)—

“(A) take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service; and

“(B) to the extent permitted by section 3110(b) and any other provision of law which may apply, and if all other things are equal, give preference to a child of a career employee serving in or under an agency.

“(b)(1) A fellowship may be awarded by an agency to a student under this chapter only for any period during which such student is pursuing a baccalaureate or advanced degree at an institution of higher education which is qualified to participate in the agency’s program under this chapter.

“(2) An institution of higher education shall not be considered qualified to participate in an agency’s program under this chapter unless it demonstrates that it has established a system under which fellowship recipients would receive academic and career counseling, particularly with respect to any subjects or areas which the agency head may from time to time identify.

“(c) Agencies may offer—

“(1) fellowships covering the full period of a student’s undergraduate education, not to exceed 4 years; and

“(2) fellowships covering the last 2 years of a student’s undergraduate education (or the equivalent thereof, in the case of individuals enrolled in accelerated programs).

To the extent the head of an agency considers appropriate, fellowships may also be offered to students pursuing an advanced degree.

**“§ 3704. Terms and conditions for individual participation**

“(a)(1) A fellowship recipient is entitled to receive, by advance payment or reimbursement—

“(A) the full cost of tuition; and

“(B) the full cost of books and other appropriate study materials.

“(2) In addition to the benefits under paragraph (1), so long as a student’s fellowship continues, such student is entitled to receive, on a biweekly basis—

“(A) during each academic term, an amount equal to the minimum biweekly rate of basic pay payable for grade GS-2 of the General Schedule; and

“(B) with respect to each period during which the student is serving in a position in fulfillment of work requirements under subsection (b)(1)(A), the minimum biweekly rate of basic pay payable for the grade of the position under the General Schedule or, in the case of a position not covered by the General Schedule, the minimum biweekly rate of basic pay normally payable for the position.

“(3) A fellowship recipient shall not, for any purpose, be considered an employee by reason of such recipient’s participation in a program under this chapter except—

“(A) in accordance with the terms under which the individual is appointed to a position in connection with fulfilling any work requirement under subsection (b)(1)(A); and

“(B) as provided under subsection (b)(3)(D).

“(b)(1) To be eligible for a fellowship under this chapter, an individual must agree in writing—

“(A) to satisfy such work requirements as the agency head may by regulation prescribe with respect to the period before completion of such individual’s undergraduate or advanced studies, as the case may be; and



"(B) to work for a period after completing such individual's undergraduate or advanced studies (as the case may be) equivalent to the period of time over which any biweekly payments described in subsection (a)(2) were made.

"(2) With respect to paragraph (1)(A)—

"(A) work requirements shall be established in such a way so that they may be satisfied during periods between consecutive academic terms in a year, or during the period between consecutive academic years;

"(B) any position to which the individual is appointed, and the types of tasks required to be performed, shall be consistent with the individual's background and experience, and shall be determined in a way that complements the individual's education and contributes to the individual's preparation for post fellowship Government service; and

"(C) the individual—

"(i) may not receive any appointment other than a temporary appointment not to exceed 120 days; and

"(ii) shall be appointed in accordance with such procedures as the agency head (in consultation with the Director of the Office of Personnel Management) shall by regulation prescribe, including provisions under which any application or other appointment-related requirements may be waived.

An agency may, for any individual, waive the work requirements under paragraph (1)(A), in whole or in part, in such circumstances as the agency may by regulation prescribe.

"(3) With respect to paragraph (1)(B)—

"(A) the position to which an individual is appointed shall be selected in a way that, to the extent practicable, makes use of the individual's education and training;

"(B) appointment shall be carried out in accordance with such procedures as the agency head (in consultation with the Director of the Office of Personnel Management) shall by regulation prescribe, including provisions under which an individual's preferences as to geographic location shall be taken into account, any application or other appointment-related requirements may be waived, and appropriate minimum levels of pay and responsibility are fixed for post-fellowship appointment;

"(C) appropriate opportunities for continuing education or career development, such as seminars, conferences, and specialized training, shall be offered during post-fellowship service; and

"(D) the individual shall, while performing post-fellowship service, be considered an employee of the employing agency for all purposes, including for purposes of determining basic pay and eligibility for benefits.

Nothing in this paragraph shall be considered to authorize the appointment of an individual to a position other than a permanent position which is—

"(i) in the competitive service; or

"(ii) excepted from the competitive service either under regulations prescribed by the Office of Personnel Management (other than a position of a confidential, policy-making, or policy-determining character) or by statute.

"(c)(1) In addition to the matters described in subsection (b), each agreement referred to in such subsection shall include provisions under which—

"(A) an agency shall reserve the right to terminate, at any time, an individual's fellowship, or post-fellowship employment with the United States (in fulfillment of such individual's obligations to the agency under this chapter), based on misconduct or any other reason which may be specified in the agreement; and

"(B) the student agrees to reimburse the agency for any amounts which were paid either to or on behalf of the student under the fellowship program (excluding any amounts under subsection (a)(2) and any amounts based on post-fellowship service) if the individual involved is unable to complete the required educational course of study or otherwise satisfy such individual's obligations under the agreement.

"(2)(A)(i) The obligation to reimburse the United States under any provision described in paragraph (1)(B) shall for all purposes be treated as a debt owing the United States.

"(ii) The head of an agency may release an individual from the obligation referred to in clause (i), or from any part thereof, if the agency head determines that equity or the interests of the United States so require.

"(B) Termination of an agreement by an agency under paragraph (1)(A) releases the individual from all requirements and obligations to which such individual would otherwise be subject under the agreement.

**“§ 3705. Reports**

“(a)(1) The head of each agency which establishes a fellowship program under this chapter shall prepare and submit to the Office of Personnel Management an annual report. Each such report shall contain—

“(A) a description of the agency’s program, including any modifications made during the period covered by the report;

“(B) the number of individuals participating in the program;

“(C) the criteria by which any students selected during the period covered by the report were chosen;

“(D) an assessment of how successful the program was, during the period covered by the report, in meeting the purposes for which the program was established; and

“(E) any other information which the agency head considers appropriate.

“(2) The Office—

“(A) shall establish guidelines relating to the preparation and submission of reports under paragraph (1); and

“(B) shall transmit to Congress all agency reports received by the Office each year, together with any written comments of the Office.

“(b) The General Accounting Office shall annually review each fellowship program established under this chapter to ensure that such program is in compliance with the requirements of this chapter (particularly those under section 3703(a)(2)). Findings under each such review shall be reported to the Congress in writing.”

(b) CONFORMING AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“37. Government Service Fellowship Programs..... 3701”.

**SEC. 13. TRAINING REQUIREMENTS FOR SUPERVISORS, MANAGERS, AND EXECUTIVES.**

(a) SENIOR EXECUTIVES, SUPERVISORS, AND MANAGEMENT OFFICIALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

“(c)(1) For the purpose of this subsection—

“(A) the term ‘senior executive’ has the meaning given under section 3132(a)(3);

“(B) the term ‘supervisor’ has the meaning given under section 7103(a)(10); and

“(C) the term ‘management official’ has the meaning given under section 7103(a)(11).

“(2) The regulations prescribed under section 4118 shall include provisions under which each senior executive, supervisor, and management official shall, except as provided in paragraph (3), be required to participate in a minimum number of hours of executive, supervisory or management training each year (or over the course of such greater period as the Office may prescribe). The regulations shall specify, by appropriate categories, the minimum period of training required for individuals subject to this subsection.

“(3) Under the regulations, an agency head may exclude an individual from this subsection if the period of training required under this subsection would be inappropriate considering the individual’s anticipated term of service.

“(4) The regulations may include provisions under which a period of participation in the Executive Exchange Program of the President’s Commission on Executive Exchange may be counted toward satisfying the requirements of this subsection.”

(b) OTHER OFFICIALS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding at the end the following:

**“§ 4120. Training for noncareer appointees**

“(a) For the purpose of this section, the term ‘noncareer appointee’ means—

“(1) an individual appointed by the President to an office or position in the executive branch (whether or not Senate confirmation is required);

“(2) a noncareer appointee, as defined by section 3132(a)(7);

“(3) an individual appointed to a position which is in grade GS-13 of the General Schedule or higher, and which is excepted from the competitive service because of the confidential, policy-making, or policy-determining character of the position; and

“(4) any other individual holding a similar appointment, as determined under regulations prescribed by the President.

“(b) The Director of the Office of Personnel Management shall establish a training program designed to acquaint noncareer appointees with the operations of the

Government, procedures covering the civil service, good public management practices, and ethical standards for public servants.

“(c) Under such regulations as the President may prescribe, each noncareer appointee shall be required to complete an appropriate period of training under this section before the end of the 90-day period beginning on the date on which that individual’s appointment becomes final, unless—

“(1) extraordinary circumstances prevent completion within such period; or

“(2) participation in the training program is unnecessary, due to the individual’s having recently completed a period of Government service, having recently completed a similar period of training, or otherwise, as determined under those regulations.

“(d) Under such regulations as the President may prescribe, an individual who has been nominated by the President for an office or position requiring Senate confirmation may, prior to final Senate action on that nomination, be allowed to participate in training under this section.”.

(2) CHAPTER ANALYSIS.—The analysis for chapter 41 of title 5, United States

Code, is amended by adding at the end the following:

“4120. Training for noncareer appointees.”.

**SEC. 14. ADJUSTMENT OF PRESIDENTIAL RANK AWARD AMOUNTS.**

(a) IN GENERAL.—Section 4507(e) of title 5, United States Code, is amended by adding at the end the following:

“(3)(A) Subject to subparagraph (B), whenever an adjustment takes effect under section 5305 in the rates of pay under the General Schedule, each dollar amount specified in the preceding provisions of this subsection shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100), equal to the percentage corresponding to the overall average percentage of the adjustment in the rates of pay under the General Schedule (as set forth in the report transmitted to the Congress under such section).

“(B) Each adjustment under section 5305 which first takes effect (or which first took effect) after September 30, 1987, shall be taken into account for purposes of subparagraph (A).”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply with respect to any award paid before the date of the enactment of this Act.

**SEC. 15. PERIODICALLY CONSULT WITH CERTAIN ADVISORY GROUPS CONSISTING OF FEDERAL EMPLOYEES.**

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

“(c)(1) In order to assist the Director in discharging obligations relating to the management of the Senior Executive Service, the Director shall establish and periodically consult with a panel of career appointees (as defined by section 3132(a)(4)) who—

“(A) shall be appointed by the Director from among individuals generally recognized for their knowledge, interest, and experience with respect to matters relating to executive management, or for the excellence of their performance as senior executives (as defined by section 3132(a)(3)); and

“(B) shall be responsible for providing advice to the Director with respect to actions affecting the Senior Executive Service.

Appointments under this paragraph may also be made from among former career appointees.

“(2) In order to assist the Director in discharging obligations relating to the management of the civil service, the Director shall establish and periodically consult with a panel of employees holding career appointments in the civil service who—

“(A) shall be appointed by the Director from among individuals (including individuals on leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees) recommended by labor organizations or other organizations representing the interests of employees generally or specific groups of employees; and

“(B) shall be responsible for providing advice to the Director with respect to actions affecting the civil service.

An individual appointed to a panel under paragraph (1) or (2) shall not be entitled to any additional pay, allowances, or benefits by reason of appointment to such panel.”.

**SEC. 16. LIMITATION ON PAYMENTS.**

Any authority to make payments under any amendment made by this Act shall be effective only to such extent or in such amounts as are provided for in advance by appropriation Acts.

**EXPLANATION OF AMENDMENT**

The committee amendment strikes all after the enacting clause and inserts a new text. The explanation of the committee amendment is contained in the explanation of the bill set forth later in this report.

**PURPOSE**

The purpose of this legislation is to increase the Federal Government's ability to recruit, retain, and effectively deploy the best employees, to ensure that those who occupy management positions are qualified to do so, to provide career civil servants with a greater role in managing the civil service, and to avoid improper political pressures on career civil servants.

**COMMITTEE ACTION**

On July 1, 1987, Representative Pat Schroeder introduced H.R. 2882, a bill to promote excellence in government management. H.R. 2882 was referred to the Committee on Post Office and Civil Service.

The Subcommittee on Civil Service held two hearings on H.R. 2882 (Serial No. 100-46). On March 24, 1988, testimony was presented by Paul Volcker, Chairman of the National Commission on the Public Service, accompanied by Norman Ornstein, Commission Member, and Charles Levine, Commission Deputy Director; Charles A. Bowsher, Comptroller General of the United States, accompanied by Milton J. Socolar, Assistant Comptroller General, and Rosslyn Kleeman, Senior Associate Director, General Government Division, General Accounting Office.

Testimony was also presented at the March 24, 1988, hearing by Ray Kline, President of the National Academy of Public Administration; Harry Freeman, Executive Vice President of the American Express Company; Mark Abramson, Executive Director, Center for Excellence in Government; Alfred Zuck, Executive Director of the National Association of Schools of Public Affairs and Administration; Chester A. Newland, Professor at the University of Southern California; and Patricia Ingraham, Professor of Public Administration at the Maxwell School of Syracuse University.

The second hearing was held on April 14, 1988. Testimony was presented by Carl M. Brauer, Director of the Public/Private Careers Project, John F. Kennedy School of Government at Harvard University; G. Jerry Shaw, General Counsel, Senior Executives Association; Hugh Hecl, Professor, George Mason University; and Robert Weatherall, Director, Office of Career Services and Pre-Professional Advising, Massachusetts Institute of Technology.

On May 19, 1988, the Subcommittee on Civil Service met to consider H.R. 2882. Chairwoman Schroeder offered an amendment in the nature of a substitute, which was adopted by the subcommittee.

The subcommittee voted 4-0, a quorum being present, to approve the bill for full committee consideration.

On June 8, 1988, the Committee on Post Office and Civil Service ordered H.R. 2882, as amended, favorably reported by a record vote of 18-1, a quorum being present.

#### SHORT SUMMARY OF BILL

Section 1 contains the short title—the Excellence in Government Management Act—and the table of contents.

Section 2 states that the purpose of the act is to increase the productivity and effectiveness of Government.

Section 3 requires that a Senior Executive Service (SES) position be filled only by a career appointee if it is necessary to insure impartiality or if a principal responsibility of the job is personnel management.

Section 4 clarifies that, effective January 20, 1989, the 10 percent limit on noncareer senior executives government-wide and the 25 percent limitation on individual agencies applies to the average number of filled positions during the preceding fiscal year, not to the number of established positions.

Section 5 limits to 1,000 the number of Schedule C (political) appointees at grades GS-13 or above, effective January 20, 1989.

Section 6 requires the Office of Personnel Management to report to Congress within 30 days after the appointment to a career position of an individual who was, within the preceding six months, a political appointee. The individual's name will not be reported.

Section 7 establishes one career and one noncareer Qualifications Review Board (QRB) to certify the Executive qualifications of candidates for appointment to SES positions. Members of the QRBS serve two-year terms.

Section 8 establishes a geographic relocation benefit of no less than 10 percent nor more than 20 percent of pay for senior executives who are reassigned outside their commuting area. Further, section 8 authorizes an agency to enter into an agreement under which a career senior executive who is eligible to retire accepts a geographic reassignment in exchange for the Government paying for that executive's last move home.

Section 9 provides that details (of up to 60 days) during the 120-day "get acquainted period" do not count toward the four-month period during which a career appointee may not be reassigned or removed.

Section 10 requires OPM to encourage senior executives to make greater use of the authority to take sabbaticals. Fewer than two dozen sabbaticals have been taken since the authority was established in 1978.

Section 11 requires OPM to report on sabbatical usage in its annual report to Congress on the SES.

Section 12 creates a Government service fellowship program, based on the ROTC model. Agencies may offer scholarships to college and graduate students on the basis of academic merit (not financial need). Agencies may give modest preference to applicants from groups underrepresented at that agency (racial, ethnic minorities or women) and to children of career Federal employees.

Fellowship recipients will receive a stipend at grade level GS-2, and will work between academic terms or during summers at the sponsoring agency. Upon graduation, the fellowship recipient will receive a regular appointment and must work for the agency one year for each year of the fellowship. The agency can terminate the fellowship program at any time, and if so, there is no payback requirement of either money or service. If the student terminates the fellowship, the agency is authorized to collect amounts paid for tuition and fees. The General Accounting Office will conduct an annual audit of the program. Further, each agency shall report annually on its use of the program.

Section 13 requires OPM to establish minimum periods of required management training over a fixed period of time for supervisors, managers, and executives. It also establishes a required training program for political appointees at grade levels GS-13 and above in the operations of Government and ethics.

Section 14 provides that the dollar value of Presidential rank awards for outstanding career senior executives is adjusted each time there is a pay adjustment for the civil service.

Section 15 requires the Director of OPM to appoint two advisory panels: one made up of career senior executives to advise on the running of the SES and one made up of career civil servants representing organizations of civil servants to advise on the running of the civil service.

Section 16 states that any authority to make payments under this act shall be effective only to the extent or in such amounts as provided in appropriations acts.

#### STATEMENT

Many of the most perceptive students of the public service are warning that the quality of the Government's workforce has started and will continue to decline in the years ahead. They say the Government can no longer attract and retain the best employees, that the ability of Government to perform key functions is endangered, and that the new retirement system, which permits employees to leave at any time in their careers without penalty, will exacerbate the retention problem.

#### DATA ON DECLINING QUALITY

The committee has attempted to substantiate allegations of a decline in the quality of employees in the Federal service. Unfortunately, the only data readily available is anecdotal. Most of the anecdotal evidence suggest a quality decline. Some of that information is contained in this report.

No one in the Federal Government collects broad-scale, systematic data on quality of the workforce. On August 19, 1986, the Committee requested the General Accounting Office (GAO) to develop a methodology by which quality could be tracked over time. As part of this study, GAO survey Government agencies and came to the same conclusion: no one is now tracking quality. The GAO study on methodology is expected shortly.

In a recent survey of senior executives by Government Executive magazine, 73 percent of respondents said that their agencies have

suffered a brain drain. Nearly sixty percent said that the quality of new recruits is declining.

#### FACTORS LEADING TO DECLINING QUALITY

While the hard evidence of a quality decline is not available, there are numerous indicia that make it reasonable to believe that a quality slide is in progress. Government pay and benefits continue to decline relative to the private sector. The President's pay agent stated that a 23.74 percent increase in pay on October 1, 1987, would have been necessary to make Federal salaries comparable to the private sector. Whether this is an accurate gauge of comparability or not, using the same gauge in 1978 showed a 8.4 percent shortfall. Hence, the Federal pay gap has grown by more than 15 percent in the past decade.

During the last ten years, the value of the Civil Service Retirement System (CSRS) has been reduced through a variety of budget cutting devices. For employees first hired in 1984 and later, there is a new, less generous retirement system, called the Federal Employees Retirement System (FERS). During the same period, the cost of health insurance to employees has increased substantially, while copayment requirements and deductibles have reduced the value of plans offered through the Federal Employees Health Benefits Program.

The decreasing attractiveness of Federal employment has not come merely from declining pay and benefits. Over the past decade and longer, many of the functions of the Federal Government have been divested to contractors or to State and local governments. Increasingly, Federal employees are the overseers of contracts or of State Government performance of federally-funded functions. Such work is less satisfying for many individuals. Control over the delivery of services is attenuated, meaning that the employee garners less satisfaction from job performance.

This loss of control for civil servants has come in another way as well. As a result of perceived executive branch abuses, Congress has imposed many more statutory limitations on executive action. While these limitations may be well justified individually, they have the effect of reducing the discretion of Federal employees and, consequently, make their jobs less interesting.

Another constraint on Federal employees has been the growth both in the number of political appointees and the types of positions which those political appointees occupy. The effects of the increased presence of political appointees are numerous. More political appointees at the top means fewer promotional opportunities for career civil servants. This has been especially true in the Foreign Service.

Political appointees, especially below the cabinet level, tend to remain in their positions less than two years on average. While some come into their positions with a strong knowledge of their program responsibilities, others are ill-equipped to handle their assignments without a substantial learning period. This learning period is often hard on career civil servants who have to conduct the training and keep the program running at the same time.

Everyone was to be proud of the work they do. The atmosphere surrounding Federal employment has made such pride difficult to maintain. On an nearly daily basis, the press reports revelations of governmental misconduct. Whether the issue is the Iran-Contra arms diversion, the Pentagon contracting scandal, or the Attorney General's involvement with Wedtech, legal and ethical misconduct have become enmeshed with the public's view of Federal Government employees. While most of the documented wrongdoing has been the action of political appointees, the public fails to make such distinctions. Rather, there is a general perception that the whole Government is crooked. This perception makes it very hard on Federal employees and their families.

Lastly, workers do not like being pilloried by their bosses. The last two presidents have gratuitously slandered the bureaucracy. President Reagan recently compared the Soviet bureaucracy to the American bureaucracy, saying that both stood in the way of change. This latest charge came on the heels of a decade of negative Presidential rhetoric which portrayed Government service as no longer being on the cutting edge of social issues, serving the public, and making America a better place in which to live. Rather, Government service has been painted as paper-pushing and not wealth-producing.

#### EFFECTS OF QUALITY DECLINE

The effects of the declining quality of Federal employees can not be pinpointed with precision. Still, the failures of Government service can logically be traced to inadequate staff, poorly trained staff, or poor quality staff. Just as frequent airline travelers each have their own horror stories of lost luggage and cancelled flights, many who have dealt with a Federal agency have encountered misinformation and delays.

The General Accounting Office estimated that, during the 1988 income tax season, the IRS hotline gave taxpayers the wrong information 40 percent of the time. The IRS Commissioner said the error rate was "only" about 25 percent.

Retirees from the Federal Government routinely must wait three to six months without income, while their agencies and entry level clerks at the Office of Personnel Management process the annuity application. These delays cause serious inconvenience and financial hardship for retirees.

The House Committee on Government Operations recently held hearings on payment of travel vouchers by the State Department. Numerous fraudulent or fictitious claims were paid due to inadequate staff or poor training of staff. One voucher in the name of William Shakespeare was paid.

The recent Pentagon procurement scandal demonstrates once again how weak the controls on defense contracting are. There are not enough well-trained and effectively-deployed contracting officials to effectively monitor the multi-billion dollar contracting for goods and services conducted each year by the Defense Department.

Whether these instances of bad Government service are a result of a decline in worker quality is impossible to know for sure. It is



clear, however, that a lower quality workforce will be more prone to error and misjudgment. For the Federal Government to retain its credibility with the American taxpayer, it needs to do its job well. The Government can only do its job well if it has qualified workers to carry out the mission.

A reversal of the quality slide is essential if the Government is to be able to do its job—to safely launch the next space shuttle, to oversee development of a \$20 million new bomber, or to try to find a cure for AIDS. HR. 2882 was developed to address the causes of the Federal workforce's deteriorating quality in a low-cost way.

#### RECRUITMENT

Not all agencies have trouble recruiting the top-quality talent. On December 7, 1985, over 16,000 people took the written exam which is the first step in the hiring process into the Foreign Service. Approximately 2,800 were invited back for oral interviews; 220 eventually were offered employment. While numbers fail to tell the whole story, reports from State Department officials are that high quality young people continue to seek careers in the Foreign Service.

Other agencies have not been as successful. The Internal Revenue Service hires accountants in the 54th percentile of all those taking the American Certified Public Accounting Examination, while those being hired by the Big Eight accounting firms rank in the 86th percentile of that exam, according to testimony presented to the Subcommittee on Civil Service by Syracuse University Professor Patricia Ingraham.

It has been suggested that the Government should not seek out the best; that the mediocre are good enough. The Subcommittee on Civil Service heard testimony that, "[The] Government does not need top graduates . . . , administrative offices staffed with MBA's from Wharton, or policy shops full of the best and brightest whatever. Government's goal should be not employee excellence, but 'employee sufficiency.'" (Testimony of Harry L. Freeman before the Subcommittee on Civil Service, March 24, 1988, quoting Wall Street Journal article by Terry W. Culler, former Associate Director for Workforce Effectiveness, U.S. Office of Personnel Management). This view was repudiated by Mr. Harry Freeman, Executive Vice President of the American Express Company, and by others as well, including former Attorney General Elliot Richardson in a subsequent Wall Street Journal article.

Top graduates perceive the Federal Government as a second class employer; an employer of last resort. Several factors contribute to that perception. Bright students who have always been on the fast track want to do substantive, exciting work quickly. They view the complex, lengthy Federal hiring process as an ominous tip-off that nothing in Government is accomplished quickly, and that initiative on the individual's part will be frustrated.

Pay seems to be less of a factor in recruitment than it is in retention of top employees. For graduates in nontechnical majors, Federal starting salaries are similar to those offered by small private sector firms or non-profit organizations, but decidedly less than those offered by major private sector firms. Students who

have majored in engineering or the hard sciences often find the private sector offering several thousand dollars more per year than the Federal Government. According to Robert Weatherall, Director of Career Services for the Massachusetts Institute of Technology, in 1985, only 13 MIT students graduating with bachelors or masters degrees in engineering took Government jobs, compared to 394 who entered private industry. In 1986, 10 engineering graduates went to work for the Government, while 375 went to industry. Of graduates in electrical engineering, 3 went to Government, and 189 to industry.

Moreover, for a generation that grew up in designer jeans, office environment is very important, and prospective recruits react poorly to grey metal desks and computer equipment three-generations behind the personal computers they use at home.

#### FELLOWSHIP PROGRAM

Several Federal agencies report they have experienced difficulty in recruiting top graduates. In the mid-1980's, the Central Intelligence Agency (CIA) and the National Security Agency (NSA) had come to Congress with similar concerns. In an effort to enhance these agencies' abilities to recruit the best qualified individuals, Congress in 1986 authorized internship programs under which the two agencies could offer scholarships and summer employment to undergraduate students. In return, the students agree to work for the agencies upon graduation.

H.R. 2882 proposes to extend this initiative to other Federal agencies. Section 12 of the bill contains the Government service fellowship program, which provides Federal agencies with a valuable new tool to use to meet recruiting needs.

Under this authority, an agency head may offer scholarships to undergraduate students or graduate students on the basis of academic merit. Financial need is not a basis for receipt of a scholarship. Agencies may give modest preference to women and to members of ethnic and racial minority groups underrepresented at that agency. Agencies are also encouraged to give preference, assuming the applicants have the requisite academic merit, to the children of career Federal employees.

During the academic term, fellowship recipients will receive payment or reimbursement for the costs of tuition, books and other study materials, and a stipend equivalent to a GS-2 salary (currently an annual salary of \$11,032). During breaks between academic years (or long breaks between academic terms, such as the January interim), the fellowship recipient will work for the sponsoring agency. The agency may place the student in any position, at any grade level for which the student is qualified. Upon graduation, the fellowship recipient will receive a regular civil service appointment and must work for the agency one year for each year of the fellowship.

The agency can terminate the fellowship at any time, but if it does so, there is no payback requirement of either money or service. If the student terminates the fellowship, the agency is authorized to collect the amounts paid for tuition and books, but not the amounts paid as a stipend or for summer employment. Agencies

may waive reimbursement if equity or the interests of the Government so require. Each agency offering a Fellowship program will report annually on its use of the program. Further, the General Accounting Office will conduct an annual audit of each program to be sure that merit principles are obeyed.

#### RETENTION

Turnover among the Government's top career executives—members of the Senior Executive Service (SES)—averages about 8 percent per year. It would surely be greater were it not for the "golden handcuffs" of the Civil Service Retirement System. Even so, most members of the Senior Executive Service retire within 3 years of becoming eligible, with the largest block separating from Federal service between ages 55 and 60. Nearly one-quarter go on to work in private industry.

In 1987, the General Accounting Office conducted an extensive study on reasons why career members left the Senior Executive Service. GAO identified 10 of the most important reasons that career employees leave the SES.

By far the most significant reason for leaving was dissatisfaction with top management and dissatisfaction with political appointees, a reason cited as important by nearly half the departing executives. Next in importance was perceived favoritism in the distribution of bonuses. One former SES member commented that SES bonuses were used to supplement the income of favorite employees rather than to reflect performance.

Fourth in importance, cited by nearly 40 percent of former SESers, was frustration with proposed and actual changes to compensation—the Federal pay and retirement systems—and a desire to leave the Government before additional cuts were made which would further erode retirement benefits. Next, cited as important by 37 percent of these executives, was frustration with the criticism of Federal workers by the press, politicians, and the public. The GAO report quoted one former member who commented that, "the public degradation of civil service . . . is destroying the desire of people like myself to stay in the Government." Unfair distribution of rank awards was also cited, along with the view that too few bonuses were available. Former members were dissatisfied with the amount of freedom they were given to manage the job as they saw fit.

Finally, more than one-third of the departing senior executives cited too much political interference as a significant factor in their decision to leave.

A recent survey of 4,000 senior executives by Government Executive magazine reflected similar demoralization among the SES. Government senior executives felt abused and unappreciated. Fifty seven percent of the senior executives surveyed said they would not advise a person starting a career today to enter public service. It is common for career executives to assert that they would encourage their own sons and daughters to follow in their footsteps in pursuing a civil service career.

A number of provisions in H.R. 2882 are intended to improve retention of the Government's most experienced managers by

making continued service more attractive. Specifically, section 8, provides two types of benefits for geographic relocation of senior executives. Section 9 provides more protection against reassignment during a political transition. Section 14 provides for the indexing of presidential rank awards to account for inflation.

Early in the Reagan Administration, several agencies adopted the tactic of reassigning disfavored senior executives to distant geographic locations—either to a field office, if the executives were based in Washington, D.C., or vice versa. While the number of such geographic reassignments was small, the threat was a powerful reminder to senior executives of who was in charge. Recently, geographic reassignments have occurred less frequently.

Regardless of the reason for a reassignment, the exercise frequently results in financial hardship for the senior executive. Rarely are the reassigned executives fully reimbursed for moving expenses or losses on the sale or rental of a home. Further, executives who are reassigned from the field to Washington, D.C., New York, San Francisco, or other major urban areas face a tremendous increase in the cost of housing, food, and living expenses. For these executives, a reassignment can have the effect of a cut in salary. Some, rather than accept the cut that goes with the reassignment, choose instead to take a discontinued service annuity and go to the private sector.

Section 8 of the bill requires an agency to pay a geographic relocation benefit to a career senior executive who is reassigned outside the executive's commuting area. The benefit will be 10 percent of the employee's base pay. In addition, an agency may offer the executive an additional 10 percent of pay if, for example, the employee is reassigned to a high-cost area, or for other reasons. The geographic relocation benefit is in addition to basic pay and will be paid to the reassigned career employee in a lump sum.

Section 8 also provides for payment of a different type of geographic relocation benefit to induce a senior executive to accept a reassignment rather than retire. Under this section, an agency could offer to a career senior executive who is eligible to retire (including someone who would become eligible to retire for failure to accept reassignment), an agreement to pay travel and transportation expenses to the place the executive wishes to retire (within the United States) upon completion of the reassignment.

This latter provision might be used by an agency to move to Washington a highly skilled manager located in Denver who is planning to retire to Arizona. Under current law, failure to accept a directed reassignment could make this manager eligible for an immediate annuity. Rather than accept a position in Washington, which would mean that the manager would have to pay his or her own moving expenses from Washington to Arizona, the senior executive could retire on the spot. By providing payment for the move home upon completion of the reassignment, H.R. 2882 eliminates the financial disincentive associated with the move, and thus encourages the senior career executive to accept the reassignment.

Similar provisions apply to a senior career executive who transfers between agencies. In such a case, the receiving agency would pay the geographic relocation benefits.

Section 9 of the bill concerns reassignments, details, and removals of career executives. It prohibits the reassignment, detail, or removal of a career executive during the 120-day "get-acquainted period" after the appointment of a political appointee who has the authority to reassign, detail, or remove a career appointee. The Committee amendment clarifies that any detail or reassignment (up to 60 days) during the get-acquainted period does not count in determining the start and finish of the 4-month period.

Section 14 of the bill adjusts Presidential rank awards by the same percentage as the pay increase for employees under the General Schedule. When viewed as a percentage of the senior executive's base pay, the value of awards for meritorious or distinguished service has been seriously eroded during the 10 years since the awards were established by the Civil Service Reform Act. When the Civil Service Reform Act was signed into law, a Distinguished Executive rank equalled 40 percent of an ES-4 salary. Today, a Distinguished rank award equals 27.6 percent of an ES-4 salary. Adjusting the level of rank awards by the same measure as the General Schedule is adjusted annually will guard against further erosion, but will not restore the lost value of these awards.

#### POLITICIZATION

Government works when political appointees who know what they want to accomplish work with career employees who know how to get it done. The number of political appointees in the Government has mushroomed in the last twenty years, while the overall number of employees has remained basically the same. In addition to making policy decisions, political appointees are now running major programs. While each Administration has its political appointee stars, such as William Ruckelshaus, George Ball, George Shultz, and Joseph Califano, most of the three thousand or so political appointees are not of this caliber. Many are campaign workers or contributors, with no training, experience or aptitude to run major Federal programs.

Indeed, Senator John Glenn (D-Ohio) noted in a report issued August 5, 1987, that "the SES has become politicized by the Reagan Administration at the expense of the career service." Senator Glenn continued, "This Administration is breaking the spirit of the career service on the rack of cronyism."

Senator Glenn was particularly disturbed by the increase in political appointees at agencies having responsibility for managing the Government's workforce. According to Senator Glenn, "the Office of Personnel Management decreased its career SES by half, but increased its noncareer SES by 120 percent and its Schedule C employees by 86 percent. At the General Services Administration, the career SES fell by 9 percent, while the noncareer SES jumped by 166 percent and the Schedule C employees increased by 283 percent."

The committee believes it is inappropriate for political appointees to be so heavily involved in personnel management. Section 3 of H.R. 2882 expands the circumstances under which a senior executive service position must be designated as career-reserved to in-

clude positions the principal responsibilities of which relate to personnel management of career employees.

The Civil Service Reform Act recognized the value of a career service's institutional memory and expertise in implementing policy. The Reform Act set a limit on the number of non-career senior executives at 25 percent within each agency, and up to 10 percent of the SES government-wide. The common understanding was that no more than 10 percent of the Senior Executive Service would be political appointees.

Yet, shortly after enactment of the Reform Act, the issue arose of whether the 10 percent limitation should be calculated as a percentage of authorized positions or as a percentage of positions filled. With an average vacancy rate of nearly 14 percent during the first seven years of the SES, the determination of this issue would raise or lower the total permitted number of political senior executives by over 100. Even if career appointees were not hired to fill all slotted positions, agencies could appoint political appointees up to the percentage limit if the limitation applied to authorized positions. Thus, the number of political senior executives relative to career appointees could easily exceed the anticipated limit.

Senator Glenn's comments were based on a report by the General Accounting Office entitled "Trends in Career and Noncareer Employee Appointments in the Executive Branch," (GAO/GGD-87-96FS). The GAO reports that politicization of the senior executive service was particularly severe in the following agencies:

Department of Education: 20 percent decrease in career SES; 25 percent increase in noncareer SES.

Department of Housing and Urban Development: 14 percent decrease in career SES, 29 percent increase in noncareer SES.

Department of Justice: 2 percent decrease in career SES appointees but 126 percent increase in its noncareer SES appointees.

Conversely, the GAO reported that at NASA, only 3 percent of the top leadership is political; at IRS, there are only two political appointees.

The GAO concluded, "the number of noncareer members of the SES has grown 13 percent over the 1980-1986 period (from 582 to 658), while the number of career members has fallen over 5 percent (from 6,379 to 6,044)."

In commenting on Senator Glenn's report, the National Commission on the Public Service, chaired by the Honorable Paul Volcker, wrote, "It is no accident that several of the Departments mentioned in that study with high percentages of political appointees have experienced declining morale, high turnover rates in both political and career cadres, and a sustained overall record of inadequate performance."

H.R. 2882 addresses this issue in section 4. The bill clarifies that the percentage limitations on noncareer senior executives are to be calculated based on the number of positions filled by career appointees, rather than on the number of positions authorized. If this standard had been in place earlier, four agencies—Education, HUD, State and USIA—would have been over the limit. Newly created agencies, as well as agencies that have experienced a substan-

tial change in function (not merely a reorganization) may be exempted from this section for 2 years.

Section 4 also sets out a formula for determining the number of positions filled, as the sum of the total number of senior executives employed in SES positions as of December 31, March 31, June 30, and September 30 of the preceding fiscal year, divided by four. Using this average will avoid any sudden impact of a seasonal fluke in the number of senior executives in Government.

Section 4 also eliminates a grandparent provision which allowed agencies with more than 25 percent noncareer supergrades before the passage of the Civil Service Reform Act to continue to ignore the limit. This provision affects the Small Business Administration and a few smaller agencies. The repeal of this provision occurs on September 30, 1990.

The GAO report to Senator Glenn also highlighted the increase during the Reagan Administration in the number of Schedule C appointees. These are strict political appointees, exempted from the competitive service because of their confidential, policy-making, or policy-determining character.

According to data supplied by the Office of Personnel Management, there were approximately 740 Schedule C's at grades GS-13 and above in the last two years of the Carter Administration. During the Reagan Administration, there was a steady increase in the number of high-level Schedule C's, from 778 in 1982 to 996 in 1988.

Section 5 of H.R. 2882 limits the number of Schedule C appointees at grades GS-13 and above to 1,000. The new limitation will become effective on January 20, 1989; therefore, no current Schedule C appointee will be adversely affected. The provision caps future growth but does not roll back the current number.

The Reagan Administration came to Washington intent on reducing the bureaucracy. Now, in the last months of the Administration, many of the political appointees who railed against the civil service are seeking the job security it can offer. According to studies by the General Accounting Office, during the period of January 1, 1987, to March 31, 1988, there were 285 noncareer appointees who converted to career civil service jobs. Of these, 31 had formerly been Schedule C's, and another 10 were noncareer senior executives. The Subcommittee on Civil Service has requested that the General Accounting Office continue to monitor such appointments through February of 1989.

Section 6 of H.R. 2882 sets up a mechanism for the Congress to monitor the process of political appointees who convert to career civil service jobs. Under section 6, the Office of Personnel Management is required to submit a written report to Congress each time an individual is appointed to a competitive service position or to a career position within the Senior Executive Service if, during the 6-month period immediately preceding the appointment, that individual held a noncareer appointment. The report must identify both the noncareer and the career positions held by the individual, although the individual's name will not be included in the report.

During Donald Devine's tenure as Director of the Office of Personnel Management, ad hoc quality review boards were set up as needed to approve managerial qualifications of appointees to the

Senior Executive Service. Some appointments were promptly approved; others languished. This distorted the intended purpose of the Qualifications Review Boards: to provide an independent check on the qualifications on career members of the Senior Executive Service.

Section 7 of H.R. 2882 addresses the issue of ad hoc boards by establishing permanent quality review boards, one for career appointments in the SES, and one for noncareer appointments. The function of these boards is to certify the executive qualifications of nominees. More than one-half of the members of the permanent quality review board charged with reviewing career nominees must themselves be career appointees. Each member will serve for a 2-year term, and the board is authorized to act in 3-member panels. Similar provisions apply to the board charged with reviewing non-career appointees, except that there is no requirement that the composition of this board include more than one-half career appointees.

Another continuing source of displeasure for career civil servants is their perception that the political appointees at the head of the Office of Personnel Management act without sufficient input from career civil servants. Section 15 tries to ensure adequate input by requiring the Director of the Office of Personnel Management to appoint and consult with two advisory groups, one of career senior executives, and the other of individuals holding career appointments in the civil service and recommended by employee organizations.

#### TRAINING FOR GOVERNMENT EXECUTIVES

Federal employees are generally hired for expertise in a discipline, be it physics, public administration, or law, and then promoted into managerial positions. One of the reasons for passage of the Civil Service Reform Act of 1978 was to train career civil servants in their second occupation as Government managers. The lack of managerial training is sometimes even more acute for political appointees.

In testimony before the Subcommittee on Civil Service, Harry Freeman, Executive Vice President of the American Express Company, stated that it was his impression that, "management development programs within the Government are often more a wish than a reality." Mr. Freeman went on to describe his company's approach to career development, which included tuition reimbursement for employees pursuing MBA degrees. He acknowledged that, upon completion of the additional training, these employees would likely move on to an area outside of their former area of responsibility. "Yet, this has never bothered me; I know the company as a whole derives the benefit of the extra training," he said.

Such a long-term approach to investment in employee training appears to be lacking in the Federal Government. At the request of the Subcommittee on Civil Service, the General Accounting Office has studied the issue of Federal employee training. GAO concluded that, although the Government spends quite a bit of money on training, it does not have career development programs targeted to specific employees. Further, the GAO found that 52 percent of all



executives and 43 percent of all managers and supervisors each year received no training. The GAO testified that, "we don't do the kinds of needs assessments that one should do before you send a person to training." Interestingly enough, the GAO, itself, has specific career development programs for its career employees, supervisors, and prospective members of the Senior Executive Service.

Two sections of H.R. 2882 will enhance the career development of Federal employees. Section 10 strongly encourages agencies and the Office of Personnel Management to make more use of sabbaticals during which senior executives can study, or work in State and local governments or the private sector. The Committee notes that since 1978, when agencies were first authorized to offer sabbaticals, only 15 agencies have done so and only 21 sabbaticals have been taken. Sabbaticals offer a unique opportunity for executives to step out of their Federal workplace and garner expertise and exposure which will enhance management skills.

Section 13 requires the Office of Personnel Management to develop regulations under which each senior executive, supervisor, and manager would receive a minimum number of hours of training over prescribed periods of time.

Section 13 also requires training for noncareer appointees in the Government's ethics laws. Noncareer appointees at grade level GS-13 and above would be required to receive training in the operations of the Government, civil service personnel procedures, good management practices, and the ethical standards for public servants. A noncareer appointee would have to complete this training within 90 days after appointment. A nominee for a position requiring Senate confirmation may take this training prior to final Senate action on the nomination.

#### PAY

The growing gap between Federal and private sector pay makes it difficult to recruit good people at all points on the Federal spectrum. In the spring of 1987, the Government was forced to offer clerical workers in Washington, DC, San Francisco, and a few other high-cost areas special rate increases of up to 23 percent of salary. Low Federal pay was identified by Robert Weatherall, Director of Career Services at the Massachusetts Institute of Technology, as perhaps the major reason that MIT engineering graduates look to the private sector rather than the Federal Government. Similarly, graduates of schools of public administration who participate in the Presidential Management Intern program, the closest the Government comes to fast-tracking, enter Government service at a GS-9 salary (currently \$22,907). That salary may have been competitive when the program was started back in 1978, but it is no longer competitive. State and local governments offer substantially higher starting salaries. State and local governments also offer positions with greater responsibility attached. A reasonable person could conclude that the Federal Government is doing its best to keep top quality graduates out of Federal service.

Perhaps the greatest disparity is at the senior executive level. At the top levels, executives have always made more money in the private sector. When Federal pay lags only slightly behind the private

sector, the lower pay can be viewed as a tolerable sacrifice. With Federal pay as far behind the private sector as it is now, the once "tolerable sacrifice" is, instead, an insult to the Federal employee. Low pay is making it increasingly difficult to recruit and retain the best qualified. You get what you pay for.

A report by the President's Commission on Compensation of Career Federal Executives, issued February 26, 1988, cautioned that recruitment of the best talent available is becoming difficult. The Commission found the current SES compensation system, "not conducive to recruitment and retention of the highest quality candidates and members of the career SES and poorly positioned to meet the increasing challenges of the future." The Commission recommended several changes including increasing pay for senior executives by one to 15 percent; increasing the size of bonuses, and using bonuses for recruitment and retention payments; eliminating the ceiling on the total compensation an executive can receive in one year; and permitting members of the Senior Executive Service to cash out their portion of accumulated annual leave in excess of 120 hours.

H.R. 2882 does not attempt to deal with the pay disparity issue. In light of the current huge Federal budget deficit, elevating Federal pay to levels comparable with the private sector appears politically impossible. Yet, Congress needs to face the issue, and to consider whether the taxpayers are being ill-served by the Federal Government's inability to attract and retain the best talent. As an alternative to raising pay, enactment of the non-pay remedies contained in H.R. 2882 may make working for the Federal Government less of a hardship.

#### SECTION ANALYSIS

##### *Section 1—Short title; table of contents*

Section 1 states that the title of the bill is the "Excellence in Government Management Act of 1988," and lists the table of contents of the bill.

##### *Section 2—Statement of purpose*

Section 2 states that the purpose of the bill is to increase the productivity and effectiveness of the Federal Government by increasing the ability of the Government to recruit, retain, and effectively deploy the best employees, by ensuring that those who occupy management positions in Government are qualified to do so; by providing career civil servants with an expanded role in the management of the civil service; and by avoiding improper political pressures on career civil servants.

##### *Section 3—Designation of career reserved positions*

Section 3 amends the second sentence of section 3132(b)(1) of title 5, United States Code, to provide that a position shall be designated as a career reserved position in the Senior Executive Service if the principal responsibilities of the position relate to personnel management of career employees or if necessary to insure impartiality or the public's confidence in the impartiality of the Government. The committee amendment reinforces the intent of the Civil Serv-

ice Reform Act that the merit system of personnel management should be run by career employees and not, as has frequently been agency practice, by political appointees.

*Section 4—Calculating the maximum number of noncareer appointees allowed*

Section 4(a) amends section 3134 of title 5, United States Code, to change the formula for calculating the maximum number of noncareer Senior Executive Service appointees allowed in individual agencies and government-wide, from a percentage of the total number of SES positions authorized to a percentage of the average number of senior executive positions filled in the preceding fiscal year. The average number of positions filled will be determined on the basis of the actual number of senior executives employed in Senior Executive Service positions on four specific dates in the fiscal year.

The committee amendment amends subsection 3134(b) by striking the second sentence and stating that the total number of noncareer appointees in all agencies may not, during any fiscal year, exceed 10 percent of the average number of senior executives employed in Senior Executive Service positions during the preceding fiscal year.

Section 3134(e) of title 5, United States Code is amended to provide that the total number of limited emergency appointees and limited term appointees in all agencies may not, during any fiscal year, exceed 5 percent of the average number of senior executives employed in Senior Executive Services positions during the preceding fiscal year.

Section 3134(d) is amended as follows: Subsection (d)(1) restates the existing limitation on the number of noncareer senior executives within an agency and clarifies the basis for the 25 percent limitation on noncareer senior executives as being the average number of SES positions filled rather than the number authorized. Subsection (d)(2)(A) restates the provision of existing law which provides that the described limitation shall not apply in the case of an agency having fewer than four Senior Executive Service positions.

Subsection (d)(2)(B) authorizes the Office of Personnel Management to waive, for up to 2 years, the application of the limitations imposed by the subsection to a newly created agency or an agency which undergoes a substantial change in function. In the case of a newly created agency, there will be no numbers from the preceding fiscal year to form a base. If an agency has a substantial change in function, especially a large increase in duties and responsibilities, a limitation based on the much smaller number of Senior Executive Service members from the preceding fiscal year could hamper the agency's ability to perform its additional functions.

Section 4(a)(1)(D) of the bill adds a new subsection (f) to section 3134 of title 5, United States Code, establishing the formula for determining the average number of SES positions during any fiscal year as the sum of the total number of senior executives employed in Senior Executive Service positions as of December 31, March 31, June 30, and September 30 of such fiscal year, divided by 4. Subsection (f)(1) applies this formula government-wide (for limitations in

subsections (b) and (e)). Subsection (f)(2) applies this formula to individual agencies (for limitations in subsection (d)(1)).

The amendments made by section 4(a) shall become effective on January 20, 1989.

Section 4(b) phases out the alternative limitation on noncareer appointments contained in present law in subsection (d)(2) of section 3134 of title 5, United States Code, effective two years after the date of enactment of this Act. As of March 31, 1984, this alternative limitation applied to only 5 agencies (Federal Home Loan Bank Board, National Endowment for the Arts, National Endowment for the Humanities, Occupational Safety and Health Review Commission, and the Small Business Administration).

Administrative Law Judges are not to be considered as noncareer appointees for purposes of the application of this section.

*Section 5—Limitation on the number of positions which may be excepted from the competitive service because of their confidential, policy-making or policy-determining character*

Section 5(a) amends section 3302 of title 5, United States Code, by creating a new subsection (b). Subsection (b)(1) limits to 1,000 the maximum number of positions which may be expected from the competitive service under the rules because of their confidential, policy-making, or policy-determining character [Schedule C]. Subsection (b)(2) exempts positions in grades GS-12 or lower from this limitation.

Section 5(b) makes conforming amendments to sections 3304(b) and 3361 of title 5, United States Code.

Section 5(c) provides that the amendments in this section shall become effective on January 20, 1989.

*Section 6—Report relating to individuals receiving certain appointments after holding noncareer positions*

Section 6 adds a new section 3329, entitled "Reporting requirement," to title 5, United States Code.

New section 3329(a) defines the terms used in this section. The term "noncareer appointment" means an appointment to a position excepted from the competitive service because of its confidential, policy-making, or policy-determining character [Schedule C]; an appointment as a noncareer appointee in the Senior Executive Service; an appointment as a limited term or limited emergency appointee in the Senior Executive Service, excluding any appointee who, immediately before becoming such an appointee, held an appointment in the competitive service [i.e., without a break in service]; or an appointment described in paragraph (2) or (4) of section 3324(a) [presidential appointees]. The terms "Senior Executive Service", "career appointee," "noncareer appointee" "limited term appointee", and "limited emergency appointee" have the meanings set forth in section 3132(a) of title 5, United States Code.

New section 3329(b) requires the Office of Personnel Management to submit a written report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate each time an individual is appointed to a position in the competitive service or to a position in the Senior Executive Service as a career appointee if, during the

preceding 6-month period, that individual held a noncareer appointment in any agency (including the Executive Office of the President.)

New section 3329(c) requires that any such report as required by subsection 3329(b) be sent to the Congress within 30 days after the effective date of the individual's appointment. The report must include four items: the title of the position in the competitive service or in the Senior Executive Service to which the individual is appointed; the title of the position the individual held as a noncareer appointee during the six-month period immediately preceding the new appointment; a brief description of the individual's qualifications for the career position; and a brief description of the process by which the individual was selected for the career position. However, the individual's name is not to be included in the report to the Congress.

Section 6(b) amends the chapter analysis for chapter 33 of title 5, United States Code, to include section 3329.

*Section 7—OPM qualifications review boards relating to appointments in the Senior Executive Service*

Section 7 provides for the establishment of qualifications review boards for appointments to the Senior Executive Service.

Section 7(a) pertains to career appointees. It amends section 3393(c)(1) of title 5, United States Code, to require the Office of Personnel Management to establish one permanent qualifications review board for career appointees. Appointments to the board are for 2-year terms. No ad hoc boards are permitted. Its function is to certify the executive qualifications of candidates for career appointment to the Senior Executive Service. More than one-half of the members of the board must be career appointees. Further, appointments to the board must be on a non-partisan basis, with the sole selection criterion being the professional knowledge of public management and of appropriate occupational fields.

A panel of board members may, if authorized by the board, take any action which the board is authorized to take. Any such panel must consist of at least 3 members and more than one-half of the panel members must be career appointees.

Subsection (a)(2) makes a conforming amendment to section 3393(c)(2) of title 5, United States Code.

Section 7(b) pertains to noncareer and limited appointments. It amends section 3394 of title 5, United States Code, by adding a new subsection (c). New subsection (c) requires the Office of Personnel Management to establish a permanent qualifications review board whose function is to certify the executive qualifications of candidates for initial appointment as noncareer, limited term, or limited emergency appointees. Appointments to the board are subject to the same terms and conditions as apply to the qualification review board for career appointments, except that there is no requirements that more than one-half of the board (or a panel) be career appointees.

*Section 8—Geographic relocation benefits*

Section 8 amends section 3395(a) of title 5, United States Code, by adding new paragraphs (3) and (4). Paragraph 3 deals with relo-

cation benefits for career appointees reassigned to Senior Executive Service positions outside their commuting areas. Paragraph 4 provides for relocation benefits relative to a career appointee's last move home consistent with the individual's eligibility for retirement.

New paragraph (3)(A) of section 3395(a) of title 5, United States Code, requires an agency to pay a geographic relocation benefit to any career appointee reassigned to a Senior Executive Service position outside the career appointee's commuting area. The agency must pay this benefit from its appropriations. Paragraph (3)(B) requires that the amount of the geographic relocation benefit be no less than 10 percent of the annual rate of basic pay payable to the career appointee immediately before the reassignment. An additional amount of up to 10 percent of the career appointee's rate of basic pay may be payable if the agency head considers it appropriate, taking into account any higher costs of living resulting from the reassignment, any moving expenses not reimbursable or otherwise covered by the Government, and other similar factors. The geographic relocation benefit under this section shall be in addition to basic pay and any other amount otherwise payable under this title, and it shall be paid to the career appointee in a lump sum.

Paragraph (3)(C) provides that an agency may pay a geographic relocation benefit only after the individual reassigned agrees in writing to remain in Government service for 12 months after the reassignment, unless separated for reasons beyond the individual's control which are acceptable to the agency. If the individual violates the agreement, the individual must repay the geographic relocation benefit amount to the Government.

New paragraph (3)(D) requires payment of geographic relocation benefits (as set forth in subparagraphs (A), (B), and (C), above) to a career Senior Executive Service employee who is transferred to another position in a different agency. The agency receiving the transferred career employee is obligated to pay the geographic relocation benefit. The head of the agency receiving the transferred employee is responsible for deciding whether the additional 10 percent payment is to be made to the transferred employee.

New paragraph (4)(A) of section 3395(a) of title 5, United States Code, authorizes the President to prescribe regulations under which an agency may enter into an agreement with a career appointee in the Senior Executive Service to pay for the appointee's last move home under certain conditions. At the time of a career appointee's reassignment to a SES position outside the career appointee's commuting area, the agency may agree to pay travel and transportation expenses (as specified in the agreement) so that the career appointee can relocate from the place of reassignment.

New paragraph (4)(B) describes the types of expenses which can be covered under such an agreement. These include any expense, allowances, or other benefits (including those associated with one's immediate family and for household goods or personal effects) which would be available under subchapter II of chapter 57 if the relocation involved represented a transfer from one official permanent duty station to another, as referred to in section 5724(a) of title 5, United States Code.

Under new paragraph (4)(C), a career appointee may enter into such an agreement only if, at the time of the reassignment, the career appointee meets the age and service requirements for entitlement to an immediate annuity, or would meet the requirements for entitlement to an immediate annuity if the career appointee were to be involuntarily separated for failure to accept the reassignment.

New paragraph (4)(D) sets out the requirements for an agreement concerning these geographic relocation benefits. An agreement must specify the period of time within which the relocation must be made after the executive completes the requirements of the reassignment; the place to which the executive will be relocated; and other terms and conditions as may be appropriate.

Under subparagraph (E), benefits will only be payable for relocation within the United States (defined to include the several States, the District of Columbia, Puerto Rico, and territories and possessions of the United States).

Subparagraph (F) provides that geographic relocation benefits under paragraph (4) shall be in addition to any other relocation benefit provided under paragraph (3) or any other provision of law.

Subparagraph (G) provides that a career appointee in the Senior Executive Service may not receive benefits under this paragraph in connection with more than 1 relocation. An executive who meets the requirements to enter into such an agreement could take more than one reassignment, and the relocation agreement could be renegotiated so long as only one relocation benefit was paid when the executive finally left Federal service.

Subparagraph (H) requires that the geographic relocation benefits under section (4) also be available to a career appointee in the Senior Executive Service who is transferred to another position in a different agency. The receiving agency is authorized to enter into the agreement. However, in order to be eligible under this subsection, the career executive must meet the age and service requirements to be entitled to an immediate annuity. Eligibility on the basis of separation for failure to accept a reassignment is not applicable in the case of a transferred employee.

*Section 9—Restriction on the authority to reassign, detail, or remove a career appointee in the Senior Executive Service within 120 days after the appointment of certain superiors*

Section 9(a) of the bill pertains to reassignments or details. It amends section 3395(e) of title 5, United States Code, to provide that a career appointee may not be involuntarily reassigned during the 120-day period after the appointment of a noncareer appointee who has the authority to reassign or detail the career appointee. A new subparagraph (3) is added to section 3395(e) which provides that any detail or temporary assignment (of up to 60 days) during this "get-acquainted period" does not count in determining the start and finish of the 120-day period.

Section 9(b) makes parallel changes in law concerning removal from the Senior Executive Service. It amends section 3592(b) of title 5, United States Code, to provide that a career appointee may not be involuntarily removed within 120 days after the appointment in the agency of a noncareer appointee who has the authority

to remove the career appointee. A new subparagraph (3) is added to section 3592(b) which provides that any detail or reassignment (of up to 60 days) during this "get-acquainted period" does not count in determining the start and finish of the 120-day period.

*Section 10—Encouragement of Sabbaticals and Other Forms of professional development by career appointees in the SES.*

Section 10 amends section 3396(d) of title 5, United States Code, by adding a new subsection (d)(2). New subsection (d)(2) requires the Office of Personnel Management to encourage career appointees to take advantage of opportunities for sabbaticals, training, or details or other temporary assignments in other agencies, State or local governments, or the private sector. The committee notes that since 1978, when agencies were first authorized to offer sabbaticals, only 15 agencies have done so and only 21 sabbaticals have been taken.

*Section 11—Reports on the Senior Executive Service*

Section 11(a) amends section 3135(a) of title 5, United States Code, by adding a new paragraph (10). It requires the Office of Personnel Management to include in its report on the Senior Executive Service to Congress information, in the aggregate and by agency, on the number career appointees who applied for sabbaticals under section 3396(c) during the preceding fiscal year and the number of applications granted (including the name of each individual whose application was granted and a brief description of how the sabbatical was to be used).

Section 11(b) makes further technical amendments to section 3135 of title 5, United States Code. In the first sentence of subsection (a), it provides that OPM will no longer send report during each "odd-numbered" year and instead send the report each year. Subsection (b) is deleted.

Section 11(c) amends the heading for section 3135 and the chapter analysis for chapter 31 of title 5, United States Code, to change the section title for section 3135 to read, "Annual report."

*Section 12—Government service fellowship program*

Section 12 creates a new chapter 37 in subchapter B of part III of title 5, United States Code. Unless otherwise noted, section references are to sections of chapter 37 as added by section 12 of the bill.

Section 3701 defines the terms used in this chapter. "Agency" means an Executive agency and a military department. "Institution of higher education" means an educational institution in any State which admits as regular students only individuals who have been graduated from high school or who have received the recognized equivalent of a graduation certificate; is legally authorized within such State to provide a program of education beyond high school; provides an educational program for which it awards a baccalaureate degree; and is accredited by a nationally recognized agency or association. "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Section 3702 authorizes the head of an agency to establish a program to offer fellowships to individuals pursuing post-secondary de-



gress in fields of study as to which the agency requires, or anticipates that it will require, employees with expertise. The agency head's decision to establish a fellowship program is discretionary. The Office of Personnel management is directed to prescribe guidelines for the operation of a fellowship program. Each agency will develop regulations consistent with the OPM guidelines.

Section 3703 sets out the general requirements for fellowship programs.

Subsection (a) requires an agency to select fellowship recipients on the basis of individual accomplishments and demonstrated abilities or aptitudes. An agency must abide by the merit principles of paragraphs (1) and (2) of section 2301(b) of title 5, United States Code concerning recruitment and applicants for employment, respectively. An agency should also give modest preference to women and members of racial and ethnic minority groups if they are underrepresented at that agency, and to children of career Federal employees (taking into account the restrictions on employment of relatives in section 3110 of title 5, United States Code).

Under subsection (b), a fellowship may be awarded only while the student is pursuing a baccalaureate or advanced degree at an institution of higher learning qualified under this chapter. In order to be qualified under this chapter, an institution of higher education must have established a system under which fellowship recipients would receive academic and career counseling, particularly with respect to any subjects or areas which the agency head may identify.

In order to provide an agency with the flexibility to meet its recruitment needs, subsection (c) authorizes an agency to offer fellowships covering the full period of a student's undergraduate education (not to exceed 4 years), and fellowships covering the last 2 years of a student's undergraduate education (or an equivalent time period if the student is enrolled in an accelerated program). If the agency head considers it necessary and appropriate, fellowships may also be offered to students pursuing an advanced degree, either as a continuation of an undergraduate fellowship or beginning for the first time at the graduate school level. The committee intends that Government service fellowships be used primarily as a device to recruit talented undergraduate students.

Section 3704 sets out the terms and conditions for individual participation. In summary, the student will receive benefits for tuition, books, and a stipend during the academic year. During longer school breaks (summers or January interim term, for example), the student will be placed in a position at the sponsoring agency. Upon graduation, the fellowship recipient will receive a permanent appointment at the sponsoring agency, and must complete 1 year of Government service for each year the student participated in the fellowship program.

Under section 3704(a)(1), a fellowship recipient is entitled to receive, by advance payment or reimbursement, the full cost of tuition and the full cost of books and other appropriate study materials.

Subsection (a)(2)(A) provides that during the academic term, the fellowship recipient is entitled to receive a stipend (on a biweekly basis) equivalent to the rate of basic pay payable for grade GS-2.

Subsection (a)(2)(B) provides that during longer school breaks when the student is placed in a position with the sponsoring agency, the student will receive the salary of the position. If the position is not under the General Schedule, the student should receive the pay normally payable for the position to which he or she is appointed.

Subsection (a)(3) clarifies that a fellowship recipient shall not, for any purpose, be considered a Federal employee except during the period that the student holds a temporary appointment during school breaks. Of course, when the student receives a permanent appointment following graduation, he or she will be a Federal employee for all purposes.

Section 3704(b) describes the fellowship recipient's obligation to work for the sponsoring agency, both during the academic period of the fellowship and upon graduation.

An individual applying for a fellowship must agree in writing to satisfy such work requirements as the agency head may by regulation prescribe for the period before the student graduates (paragraph (1)(A)). The applicant must also agree in writing to work, upon graduation or receipt of the advanced degree, one year for each year of the fellowship (paragraph (1)(B)). The fellowship period includes the time during which the student received the GS-2 stipend and the time the student was employed as a temporary appointee. Thus, the fellowship recipient will work one calendar year for each calendar year the student received the stipend and worked during school breaks.

Subsection (b)(2) describes the student's work obligations prior to graduating.

Subparagraph (A) of subsection (b)(2) requires an agency head to establish work requirements in such a way that they may be satisfied by the student working between consecutive academic terms (such as a long January interim period) or during the summer break between consecutive academic years. An agency should make full use of the student's talents. Subparagraph (B) of subsection (b)(2) requires that the position to which the student is appointed and the task assigned be consistent with the individual's background and experience, complement the individual education, and contribute to the individual's preparation for post-fellowship Government service.

Subparagraph (C) of subsection (b)(2) specifies that, during work periods prior to graduating, the individual will receive a temporary appointment not to exceed 120 days. Like all temporary appointees, the fellowship recipient will be protected under the Federal Tort Claims Act, Worker's Compensation; will receive sick and annual leave and holidays; and will pay into the Social Security system but not the Federal employees Retirement System. No life or health insurance would be available under the temporary appointment.

Paragraph (2)(C) further directs an agency head to prescribe regulations (in consultation with the Director of the Office of Personnel Management) under which any application or other appointment-related requirements may be waived. The regulations should also permit the agency head to waive the work requirement if, for example, the student pursues an accelerated program or attends school during the breaks.

Subsection (b)(3) describes the fellowship recipient's work obligation upon graduation.

Subparagraph (A) of subsection (b)(3) requires that the individual be appointed to a position that, to the extent practicable, makes use of the individual's education and training.

Subparagraph (B) requires that the agency head develop regulations (in consultation with the Director of the Office of Personnel Management) concerning a post-fellowship appointment. The regulations should include provisions under which an individual's preferences as to geographic location are taken into account, any application or other appointment-related requirements may be waived, and appropriate minimum levels of pay and responsibility for the post-fellowship appointment are fixed.

Subparagraph (C) requires the agency to offer continuing education and career development, such as seminars, conferences, and specialized training, during the post-fellowship appointment.

Subparagraph (D) provides that, while performing post-fellowship service, the individual shall be considered an employee of the employing agency for all purposes, including the determination of basic pay and eligibility for benefits.

The individual must receive a permanent appointment to a position in the competitive service or to a Schedule A or Schedule B position excepted from the competitive service.

Section 3704(c) pertains to termination of the fellowship.

Paragraph (1) of subsection (c) prescribes matters relative to termination of the fellowship which must be included in a fellowship agreement.

Under paragraph (1)(A), an agency may terminate the individual's fellowship or post-fellowship employment at any time, based on misconduct or any other reason which may be specified in the agreement between the individual and the agency. Under paragraph (1)(B), the student must agree to reimburse the agency for any amounts which were paid for tuition, books, and other appropriate study materials if the student is unable to complete the educational requirements of the program or otherwise satisfy obligations under the agreement. The student need not reimburse the agency for amounts paid as a stipend or for pregraduation or post-fellowship employment.

Paragraph (2) of subsection (c) provides that the obligation to reimburse the United States shall be treated as a debt owing the United States. However, under subparagraph (A)(ii), an agency head may waive the indebtedness if the agency head determines that equity or the interests of the United States so require. Waiver would be appropriate, for example, if the student were forced to drop out of the program because of illness or family emergency.

Subparagraph (B) provides that if the agency terminates the fellowship, the fellowship recipient is relieved of all money and service obligations.

Section 3705 specifies the types of reports required on the fellowship program. Under subsection (a)(1), the head of each agency which establishes a fellowship program must prepare an annual report containing the following information: a description of the agency's program, the number of individuals participating in the program, the criteria used to select fellowship recipients, an assess-

ment of the program's success in meeting the agency's recruitment needs, and any other information which the agency head considers appropriate. Each agency is required to submit this report to the Office of Personnel Management.

Under subsection (a)(2), OPM is required to establish guidelines for the preparation of these reports. OPM is also responsible for transmitting all agency reports received by the Office each year, without change, to Congress. OPM is free to also submit written comments.

Subsection (b) requires the General Accounting Office to annually review each fellowship program to ensure that it complies with the requirements of this chapter, and to report its findings to Congress.

Section 12(b) of the bill makes a conforming amendment to the analysis for part III of title 5, United States Code.

*Section 13—Training requirements for supervisors, managers, and executives*

Section 13(a) concerns training programs for senior executives, supervisors, and management officials. It amends section 4103 of title 5, United States Code, by adding a new subsection (c).

New section 4103(c)(1) defines the terms used by cross-reference. It defines "senior executive" as having the meaning given such term under section 3132(a)(3); defines "supervisor" as under section 7103(a)(10); and defines "management official" as under 7103(a)(11).

Subsection (c)(2) requires the Office of Personnel Management to include in regulations (under section 4118 of title 5, United States Code) provisions under which each senior executive, supervisor, and management official would be required to participate in a minimum number of hours of executive, supervisory, or management training each year. The regulations must specify, by category of employee, the minimum amount of training required. Under subsection (c)(3), the regulations must permit an agency head to exclude an individual from training if the individual's anticipated length of service does not justify extensive training. The regulations may allow participation in the Executive Exchange Program of the President's Commission on Executive Exchange to count toward satisfying training requirements.

Section 13(b) of the bill concerns training for other officials. It amends chapter 41 of title 5, United States Code, by creating a new section 4120, entitled "Training for noncareer appointees."

New section 4120(a) defines the term "noncareer appointee", for purposes of this section, as an individual appointed by the President to an office or position in the executive branch (whether or not Senate confirmation is required); an individual in a Senior Executive Service position who is not a career appointee, a limited term appointee, or a limited emergency appointee; an individual appointed to a Schedule C position which is in grade GS-13 of the General Schedule or higher; and any other individual holding a similar appointment, as determined under regulations which the President must prescribe.

Section 4120(b) requires the Director of the Office of Personnel Management to establish a training program for noncareer appointees, which will cover the operations of the Government, civil

service personnel procedures, good public management practices, and ethical standards for public servants.

Section 4120(c) provides that, under regulations which the President may prescribe, each noncareer appointee would be required to complete the training program within 90 days of the date of that individual's appointment. Exceptions can be made for extraordinary circumstances which prevent completion of training within the prescribed period or when the noncareer appointee has recently completed a period of Government service or a similar period of training.

Section 4120(d) provides that, under regulations which the President may prescribe, an individual who has been nominated by the President for a position requiring Senate confirmation may be allowed to participate in the training program prior to final Senate action on the nomination.

Section 13(b)(2) of the bill amends the chapter analysis for chapter 41 of title 5, United States Code, to add section 4120.

*Section 14—Adjustment of Presidential rank award amounts*

Section 14(a) amends section 4507(e) of title 5, United States Code, by adding a new subsection (e)(3). Under subsection (e)(3), whenever General Schedule pay rates are adjusted under section 5305 of title 5, United States Code, each dollar amount specified for the award of ranks for Meritorious Executive under subsection (e)(1) or Distinguished Executive under subsection (e)(2) shall be adjusted by an amount, rounded up to the nearest multiple of \$100, equal to the percentage increase in the General Schedule pay rates. Each pay adjustment taking effect after September 30, 1987, shall be taken into account for purposes of computing the adjustment increase for rank awards.

Section 14(b) provides that the amendment made by section (a) does not apply to any award paid before the date of enactment of this Act.

*Section 15—Requirement that the Director of OPM periodically consult with certain advisory groups consisting of Federal employees*

Section 15 amends section 1103 of title 5, United States Code, by adding a new subsection (c). Subsection (c)(1) requires the Director of the Office of Personnel Management to establish and periodically consult with a panel of Senior Executive Service career (or former career) appointees (defined as in 3132(a)(4) of title 5, United States Code), in order to assist the Director in discharging obligations relating to the management of the Senior Executive Service. The Director will appoint the panel from individuals who are recognized for their knowledge, interest, and experience relating to executive management, or for the excellence of their performance as members of the Senior Executive Service. This panel is responsible for advising the OPM Director on actions affecting the Senior Executive Service.

Subsection (c)(2) requires the Director of the Office of Personnel Management to establish and periodically consult with a panel of career employees in order to assist the Director in discharging obligations relating to the management of the civil service. The Direc-

tor will appoint the panel from among individuals recommended by labor organizations or by other organizations representing the interests of employees generally or specific groups of employees. An individual on leave without pay to serve as a full-time officer or employee of such an organization is eligible for such an appointment. This panel is responsible for advising the OPM Director on actions affecting the civil service.

Any individual appointed to either the SES or civil service panel is not entitled to any additional pay, allowances, or benefits by reason of appointment to such panel.

#### *Section 16—Limitation on payments*

Section 16 states that any authority to make payments under this act shall be effective only to the extent or in such amounts as are provided for in advance by appropriation Acts. Funds for the geographic relocation benefit and the Government service fellowship program can be spent from monies available for salaries and expenses, and need not be requested as separate line items.

#### COST

A Congressional Budget Office cost estimate was requested by the Committee but was not received in time for inclusion in this report.

#### OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the Subcommittee on Civil Service is vested with legislative and oversight jurisdiction over the subject matter of this legislation. As a result of the hearings, the subcommittee concluded that there is ample need and justification for enacting this legislation.

The subcommittee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of House Rule XI, the committee has concluded that enactment of H.R. 2882 will have no inflationary impact on the national economy.

#### ADMINISTRATION VIEWS

Set forth below are the views of the Office of Personnel Management on this legislation.

U.S. OFFICE OF PERSONNEL MANAGEMENT  
*Washington, DC, June 7, 1988.*

HON. WILLIAM D. FORD,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: We are writing to advise you of the strong objections of the Office of Personnel Management to H.R. 2882, entitled the "Excellence in Government Management Act of 1988."

Our comments address the substitute version of the bill that has been reported to the full committee.

H.R. 2882 is a compilation of miscellaneous provisions which are largely unneeded and would, in many cases, interfere with the responsiveness and efficiency of Government management. Various provisions of the bill would restrict the number of noncareer appointees in the Senior Executive Service and the types of positions to which they could be assigned; limit the number of Schedule C positions in the Government; mandate geographic relocation bonuses to certain members of the Senior Executive Service; impose unneeded and inflexible training requirements; and establish an unnecessary and potentially very costly Government service fellowship program. While some of the provisions of the bill are innocuous—such as placing in statute certain reporting requirements that are already being met—or even helpful—such as providing for the periodic adjustment of Presidential rank award amounts—the bill taken as a whole would significantly harm our efforts to make the Government more responsive, more flexible, and less burdened by unneeded paperwork.

Accordingly, we strongly urge the Committee not to give H.R. 2882 favorable consideration.

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

Sincerely,

CONSTANCE HORNER, *Director.*

**CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**PART II—CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES**

**CHAPTER 11—OFFICE OF PERSONNEL MANAGEMENT**

\* \* \* \* \*

**§ 1103. Functions of the Director**

(a) \* \* \*

\* \* \* \* \*

*(c)(1) In order to assist the Director in discharging obligations relating to the management of the Senior Executive Service, the Director shall establish and periodically consult with a panel of a career appointees (as defined by section 3132(a)(4)) who—*

*(A) shall be appointed by the Director from among individuals generally recognized for their knowledge, interest, and experience with respect to matters relating to executive management, or for the excellence of their performance as senior executives (as defined by section 3132(a)(3)); and*

*(B) shall be responsible for providing advice to the Director with respect to actions affecting the Senior Executive Service.*

*Appointments under this paragraph may also be made from among former career appointees.*

*(2) In order to assist the Director in discharging obligations relating to the management of the civil service, the Director shall establish and periodically consult with a panel of employees holding career appointments in the civil service who—*

*(A) shall be appointed by the Director from among individuals (including individuals on leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees) recommended by labor organizations or other organizations representing the interests of employees generally or specific groups of employees; and*

*(B) shall be responsible for providing advice to the Director with respect to actions affecting the civil service.*

*An individual appointed to a panel under paragraph (1) or (2) shall not be entitled to any additional pay, allowances, or benefits by reason of appointment to such panel.*

\* \* \* \* \*

### **PART III—EMPLOYEES**

#### **Subpart A—General Provisions**

Chap.	Sec.
21. Definitions .....	2101
23. Merit system principles .....	2301
29. Commissions, Oaths, Records and Reports.....	2901

#### **Subpart B—Employment and Retention**

31. Authority for Employment.....	3101
33. Examination, Selection, and Placement .....	3301
34. Part-time career employment opportunities.....	3401
35. Retention Preference, Restoration, and Reemployment.....	3501
37. Government Service Fellowship Programs .....	3701

\* \* \* \* \*

### **Subpart B—Employment and Retention**

#### **CHAPTER 31—AUTHORITY FOR EMPLOYMENT**

\* \* \* \* \*

##### **Subchapter II—The Senior Executive Service**

- 3131. The Senior Executive Service.
- 3132. Definitions and exclusions.
- 3133. Authorization of positions; authority for appointments.



- 3134. Limitations on noncareer and limited appointments.
- 3135. **Biennial** Annual report.
- 3136. Regulations.

\* \* \* \* \*

### Subchapter II—The Senior Executive Service

\* \* \* \* \*

#### § 3132. Definitions and exclusions.

(a) \* \* \*

(b)(1) For the purpose of paragraph (8) of subsection (a) of this section, the Office shall prescribe the criteria and regulations governing the designation of career reserved positions. **【The criteria and regulations shall provide that a position shall be designated as a career reserved position only if the filling of the position by a career appointee is necessary to ensure impartiality, or the public's confidence in the impartiality, of the Government.】** *The criteria and regulations shall provide that a position shall be designated as a career reserved position if the filling of the position by a career appointee is necessary to insure impartiality, or the public's confidence in the impartiality, of the Government, if the principal responsibilities of the position relate to managing career employees, or if otherwise necessary to carry out the purposes of this subchapter.* The head of each agency shall be responsible for designating career reserved positions in such agency in accordance with such criteria and regulations.

\* \* \* \* \*

#### § 3134. Limitations on noncareer and limited appointments

(a) \* \* \*

(b) The number of noncareer appointees in each agency shall be determined annually by the Office on the basis of demonstrated need of the agency. **【The total number of noncareer appointees in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.】** *The total number of noncareer appointees in all agencies may not, during any fiscal year, exceed 10 percent of the average number of senior executives employed in Senior Executive Service positions during the preceding fiscal year, as determined under subsection (f)(1).*

\* \* \* \* \*

**【(d) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed the greater of—**

**【(1) 25 percent of the total number of Senior Executive Service positions in the agency; or**

**【(2) the number of positions in the agency which were filled on the date of the enactment of the Civil Service Reform Act of 1978 by—**

**【(A) noncareer executive assignments under subpart F of part 305 of title 5, Code of Federal Regulations, as in effect on such date, or**

**【(B) appointments to level IV or V of the Executive Schedule which were not required on such date to be made by and with the advice and consent of the Senate.**

**[This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.]**

*(d)(1) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed 25 percent of the average number of senior executives employed in Senior Executive Service positions in the agency during the preceding fiscal year, as determined under subsection (f)(2).*

*(2)(A) This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.*

*(B) The Office may, in the case of a newly created agency or an agency which undergoes a substantial change in function, waive the application of this subsection for not to exceed 2 years. The Office shall report any waiver under this subparagraph to the Congress in writing.*

**[(e) The total number of limited emergency appointees and limited term appointees in all agencies may not exceed 5 percent of the total number of senior Executive Service positions in all agencies.]**

*(e) The total number of limited emergency appointees and limited term appointees in all agencies may not, during any fiscal year, exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions during the preceding fiscal year, as determined under subsection (f)(1).*

*(f)(1) For purposes of subsections (b) and (e), the average number of senior executives employed in Senior Executive Service positions during a fiscal year shall be equal to—*

*(A) the sum of the total number of senior executives employed in Senior Executive Service positions as of December 31, March 31, June 30, and September 30 of such fiscal year, respectively.*

*(B) divided by 4.*

*(2) For purposes of subsection (d)(1), the average number of senior executives employed in Senior Executive Service positions in an agency during a fiscal year shall be equal to—*

*(A) the sum of the total number of senior executives employed in Senior Executive Service positions in such agency as of December 31, March 31, June 30, and September 30 of such fiscal year, respectively;*

*(B) divided by 4.*

### **§ 3135. [Biennial] Annual report**

**[(a)]** The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted by the President to the Congress **[during each odd-numbered]** each calendar year, a report on the Senior Executive Service. The report shall include—

(1) \* \* \*

\* \* \* \* \*

(9) the number of career appointees who have been placed in positions outside the Senior Executive Service under section 3594 of this title as a result of a removal under section 3595 of this title; **[and]**

*(10) in the aggregate and by agency, the number of career appointees who applied for sabbaticals under section 3396(c) during the pre-*

*ceding fiscal year and the number of applications granted (including the name of each individual whose application was granted and a brief description of how the sabbatical was to be used); and*

[(10)] (11) such other information regarding the Senior Executive Service as the Office considers appropriate.

[(b) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted to the Congress during each even-numbered calendar year, an interim report showing changes in matters required to be reported under subsection (a) of this section.]

\* \* \* \* \*  
**CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT**

**Subchapter I—Examination, Selection, and Appointment**

Sec. 3301. Civil service; generally.

\* \* \* \* \*  
*3329. Reporting requirement.*  
\* \* \* \* \*

**§ 3302. Competitive service; rules**

(a) The President may prescribe rules governing the competitive service. The rules shall provide, as nearly as conditions of good administration warrant, for—

(1) necessary exceptions of positions from the competitive service; and

(2) necessary exceptions from the provisions of sections 2951, 3304(a), 3321, 7202, 7203, 7321, and 7322 of this title.

Each officer and individual employed in an agency to which the rules apply shall aid in carrying out the rules.

(b)(1) *Subject to paragraph (2), the maximum number of positions which may be excepted from the competitive service under the rules because of their confidential, policy-making, or policy-determining character may not exceed 1,000.*

(2) *The limitation under this subsection shall not apply with respect to any position which is in grade GS-12 of the General Schedule or lower.*

\* \* \* \* \*  
**§ 3304. Competitive service; examinations**

(a) \* \* \*

(b) An individual may be appointed in the competitive service only if he has passed an examination or is specifically excepted from examination under section 3302(a) of this title. This subsection does not take from the President any authority conferred by section 3301 of this title that is consistent with the provisions of this title governing the competitive service.

\* \* \* \* \*  
**§ 3329. Reporting requirement**

(a) *For the purpose of this section—*

(1) the term "noncareer appointment" means an appointment—

(A) to a position excepted from the competitive service because of its confidential, policy-making, or policy-determining character;

(B) as a noncareer appointee in the Senior Executive Service;

(C) as a limited term or limited emergency appointee in the Senior Executive Service, excluding any appointee who, immediately before becoming such an appointee, held an appointment in the competitive service; or

(D) described in paragraph (2) or (4) of section 3324(a); and

(2) the terms "Senior Executive Service position", "career appointee", "noncareer appointee", "limited term appointee", and "limited emergency appointee" have the meanings set forth in section 3132(a).

(b) The Office of Personnel Management shall submit a written report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate with respect to any individual who is appointed to a position within the competitive service or to a position within the Senior Executive Service as a career appointee, if, at any time during the 6-month period ending on the effective date of the appointment, such individual served under a noncareer appointment in any agency (including the Executive Office of the President).

(c) A report under subsection (b)—

(1) shall be submitted no later than 30 days after the effective date of the individual's appointment; and

(2) shall include—

(A) the title of the position within the competitive service or within the Senior Executive Service to which the individual is being or was most recently appointed or assigned;

(B) the title of any position held by such individual under a noncareer appointment during the 6-month period ending on the effective date of the appointment referred to in subparagraph (A);

(C) a brief description of the individual's qualifications with respect to the position referred to in subparagraph (A); and

(D) a brief description of the process by which the position under subparagraph (A) was filled.

However, the individual's name may not be used in any such report.

\* \* \* \* \*

## Subchapter V—Promotion

### § 3361. Promotion; competitive service; examination

An individual may be promoted in the competitive service only if he has passed an examination or is specifically excepted from examination under section 3302 (a) of this title. This section does not take from the President any authority conferred by section 3301 of

this title that is consistent with the provisions of this title governing the competitive service.

\* \* \* \* \*

**Subchapter VIII—Appointment, Reassignment, Transfer, and  
Development in the Senior Executive Service**

\* \* \* \* \*

**§ 3393. Career appointments**

(a) \* \* \*

\* \* \* \* \*

[(c)(1) The Office shall establish one or more qualifications review boards, as appropriate. It is the function of the boards to certify the executive qualifications of candidates for initial appointment as career appointees in accordance with regulations prescribed by the Office. Of the members of each board more than one-half shall be appointed from among career appointees. Appointments to such boards shall be made on a non-partisan basis, the sole selection criterion being the professional knowledge of public management and knowledge of the appropriate occupational fields of the intended appointee.]

*(c)(1) The Office shall establish a qualifications review board. It is the function of the board to certify the executive qualifications of candidates for initial appointment as career appointees in accordance with regulations prescribed by the Office. Of the members of the board, more than one-half shall be appointed from among career appointees. Each appointment to the board shall be for a term of 2 years and shall be made on a non-partisan basis, the sole selection criterion being the professional knowledge of public management and knowledge of appropriate occupational fields. Any panel of board members may, if so authorized by the board, take any action which the board is authorized to take, except that any such panel shall consist of at least 3 members and more than one-half of the panel members shall be career appointees.*

(2) The Office shall, in consultation with the [various qualification review boards] *qualifications review board*, prescribe criteria for establishing executive qualifications for appointment of career appointees. The criteria shall provide for—

**§ 3394. Noncareer and limited appointments**

(a) \* \* \*

\* \* \* \* \*

*(c) The Office shall establish a qualifications review board which shall certify the executive qualifications of candidates for initial appointment as noncareer, limited term, or limited emergency appointees, in accordance with regulations prescribed by the Office. Appointments to the board shall be made subject to the same terms and conditions as apply with respect to the qualifications review board under section 3393(c), but without regard to the requirement that more than one-half of all board members (or members of a duly constituted panel) be career appointees.*

**§ 3395. Reassignment and transfer within the Senior Executive Service**

(a)(1) \* \* \*

\* \* \* \* \*

*(3)(A) Subject to subparagraph (C), an agency shall pay from its appropriations a geographic relocation benefit to any career appointee reassigned to a Senior Executive Service position outside the career appointee's commuting area.*

*(B) An amount under this paragraph—*

*(i) shall be equal to—*

*(I) 10 percent of the annual rate of basic pay payable to the career appointee immediately before the reassignment; and*

*(II) any additional amount, not to exceed the amount under subclause (I), which the agency head considers appropriate, taking into account any higher costs of living resulting from the reassignment, any moving expenses not reimbursable or otherwise covered by the Government, and other similar factors;*

*(ii) shall be in addition to basic pay, and any other amount otherwise payable under this title;*

*(iii) shall be paid in a lump sum.*

*(C) An agency may pay a geographic relocation benefit under this paragraph only after the individual reassigned agrees in writing to remain in Government service for 12 months after the reassignment, unless separated for reasons beyond such individual's control which are acceptable to the agency concerned. If the individual violates the agreement, the amount paid under this paragraph shall be recoverable from the individual as a debt due the United States.*

*(D) Benefits afforded under this paragraph in the case of a career appointee who is reassigned to another position within the same agency shall also be afforded in the case of a career appointee who is transferred to another position in a different agency. For purposes of administering this paragraph with respect to a transferred career appointee, any reference in the preceding subparagraphs to an agency shall be considered to be a reference to the receiving agency, and any reference to an agency head shall be considered to be a reference to the head of the receiving agency.*

*(4)(A) Under such regulations as the President may prescribe, an agency may, at the time of a career appointee's reassignment to a Senior Executive Service position outside the career appointee's commuting area, enter into an agreement under which the employing agency agrees that, if the career appointee accepts the reassignment and satisfies the career appointee's obligations under the agreement with respect to the reassignment, the agency will pay travel and transportation expenses (as specified in the agreement) incident to the career appointee's relocating from the place of reassignment.*

*(B) The types of expenses allowable under this paragraph shall include any expenses, allowances, or other benefits (including those associated with one's immediate family and for household goods or personal effects) which would be available under subchapter II of chapter 57 if the relocation involved represented a transfer, in the*

*interest of the Government, from one official station to another for permanent duty, as referred to in section 5724(a).*

*(C) An agreement under this paragraph may not be entered into unless—*

*(i) at the time of the reassignment, the career appointee meets the age and service requirements for entitlement to an immediate annuity under subchapter III of chapter 83, or under chapter 84; or*

*(ii) the career appointee would meet the requirements for entitlement to an immediate annuity if such career appointee were to be involuntarily separated for failure to accept the reassignment.*

*(D) An agreement under this paragraph shall include—*

*(i) provisions relating to the period of time within which the relocation must be made after completing the requirements associated with the reassignment;*

*(ii) provisions relating to the place to which the relocation must or may be made in order to qualify for the benefits involved; and*

*(iii) such other terms or conditions as may be appropriate.*

*(E)(i) Benefits under this paragraph shall not be available in connection with any relocation to any place outside the United States.*

*(ii) For purposes of this subparagraph, "United States", means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.*

*(F) Benefits under this paragraph shall be in addition to any benefit provided under paragraph (3) or any other provision of law.*

*(G) A career appointee may not receive benefits under this paragraph in connection with more than 1 relocation.*

*(H) Under the regulations, the benefits allowable under this paragraph in the case of a career appointee who is reassigned to another position within the same agency shall also be available in the case of a career appointee who is transferred to another position in a different agency, except that any determination of eligibility shall be made without regard to subparagraph (C)(ii). Any authority under this subparagraph may be exercised only by the receiving agency.*

\* \* \* \* \*

*(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—*

*(A) within 120 days after an appointment of the head of the agency; or*

*[(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—*

*[(i) is a noncareer appointee; and*

*[(ii) has the authority to reassign the career appointee.]*

*(B) within 120 days after the appointment in the agency of a noncareer appointee who has the authority to reassign or detail the career appointee.*

\* \* \* \* \*

*(3) For the purpose of applying paragraph (1) to any career appointee, any days (not to exceed a total of 60) during which such career appointee is serving pursuant to a detail or other temporary assignment apart from such appointee's regular position shall not be counted in determining the number of days that have elapsed since an appointment referred to in subparagraph (A) or (B) of such paragraph.*

**§ 3396. Development for and within the Senior Executive Service**

(a) \* \* \*

\* \* \* \* \*

(d) (1) The Office shall encourage and assist individuals to improve their skills and increase their contribution by service in a variety of agencies as well as by accepting temporary placements in State or local governments or in the private sector.

*(2) In order to promote the professional development of career appointees and to assist them in achieving their maximum levels of proficiency, the Office shall, in a manner consistent with the needs of the Government, provide appropriate informational services and otherwise encourage career appointees to take advantage of any opportunities relating to—*

*(A) sabbaticals;*

*(B) training; or*

*(C) details or other temporary assignments in other agencies, State or local government, or the private sector.*

\* \* \* \* \*

**§ 3592. Removal from the Senior Executive Service**

(a) \* \* \*

(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

(A) within 120 days after an appointment of the head of the agency; or

[(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

[(i) is a noncareer appointee; and

[(ii) has the authority to remove the career appointee.]

(B) within 120 days after the appointment in the agency of a noncareer appointee who has the authority to remove the career appointee.

\* \* \* \* \*

*(3) For the purpose of applying paragraph (1) to any career appointee, any days (not to exceed a total of 60) during which such career appointee is serving pursuant to a detail or other temporary assignment apart from such appointee's regular position shall not be counted in determining the number of days that have elapsed since an appointment referred to in subparagraph (A) or (B) of such paragraph.*

\* \* \* \* \*



## **CHAPTER 37—GOVERNMENT SERVICE FELLOWSHIP PROGRAMS**

Sec.

*3701. Definitions.*

*3702. Establishment.*

*3703. General requirements for fellowship programs.*

*3704. Terms and conditions for individual participation.*

*3705. Reports.*

### **§ 3701. Definitions**

*For the purpose of this chapter—*

*(1) the term “agency” means an Executive agency and a military department;*

*(2) the term “institution of higher education” means an educational institution in any State which—*

*(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;*

*(B) is legally authorized within such State to provide a program of education beyond high school;*

*(C) provides an educational program for which it awards a baccalaureate degree; and*

*(D) is accredited by a nationally recognized accrediting agency or association; and*

*(3) the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.*

### **§ 3702. Establishment**

*The head of an agency may, by regulations consistent with guidelines which the Office of Personnel Management shall prescribe, establish a program under which fellowships may be awarded to individuals pursuing post-secondary degrees in fields of study as to which the agency requires, or anticipates that it will require, employees with proficiency or expertise.*

### **§ 3703. General requirements for fellowship programs**

*(a)(1) Under any agency program established under this chapter, the primary bases for the selection of fellowship recipients shall be individual accomplishments and demonstrated abilities or aptitudes.*

*(2) In addition to the criteria under paragraph (1), an agency may also, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b)—*

*(A) take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service; and*

*(B) to the extent permitted by section 3110(b) and any other provision of law which may apply, and if all other things are equal, give preference to a child of a career employee serving in or under an agency.*

*(b)(1) A fellowship may be awarded by an agency to a student under this chapter only for any period during which such student is*

*pursuing a baccalaureate or advanced degree at an institution of higher education which is qualified to participate in the agency's program under this chapter.*

*(2) An institution of higher education shall not be considered qualified to participate in an agency's program under this chapter unless it demonstrates that it has established a system under which fellowship recipients would receive academic and career counseling, particularly with respect to any subjects or areas which the agency head may from time to time identify.*

*(c) Agencies may offer—*

*(1) fellowships covering the full period of a student's undergraduate education, not to exceed 4 years; and*

*(2) fellowships covering the last 2 years of a student's undergraduate education (or the equivalent thereof, in the case of individuals enrolled in accelerated programs).*

*To the extent the head of an agency considers appropriate, fellowships may also be offered to students pursuing an advanced degree.*

#### **§ 3704. Terms and conditions for individual participation**

*(a)(1) A fellowship recipient is entitled to receive, by advance payment or reimbursement—*

*(A) the full cost of tuition; and*

*(B) the full cost of books and other appropriate study materials.*

*(2) In addition to the benefits under paragraph (1), so long as a student's fellowship continues, such student is entitled to receive, on a biweekly basis—*

*(A) during each academic term, an amount equal to the minimum biweekly rate of basic pay payable for grade GS-2 of the General Schedule; and*

*(B) with respect to each period during which the student is serving in a position in fulfillment of work requirements under subsection (b)(1)(A), the minimum biweekly rate of basic pay payable for the grade of the position under the General Schedule or, in the case of a position not covered by the General Schedule, the minimum biweekly rate of basic pay normally payable for the position.*

*(3) A fellowship recipient shall not, for any purpose, be considered an employee by reason of such recipient's participation in a program under this chapter except—*

*(A) in accordance with the terms under which the individual is appointed to a position in connection with fulfilling any work requirement under subsection (b)(1)(A); and*

*(B) as provided under subsection (b)(3)(D).*

*(b)(1) To be eligible for a fellowship under this chapter, an individual must agree in writing—*

*(A) to satisfy such work requirements as the agency head may by regulation prescribe with respect to the period before completion of such individual's undergraduate or advanced studies, as the case may be; and*

*(B) to work for a period after completing such individual's undergraduate or advanced studies (as the case may be) equivalent to the period of time over which any biweekly payments described in subsection (a)(2) were made.*

*(2) With respect to paragraph (1)(A)—*

*(A) work requirements shall be established in such a way so that they may be satisfied during periods between consecutive academic terms in a year, or during the period between consecutive academic years;*

*(B) any position to which the individual is appointed, and the types of tasks required to be performed, shall be consistent with the individual's background and experience, and shall be determined in a way that complements the individual's education and contributes to the individual's preparation for post-fellowship Government service; and*

*(C) the individual—*

*(i) may not receive any appointment other than a temporary appointment not to exceed 120 days; and*

*(ii) shall be appointed in accordance with such procedures as the agency head (in consultation with the Director of the Office of Personnel Management) shall by regulation prescribe, including provisions under which any application or other appointment-related requirements may be waived.*

*An agency may, for any individual, waive the work requirements under paragraph (1)(A), in whole or in part, in such circumstances as the agency may by regulation prescribe.*

*(3) With respect to paragraph (1)(B)—*

*(A) the position to which an individual is appointed shall be selected in a way that, to the extent practicable, makes use of the individual's education and training;*

*(B) appointment shall be carried out in accordance with such procedures as the agency head (in consultation with the Director of the Office of Personnel Management) shall by regulation prescribe, including provisions under which an individual's preferences as to geographic location shall be taken into account, any application or other appointment-related requirements may be waived, and appropriate minimum levels of pay and responsibility are fixed for post-fellowship appointment;*

*(C) appropriate opportunities for continuing education or career development, such as seminars, conferences, and specialized training, shall be offered during post-fellowship service; and*

*(D) the individual shall, while performing post-fellowship service, be considered an employee of the employing agency for all purposes, including for purposes of determining basic pay and eligibility for benefits.*

*Nothing in this paragraph shall be considered to authorize the appointment of an individual to a position other than a permanent position which is—*

*(i) in the competitive service; or*

*(ii) excepted from the competitive service either under regulations prescribed by the Office of Personnel Management (other than a position of a confidential, policy-making, or policy-determining character) or by statute.*

*(c)(1) In addition to the matters described in subsection (b), each agreement referred to in such subsection shall include provisions under which—*

(A) an agency shall reserve the right to terminate, at any time, an individual's fellowship, or postfellowship employment with the United States (in fulfillment of such individual's obligations to the agency under this chapter), based on misconduct or any other reason which may be specified in the agreement; and

(B) the student agrees to reimburse the agency for any amounts which were paid either to or on behalf of the student under the fellowship program (excluding any amounts under subsection (a)(2) and any amounts based on post-fellowship service) if the individual involved is unable to complete the required educational course of study or otherwise satisfy such individual's obligations under the agreement.

(2)(A)(i) The obligation to reimburse the United States under any provision described in paragraph (1)(B) shall for all purposes be treated as a debt owing the United States.

(ii) The head of an agency may release an individual from the obligation referred to in clause (i), or from any part thereof, if the agency head determines that equity or the interests of the United States so require.

(B) Termination of an agreement by an agency under paragraph (1)(A) releases the individual from all requirements and obligations to which such individual would otherwise be subject under the agreement.

### **§ 3705. Reports**

(a)(1) The head of each agency which establishes a fellowship program under this chapter shall prepare and submit to the Office of Personnel Management an annual report. Each such report shall contain—

(A) a description of the agency's program, including any modifications made during the period covered by the report;

(B) the number of individuals participating in the program;

(C) the criteria by which any students selected during the period covered by the report were chosen;

(D) an assessment of how successful the program was, during the period covered by the report, in meeting the purposes for which the program was established; and

(E) any other information which the agency head considers appropriate.

(2) The Office—

(A) shall establish guidelines relating to the preparation and submission of reports under paragraph (1); and

(B) shall transmit to Congress all agency reports received by the Office each year, together with any written comments of the Office.

(b) The General Accounting Office shall annually review each fellowship program established under this chapter to ensure that such program is in compliance with the requirements of this chapter (particularly those under section 3703(a)(2)). Findings under each such review shall be reported to the Congress in writing.

## Subpart C—Employee Performance

### CHAPTER 41—TRAINING

Sec. 4101. Definitions.

\* \* \* \* \*  
4120. Training for noncareer appointees.  
\* \* \* \* \*

#### § 4103. Establishment of training programs

(a) \* \* \*

\* \* \* \* \*  
(c)(1) For the purpose of this subsection—

(A) the term “senior executive” has the meaning given under section 3132(a)(3);

(B) the term “supervisor” has the meaning given under section 7103(a)(10); and

(C) the term “management official” has the meaning given under section 7103(a)(11).

(2) The regulations prescribed under section 4118 shall include provisions under which each senior executive, supervisor, and management official shall, except as provided in paragraph (3), be required to participate in a minimum number of hours of executive, supervisory or management training each year (or over the course of such greater period as the Office may prescribe). The regulations shall specify, by appropriate categories, the minimum period of training required for individuals subject to this subsection.

(3) Under the regulations, an agency head may exclude an individual from this subsection if the period of training required under this subsection would be inappropriate considering the individual’s anticipated term of service.

(4) The regulations may include provisions under which a period of participation in the Executive Exchange Program of the President’s Commission on Executive Exchange may be counted toward satisfying the requirements of this subsection.

\* \* \* \* \*

#### § 4120. Training for noncareer appointees

(a) For the purpose of this section, the term “noncareer appointee” means—

(1) an individual appointed by the President to an office or position in the executive branch (whether or not Senate confirmation is required);

(2) a noncareer appointee, as defined by section 3132(a)(7);

(3) an individual appointed to a position which is in grade GS-13 of the General Schedule or higher, and which is excepted from the competitive service because of the confidential, policy-making, or policy-determining character of the position; and

(4) any other individual holding a similar appointment, as determined under regulations prescribed by the President.

(b) The Director of the Office of Personnel Management shall establish a training program designed to acquaint noncareer appointees

*with the operations of the Government, procedures covering the civil service, good public management practices, and ethical standards for public servants.*

*(c) Under such regulations as the President may prescribe, each noncareer appointee shall be required to complete an appropriate period of training under this section before the end of the 90-day period beginning on the date on which that individual's appointment becomes final, unless—*

*(1) extraordinary circumstances prevent completion within such period; or*

*(2) participation in the training program is unnecessary, due to the individual's having recently completed a period of Government service, having recently completed a similar period of training, or otherwise, as determined under those regulations.*

*(d) Under such regulations as the President may prescribe, an individual who has been nominated by the President for an office or position requiring Senate confirmation may, prior to final Senate action on that nomination, be allowed to participate in training under this section.*

\* \* \* \* \*

**CHAPTER 45—INCENTIVE AWARDS**

\* \* \* \* \*

**Subchapter I—Awards for Superior Accomplishments**

\* \* \* \* \*

**§ 7507. Awarding of ranks in the Senior Executive Service**

*(a) \* \* \**

\* \* \* \* \*

*(e)(1) \* \* \**

\* \* \* \* \*

*(3)(A) Subject to subparagraph (B), whenever an adjustment takes effect under section 5305 in the rates of pay under the General Schedule, each dollar amount specified in the preceding provisions of this subsection shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100), equal to the percentage corresponding to the overall average percentage of the adjustment in the rates of pay under the General Schedule (as set forth in the report transmitted to the Congress under such section).*

*(B) Each adjustment under section 5305 which first takes effect (or which first took effect) after September 30, 1987, shall be taken into account for purposes of subparagraph (A).*

\* \* \* \* \*

○









100TH CONGRESS  
1ST SESSION

# H. R. 2882

To amend title 5, United States Code, to increase the productivity of the Government by promoting excellence in Government management and by reducing improper political pressures on career civil servants.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1987

Mrs. SCHROEDER introduced the following bill; which was referred to the Committee on Post Office and Civil Service

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## A BILL

To amend title 5, United States Code, to increase the productivity of the Government by promoting excellence in Government management and by reducing improper political pressures on career civil servants.

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 "Excellence in Govern-  
5 ment Management Act of 1987".

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) **FINDINGS.**—The Congress finds that—

1           (1) career civil servants cannot aspire to the most  
2           responsible and important positions in Government be-  
3           cause those positions have, to an increasing extent in  
4           recent years, been filled by political appointees;

5           (2) important management positions in the Gov-  
6           ernment are too often filled by political appointees who  
7           are not qualified by training, temperament, experience,  
8           or knowledge for the positions they occupy;

9           (3) the institutional memory of the Government is  
10          declining because the most responsible and important  
11          positions in Government are increasingly being filled  
12          by political appointees who generally serve for rela-  
13          tively short periods of time;

14          (4) career Government executives are at risk of  
15          being adversely affected by personnel actions motivated  
16          by political considerations;

17          (5) the political forces on senior executives fre-  
18          quently force top career managers to abandon Govern-  
19          ment careers earlier than they otherwise would have;

20          (6) civil servants are paid substantially less than  
21          their private sector counterparts;

22          (7) many of the most talented young people, espe-  
23          cially those with training in fields of study most needed  
24          by the Government, are not attracted to a career in  
25          Government service; and

1           (8) the civil service has been the target of unfair,  
2 politically motivated, and productivity-reducing attacks  
3 by elected officials.

4           (b) PURPOSES.—The purpose of this Act is to increase  
5 the productivity and effectiveness of the Government by—

6           (1) increasing the ability of the Government to re-  
7 cruit, retain, and effectively deploy the best employees;

8           (2) ensuring that those who occupy management  
9 positions in Government are qualified to do so;

10           (3) providing career civil servants with an ex-  
11 panded role in the management of the civil service; and

12           (4) eliminating, to the extent practicable, improper  
13 political pressures on career civil servants.

14 **SEC. 3. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR**  
15 **OF THE OFFICE OF PERSONNEL MANAGEMENT.**

16           Section 1102 of title 5, United States Code, is  
17 amended—

18           (1) by redesignating subsections (c) and (d) as sub-  
19 sections (d) and (e), respectively; and

20           (2) by inserting after subsection (b) the following:

21           “(c)(1) Whenever the office of the Director of the Office  
22 of Personnel Management or the Deputy Director of the  
23 Office of Personnel Management becomes vacant, the Presi-  
24 dent shall appoint a panel, the functions of which shall be—

1           “(A) to submit the names of qualified candidates  
2           to the President; and

3           “(B) upon request of the President, to provide as-  
4           sistance in evaluating potential nominees for the va-  
5           cancy involved.

6           “(2) Appointments to panels shall be made—

7           “(A) on a nonpartisan basis; and

8           “(B) from among individuals who, by background,  
9           training, and experience, have demonstrated a commit-  
10          ment to public service.

11          “(3) An individual shall not be considered an employee  
12         by reason of an appointment under this subsection and shall  
13         not be entitled to pay by reason of service as a panel  
14         member, but may be allowed travel or transportation ex-  
15         penses in accordance with section 5703.”.

16         **SEC. 4. DESIGNATION OF CAREER RESERVED POSITIONS.**

17         The second sentence of section 3132(b)(1) of title 5,  
18         United States Code, is amended to read as follows: “The  
19         criteria and regulations shall provide that a position shall be  
20         designated as a career reserved position if the filling of the  
21         position by a career appointee is necessary to insure impar-  
22         tiality, or the public’s confidence in the impartiality, of the  
23         Government, if the principal responsibilities of the position  
24         relate to managing career employees, or if otherwise neces-  
25         sary to carry out the purposes of this subchapter.”.

1 **SEC. 5. CALCULATING THE MAXIMUM NUMBER OF NON-**  
2 **CAREER APPOINTEES ALLOWED.**

3 Section 3134 of title 5, United States Code, is  
4 amended—

5 (1) in subsections (b) and (e), by striking “Senior  
6 Executive Service positions in all agencies” and insert-  
7 ing in lieu thereof “senior executives employed in  
8 Senior Executive Service positions at the end of the  
9 preceding fiscal year”; and

10 (2) by amending subsection (d)(1) to read as  
11 follows:

12 “(1) 25 percent of the total number of senior ex-  
13 ecutives employed in Senior Executive Service posi-  
14 tions within the agency at the end of the preceding  
15 fiscal year; or”.

16 **SEC. 6. LIMITATION ON THE NUMBER OF POSITIONS WHICH**  
17 **MAY BE EXCEPTED FROM THE COMPETITIVE**  
18 **SERVICE BECAUSE OF THEIR CONFIDENTIAL**  
19 **OR POLICY-DETERMINING CHARACTER.**

20 (a) **IN GENERAL.**—Section 3302 of title 5, United  
21 States Code, is amended—

22 (1) by inserting “(a)” before “The President”; and

23 (2) by adding at the end the following:

24 “(b)(1) Effective after September 30, 1988, and subject  
25 to paragraph (2), the maximum number of positions which  
26 may be excepted from the competitive service under the rules

1 because of their confidential or policy-determining character  
2 may not exceed 900.

3 “(2) The limitation under this subsection shall not apply  
4 with respect to any position if the rate of basic pay payable  
5 for such position is less than the minimum rate of basic pay  
6 payable for GS-13 of the General Schedule.”.

7 (b) CONFORMING AMENDMENTS.—Sections 3304(b)  
8 and 3361 of title 5, United States Code, are amended by  
9 striking “3302” and inserting in lieu thereof “3302(a)”.

10 **SEC. 7. REPORT RELATING TO INDIVIDUALS RECEIVING CER-**  
11 **TAIN APPOINTMENTS AFTER HOLDING NON-**  
12 **CAREER POSITIONS.**

13 (a) IN GENERAL.—Title 5, United States Code, is  
14 amended by inserting after section 3328 the following:

15 **“§ 3329. Reporting requirement**

16 “(a) For the purpose of this section—

17 “(1) the term ‘noncareer appointment’ means an  
18 appointment—

19 “(A) to a position excepted from the com-  
20 petitive service because of its confidential or  
21 policy-determining character;

22 “(B) as a noncareer, limited term, or limited  
23 emergency appointee in the Senior Executive  
24 Service; or

1                   “(C) described in paragraph (2) or (4) of sec-  
2                   tion 3324(a); and

3                   “(2) the terms ‘Senior Executive Service posi-  
4                   tion’, ‘career appointee’, ‘noncareer appointee’, ‘limited  
5                   term appointee’, and ‘limited emergency appointee’  
6                   have the meanings set forth in section 3132(a).

7                   “(b) The Office of Personnel Management shall submit a  
8                   written report to the Committee on Post Office and Civil  
9                   Service of the House of Representatives and the Committee  
10                  on Governmental Affairs of the Senate with respect to any  
11                  individual who is appointed to a position within the competi-  
12                  tive service or to a Senior Executive Service position as a  
13                  career appointee if, at any time during the 6-month period  
14                  ending on the effective date of the appointment, such individ-  
15                  ual served under a noncareer appointment in any agency (in-  
16                  cluding the Executive Office of the President).

17                  “(c) A report under subsection (b)—

18                         “(1) shall be submitted no later than 30 days after  
19                         the effective date of the individual’s appointment; and

20                         “(2) shall include—

21                                 “(A) the title of the position within the com-  
22                                 petitive service or the Senior Executive Service  
23                                 position to which the individual is being or was  
24                                 most recently appointed;



1                   “(B) the title of any position held by such in-  
2                   dividual under a noncareer appointment during  
3                   the 6-month period ending on the effective date of  
4                   the appointment referred to in subparagraph (A);

5                   “(C) a brief description of the individual’s  
6                   qualifications with respect to the position referred  
7                   to in subparagraph (A); and

8                   “(D) a brief description of the process by  
9                   which the position under subparagraph (A) was  
10                  filled.”.

11               (b) **CHAPTER ANALYSIS.**—The analysis for chapter 33  
12 of title 5, United States Code, is amended by inserting after  
13 the item relating to section 3328 the following:

“3329. Reporting requirement.”.

14 **SEC. 8. OPM QUALIFICATIONS REVIEW BOARDS RELATING TO**  
15 **APPOINTMENTS IN THE SENIOR EXECUTIVE**  
16 **SERVICE.**

17               (a) **CAREER APPOINTMENTS.**

18               (1) **ESTABLISHMENT.**—Section 3393(c)(1) of title  
19 5, United States Code, is amended to read as follows:

20               “(c)(1) The Office shall establish a qualifications review  
21 board. It is the function of the board to certify the executive  
22 qualifications of candidates for initial appointment as career  
23 appointees in accordance with regulations prescribed by the  
24 Office. At least one-half of the board members shall be ap-  
25 pointed from among career appointees. Each appointment to

1 the board shall be for a term of 2 years and shall be made on  
2 a non-partisan basis, the sole selection criterion being the  
3 professional knowledge of public management and knowledge  
4 of appropriate occupational fields. Any panel of board mem-  
5 bers may, if so authorized by the board, take any action  
6 which the board is authorized to take, except that any such  
7 panel shall consist of at least 3 members and at least one-half  
8 of the panel members shall be career appointees.”.

9 (2) CONFORMING AMENDMENT.—Section  
10 3393(c)(2) of title 5, United States Code, is amended  
11 by striking “the various qualification review boards,”  
12 and inserting in lieu thereof “the qualifications review  
13 board,”.

14 (b) NONCAREER AND LIMITED APPOINTMENTS.—Sec-  
15 tion 3394 of title 5, United States Code, is amended by  
16 adding at the end the following:

17 “(c) The Office shall establish a qualifications review  
18 board which shall certify the executive qualifications of candi-  
19 dates for initial appointment as noncareer, limited term, or  
20 limited emergency appointees, in accordance with regulations  
21 prescribed by the Office. Appointments to the board shall be  
22 made subject to the same terms and conditions as apply with  
23 respect to the qualifications review board under section  
24 3393(c), but without regard to the requirement that at least

1 one-half of all board members (or members of a duly consti-  
2 tuted panel) be career appointees.”.

3 **SEC. 9. GEOGRAPHIC RELOCATION BENEFIT.**

4 Section 3395(a) of title 5, United States Code, is  
5 amended by adding at the end the following:

6 “(3)(A) Subject to subparagraph (C), an agency shall  
7 pay from its appropriations a geographic relocation benefit to  
8 any career appointee reassigned to a Senior Executive Serv-  
9 ice position outside the career appointee’s commuting area.

10 “(B) An amount under this paragraph—

11 “(i) shall be equal to—

12 “(I) 10 percent of the annual rate of basic  
13 pay payable to the career appointee immediately  
14 before the reassignment; and

15 “(II) any additional amount, not to exceed  
16 the amount under subclause (I), which the agency  
17 head considers appropriate, taking into account  
18 any higher costs of living resulting from the reas-  
19 signment, any moving expenses not reimbursable  
20 or otherwise covered by the Government, and  
21 other similar factors;

22 “(ii) shall be in addition to any amount otherwise  
23 payable under this title; and

24 “(iii) shall be paid in a lump sum.

1       “(C) An agency may pay a geographic relocation benefit  
2 under this paragraph only after the individual reassigned  
3 agrees in writing to remain in Government service for 12  
4 months after the reassignment, unless separated for reasons  
5 beyond such individual’s control which are acceptable to the  
6 agency concerned. If the individual violates the agreement,  
7 the amount paid under this paragraph shall be recoverable  
8 from the individual as a debt due the United States.”.

9   **SEC. 10. RESTRICTION ON THE AUTHORITY TO REASSIGN,  
10                   DETAIL, OR REMOVE A CAREER APPOINTEE IN  
11                   THE SENIOR EXECUTIVE SERVICE WITHIN 120  
12                   DAYS AFTER THE APPOINTMENT OF CERTAIN  
13                   SUPERIORS.**

14       (a) **REASSIGNMENT OR DETAIL.**—Section 3395(e) of  
15 title 5, United States Code, is amended—

16               (1) by striking subparagraph (B) of paragraph (1)  
17 and inserting in lieu thereof the following:

18               “(B) within 120 days after the appointment in the  
19 agency of a noncareer appointee who has the authority  
20 to reassign or detail the career appointee.”; and

21               (2) by adding at the end the following:

22               “(3) For the purpose of applying paragraph (1) to any  
23 career appointee, any days during which such career appoint-  
24 ee is serving pursuant to a detail or other temporary assign-  
25 ment apart from such appointee’s regular position shall not

1 be counted in determining the number of days that have  
2 elapsed since an appointment referred to in subparagraph (A)  
3 or (B) of such paragraph.”.

4 (b) REMOVAL.—Section 3592(b) of title 5, United  
5 States Code, is amended—

6 (1) by striking subparagraph (B) of paragraph (1)  
7 and inserting in lieu thereof the following:

8 “(B) within 120 days after the appointment in the  
9 agency of a noncareer appointee who has the authority  
10 to reassign or detail the career appointee.”; and

11 (2) by adding at the end the following:

12 “(3) For the purpose of applying paragraph (1) to any  
13 career appointee, any days during which such career appoint-  
14 ee is serving pursuant to a detail or other temporary assign-  
15 ment apart from such career appointee’s regular position  
16 shall not be counted in determining the number of days that  
17 have elapsed since an appointment referred to in subpara-  
18 graph (A) or (B) of such paragraph.”.

19 **SEC. 11. ENCOURAGEMENT OF SABBATICALS AND OTHER**  
20 **FORMS OF PROFESSIONAL DEVELOPMENT BY**  
21 **CAREER APPOINTEES IN THE SES.**

22 Section 3396(d) of title 5, United States Code, is  
23 amended—

24 (1) by inserting “(1)” after “(d)”; and

25 (2) by adding at the end the following:

1       “(2) In order to promote the professional development of  
2 career appointees and to assist them in achieving their maxi-  
3 mum levels of proficiency, the Office shall, in a manner con-  
4 sistent with the needs of the Government, provide appropri-  
5 ate informational services and otherwise encourage career  
6 appointees to take advantage of any opportunities relating  
7 to—

8           “(A) sabbaticals;

9           “(B) training; or

10          “(C) details or other temporary assignments in  
11 other agencies, State or local government, or the pri-  
12 vate sector.”.

13 **SEC. 12. REPORTS ON THE SENIOR EXECUTIVE SERVICE.**

14       (a) **INFORMATION RELATING TO SABBATICALS AND**  
15 **OTHER FORMS OF PROFESSIONAL DEVELOPMENT.**—Sec-  
16 tion 3135(a) of title 5, United States Code, is amended—

17           (1) by striking “and” at the end of paragraph (9);

18           (2) by redesignating paragraph (10) as paragraph  
19 (11); and

20           (3) by inserting after paragraph (9) the following:

21           “(10) in the aggregate and by agency, the number  
22 of career appointees who applied for sabbaticals under  
23 section 3396(c) during the preceding fiscal year and  
24 the number of applications granted (including the name  
25 of each individual whose application was granted and a

1 brief description of how the sabbatical was to be used);  
2 and”.

3 (b) OTHER AMENDMENTS.—Section 3135 of title 5,  
4 United States Code, is further amended—

5 (1) in the first sentence of subsection (a), by strik-  
6 ing “during each odd-numbered” and inserting in lieu  
7 thereof “each”;

8 (2) by striking “(a) The” and inserting in lieu  
9 thereof “The”; and

10 (3) by striking subsection (b).

11 **SEC. 13. GOVERNMENT SERVICE FELLOWSHIP PROGRAM.**

12 Subpart B of part III of title 5, United States Code, is  
13 amended by adding at the end the following:

14 **“CHAPTER 37—GOVERNMENT SERVICE**  
15 **FELLOWSHIP PROGRAM**

“Sec.

“3701. Definitions.

“3702. Establishment.

“3703. General requirements for the fellowship program.

“3704. Terms and conditions for individual participation.

16 **“§ 3701. Definitions**

17 **“For the purpose of this chapter—**

18 **“(1) the term ‘Director’ means the Director of the**  
19 **Office of Personnel Management;**

20 **“(2) the term ‘Government’ means the Govern-**  
21 **ment of the United States;**

22 **“(3) the term ‘institution of higher education’**  
23 **means an educational institution in any State which—**

1           “(A) admits as regular students only individ-  
2           uals having a certificate of graduation from a high  
3           school, or the recognized equivalent of such a  
4           certificate;

5           “(B) is legally authorized within such State  
6           to provide a program of education beyond high  
7           school;

8           “(C) provides an educational program for  
9           which it awards a baccalaureate degree; and

10           “(D) is accredited by a nationally recognized  
11           accrediting agency or association, as identified by  
12           the Director by publication in the Federal Regis-  
13           ter; and

14           “(4) the term ‘State’ means a State of the United  
15           States, the District of Columbia, the Commonwealth of  
16           Puerto Rico, and any territory or possession of the  
17           United States.

18   **“§ 3702. Establishment**

19           “The Director shall by regulation establish a program  
20           under which fellowships shall be awarded to individuals pur-  
21           suing post-secondary degrees in fields of study as to which  
22           the Government requires, or anticipates that it will require,  
23           employees with proficiency or expertise. Fellowships shall be  
24           awarded in accordance with the provisions of this chapter,



1 except that not more than 1,000 students may be admitted  
2 into the program in any year.

3 **“§ 3703. General requirements for the fellowship program**

4 “(a) Under the program, fellowships shall be awarded  
5 by the Director—

6 “(1) in consultation with such other agency heads  
7 as the Director considers appropriate;

8 “(2) taking into consideration the student’s area  
9 or areas of specialization and the current or anticipated  
10 needs of the Government; and

11 “(3) in a manner consistent with the merit system  
12 principles set forth in paragraphs (1) and (2) of section  
13 2301(b).

14 “(b)(1) Fellowships under this chapter may be awarded  
15 only to students pursuing a baccalaureate or advanced degree  
16 at an institution of higher education qualified to participate  
17 under this chapter, as described in paragraph (2).

18 “(2) In order to be considered qualified to participate  
19 under this chapter, an institution of higher education shall be  
20 required to demonstrate—

21 “(A) that its academic requirements satisfy such  
22 standards as the Director may by regulation prescribe;

23 “(B) that it has established a system under which  
24 fellowship recipients would receive academic and  
25 career counseling, particularly with respect to any sub-

1       jects or areas which the Director may from time to  
2       time identify; and

3               “(C) that it has satisfied any other requirements  
4       which the Director may by regulation prescribe.

5       **“§ 3704. Terms and conditions for individual participation**

6               “(a) Regulations prescribed by the Director in carrying  
7       out this chapter shall include terms and conditions for individ-  
8       ual participation in the program.

9               “(b) The terms and conditions referred to in subsection  
10       (a) shall include provisions under which fellowship recipients  
11       will, by advance payment or reimbursement, be afforded—

12               “(1) the full cost of tuition;

13               “(2) the full cost of books and other appropriate  
14       study materials;

15               “(3) a monthly stipend of \$100 during the aca-  
16       demic year; and

17               “(4) allowances for subsistence or such other ex-  
18       penses as the Director determines to be consistent with  
19       prevailing practices under comparable Government  
20       programs.

21               “(c)(1) Any individual who receives a fellowship under  
22       this chapter shall agree—

23               “(A) to satisfy such work requirements as the Di-  
24       rector may by regulation prescribe with respect to any

1 period before completion of such individual's under-  
2 graduate or advanced studies, as the case may be; and

3 “(B) to work for a period after completing such  
4 individual's undergraduate or advanced studies (as the  
5 case may be) equivalent to twice the period of time for  
6 which such individual received financial assistance  
7 under this chapter (excluding any period spent in satis-  
8 fying the requirements of subparagraph (A).

9 “(2) With respect to paragraph (1)(A)—

10 “(A) the work requirement thereunder shall in-  
11 volve service in a Government position which, taking  
12 into consideration the individual's background and ex-  
13 perience, shall contribute to the individual's prepara-  
14 tion for Government service after completing the fel-  
15 lowship program;

16 “(B) placement in a position shall be in accord-  
17 ance with such procedures as the Director shall by reg-  
18 ulation prescribe, including provisions waiving any ap-  
19 plication or other requirements for appointment which  
20 the Director considers appropriate; and

21 “(C) pay and eligibility for any benefits shall be  
22 determined in the same way as in the case of any  
23 other individual appointed to such a position for the  
24 period involved.

25 “(3) With respect to paragraph (1)(B)—

1           “(A) the position to which an individual is as-  
2           signed shall be selected in a way that, to the extent  
3           practicable, makes full use of the individual’s expertise;

4           “(B) placement shall be in accordance with such  
5           procedures as the Director shall by regulation pre-  
6           scribe, including provisions under which an individual’s  
7           preferences as to geographic location shall be consid-  
8           ered, any necessary waivers relating to application and  
9           other appointment-related procedures shall be estab-  
10          lished, and appropriate minimum levels of basic pay  
11          shall be set consistent with the degree of expertise and  
12          any other qualifications which the individual may pos-  
13          sess; and

14          “(C) if an individual fails to satisfy the work re-  
15          quirement thereunder (including as a result of not com-  
16          pleting the requirements for the undergraduate or ad-  
17          vanced degree, as the case may be), any financial as-  
18          sistance received by such individual under this chapter  
19          (as described in paragraphs (1) through (4) of subsec-  
20          tion (b)) shall be recoverable from the individual as a  
21          debt due the United States, unless such failure is due  
22          to the individual’s separation from Government service  
23          for reasons which are beyond such individual’s control  
24          and which are satisfactory to the Director.

1 The Director shall, through seminars, conferences, and other  
2 similar means, provide continuing education or career devel-  
3 opment opportunities to individuals during their period of  
4 service under paragraph (1)(B).

5 “(4) Nothing in this subsection shall be considered to  
6 authorize the placement of an individual in a position other  
7 than a permanent position which is—

8 “(A) in the competitive service; or

9 “(B) excepted from the competitive service either  
10 under regulations prescribed by the Office of Personnel  
11 Management (other than a position of a confidential or  
12 policy-determining character) or by statute.”

13 **SEC. 14. TRAINING REQUIREMENTS FOR SUPERVISORS, MAN-**  
14 **AGERS, AND EXECUTIVES.**

15 (a) **SENIOR EXECUTIVES, SUPERVISORS, AND MAN-**  
16 **AGEMENT OFFICIALS.**—Section 4103 of title 5, United  
17 States Code, is amended by adding at the end the following:

18 “(c)(1) For the purpose of this subsection—

19 “(A) the term ‘senior executive’ has the meaning  
20 given under section 3132(a)(3);

21 “(B) the term ‘supervisor’ has the meaning given  
22 under section 7103(a)(10); and

23 “(C) the term ‘management official’ has the mean-  
24 ing given under section 7103(a)(11).

1       “(2) The regulations prescribed under section 4118 shall  
2 include provisions under which each senior executive, super-  
3 visor, and management official shall, except as provided in  
4 paragraph (3), be required to participate in a minimum  
5 number of hours of supervisory or management training each  
6 year (or over the course of such greater period as the Office  
7 may prescribe).

8       “(3) Under the regulations, an agency head may exclude  
9 an individual from this subsection if the required period of  
10 training under this subsection would be inappropriate consid-  
11 ering the individual’s anticipated term of service.

12       “(4) The regulations may include provisions under  
13 which a period of participation in the Executive Exchange  
14 Program of the President’s Commission on Executive Ex-  
15 change may be counted towards satisfying the requirements  
16 of this subsection.”.

17       (b) OTHER OFFICIALS.—

18               (1) IN GENERAL.—Chapter 41 of title 5, United  
19 States Code, is amended by adding at the end the fol-  
20 lowing:

21       “§ 4120. Training for noncareer appointees

22       “(a) For the purpose of this section, the term ‘noncareer  
23 appointee’ means—

*not  
copy*

1           “(1) an individual appointed by the President to  
2           an office or position in the Executive branch (whether  
3           or not Senate confirmation is required);

4           “(2) a noncareer appointee, as defined by section  
5           3132(a)(7);

6           “(3) an individual appointed to a position excepted  
7           from the competitive service because of the confidential  
8           or policy-determining character of the position; and

9           “(4) any other individual holding a similar ap-  
10          pointment, as determined under regulations prescribed  
11          by the President.

12          “(b) The Director of the Office of Personnel Manage-  
13          ment shall establish a training program designed to acquaint  
14          noncareer appointees with the operations of the Government,  
15          procedures covering the civil service, good public manage-  
16          ment practices, and ethical standards for public servants.

17          “(c) Under such regulations as the President may pre-  
18          scribe, each noncareer appointee shall be required to com-  
19          plete an appropriate period of training under this section  
20          before the end of the 90-day period beginning on the date on  
21          which that individual's appointment becomes final, unless—

22                 “(1) extraordinary circumstances prevent comple-  
23                 tion within such period; or

24                 “(2) participation in the training program is un-  
25                 necessary, due to the individual's having recently com-

1 pleted a period of Government service, having recently  
2 completed a similar period of training, or otherwise, as  
3 determined under those regulations.

4 “(d) Under such regulations as the President may pre-  
5 scribe, an individual who has been nominated by the Presi-  
6 dent for an office or position requiring Senate confirmation  
7 may, prior to final Senate action on that nomination, be al-  
8 lowed to participate in training under this section.”.

9 (2) CHAPTER ANALYSIS.—The analysis for chap-  
10 ter 41 of title 5, United States Code, is amended by  
11 adding at the end the following:

“4120. Training for noncareer appointees.”.

12 **SEC. 15. PERFORMANCE APPRAISAL OF NONCAREER AP-**  
13 **POINTEES.**

14 (a) REPORTING REQUIREMENT.—Section 4314(b) of  
15 title 5, United States Code, is amended—

16 (1) by striking “and” at the end of paragraph (3);

17 (2) by striking the period at the end of paragraph

18 (4) and inserting in lieu thereof “; and”; and

19 (3) by adding at the end the following:

20 “(5) the appraisal and rating of each noncareer  
21 appointee shall be transmitted to the President.”.

22 (b) TECHNICAL AMENDMENT.—Section 4311 of title 5,  
23 United States Code, is amended by inserting “ ‘noncareer  
24 appointee,’ ” after “ ‘senior executive,’ ”.



5  
16  
(a)

1 **SEC. 16. ADJUSTMENT OF PRESIDENTIAL RANK AWARD**  
2 **AMOUNTS.**

3 (a) **IN GENERAL.**—Section 4507(e) of title 5, United  
4 States Code, is amended by adding at the end the following:

5 “(3) Amounts paid under paragraph (1) or (2) on or after  
6 the first day of any pay period in which an adjustment takes  
7 effect under section 5305 (relating to comparability increases  
8 for rates of pay under the General Schedule and other statu-  
9 tory pay systems) shall be adjusted by an amount, rounded to  
10 the nearest multiple of \$100 (or, if midway between multiples  
11 of \$100, to the next higher multiple of \$100), equal to the  
12 percentage corresponding to the overall average percentage  
13 of the adjustment in the rates of pay under the General  
14 Schedule (as set forth in the report transmitted to the Con-  
15 gress under such section).”

Effective  
date

16 (b) **EFFECTIVE DATE.**—The amendment made by sub-  
17 section (a) shall be effective after September 30, 1987.

18 **SEC. 17. REQUIREMENT THAT THE DIRECTOR OF OPM PERI-**  
19 **ODICALLY CONSULT WITH CERTAIN ADVISORY**  
20 **GROUPS CONSISTING OF FEDERAL EM-**  
21 **PLOYEES.**

22 Section 1103 of title 5, United States Code, is amended  
23 by adding at the end the following:

24 “(c)(1) In order to assist the Director in discharging ob-  
25 ligations relating to the management of the Senior Executive  
26 Service, the Director shall establish and periodically consult

1 with a panel of career appointees (as defined by section  
2 3132(a)(4)) who—

3           “(A) shall be appointed by the Director from  
4 among individuals generally recognized for their knowl-  
5 edge, interest, and experience with respect to matters  
6 relating to executive management, or for the excel-  
7 lence of their performance as senior executives (as de-  
8 fined by section 3132(a)(3)); and

9           “(B) shall be responsible for providing advice to  
10 the Director with respect to actions affecting the  
11 Senior Executive Service.

12           “(2) In order to assist the Director in discharging obli-  
13 gations relating to the management of the civil service, the  
14 Director shall establish and periodically consult with a panel  
15 of employees holding career appointments in the civil service  
16 who—

17           “(A) shall be appointed by the Director from  
18 among individuals (including individuals on leave with-  
19 out pay to serve as a full-time officer or employee of  
20 an organization composed primarily of employees) rec-  
21 ommended by labor organizations or other organiza-  
22 tions representing the interests of employees generally  
23 or specific groups of employees; and

1           “(B) shall be responsible for providing advice to  
2           the Director with respect to actions affecting the civil  
3           service.

4   An individual appointed to a panel under paragraph (1) or (2)  
5   shall not be entitled to any additional pay, allowances, or  
6   benefits by reason of appointment to such panel.”.

7   **SEC. 18. COUNCIL ON PUBLIC SERVICE.**

8           (a) **ESTABLISHMENT.**—There shall be established a  
9   Council on Public Service (hereinafter in this section referred  
10   to as the “Council”).

11          (b) **DUTIES OF THE COUNCIL.**—The Council shall—

12               (1) develop and implement a public information  
13               program to encourage a positive image of public  
14               service;

15               (2) develop an educational program for use in ele-  
16               mentary, secondary, and post-secondary schools, focus-  
17               ing on the importance of public service and encourag-  
18               ing students to consider careers in public service; and

19               (3) make such recommendations to the President  
20               and the Congress as the Council considers appropriate  
21               in order to carry out the purposes of this section.

22          (c) **MEMBERSHIP; QUALIFICATIONS; TERMS AND**  
23   **VACANCIES; PAY.**—

1           (1) MEMBERSHIP.—The Council shall consist of  
2           12 members who shall be appointed by the President,  
3           except that—

4                   (A) 4 of the members so appointed shall be  
5                   from individuals recommended by the majority  
6                   leader of the Senate after consultation with the  
7                   minority leader of the Senate; and

8                   (B) 4 of the members so appointed shall be  
9                   from individuals recommended by the Speaker of  
10                  the House of Representatives after consultation  
11                  with the minority leader of the House of Repre-  
12                  sentatives.

13           (2) QUALIFICATIONS.—Members of the Council  
14           shall, by background, training, and experience, have  
15           demonstrated a commitment to public service.

16           (3) TERMS AND VACANCIES.—Members of the  
17           Council shall be appointed for the life of the Council.  
18           Any vacancy in the Council shall be filled in the  
19           manner in which the original appointment was made.

20           (4) PAY.—

21                   (A) FOR MEMBERS NOT OTHERWISE EM-  
22                   PLOYED BY THE GOVERNMENT.—Members of the  
23                   Council who are not otherwise employed by the  
24                   Government shall be paid at the daily equivalent  
25                   of the rate of basic pay in effect for level III of

1 the Executive Schedule under section 5314 of  
2 title 5, United States Code, for each day (includ-  
3 ing travel time) during which they are engaged in  
4 the performance of duties vested in the Council.

5 (B) FOR MEMBERS OTHERWISE EMPLOYED  
6 BY THE GOVERNMENT.—Members of the Council  
7 who are otherwise full-time officers or employees  
8 of the United States shall receive no additional  
9 pay, allowances, or benefits, by reason of their  
10 service on the Council.

11 (c) DIRECTOR AND STAFF OF THE COUNCIL.—

12 (1) DIRECTOR.—The Council shall, without  
13 regard to section 5311(b) of title 5, United States  
14 Code, have a Director who shall be appointed by the  
15 Council, and who shall be paid at the rate of basic pay  
16 payable for level V of the Executive Schedule under  
17 section 5316 of such title.

18 (2) STAFF.—With the approval of the Council,  
19 and without regard to the provisions of title 5, United  
20 States Code, governing appointments in the competi-  
21 tive service, the Director is authorized to appoint and  
22 fix the pay of such additional personnel as may be nec-  
23 essary to carry out the functions of the Council, except  
24 that no individual so appointed may receive pay in

1 excess of the rate of basic pay payable for GS-18 of  
2 the General Schedule.

3 (d) TERMINATION.—The Council shall cease to exist 2  
4 years after the date on which the Council first meets.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated \$5,000,000, which shall be  
7 available without fiscal year limitation, to carry out this  
8 section.

○