

*Voinovich*  
AMENDMENT NO. 2 Calendar No. \_\_\_\_\_

Purpose: To provide for reform relating to Federal employment, and for other purposes.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

**S. 2452**

To establish the Department of National Homeland Security and the National Office for Combating Terrorism.

Referred to the Committee on \_\_\_\_\_  
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. VOINOVICH

Viz:

- 1 On page 208, line 17, strike all through page 223,
- 2 line 24.

- 3 On page 272, after line 21, add the following:

1                   **DIVISION C—FEDERAL**  
 2                   **WORKFORCE IMPROVEMENT**  
 3                   **TITLE XXI—CHIEF HUMAN**  
 4                   **CAPITAL OFFICERS**

5 **SEC. 2101. SHORT TITLE.**

6           This title may be cited as the “Chief Human Capital  
 7 Officers Act of 2002”.

8 **SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.**

9           (a) **IN GENERAL.**—Part II of title 5, United States  
 10 Code, is amended by inserting after chapter 13 the fol-  
 11 lowing:

12           **“CHAPTER 14—AGENCY CHIEF HUMAN**  
 13                           **CAPITAL OFFICERS**

“Sec.

“1401. Establishment of agency Chief Human Capital Officers.

“1402. Authority and functions of agency Chief Human Capital Officers.

14 **“§ 1401. Establishment of agency Chief Human Cap-**  
 15                           **ital Officers**

16           “The head of each Executive agency, other than the  
 17 General Accounting Office, shall appoint or designate a  
 18 Chief Human Capital Officer, who shall—

19                   “(1) advise and assist the head of the agency  
 20 and other agency officials in carrying out the agen-  
 21 cy’s responsibilities for selecting, developing, and  
 22 managing a high-quality, productive workforce in ac-  
 23 cordance with merit system principles; and

1           “(2) implement the rules and regulations of the  
2           President and the Office of Personnel Management  
3           and the laws governing the civil service within the  
4           agency.

5   **“§ 1402. Authority and functions of agency Chief**  
6           **Human Capital Officers**

7           “(a) The functions of each Chief Human Capital Of-  
8           ficer shall include—

9           “(1) setting the workforce development strategy  
10          of the agency;

11          “(2) assessing workforce characteristics and fu-  
12          ture needs based on the agency’s mission and stra-  
13          tegic plan;

14          “(3) aligning the agency’s human resources  
15          policies and programs with organization mission,  
16          strategic goals, and performance outcomes;

17          “(4) developing and advocating a culture of  
18          continuous learning to attract and retain employees  
19          with superior abilities;

20          “(5) identifying best practices and  
21          benchmarking studies; and

22          “(6) applying methods for measuring intellec-  
23          tual capital and identifying links of that capital to  
24          organizational performance and growth.

1 “(b) In addition to the authority otherwise provided  
2 by this section, each agency Chief Human Capital  
3 Officer—

4 “(1) shall have access to all records, reports,  
5 audits, reviews, documents, papers, recommenda-  
6 tions, or other material that—

7 “(A) are the property of the agency or are  
8 available to the agency; and

9 “(B) relate to programs and operations  
10 with respect to which that agency Chief Human  
11 Capital Officer has responsibilities under this  
12 chapter; and

13 “(2) may request such information or assist-  
14 ance as may be necessary for carrying out the duties  
15 and responsibilities provided by this chapter from  
16 any Federal, State, or local governmental entity.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—

18 The table of chapters for part II of title 5, United States  
19 Code, is amended by inserting after the item relating to  
20 chapter 13 the following:

“14. Chief Human Capital Officers ..... 1401”.

21 SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

22 (a) ESTABLISHMENT.—There is established a Chief  
23 Human Capital Officers Council, consisting of—

1           (1) the Director of the Office of Personnel  
2           Management, who shall act as chairperson of the  
3           Council;

4           (2) the Deputy Director for Management of the  
5           Office of Management and Budget, who shall act as  
6           vice chairperson of the Council; and

7           (3) the Chief Human Capital Officers of Execu-  
8           tive departments and any other members who are  
9           designated by the Director of the Office of Personnel  
10          Management.

11          (b) FUNCTIONS.—The Chief Human Capital Officers  
12          Council shall meet periodically to advise and coordinate  
13          the activities of the agencies of its members on such mat-  
14          ters as modernization of human resources systems, im-  
15          proved quality of human resources information, and legis-  
16          lation affecting human resources operations and organiza-  
17          tions.

18          (c) EMPLOYEE LABOR ORGANIZATIONS AT MEET-  
19          INGS.—The Chief Human Capital Officers Council shall  
20          ensure that representatives of Federal employee labor or-  
21          ganizations are present at a minimum of 1 meeting of the  
22          Council each year. Such representatives shall not be mem-  
23          bers of the Council.

1 (d) ANNUAL REPORT.—Each year the Chief Human  
2 Capital Officers Council shall submit a report to Congress  
3 on the activities of the Council.

4 **SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.**

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

7 “(c)(1) The Office of Personnel Management shall  
8 design a set of systems, including appropriate metrics, for  
9 assessing the management of human capital by Federal  
10 agencies.

11 “(2) The systems referred to under paragraph (1)  
12 shall be defined in regulations of the Office of Personnel  
13 Management and include standards for—

14 “(A)(i) aligning human capital strategies of  
15 agencies with the missions, goals, and organizational  
16 objectives of those agencies; and

17 “(ii) integrating those strategies into the budget  
18 and strategic plans of those agencies;

19 “(B) closing skill gaps in mission critical occu-  
20 pations;

21 “(C) ensuring continuity of effective leadership  
22 through implementation of recruitment, develop-  
23 ment, and succession plans;

1           “(D) sustaining a culture that differentiates be-  
2           tween high and low performers and provides appro-  
3           priate incentives and awards;

4           “(E) developing and implementing a knowledge  
5           management strategy supported by appropriate in-  
6           vestment in training and technology; and

7           “(F) holding managers and human resources  
8           officers accountable for efficient and effective human  
9           resources management in support of agency missions  
10          in accordance with merit system principles.”.

11 **SEC. 2105. EFFECTIVE DATE.**

12          This title shall take effect 180 days after the date  
13 of enactment of this division.

14 **TITLE XXII—REFORMS RELAT-**  
15 **ING TO FEDERAL HUMAN**  
16 **CAPITAL MANAGEMENT**

17 **SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRA-**  
18 **TEGIC PLANNING IN PERFORMANCE PLANS**  
19 **AND PROGRAM PERFORMANCE REPORTS.**

20          (a) **PERFORMANCE PLANS.**—Section 1115(a) of title  
21 31, United States Code, is amended by striking paragraph  
22 (3) and inserting the following:

23           “(3) provide a description of how the perform-  
24           ance goals and objectives are to be achieved, includ-  
25           ing the operational processes, training, skills and

1 technology, and the human, capital, information, and  
2 other resources and strategies required to meet  
3 those performance goals and objectives.”.

4 (b) PROGRAM PERFORMANCE REPORTS.—Section  
5 1116(d) of title 31, United States Code, is amended—

6 (1) in paragraph (4), by striking “and” after  
7 the semicolon;

8 (2) by redesignating paragraph (5) as para-  
9 graph (6); and

10 (3) by inserting after paragraph (4) the fol-  
11 lowing:

12 “(5) include a review of the performance goals  
13 and evaluation of the performance plan relative to  
14 the agency’s strategic human capital management;  
15 and”.

16 **SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING**  
17 **PROCESS.**

18 (a) IN GENERAL.—Chapter 33 of title 5, United  
19 States Code, is amended—

20 (1) in section 3304(a)—

21 (A) in paragraph (1), by striking “and”  
22 after the semicolon;

23 (B) in paragraph (2), by striking the pe-  
24 riod and inserting “; and”; and

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

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

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

5                   “(B) the Office of Personnel Management  
6 has determined that there exists a severe short-  
7 age of candidates or there is a critical hiring  
8 need.

9 The Office shall prescribe, by regulation, criteria for iden-  
10 tifying such positions and may delegate authority to make  
11 determinations under such criteria.”; and

12           (2) by inserting after section 3318 the fol-  
13 lowing:

14 **“§ 3319. Alternative ranking and selection procedures**

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

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

19                   “(2) an agency to which the Office has dele-  
20 gated examining authority under section 1104(a)(2);  
21 may establish category rating systems for evaluating ap-  
22 plicants for positions in the competitive service, under  
23 which qualified candidates are divided into 2 or more qual-  
24 ity categories, consistent with regulations prescribed by

1 the Office of Personnel Management, rather than assigned  
2 individual numerical ratings.

3 “(b) Within each quality category established under  
4 subsection (a), preference-eligibles shall be listed ahead of  
5 individuals who are not preference eligibles. For other  
6 than scientific and professional positions at GS-9 of the  
7 General Schedule (equivalent or higher), qualified pref-  
8 erence-eligibles who have a compensable service-connected  
9 disability of 10 percent or more shall be listed in the high-  
10 est quality category.

11 “(c)(1) An appointing official may select any appli-  
12 cant in the highest quality category or, if fewer than 3  
13 candidates have been assigned to the highest quality cat-  
14 egory, in a merged category consisting of the highest and  
15 the second highest quality categories.

16 “(2) Notwithstanding paragraph (1), the appointing  
17 official may not pass over a preference-eligible in the same  
18 category from which selection is made, unless the require-  
19 ments of section 3317(b) or 3318(b), as applicable, are  
20 satisfied.

21 “(d) Each agency that establishes a category rating  
22 system under this section shall submit in each of the 3  
23 years following that establishment, a report to Congress  
24 on that system including information on—

1           “(1) the number of employees hired under that  
2 system; and

3           “(2) the way in which managers were trained in  
4 the administration of that system.

5           “(e) The Office of Personnel Management may pre-  
6 scribe such regulations as it considers necessary to carry  
7 out the provisions of this section.”.

8           (b) **TERMINAL AND CONFORMING AMENDMENT.**—  
9 The table of sections for chapter 33 of title 5, United  
10 States Code, is amended by striking the item relating to  
11 section 3319 and inserting the following:

“3319. Alternative ranking and selection procedures.”.

12 **SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPAN-**  
13 **SION OF AUTHORITIES FOR USE OF VOL-**  
14 **UNTARY SEPARATION INCENTIVE PAY AND**  
15 **VOLUNTARY EARLY RETIREMENT.**

16           (a) **VOLUNTARY SEPARATION INCENTIVE PAY-**  
17 **MENTS.**—

18           (1) **IN GENERAL.**—

19           (A) **AMENDMENT TO TITLE 5, UNITED**  
20 **STATES CODE.**—Chapter 35 of title 5, United  
21 States Code, is amended by inserting after sub-  
22 chapter I the following:

1 "SUBCHAPTER II—VOLUNTARY SEPARATION  
2 INCENTIVE PAYMENTS

3 "§ 3521. Definitions

4 "In this subchapter, the term—

5 "(1) 'agency' means an Executive agency as de-  
6 fined under section 105; and

7 "(2) 'employee'—

8 "(A) means an employee as defined under  
9 section 2105 employed by an agency and an in-  
10 dividual employed by a county committee estab-  
11 lished under section 8(b)(5) of the Soil Con-  
12 servation and Domestic Allotment Act (16  
13 U.S.C. 590h(b)(5)) who—

14 "(i) is serving under an appointment  
15 without time limitation; and

16 "(ii) has been currently employed for  
17 a continuous period of at least 3 years;  
18 and

19 "(B) shall not include—

20 "(i) a reemployed annuitant under  
21 subchapter III of chapter 83 or 84 or an-  
22 other retirement system for employees of  
23 the Government;

24 "(ii) an employee having a disability  
25 on the basis of which such employee is or

1 would be eligible for disability retirement  
2 under subchapter III of chapter 83 or 84  
3 or another retirement system for employees  
4 of the Government;

5 “(iii) an employee who is in receipt of  
6 a decision notice of involuntary separation  
7 for misconduct or unacceptable perform-  
8 ance;

9 “(iv) an employee who has previously  
10 received any voluntary separation incentive  
11 payment from the Federal Government  
12 under this subchapter or any other author-  
13 ity;

14 “(v) an employee covered by statutory  
15 reemployment rights who is on transfer  
16 employment with another organization; or

17 “(vi) any employee who—

18 “(I) during the 36-month period  
19 preceding the date of separation of  
20 that employee, performed service for  
21 which a student loan repayment ben-  
22 efit was or is to be paid under section  
23 5379;

24 “(II) during the 24-month period  
25 preceding the date of separation of

1 that employee, performed service for  
2 which a recruitment or relocation  
3 bonus was or is to be paid under sec-  
4 tion 5753; or

5 “(III) during the 12-month pe-  
6 riod preceding the date of separation  
7 of that employee, performed service  
8 for which a retention bonus was or is  
9 to be paid under section 5754.

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

11 “(a) Before obligating any resources for voluntary  
12 separation incentive payments, the head of each agency  
13 shall submit to the Office of Personnel Management a  
14 plan outlining the intended use of such incentive payments  
15 and a proposed organizational chart for the agency once  
16 such incentive payments have been completed.

17 “(b) The plan of an agency under subsection (a) shall  
18 include—

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

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

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



1           “(D) skills, knowledge, or other factors re-  
2           lated to a position;

3           “(E) specific periods of time during which  
4           eligible employees may elect a voluntary incen-  
5           tive payment; or

6           “(F) any appropriate combination of such  
7           factors;

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

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

11           “(A) an amount equal to the amount the  
12           employee would be entitled to receive under sec-  
13           tion 5595(c) if the employee were entitled to  
14           payment under such section (without adjust-  
15           ment for any previous payment made); or

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

18          “(4) may be made only in the case of an em-  
19           ployee who voluntarily separates (whether by retire-  
20           ment or resignation) under this subchapter;

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

24          “(6) shall not be taken into account in deter-  
25           mining the amount of any severance pay to which

1 the employee may be entitled under section 5595,  
2 based on any other separation; and

3 “(7) shall be paid from appropriations or funds  
4 available for the payment of the basic pay of the em-  
5 ployee.

6 **“§ 3524. Effect of subsequent employment with the**  
7 **Government**

8 “(a) The term ‘employment’—

9 “(1) in subsection (b) includes employment  
10 under a personal services contract (or other direct  
11 contract) with the United States Government (other  
12 than an entity in the legislative branch); and

13 “(2) in subsection (c) does not include employ-  
14 ment under such a contract.

15 “(b) An individual who has received a voluntary sepa-  
16 ration incentive payment under this subchapter and ac-  
17 cepts any employment for compensation with the Govern-  
18 ment of the United States within 5 years after the date  
19 of the separation on which the payment is based shall be  
20 required to pay, before the individual’s first day of employ-  
21 ment, the entire amount of the incentive payment to the  
22 agency that paid the incentive payment.

23 “(c)(1) If the employment under this section is with  
24 an agency, other than the General Accounting Office, the  
25 United States Postal Service, or the Postal Rate Commis-

1 sion, the Director of the Office of Personnel Management  
2 may, at the request of the head of the agency, waive the  
3 repayment if—

4           “(A) the individual involved possesses unique  
5 abilities and is the only qualified applicant available  
6 for the position; or

7           “(B) in the case of an emergency involving a di-  
8 rect threat to life or property, the individual—

9                 “(i) has skills directly related to resolving  
10 the emergency; and

11                 “(ii) will serve on a temporary basis only  
12 so long as that individual’s services are made  
13 necessary by the emergency.

14           “(2) If the employment under this section is with an  
15 entity in the legislative branch, the head of the entity or  
16 the appointing official may waive the repayment if the in-  
17 dividual involved possesses unique abilities and is the only  
18 qualified applicant available for the position.

19           “(3) If the employment under this section is with the  
20 judicial branch, the Director of the Administrative Office  
21 of the United States Courts may waive the repayment if  
22 the individual involved possesses unique abilities and is the  
23 only qualified applicant available for the position.

1 **“§ 3525. Regulations**

2 “The Office of Personnel Management may prescribe  
3 regulations to carry out this subchapter.”.

4 (B) TECHNICAL AND CONFORMING AMEND-  
5 MENTS.—Chapter 35 of title 5, United States  
6 Code, is amended—

7 (i) by striking the chapter heading  
8 and inserting the following:

9 **“CHAPTER 35—RETENTION PREFERENCE,**  
10 **VOLUNTARY SEPARATION INCENTIVE**  
11 **PAYMENTS, RESTORATION, AND RE-**  
12 **EMPLOYMENT”**; and

13 (ii) in the table of sections by insert-  
14 ing after the item relating to section 3504  
15 the following:

**“SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE  
PAYMENTS**

“3521. Definitions.

“3522. Agency plans; approval.

“3523. Authority to provide voluntary separation incentive payments.

“3524. Effect of subsequent employment with the Government.

“3525. Regulations.”.

16 (2) ADMINISTRATIVE OFFICE OF THE UNITED  
17 STATES COURTS.—The Director of the Administra-  
18 tive Office of the United States Courts may, by reg-  
19 ulation, establish a program substantially similar to  
20 the program established under paragraph (1) for in-  
21 dividuals serving in the judicial branch.

1           (3) CONTINUATION OF OTHER AUTHORITY.—  
2       Any agency exercising any voluntary separation in-  
3       centive authority in effect on the effective date of  
4       this Act may continue to offer voluntary separation  
5       incentives consistent with that authority until that  
6       authority expires.

7           (4) EFFECTIVE DATE.—This subsection shall  
8       take effect 60 days after the date of enactment of  
9       this Act.

10       (b) FEDERAL EMPLOYEE VOLUNTARY EARLY RE-  
11       TIREMENT.—

12           (1) CIVIL SERVICE RETIREMENT SYSTEM.—Sec-  
13       tion 8336(d)(2) of title 5, United States Code, is  
14       amended to read as follows:

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

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

22           “(C) has not been duly notified that such em-  
23       ployee is to be involuntarily separated for mis-  
24       conduct or unacceptable performance;

1           “(D) is separated from the service voluntarily  
2 during a period in which, as determined by the Of-  
3 fice of Personnel Management (upon request of the  
4 agency) under regulations prescribed by the Office—

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

10           “(ii) employees serving in such agency (or  
11 component) are likely to be separated or subject  
12 to an immediate reduction in the rate of basic  
13 pay (without regard to subchapter VI of chap-  
14 ter 53, or comparable provisions); or

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

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

23           “(i) 1 or more organizational units;

24           “(ii) 1 or more occupational series or lev-  
25 els;

- 1                   “(iii) 1 or more geographical locations;  
2                   “(iv) specific periods;  
3                   “(v) skills, knowledge, or other factors re-  
4                   lated to a position; or  
5                   “(vi) any appropriate combination of such  
6                   factors;”.

7                   (2) FEDERAL EMPLOYEES' RETIREMENT SYS-  
8                   TEM.—Section 8414(b)(1) of title 5, United States  
9                   Code, is amended by striking subparagraph (B) and  
10                   inserting the following:

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

16                   “(ii) is serving under an appointment that  
17                   is not time limited;

18                   “(iii) has not been duly notified that such  
19                   employee is to be involuntarily separated for  
20                   misconduct or unacceptable performance;

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

1                   “(I) such agency (or, if applicable, the  
2                   component in which the employee is serv-  
3                   ing) is undergoing delayering, reorganiza-  
4                   tion, reduction in force, or transfer of  
5                   function, or other workforce restructuring  
6                   (or shaping); and

7                   “(II) employees serving in such agen-  
8                   cy (or component) are likely to be sepa-  
9                   rated or subject to an immediate reduction  
10                  in the rate of basic pay (without regard to  
11                  subchapter VI of chapter 53, or com-  
12                  parable provisions); or

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

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

21                         “(I) 1 or more organizational units;

22                         “(II) 1 or more occupational series or  
23                         levels;

24                         “(III) 1 or more geographical loca-  
25                         tions;

1                   “(IV) specific periods;  
2                   “(V) skills, knowledge, or other fac-  
3                   tors related to a position; or  
4                   “(VI) any appropriate combination of  
5                   such factors;”.

6                   (3) GENERAL ACCOUNTING OFFICE AUTHOR-  
7                   ITY.—The amendments made by this subsection  
8                   shall not be construed to affect the authority under  
9                   section 1 of Public Law 106–303 (5 U.S.C. 8336  
10                  note; 114 Stat. 1063).

11                  (4) TECHNICAL AND CONFORMING AMEND-  
12                  MENT.—Section 7001 of the 1998 Supplemental Ap-  
13                  propriations and Rescissions Act (Public Law 105–  
14                  174; 112 Stat. 91) is repealed.

15                  (5) REGULATIONS.—The Office of Personnel  
16                  Management may prescribe regulations to carry out  
17                  this subsection.

18                  (c) SENSE OF CONGRESS.—It is the sense of Con-  
19                  gress that the implementation of this section is intended  
20                  to reshape the Federal workforce and not downsize the  
21                  Federal workforce.

22 **SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.**

23                  (a) IN GENERAL.—Section 7905(a)(1) of title 5,  
24                  United States Code, is amended by striking “and a mem-  
25                  ber of a uniformed service” and inserting “, a member

1 of a uniformed service, and a student who provides vol-  
2 untary services under section 3111”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
4 Section 3111(c)(1) of title 5, United States Code, is  
5 amended by striking “chapter 81 of this title” and insert-  
6 ing “section 7905 (relating to commuting by means other  
7 than single-occupancy motor vehicles), chapter 81”.

8 **TITLE XXIII—REFORMS RELAT-**  
9 **ING TO THE SENIOR EXECU-**  
10 **TIVE SERVICE**

11 **SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS**  
12 **OF SENIOR EXECUTIVES.**

13 (a) IN GENERAL.—Title 5, United States Code, is  
14 amended—

15 (1) in chapter 33—

16 (A) in section 3393(g) by striking  
17 “3393a,”;

18 (B) by repealing section 3393a; and

19 (C) in the table of sections by striking the  
20 item relating to section 3393a;

21 (2) in chapter 35—

22 (A) in section 3592(a)—

23 (i) in paragraph (1), by inserting “or”  
24 at the end;

1 (ii) in paragraph (2), by striking “or”  
2 at the end;

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

4 (iv) by striking the last sentence;

5 (B) in section 3593(a), by striking para-  
6 graph (2) and inserting the following:

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

12 (C) in section 3594(b)—

13 (i) in paragraph (1), by inserting “or”  
14 at the end;

15 (ii) in paragraph (2), by striking “or”  
16 at the end; and

17 (iii) by striking paragraph (3);

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

21 (4) in chapter 83—

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

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

6 (5) in chapter 84—

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

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

16 (b) SAVINGS PROVISION.—Notwithstanding the  
17 amendments made by subsection (a)(2)(A), an appeal  
18 under the final sentence of section 3592(a) of title 5,  
19 United States Code, that is pending on the day before the  
20 effective date of this section—

21 (1) shall not abate by reason of the enactment  
22 of the amendments made by subsection (a)(2)(A);  
23 and

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

1 (c) APPLICATION.—The amendment made by sub-  
2 section (a)(2)(B) shall not apply with respect to an indi-  
3 vidual who, before the effective date of this section, leaves  
4 the Senior Executive Service for failure to be recertified  
5 as a senior executive under section 3393a of title 5, United  
6 States Code.

7 **SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL AN-**  
8 **NUAL COMPENSATION.**

9 Section 5307(a) of title 5, United States Code, is  
10 amended by adding at the end the following:

11 “(3) Notwithstanding paragraph (1), the total pay-  
12 ment referred to under such paragraph with respect to an  
13 employee paid under section 5376 or 5383 shall not exceed  
14 the total annual compensation payable to the Vice Presi-  
15 dent under section 104 of title 3. Regulations prescribed  
16 under subsection (c) may extend the application of this  
17 paragraph to other equivalent categories of employees.”.

18 **TITLE XXIV—ACADEMIC**  
19 **TRAINING**

20 **SEC. 2401. ACADEMIC TRAINING.**

21 (a) ACADEMIC DEGREE TRAINING.—Section 4107 of  
22 title 5, United States Code, is amended to read as follows:

23 **“§ 4107. Academic degree training**

24 “(a) Subject to subsection (b), an agency may select  
25 and assign an employee to academic degree training and

1 may pay or reimburse the costs of academic degree train-  
2 ing from appropriated or other available funds if such  
3 training—

4 “(1) contributes significantly to—

5 “(A) meeting an identified agency training  
6 need;

7 “(B) resolving an identified agency staffing  
8 problem; or

9 “(C) accomplishing goals in the agency’s  
10 strategic plan;

11 “(2) is part of a planned, systematic, and co-  
12 ordinated agency employee development program  
13 linked to accomplishing the agency’s strategic goals;  
14 and

15 “(3) is accredited and is provided by a college  
16 or university that is accredited by a nationally recog-  
17 nized body.

18 “(b) In exercising authority under subsection (a), an  
19 agency shall—

20 “(1) consistent with the merit system principles  
21 set forth in paragraphs (2) and (7) of section  
22 2301(b), take into consideration the need to—

23 “(A) maintain a balanced workforce in  
24 which women, members of racial and ethnic mi-  
25 nority groups, and persons with disabilities are

1 appropriately represented in Government serv-  
2 ice; and

3 “(B) provide employees effective education  
4 and training to improve organizational and indi-  
5 vidual performance;

6 “(2) assure that the training is not for the sole  
7 purpose of providing an employee an opportunity to  
8 obtain an academic degree or to qualify for appoint-  
9 ment to a particular position for which the academic  
10 degree is a basic requirement; and

11 “(3) assure that no authority under this sub-  
12 section is exercised on behalf of any employee occu-  
13 pying or seeking to qualify for—

14 “(A) a noncareer appointment in the Sen-  
15 ior Executive Service; or

16 “(B) appointment to any position that is  
17 excepted from the competitive service because of  
18 its confidential policy-determining, policy-  
19 making, or policy-advocating character.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENT.—

21 The table of sections for chapter 41 of title 5, United  
22 States Code, is amended by striking the item relating to  
23 section 4107 and inserting the following:

“4107. Academic degree training.”.

1 SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDU-  
2 CATION PROGRAM.

3 (a) FINDINGS AND POLICIES.—

4 (1) FINDINGS.—Congress finds that—

5 (A) the United States Government actively  
6 encourages and financially supports the train-  
7 ing, education, and development of many  
8 United States citizens;

9 (B) as a condition of some of those sup-  
10 ports, many of those citizens have an obligation  
11 to seek either compensated or uncompensated  
12 employment in the Federal sector; and

13 (C) it is in the United States national in-  
14 terest to maximize the return to the Nation of  
15 funds invested in the development of such citi-  
16 zens by seeking to employ them in the Federal  
17 sector.

18 (2) POLICY.—It shall be the policy of the  
19 United States Government to—

20 (A) establish procedures for ensuring that  
21 United States citizens who have incurred serv-  
22 ice obligations as the result of receiving finan-  
23 cial support for education and training from the  
24 United States Government and have applied for  
25 Federal positions are considered in all recruit-



1 national field of study for which the schol-  
2 arship was awarded, for a period specified  
3 by the Secretary, which period shall be de-  
4 termined in accordance with clause (i); or”;  
5 and

6 (2) in subparagraph (B), by striking clause (ii)  
7 and inserting the following:

8 “(ii) if the recipient demonstrates to  
9 the Secretary (in accordance with such  
10 regulations) that no national security posi-  
11 tion is available upon the completion of the  
12 degree, work in other offices or agencies of  
13 the Federal Government or in the field of  
14 higher education in a discipline relating to  
15 the foreign country, foreign language, area  
16 study, or international field of study for  
17 which the fellowship was awarded, for a  
18 period specified by the Secretary, which pe-  
19 riod shall be established in accordance with  
20 clause (i); and”.