

TITLE XIII--FEDERAL WORKFORCE IMPROVEMENT

Subtitle A--Chief Human Capital Officers

SEC. 1301. SHORT TITLE.

This title may be cited as the `Chief Human Capital Officers Act of 2002'.

SEC. 1302. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL- Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

`CHAPTER 14--AGENCY CHIEF HUMAN CAPITAL OFFICERS

`Sec.

`1401. Establishment of agency Chief Human Capital Officers.

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

`Sec. 1401. Establishment of agency Chief Human Capital Officers

`The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall--

`(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

`(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

`(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

`Sec. 1402. Authority and functions of agency Chief Human Capital Officers

`(a) The functions of each Chief Human Capital Officer shall include--

`(1) setting the workforce development strategy of the agency;

`(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

`(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

`(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

`(5) identifying best practices and benchmarking studies, and

`(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

`(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer--

`(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that--

`(A) are the property of the agency or are available to the agency; and

`(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

`(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

1401'.

SEC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT- There is established a Chief Human Capital Officers Council, consisting of--

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

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

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the

Office of Personnel Management.

(b) FUNCTIONS- The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS- The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

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

SEC. 1304. STRATEGIC HUMAN CAPITAL MANAGEMENT.

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

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

`(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for--

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

`(ii) integrating those strategies into the budget and strategic plans of those agencies;

`(B) closing skill gaps in mission critical occupations;

`(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

`(D) sustaining a culture that cultivates and develops a high performing workforce;

`(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology;
and

`(F) holding managers and human resources officers accountable

for efficient and effective human resources management in support of agency missions in accordance with merit system principles.'

SEC. 1305. EFFECTIVE DATE.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B--Reforms Relating to Federal Human Capital Management

SEC. 1311. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS- Section 1115 of title 31, United States Code, is amended--

(1) in subsection (a), by striking paragraph (3) and inserting the following:

`(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.';

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

`(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).'

(b) PROGRAM PERFORMANCE REPORTS- Section 1116(d) of title 31, United States Code, is amended--

(1) in paragraph (4), by striking `and' after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

`(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and'.

SEC. 1312. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL- Chapter 33 of title 5, United States Code, is amended--

(1) in section 3304(a)--

(A) in paragraph (1), by striking `and' after the semicolon;

(B) in paragraph (2), by striking the period and inserting
`; and'; and

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

`(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which--

`(A) public notice has been given; and

`(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.'; and

(2) by inserting after section 3318 the following:

`Sec. 3319. Alternative ranking and selection procedures

`(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

`(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

`(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

`(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or

3318(b), as applicable, are satisfied.

`(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on--

`(1) the number of employees hired under that system;

`(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

`(3) the way in which managers were trained in the administration of that system.

`(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.'

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

`3319. Alternative ranking and selection procedures.'

SEC. 1313. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS-

(1) IN GENERAL-

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE- Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

`SUBCHAPTER II--VOLUNTARY SEPARATION INCENTIVE PAYMENTS

`Sec. 3521. Definitions

`In this subchapter, the term--

`(1) `agency' means an Executive agency as defined under section 105; and

`(2) `employee'--

`(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who--

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

`(ii) has been currently employed for a continuous period of at least 3 years; and

`(B) shall not include--

`(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

`(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the 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 subchapter or any other authority;

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

`(vi) any employee who--

`(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

`(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

`(III) during the 12-month period preceding the date of separation of that employee, performed

service for which a retention bonus was or is to be paid under section 5754.

`Sec. 3522. Agency plans; approval

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

`(b) The plan of an agency under subsection (a) shall include--

`(1) the specific positions and functions to be reduced or eliminated;

`(2) a description of which categories of employees will be offered incentives;

`(3) the time period during which incentives may be paid;

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

`(5) a description of how the agency will operate without the eliminated positions and functions.

`(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Director of the Office of Personnel Management.

`Sec. 3523. Authority to provide voluntary separation incentive payments

`(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

`(b) A voluntary incentive payment--

`(1) shall be offered to agency employees on the basis of--

`(A) 1 or more organizational units;

`(B) 1 or more occupational series or levels;

`(C) 1 or more geographical locations;

`(D) skills, knowledge, or other factors related to a position;

`(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

`(F) any appropriate combination of such factors;

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

`(3) shall be equal to the lesser of--

`(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

`(B) an amount determined by the agency head, 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 subchapter;

`(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of 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, based on another other separation; and

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

`Sec. 3524. Effect of subsequent employment with the Government

`(a) The term `employment'--

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

`(2) in subsection (c) does not include employment under such a contract.

`(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

`(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, 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, may waive the repayment if--

`(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

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

`(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) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

`(3) 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 possesses unique abilities and is the only qualified applicant available for the position.

`Sec. 3525. Regulations

`The Office of Personnel Management may prescribe regulations to carry out this subchapter.'.

(B) TECHNICAL AND CONFORMING AMENDMENTS- Chapter 35 of title 5, United States Code, is amended--

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

`CHAPTER 35--RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT';

and

(ii) in the table of sections by inserting after the item relating to section 3504 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.'

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS- The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY- Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

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

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT-

(1) CIVIL SERVICE RETIREMENT SYSTEM- Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

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

`(B) is serving under an appointment that is not time limited;

`(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

`(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office--

`(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial

reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

`(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

`(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

`(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of--

`(i) 1 or more organizational units;

`(ii) 1 or more occupational series or levels;

`(iii) 1 or more geographical locations;

`(iv) specific periods;

`(v) skills, knowledge, or other factors related to a position; or

`(vi) any appropriate combination of such factors;'

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM- Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

`(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

`(ii) is serving under an appointment that is not time limited;

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

`(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office--

`(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

`(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

`(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

`(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of--

`(I) 1 or more organizational units;

`(II) 1 or more occupational series or levels;

`(III) 1 or more geographical locations;

`(IV) specific periods;

`(V) skills, knowledge, or other factors related to a position; or

`(VI) any appropriate combination of such factors.'

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

(4) TECHNICAL AND CONFORMING AMENDMENTS- Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174; 112 Stat. 91) is repealed.

(5) REGULATIONS- The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS- It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 1314. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL- Section 7905(a)(1) of title 5, United States Code, is amended by striking `and a member of a uniformed service' and inserting `, a member of a uniformed service, and a student who provides voluntary services under section 3111'.

(b) TECHNICAL AND CONFORMING AMENDMENT- Section 3111(c)(1) of title 5, United States Code, is amended by striking `chapter 81 of this title' and inserting `section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81'.

Subtitle C--Reforms Relating to the Senior Executive Service

SEC. 1321. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL- Title 5, United States Code, is amended--

(1) in chapter 33--

(A) in section 3393(g) by striking `3393a';

(B) by repealing section 3393a; and

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

(2) in chapter 35--

(A) in section 3592(a)--

(i) in paragraph (1), by inserting `or' at the end;

(ii) in paragraph (2), by striking `or' at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

`(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43.'; and

(C) in section 3594(b)--

(i) in paragraph (1), by inserting `or' at the end;

(ii) in paragraph (2), by striking `or' at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking `or removal from the Senior Executive Service for failure to be recertified under section 3393a';

(4) in chapter 83--

(A) in section 8336(h)(1), by striking `for failure to be recertified as a senior executive under section 3393a or'; and

(B) in section 8339(h), in the first sentence, by striking `, except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive'; and

(5) in chapter 84--

(A) in section 8414(a)(1), by striking `for failure to be recertified as a senior executive under section 3393a or'; and

(B) in section 8421(a)(2), by striking `, except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age'.

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

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

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

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

SEC. 1322. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

(a) IN GENERAL- Section 5307 of title 5, United States Code, is

amended by adding at the end the following:

`(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting `the total annual compensation payable to the Vice President under section 104 of title 3' for `the annual rate of basic pay payable for level I of the Executive Schedule' in the case of any employee who--

`(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

`(B) holds a position in or under an agency which is described in paragraph (2).

`(2) An agency described in this paragraph is any agency which, for purposes of the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance.

`(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

`(B) An agency's certification under this subsection shall be for a period of 2 calendar years, except that such certification may be terminated at any time, for purposes of either or both of those years, upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

`(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

`(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).'

(b) CONFORMING AMENDMENTS- (1) Section 5307(a) of title 5, United States Code, is amended by inserting `or as otherwise provided under subsection (d),' after `under law,'.

(2) Section 5307(c) of such title is amended by striking `this section,' and inserting `this section (subject to subsection (d)),'.

Subtitle D--Academic Training

SEC. 1331. ACADEMIC TRAINING.

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

Sec. 4107. Academic degree training

(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training--

(1) contributes significantly to--

(A) meeting an identified agency training need;

(B) resolving an identified agency staffing problem; or

(C) accomplishing goals in the strategic plan of the agency;

(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

(b) In exercising authority under subsection (a), an agency shall--

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

(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

(B) provide employees effective education and training to improve organizational and individual performance;

(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for--

`(A) a noncareer appointment in the senior Executive Service; or

`(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

`(4) to the greatest extent practicable, facilitate the use of online degree training.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

`4107. Academic degree training.'.

SEC. 1332. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES-

(1) FINDINGS- Congress finds that--

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY- It shall be the policy of the United States Government to--

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving

financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS

ARE UNAVAILABLE- Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended--

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or'; and

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

(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and'.