

112TH CONGRESS
2D SESSION

S. 2249

To provide for the reform of the Senior Executive Service.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2012

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for the reform of the Senior Executive Service.

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 AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Senior Executive Service Reform Act of 2012”.

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

Sec. 1. Short title and table of contents.

TITLE I—RESTORATION OF CAREER LEADERSHIP

Sec. 101. Senior Executive Service agency appointments.

Sec. 102. Career reserved position designation for certain administrative or management positions.

**TITLE II—SENIOR EXECUTIVE SERVICE PAY AND PERFORMANCE
MANAGEMENT IMPROVEMENT**

- Sec. 201. Annual adjustment for senior executives and other senior employees at the fully successful level or higher.
- Sec. 202. Inclusion of executive performance awards and bonuses in basic pay for retirement annuities.
- Sec. 203. Certification of agency performance appraisal systems.
- Sec. 204. Transparency of ratings for performance appraisals and rating reductions of senior executives.
- Sec. 205. Transparency of Senior Executive Service rankings and pay.
- Sec. 206. Effective dates.

TITLE III—SENIOR EXECUTIVE SERVICE CAREER DEVELOPMENT

- Sec. 301. Senior Executive Service Resource Office.
- Sec. 302. Senior Executive Service executive development plans.
- Sec. 303. Senior executive onboarding programs.
- Sec. 304. Senior Executive Service rotation programs.
- Sec. 305. Effective date.

TITLE IV—SENIOR EXECUTIVE SERVICE DIVERSITY ASSURANCE

- Sec. 401. Career appointments.
- Sec. 402. Encouraging a more diverse Senior Executive Service.

1 **TITLE I—RESTORATION OF** 2 **CAREER LEADERSHIP**

3 **SEC. 101. SENIOR EXECUTIVE SERVICE AGENCY APPOINT-** 4 **MENTS.**

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

7 (1) in subsection (b)—

8 (A) by inserting “(1)” after “(b)”; and

9 (B) by adding at the end the following:

10 “(2) The total number of Senior Executive Service
11 positions used to determine the 10-percent limitation
12 under paragraph (1) for available positions for noncareer
13 appointees shall be based on filled Senior Executive Serv-
14 ice positions at the start of each fiscal year, not total au-
15 thorized positions.”;

1 (2) in subsection (d)(1), by striking “25 per-
2 cent” and inserting “15 percent”;

3 (3) by redesignating subsection (e) as sub-
4 section (f); and

5 (4) by inserting after subsection (d) the fol-
6 lowing:

7 “(e)(1) The total number of Senior Executive Service
8 positions used to determine the 15-percent limitation
9 under subsection (d)(1) for available positions for non-
10 career appointees shall be based on filled Senior Executive
11 Service positions at the start of each fiscal year, not total
12 authorized positions.”.

13 **SEC. 102. CAREER RESERVED POSITION DESIGNATION FOR**
14 **CERTAIN ADMINISTRATIVE OR MANAGEMENT**
15 **POSITIONS.**

16 (a) IN GENERAL.—Chapter 14 of title 5, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 **“§ 1403. Career reserved position designation for cer-**
20 **tain administrative or management posi-**
21 **tions**

22 “(a)(1) The head of each agency referred to under
23 paragraphs (1) and (2) of section 901(b) of title 31 shall
24 establish a position which is, or is comparable to, an as-
25 sistant secretary for administration or management.

1 “(2) Each agency assistant secretary for administra-
2 tion or management, or incumbent of a comparable posi-
3 tion shall—

4 “(A) be appointed in accordance with the law,
5 or if no law provides for that appointment, by the
6 head of the agency;

7 “(B) be a member of the career Senior Execu-
8 tive Service;

9 “(C) be appointed or designated, as applicable,
10 from among individuals who possess demonstrated
11 ability in general management of, and knowledge of,
12 and extensive practical experience in areas such as
13 procurement, human capital, information technology,
14 and related matters; and

15 “(D) perform such duties as the head of the
16 agency shall prescribe.

17 “(b) If the individual serving in any position of assist-
18 ant secretary or in any comparable position in an agency
19 described under subsection (a) is not a career appointee
20 as defined under section 3132(a)(4), the head of that
21 agency shall appoint a career appointee to the position of
22 the principal deputy to that assistant secretary or the offi-
23 cer in that comparable position.

24 “(c) The head of each agency shall appoint a career
25 appointee to the positions which entail direct responsibility

1 for agency-wide programs or functions in the following oc-
 2 cupational disciplines:

3 “(1) Acquisition.

4 “(2) Information Technology.

5 “(3) Human Resources.”

6 (b) TECHNICAL AND CONFORMING AMENDMENT.—

7 The table of sections for chapter 14 of title 5, United
 8 States Code, is amended by inserting after the item relat-
 9 ing to section 1402 the following:

“Sec. 1403. Career reserved position designation for certain administrative or
 management positions.”

10 (c) REGULATIONS.—The Office of Personnel Man-
 11 agement shall prescribe regulations to carry out this sec-
 12 tion.

13 **TITLE II—SENIOR EXECUTIVE**
 14 **SERVICE PAY AND PERFORM-**
 15 **ANCE MANAGEMENT IM-**
 16 **PROVEMENT**

17 **SEC. 201. ANNUAL ADJUSTMENT FOR SENIOR EXECUTIVES**
 18 **AND OTHER SENIOR EMPLOYEES AT THE**
 19 **FULLY SUCCESSFUL LEVEL OR HIGHER.**

20 (a) PROHIBITION ON QUOTAS AND FORCED DIS-
 21 TRIBUTIONS.—Section 4314 of title 5, United States
 22 Code, is amended by adding at the end the following:

1 “(d) Any determination under this section shall be
2 made without the use of quotas or forced distribution of
3 ratings.”.

4 (b) PAY FOR CERTAIN SENIOR-LEVEL POSITIONS.—
5 Section 5376(b) of title 5, United States Code, is amended
6 by striking paragraph (2) and inserting the following:

7 “(2)(A) Subject to paragraph (1), effective at
8 the beginning of the first applicable pay period com-
9 mencing on or after the first day of the month in
10 which an adjustment takes effect under section 5303
11 in the rates of pay under the General Schedule, each
12 rate of pay established under this section for posi-
13 tions within an agency shall be adjusted, in the case
14 of an employee in such a position whose most recent
15 performance appraisal rating is the equivalent of
16 fully successful or higher, by the total average ad-
17 justment in rates of pay authorized by sections 5303
18 and 5304.

19 “(B) Subject to paragraph (1), subparagraph
20 (A) of this paragraph shall not limit the authoriza-
21 tion of an annual adjustment based on performance
22 or contribution to agency mission that is greater
23 than the amount provided for in this section.”.

1 (c) SETTING SENIOR EXECUTIVE PAY.—Section
2 5383 of title 5, United States Code, is amended by strik-
3 ing subsection (c) and inserting the following:

4 “(c)(1) Effective at the beginning of the first applica-
5 ble pay period commencing on or after the first day of
6 the month in which an adjustment takes effect under sec-
7 tions 5303 and 5304 in the rates of pay under the General
8 Schedule, each rate of pay established under this section
9 for positions within an agency shall be adjusted, in the
10 case of an employee in such a position whose most recent
11 performance appraisal rating is the equivalent of fully suc-
12 cessful or higher, by the total average adjustment in rates
13 of pay authorized by sections 5303 and 5304.

14 “(2) Subject to paragraph (1) this subsection shall
15 not limit the authorization of an annual adjustment based
16 on performance or contribution to agency mission that is
17 greater than the amount provided for in this section.

18 “(3) This subsection shall comply with any require-
19 ment established under section 5382.

20 “(4) Except as provided under paragraph (3), this
21 subsection shall not limit the head of an agency from au-
22 thorizing an annual adjustment that is greater than the
23 amount provided for in this section.”.

1 (d) SETTING INDIVIDUAL SENIOR-LEVEL PAY.—Sec-
 2 tion 5383(e) of title 5, United States Code, is amended
 3 by adding at the end the following:

4 “(3)(A) In this paragraph the term ‘covered ap-
 5 pointee’ means—

6 “(i) an appointee to a senior level position
 7 described under section 5376(a) (1) or (2); or

8 “(ii) an appointee to the FBI–DEA Senior
 9 Executive Service established under section
 10 3151.

11 “(B) Paragraphs (1) and (2) shall apply to cov-
 12 ered appointees—

13 “(i) by substituting ‘covered appointee’ for
 14 ‘career appointee’; and

15 “(ii) by substituting ‘a career position as a
 16 covered appointee’ for ‘a career reserved posi-
 17 tion in the Senior Executive Service’.”.

18 **SEC. 202. INCLUSION OF EXECUTIVE PERFORMANCE**
 19 **AWARDS AND BONUSES IN BASIC PAY FOR**
 20 **RETIREMENT ANNUITIES.**

21 (a) DEFINITION OF BASIC PAY.—Section 8331(3) of
 22 title 5, United States Code, is amended—

23 (1) in subparagraph (G), by striking “and”
 24 after the semicolon;

1 (2) in the matter following subparagraph (H),
2 by striking “subparagraphs (B) through (H)” and
3 inserting “subparagraphs (B) through (J)”; and

4 (3) by inserting after subparagraph (H) the fol-
5 lowing:

6 “(I) with respect to a member of the Sen-
7 ior Executive Service, performance awards
8 under section 5384; and

9 “(J) with respect to a senior executive as
10 defined under section 3132(a)(3), a member of
11 the FBI–DEA Senior Executive Service estab-
12 lished under section 3151, and senior level posi-
13 tions compensated under section 5376—

14 “(i) agency awards under section
15 4503;

16 “(ii) performance awards under sec-
17 tion 4505a;

18 “(iii) bonuses under section 5754; and

19 “(iv) bonuses under section 5753;”.

20 (b) APPLICATION.—The amendments made by this
21 section only apply to bonuses and awards granted to an
22 employee after the date of enactment of this Act.

1 **SEC. 203. CERTIFICATION OF AGENCY PERFORMANCE AP-**
2 **PRAISAL SYSTEMS.**

3 Section 5307(d)(3) of title 5, United States Code, is
4 amended—

5 (1) in subparagraph (A), by striking “and the
6 Office of Management and Budget jointly”;

7 (2) in subparagraph (B), by striking “not to ex-
8 ceed 24 months” and inserting “of 36 months”;

9 (3) in subparagraph (C), by striking “, with the
10 concurrence of the Office of Management and Budg-
11 et,”; and

12 (4) by adding at the end the following:

13 “(D)(i) The Office of Personnel Management
14 may annually review the information provided by
15 agencies under section 4314(c)(6) to determine
16 whether the agency meets minimum certification re-
17 quirements.

18 “(ii) At the discretion of the Office, the Office
19 may review the certification of an agency and re-
20 quest the agency to submit information to support
21 certification at any time during the certification pe-
22 riod.

23 “(E)(i) An agency that has received certifi-
24 cation from the Office of Personnel Management
25 shall not make changes to that agency’s performance

1 appraisal system without approval from the Office of
2 Personnel Management.

3 “(ii) The Office of Personnel Management shall
4 review annual performance plans to ensure agency
5 compliance and implementation.

6 “(F) The termination of certification during the
7 certification period shall be preceded by—

8 “(i) notification from the Office of Per-
9 sonnel Management to an agency about what
10 the agency is required to do to continue its cer-
11 tification; and

12 “(ii) a reasonable period of time following
13 the notification referred to under clause (i) to
14 take corrective action.”.

15 **SEC. 204. TRANSPARENCY OF RATINGS FOR PERFORMANCE**
16 **APPRAISALS AND RATING REDUCTIONS OF**
17 **SENIOR EXECUTIVES.**

18 Section 4314(c) of title 5, United States Code, is
19 amended—

20 (1) in paragraph (2)—

21 (A) by inserting “(A)” after “(1)”; and

22 (B) by adding at the end the following:

23 “(B) When recommending a lower rating than was
24 assigned in the initial appraisal of a senior executive’s per-
25 formance, a written explanation providing reasons for the

1 lower rating shall be provided to the senior executive by
2 the board not later than the date the recommendation is
3 made.”;

4 (2) in paragraph (3), by inserting “Not later
5 than 30 days after an appraisal and rating is made
6 for a senior executive, the agency shall provide the
7 senior executive with notification of that appraisal
8 and rating, including, as applicable, a written expla-
9 nation of reasons why a lower rating is assigned
10 than is recommended by the board.” after the pe-
11 riod; and

12 (3) by adding at the end the following:

13 “(6)(A)(i) Each agency, having 10 or more ca-
14 reer appointees, shall annually publish on the agency
15 website the overall number of ratings awarded to
16 members of the Senior Executive Service at each
17 performance rating level, including—

18 “(I) the average overall salary adjustment
19 at each level;

20 “(II) the minimum and maximum adjust-
21 ment at each level;

22 “(III) the percentage of senior executives
23 at each rating level who received the minimum
24 and maximum salary adjustment; and

1 “(IV) the number of senior executives who
2 received performance awards under section
3 5384 and the average amount of those awards.

4 “(ii) Rating levels and salary adjustment infor-
5 mation under clause (i) shall be provided separately
6 for career and noncareer senior executives in agen-
7 cies having 10 or more noncareer senior executives.

8 “(B) Each agency shall annually publish on the
9 agency website an internal plan which describes a
10 system for determining Senior Executive Service sal-
11 ary and bonus amounts.”.

12 **SEC. 205. TRANSPARENCY OF SENIOR EXECUTIVE SERVICE**

13 **RANKINGS AND PAY.**

14 (a) IN GENERAL.—Chapter 43 of title 5, United
15 States Code, is amended—

16 (1) by redesignating section 4315 as section
17 4316;

18 (2) in section 4312(c)(3), by striking “4315”
19 and inserting “4316”; and

20 (3) by inserting after section 4314 the fol-
21 lowing:

1 **“§ 4315. Survey on the transparency of Senior Execu-**
 2 **tive Service performance management**
 3 **and pay**

4 “In consultation with the organization representing
 5 the largest number of senior executives, the Merit Systems
 6 Protection Board shall every 2 years conduct and publish
 7 the results of a survey of career appointees relating to—

8 “(1) the level of transparency and availability of
 9 agency performance appraisal systems and com-
 10 pensation policies to career appointees;

11 “(2) the use or perceived use of quotas or
 12 forced distribution in the application of the agency
 13 performance appraisal system;

14 “(3) any actual or perceived irregularities with
 15 the administration of the Senior Executive Service
 16 performance appraisal system; and

17 “(4) such other factors as the Merit Systems
 18 Protection Board shall determine are necessary and
 19 appropriate.”.

20 (b) **TECHNICAL AND CONFORMING AMENDMENT.—**
 21 The table of sections for chapter 43 of title 5, United
 22 States Code, is amended by striking the item relating to
 23 section 4315 and inserting the following:

“Sec. 4315. Survey on the transparency of Senior Executive Service perform-
 ance management and pay.

“Sec. 4316. Regulations.”.

1 **SEC. 206. EFFECTIVE DATES.**

2 (a) IN GENERAL.—Except as provided under sub-
3 section (b), this title shall take effect 180 days after the
4 date of enactment of this Act.

5 (b) CERTIFICATION OF AGENCY PERFORMANCE AP-
6 PRAISAL SYSTEMS.—Section 203 shall take effect on the
7 date of enactment of this Act.

8 **TITLE III—SENIOR EXECUTIVE**
9 **SERVICE CAREER DEVELOP-**
10 **MENT**

11 **SEC. 301. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.**

12 (a) DEFINITIONS.—In this section—

13 (1) the term “Director” means the Director of
14 the Office of Personnel Management;

15 (2) the term “Senior Executive Service” has the
16 meaning given under section 2101a of title 5, United
17 States Code;

18 (3) the terms “agency” and “career reserved
19 position” have the meanings given under section
20 3132 of title 5, United States Code; and

21 (4) the term “SES Resource Office” means the
22 Senior Executive Service Resource Office established
23 under subsection (b).

24 (b) ESTABLISHMENT.—The Director shall establish
25 within the Office of Personnel Management an office to
26 be known as the Senior Executive Service Resource Office.

1 (c) MISSION.—The mission of the SES Resource Of-
2 fice shall be to—

3 (1) improve the efficiency, effectiveness, and
4 productivity of the Senior Executive Service through
5 policy formulation and oversight;

6 (2) advance the professionalism of the Senior
7 Executive Service; and

8 (3) seek to achieve a Senior Executive Service
9 reflective of the Nation’s diversity.

10 (d) FUNCTIONS.—

11 (1) IN GENERAL.—The functions of the SES
12 Resource Office are to—

13 (A) make recommendations to the Director
14 with respect to regulations; and

15 (B) provide guidance to agencies, con-
16 cerning the structure, management, and diverse
17 composition of the Senior Executive Service.

18 (2) SPECIFIC FUNCTIONS.—In order to carry
19 out the purposes of this section, the SES Resource
20 Office shall—

21 (A) take such actions as the SES Resource
22 Office considers necessary to manage and pro-
23 mote an efficient, elite, and diverse corps of
24 senior executives by providing oversight of the
25 onboarding, performance, structure, composi-

1 tion, and candidate development of the Senior
2 Executive Service, including the Senior Execu-
3 tive Service Federal Candidate Development
4 Program;

5 (B) be responsible for coordinating, pro-
6 moting, and monitoring programs for the ad-
7 vancement and training of senior executives, in-
8 cluding mentoring programs;

9 (C) be responsible for the policy develop-
10 ment, management, and oversight of the Senior
11 Executive Service pay and performance man-
12 agement system;

13 (D) develop standards for certification of
14 each agency's Senior Executive Service per-
15 formance management system and evaluate all
16 agency applications for certification;

17 (E) provide oversight of, and guidance to,
18 agency executive resources boards;

19 (F) be responsible for the administration
20 of the qualifications review board;

21 (G) establish and maintain annual statis-
22 tics (in a form that renders such statistics use-
23 ful to appointing authorities and candidates)
24 on—

- 1 (i) the total number of career reserved
2 positions at each agency;
- 3 (ii) the total number of vacant career
4 reserved positions at each agency;
- 5 (iii) the amount of time it takes to
6 hire a candidate into a career reserved po-
7 sition;
- 8 (iv) the number of individuals who
9 have been certified in accordance with sec-
10 tion 3393(c) of title 5, United States Code,
11 and the composition of that group of indi-
12 viduals with regard to race, ethnicity, sex,
13 age, and individuals with disabilities;
- 14 (v) the composition of the Senior Ex-
15 ecutive Service with regard to race, eth-
16 nicity, sex, age, and individuals with dis-
17 abilities;
- 18 (vi) the composition of executive re-
19 sources boards with regard to race, eth-
20 nicity, sex, and individuals with disabilities;
21 and
- 22 (vii) the composition of qualifications
23 review boards with regard to race, eth-
24 nicity, sex, and individuals with disabilities;

1 (H) make available to the public through
2 the official public Internet site of the Office of
3 Personnel Management, the data collected
4 under subparagraph (G);

5 (I) conduct a continuing program for the
6 recruitment of women, members of racial and
7 ethnic minority groups, and individuals with
8 disabilities for Senior Executive Service posi-
9 tions, with special efforts directed at recruiting
10 from educational institutions, professional asso-
11 ciations, and other sources;

12 (J) advise agencies on the best practices
13 for an agency in utilizing or consulting with an
14 agency's equal employment or diversity office or
15 official (if the agency has such an office or offi-
16 cial) with regard to the agency's Senior Execu-
17 tive Service appointments process; and

18 (K) administer an online survey to all indi-
19 viduals leaving a position in the Senior Execu-
20 tive Service to better understand the reasons
21 for the departure—

22 (i) which shall—

23 (I) at a minimum request infor-
24 mation regarding—

1 (aa) the reason for depart-
2 ture;

3 (bb) plans for subsequent
4 employment; and

5 (cc) suggestions for improv-
6 ing the effectiveness of senior ex-
7 ecutives within the agency in
8 which the individual serves and
9 the Federal Government; and

10 (II) be incorporated into strategic
11 planning by agencies, in coordination
12 with the Office of Personnel Manage-
13 ment; and

14 (ii) the results of which shall be made
15 available to the public on a semi-annual
16 basis through the official public Internet
17 site of the Office of Personnel Manage-
18 ment.

19 (e) PROTECTION OF INDIVIDUALLY IDENTIFIABLE
20 INFORMATION.—For purposes of subparagraphs (H) and
21 (K)(ii) of subsection (d)(2), the SES Resource Office shall
22 combine data for any agency that is not named in section
23 901(b) of chapter 31, United States Code, to protect indi-
24 vidually identifiable information.

1 (f) COOPERATION OF AGENCIES.—The head of each
2 agency shall provide the Office of Personnel Management
3 with such information as the SES Resource Office may
4 require in order to carry out subsection (d)(2)(G).

5 **SEC. 302. SENIOR EXECUTIVE SERVICE EXECUTIVE DEVELOP-**
6 **MENT PLANS.**

7 (a) EXECUTIVE DEVELOPMENT PLANS.—Section
8 3396 of title 5, United States Code, is amended—

9 (1) by redesignating subsections (c) and (d) as
10 subsections (d) and (e), respectively; and

11 (2) by inserting after subsection (b) the fol-
12 lowing:

13 “(c)(1) Upon appointment into the Senior Executive
14 Service, each senior executive shall create an executive de-
15 velopment plan that includes continuing development,
16 training, and mentoring goals. The plan shall be submitted
17 to the head of the agency for approval. Each senior execu-
18 tive shall update their executive development plan on a
19 regular basis.

20 “(2) The Office shall establish standards for multi-
21 year executive development plans.”.

22 (b) TECHNICAL AND CONFORMING AMENDMENT.—
23 Section 3151(a)(7) of title 5, United States Code, is
24 amended by striking “section 3396(c)” and inserting “sec-
25 tion 3396(d)”.

1 **SEC. 303. SENIOR EXECUTIVE ONBOARDING PROGRAMS.**

2 Section 3396 of title 5, United States Code, (as
3 amended by section 302) is further amended—

4 (1) by redesignating subsections (d) and (e) as
5 subsections (e) and (f), respectively; and

6 (2) by inserting after subsection (c) the fol-
7 lowing:

8 “(d)(1) In consultation with the Office of Personnel
9 Management, the head of each agency shall oversee the
10 establishment of an onboarding program for newly ap-
11 pointed career appointees and noncareer appointees.

12 “(2)(A) Except as provided in subparagraph (B), not
13 later than 180 days after the date of an initial appoint-
14 ment, each career appointee or noncareer appointee shall
15 be required to successfully complete an onboarding pro-
16 gram established under this subsection.

17 “(B)(i) A position described under section 5312 or
18 5313 may be exempt from the requirement under subpara-
19 graph (A).

20 “(ii) In addition to positions described in clause (i),
21 the head of an agency may exempt appointees in very sen-
22 ior positions at the agency from the requirement under
23 subparagraph (A).

24 “(C) The Office of Personnel Management shall es-
25 tablish criteria for determining which positions are very
26 senior for purposes of this paragraph.

1 “(3) Each agency onboarding program shall in-
2 clude—

3 “(A) an overview of the mission, priorities, and
4 strategic plan of the agency;

5 “(B) the role and responsibilities for each new
6 appointee;

7 “(C) a review of individual performance objec-
8 tives and goal setting;

9 “(D) goals for mentoring candidates for the
10 Senior Executive Service;

11 “(E) an overview of the rules and regulations
12 governing the Senior Executive Service; and

13 “(F) other components the head of the agency
14 or the Office determines necessary.”.

15 **SEC. 304. SENIOR EXECUTIVE SERVICE ROTATION PRO-**
16 **GRAMS.**

17 Section 3396 of title 5, United States Code, (as
18 amended by sections 301 and 302) is further amended—

19 (1) by redesignating subsection (f) as sub-
20 section (g); and

21 (2) by inserting after subsection (d) the fol-
22 lowing:

23 “(e)(1)(A) In consultation with the Office of Per-
24 sonnel Management, an agency may establish a program
25 to provide for inter-agency, inter-governmental, and inter-

1 sector rotation programs for career appointees and poten-
2 tial career appointees in the Senior Executive Service, sen-
3 ior positions, and managers showing leadership potential.
4 The rotation programs established under this section shall
5 adhere to the principles of the Senior Executive Service
6 by strengthening collaboration and building interagency
7 relationships.

8 “(B)(i) In consultation with the Chief Privacy Officer
9 of the Office of Personnel Management, the Office shall
10 establish a centralized database for agencies establishing
11 rotation programs under subparagraph (A) that—

12 “(I) contains information on each senior execu-
13 tive as defined under section 3132, including infor-
14 mation on education, experience, training, and pro-
15 fessional development interests; and

16 “(II) shall serve as a profile registry to be used
17 by agencies and senior executives in making rotation
18 decisions.

19 “(ii) The Office shall prescribe regulations to carry
20 out this subparagraph, including regulations to establish
21 the database and provide for oversight, management, and
22 administration of the database.

23 “(C) Each agency shall allow a senior executive the
24 right of return from a temporary rotation detail or assign-

1 ment that is not a reassignment or transfer without a loss
2 of status and seniority.

3 “(2) Senior Executive Service rotations may be ac-
4 complished through the use of—

5 “(A) extended details;

6 “(B) task force assignments and interagency
7 projects;

8 “(C) sabbaticals to the private sector in accord-
9 ance with subsection (c);

10 “(D) programs established under the Intergov-
11 ernmental Personnel Act of 1970 (42 U.S.C. 4701
12 note);

13 “(E) the Information Technology Exchange
14 Program; or

15 “(F) other exchange programs as established by
16 agencies.

17 “(3) Any career appointee in an agency may be
18 granted a detail or sabbatical under this subsection if the
19 appointee agrees, as a condition of accepting the detail
20 or sabbatical, to serve in the civil service upon the comple-
21 tion of the detail or sabbatical for a period equal to the
22 period of the detail or sabbatical.

23 “(4) The Office shall publish guidelines for specific
24 objectives and desired results that should be obtained by
25 a senior executive who receives a rotation assignment.

1 “(5)(A) Except as provided under subparagraph (B),
2 an agency may not require participation in a rotation pro-
3 gram as a precondition for an appointment to a career
4 reserved position as defined under section 3132.

5 “(B) Subparagraph (A) shall not apply if the agency,
6 under regulations prescribed by the Office—

7 “(i) provides adequate notice of a requirement
8 to participate in a rotation program to candidates
9 within the agency;

10 “(ii) makes opportunities under a rotation pro-
11 gram available to those candidates; and

12 “(iii) provides a phase-in period for candidates
13 to meet the rotation requirement.

14 “(C) The Office shall prescribe regulations to carry
15 out this paragraph.”.

16 **SEC. 305. EFFECTIVE DATE.**

17 This title shall take effect 180 days after the date
18 of enactment of this Act.

19 **TITLE IV—SENIOR EXECUTIVE**
20 **SERVICE DIVERSITY ASSUR-**
21 **ANCE**

22 **SEC. 401. CAREER APPOINTMENTS.**

23 (a) PROMOTING DIVERSITY IN THE CAREER AP-
24 POINTMENTS PROCESS.—Section 3393(b) of title 5,
25 United States Code, is amended by inserting after the first

1 sentence the following: “In establishing an executive re-
 2 sources board, the head of the agency shall, to the extent
 3 practicable, ensure diversity of the board and of any sub-
 4 group thereof or other evaluation panel related to the
 5 merit staffing process for career appointees, by including
 6 members of racial and ethnic minority groups, women, and
 7 individuals with disabilities.”.

8 (b) REGULATIONS.—Not later than 1 year after the
 9 date of the enactment of this Act, the Director shall pro-
 10 mulgate regulations to implement subsection (a).

11 (c) REPORT.—Not later than 1 year after the date
 12 of the enactment of this Act, the Director shall submit
 13 to the Committee on Homeland Security and Govern-
 14 mental Affairs of the Senate and the Committee on Over-
 15 sight and Government Reform of the House of Represent-
 16 atives a report evaluating agency efforts to improve diver-
 17 sity in executive resources boards based on the informa-
 18 tion collected by the SES Resource Office under section
 19 301(d)(2)(G) (vi) and (vii).

20 **SEC. 402. ENCOURAGING A MORE DIVERSE SENIOR EXECU-**
 21 **TIVE SERVICE.**

22 (a) SENIOR EXECUTIVE SERVICE DIVERSITY
 23 PLANS.—

24 (1) IN GENERAL.—Not later than 1 year after
 25 the date of the enactment of this Act, each agency,

1 in consultation with the Office of Personnel Manage-
2 ment and the Chief Human Capital Officers Council,
3 shall submit to the Office of Personnel Management
4 a plan to enhance and maximize opportunities for
5 the advancement and appointment of minorities,
6 women, and individuals with disabilities in the agen-
7 cy to the Senior Executive Service. Agency plans
8 shall be reflected in the strategic human capital
9 plan.

10 (2) CONTENTS.—Agency plans shall address
11 how the agency is identifying and eliminating bar-
12 riers that impair the ability of minorities, women,
13 and individuals with disabilities to obtain appoint-
14 ments to the Senior Executive Service and any ac-
15 tions the agency is taking to provide advancement
16 opportunities, including—

17 (A) conducting outreach to minorities,
18 women, and individuals within the agency and
19 outside the agency;

20 (B) establishing and maintaining training
21 and education programs to foster leadership de-
22 velopment;

23 (C) identifying career enhancing opportuni-
24 ties for agency employees;

1 (D) assessing internal availability of can-
2 didates for Senior Executive Service positions;
3 and

4 (E) conducting an inventory of employee
5 skills and addressing current and potential gaps
6 in skills and the distribution of skills.

7 (3) UPDATE OF AGENCY PLANS.—Agency plans
8 shall be updated at least every 2 years during the
9 10 years following enactment of this Act. An agency
10 plan shall be reviewed by the Office of Personnel
11 Management and, if determined to provide sufficient
12 assurances, procedures, and commitments to provide
13 adequate opportunities for the advancement and ap-
14 pointment of minorities, women, and individuals
15 with disabilities to the Senior Executive Service,
16 shall be approved by such Office. An agency may, in
17 updating its plan, submit to the Office of Personnel
18 Management an assessment of the impacts of the
19 plan.

20 (b) SUMMARY AND EVALUATION.—Not later than
21 180 days after the deadline for the submission of any re-
22 port or update under subsection (a), the Director shall
23 transmit to the Committee on Homeland Security and
24 Governmental Affairs of the Senate and the Committee
25 on Oversight and Government Reform of the House of

1 Representatives a report summarizing and evaluating the
2 agency plans or updates (as the case may be) so sub-
3 mitted.

4 (c) COORDINATION.—The Office of Personnel Man-
5 agement shall, in carrying out subsection (a), evaluate ex-
6 isting requirements under section 717 of the Civil Rights
7 Act of 1964 (42 U.S.C. 2000e–16) and section 501 of the
8 Rehabilitation Act of 1973 (29 U.S.C. 791) and determine
9 how agency reporting can be performed so as to be con-
10 sistent with, but not duplicative of, such sections and any
11 other similar requirements.

○