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Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H.R. 669, H.R. 670, H.R. 5574, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the bills be read three times and passed, the motion to reconsider be laid upon the table en bloc, with no intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills (H.R. 669, H.R. 670, and H.R. 5574) were read a third time and passed.

SMITHSONIAN INSTITUTION PERSONNEL FLEXIBILITY ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3149 submitted earlier today by Senators LEAHY, FRIST, and COCHRAN.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3149) to provide authority for the Smithsonian Institution to use voluntary separation incentives for personnel flexibility, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3149) was read a third time and passed, as follows:

S. 3149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smithsonian Institution Personnel Flexibility Act of 2002".

SEC. 2. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means an employee of the Smithsonian Institution in the civil service who—

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

(ii) has been employed for a continuous period of at least 3 years in the civil service at the Smithsonian Institution.

(B) EXCLUSION.—The term "employee" does not include—

(i) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title

5, United States Code or any other retirement system for employees of the Federal Government;

(ii) an employee having a disability on the basis of which the employee is, or would be, eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or any other retirement system for employees of the Federal Government;

(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this Act or any other authority;

(v) an employee covered by statutory re-employment rights who is on transfer employment with another organization; or

(vi) any employee who—
(I) during the 24-month period preceding the employee's date of separation, received and did not repay a recruitment or relocation bonus under section 5753 of title 5, United States Code;

(II) within the 12-month period preceding the employee's date of separation, received and did not repay a retention allowance under section 5754 of title 5, United States Code; or

(III) within the 36-month period preceding the employee's date of separation, received and did not repay funds provided for student loan repayment under section 5379 of title 5, United States Code;

unless the paying agency has waived its right of recovery of those funds.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Smithsonian Institution.

SEC. 3. AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) IN GENERAL.—The Secretary may pay, or authorize the payment of, voluntary separation incentive payments to employees of the Smithsonian Institution only in accordance with the plan required under section 4.

(b) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—A voluntary separation incentive payment—

(1) shall be offered to employees on the basis of—

(A) organizational unit;

(B) occupational series or level;

(C) geographic location;

(D) specific periods during which eligible employees may elect a voluntary separation incentive payment;

(E) skills, knowledge, or other job-related factors; or

(F) a combination of any of the factors specified in subparagraphs (A) through (E);

(2) shall be paid in a lump sum after the employee's separation;

(3) shall be in an amount equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under that section (without adjustment for any previous payment made); or

(B) an amount determined by the Secretary, not to exceed \$25,000;

(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this Act;

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

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(c) LIMITATION.—No amount shall be payable under this Act based on any separation occurring more than 3 years after the date of enactment of this Act.

SEC. 4. INSTITUTION PLAN; CONSULTATION.

(a) IN GENERAL.—Before obligating any resources for voluntary separation incentive payments under section 3, the Secretary shall develop a plan outlining—

(1) the intended use of such incentive payments; and

(2) a proposed organizational chart for the Smithsonian Institution once such incentive payments have been completed.

(b) PLAN.—The Smithsonian Institution's plan under subsection (a) shall include—

(1) the specific positions and functions of the Smithsonian Institution to be reallocated;

(2) a description of which categories of employees will be offered voluntary separation incentive payments;

(3) the time period during which voluntary separation incentive payments may be paid;

(4) the number and amounts of voluntary separation incentive payments to be offered; and

(5) a description of how the Smithsonian Institution will operate with the reallocation of positions to other functions.

(c) CONSULTATION.—The Secretary shall consult with the Office of Management and Budget regarding the Smithsonian Institution's plan prior to implementation.

SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE FEDERAL GOVERNMENT.

(a) DEFINITION OF EMPLOYMENT.—In this section the term "employment"—

(1) in subsection (b), includes employment under a personal services contract with the Federal Government (other than the legislative branch); and

(2) in subsection (c), does not include employment under a contract described in paragraph (1).

(b) REPAYMENT REQUIREMENT.—Except as provided in subsection (c), an individual who has received a voluntary separation incentive payment under section 3 and accepts any employment for compensation with the Federal Government (other than the legislative branch) within 5 years after the date of the separation on which the payment is based shall be required to pay to the Smithsonian Institution, prior to the individual's first day of employment, the entire amount of the voluntary separation incentive payment.

(c) WAIVER OF REPAYMENT REQUIREMENT.—

(1) EXECUTIVE BRANCH.—If the employment under this section is with an Executive agency (as defined in section 105 of title 5, United States Code) other than the United States Postal Service or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if—

(A) the individual involved possesses unique abilities; or

(B) in the case of an emergency involving a direct threat to life or property, the individual involved—

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

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

(2) JUDICIAL BRANCH.—If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved—

(A) possesses unique abilities; and

(B) is the only qualified applicant available for the position.