

107TH CONGRESS
1ST SESSION

S. 1612

To provide Federal managers with tools and flexibility in areas such as personnel, budgeting, property management and disposal, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2001

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

A BILL

To provide Federal managers with tools and flexibility in areas such as personnel, budgeting, property management and disposal, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Managerial Flexibility Act of 2001”.

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

Sec. 1. Short title; Table of Contents.

TITLE I—FEDERAL EMPLOYEE MANAGEMENT REFORMS

Subtitle A—Federal Employment Restructuring Assistance

- Sec. 101. Voluntary separation incentives.
- Sec. 102. Existing authorities valid until expiration.
- Sec. 103. Effective date.

Subtitle B—Federal Employee Voluntary Early Retirement Amendments

- Sec. 111. Voluntary early retirement authority.

Subtitle C—Civil Service Recruitment and Retention Incentives

- Sec. 121. Recruitment, relocation, and retention bonuses.
- Sec. 122. Academic degree training.
- Sec. 123. Professional credentials.
- Sec. 124. Correction of pay administration problems.
- Sec. 125. Civil Service Retirement System computations for part-time service.
- Sec. 126. Promotional items received pursuant to official travel.
- Sec. 127. Student volunteer transit subsidy.
- Sec. 128. Effective date.

Subtitle D—Promotion of Results-Oriented Performance Evaluation and Compensation for Senior Executives

- Sec. 131. Cap on total annual compensation.
- Sec. 132. Repeal of senior executive recertification.
- Sec. 133. Annual leave enhancements.
- Sec. 134. Effective date.

Subtitle E—Federal Human Resources Management Innovations

- Sec. 141. Project management and alternative personnel systems.
- Sec. 142. Effective date.

Subtitle F—Federal Human Resources Hiring Flexibility

- Sec. 151. Employment flexibility amendments.

TITLE II—BUDGETING AND MANAGING FOR RESULTS: FULL FUNDING FOR FEDERAL RETIREE COSTS

Subtitle A—Accrual Funding of Pensions and Retirement Pay for Federal Employees

- Sec. 201. Civil Service Retirement System.
- Sec. 202. Central Intelligence Agency Retirement and Disability System.
- Sec. 203. Foreign Service Retirement and Disability System.
- Sec. 204. Public Health Service Commissioned Corps Retirement System.
- Sec. 205. National Oceanic and Atmospheric Administration Commissioned Officer Corps Retirement System.
- Sec. 206. Coast Guard Military Retirement System.

Subtitle B—Accrual Funding of Post-Retirement Health Benefits Costs for Federal Employees

- Sec. 211. Federal Employees Health Benefits Fund.
- Sec. 212. Uniformed Services Health Benefits for Retirees.
- Sec. 213. Effective date.

TITLE III—FEDERAL PROPERTY ASSET MANAGEMENT REFORMS

Sec. 301. Definitions.

Subtitle A—Life Cycle Planning and Management

Subtitle B—Enhanced Authorities for Real Property Asset Management

Sec. 311. Enhanced asset management tools.

Sec. 312. Repeal of section 321 of the Federal Property and Administration Services Act.

Sec. 313 Disposal of surplus property.

Subtitle C—Incentives for Real and Personal Property Management Improvement

Sec. 321. Proceeds from transfer or disposition of property.

Sec. 322. Relationship to other agencies' authorities to use disposal proceeds.

Sec. 323. Impact on other authorities to use disposal proceeds.

Sec. 324. Using a share of sale proceeds to maintain historic Treasury receipts.

Subtitle D—Streamlined and Enhanced Disposal Authorities

Sec. 331. Including nonprofit organizations as eligible donees.

Sec. 332. Elimination of certain negotiated sale requirements.

Sec. 333. Exchange and sale of personal property.

Sec. 334. Expansion of abandonment authority.

Sec. 335. Clarifying certain donation authorities.

Sec. 336. Streamlining consideration of surplus real property for homeless assistance.

Subtitle E—Miscellaneous

Sec. 341. Scope and construction.

Sec. 342. Severability.

Sec. 343. No waiver.

Sec. 344. Agency discretion.

Sec. 345. Effective date.

Sec. 346. Report of the Comptroller General.

1 **TITLE I—FEDERAL EMPLOYEE**
2 **MANAGEMENT REFORMS**

3 **Subtitle A—Federal Employment**
4 **Restructuring Assistance**

5 **SEC. 101. VOLUNTARY SEPARATION INCENTIVES.**

6 (a) Chapter 35 of title 5, United States Code, is
7 amended—

8 (1) by amending the chapter title to read as fol-
9 lows:

1 **“CHAPTER 35—RETENTION PREFERENCE,**
 2 **VOLUNTARY SEPARATION INCENTIVE**
 3 **PAYMENTS, RESTORATION, AND RE-**
 4 **EMPLOYMENT”;**

5 (2) by inserting after subchapter I a new sub-
 6 chapter II to read as follows:

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

9 **“§ 3521. Definitions**

10 “For the purpose of this subchapter—

11 “(1) ‘agency’ means an Executive agency as de-
 12 fined by section 105; and

13 “(2) ‘employee’ means an employee as defined
 14 by section 2105 employed by an agency and an indi-
 15 vidual employed by a county committee established
 16 under section 8(b)(5) of the Soil Conservation and
 17 Domestic Allotment Act (16 U.S.C. 590h(b)(5))
 18 who—

19 “(A) is serving under an appointment
 20 without time limitation; and

21 “(B) has been currently employed for a
 22 continuous period of at least 3 years;
 23 but does not include—

24 “(i) a reemployed annuitant under
 25 subchapter III of chapter 83 or chapter 84

1 or another retirement system for employees
2 of the Government;

3 “(ii) an employee having a disability
4 on the basis of which such employee is or
5 would be eligible for disability retirement
6 under subchapter III of chapter 83 or
7 chapter 84 or another retirement system
8 for employees of the Government;

9 “(iii) an employee who is in receipt of
10 a decision notice of involuntary separation
11 for misconduct or unacceptable perform-
12 ance;

13 “(iv) an employee who has previously
14 received any voluntary separation incentive
15 payment from the Federal Government
16 under this subchapter or any other author-
17 ity;

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

21 “(vi) any employee who, during the
22 24-month period preceding the employee’s
23 date of separation, received and did not
24 repay a recruitment or relocation bonus
25 under section 5753 or who, within the 12-

1 month period preceding the employee's
2 date of separation, received and did not
3 repay a retention allowance under section
4 5754, or who, within the 36-month period
5 preceding the employee's date of separa-
6 tion, received and did not repay funds pro-
7 vided for student loan repayment under
8 section 5379, unless the paying agency has
9 waived its right of recovery of those funds.

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

11 “(a) The head of each agency, prior to obligating any
12 resources for voluntary separation incentive payments,
13 shall submit to the Director of the Office of Management
14 and Budget a plan outlining the intended use of such in-
15 centive payments that provides such information as the
16 Director may require, including the information specified
17 in subsection (b).

18 “(b) The agency's plan under subsection (a) shall
19 include—

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

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

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

1 “(4) the number and amounts of voluntary sep-
 2 aration incentive payments to be offered; and

3 “(5) a description of how the agency will oper-
 4 ate without the eliminated positions and functions.

5 “(c) The Director of the Office of Management and
 6 Budget shall review each agency’s plan and may condition
 7 the Director’s approval of the plan upon the agency head’s
 8 acceptance of modifications. A plan under this section may
 9 not be implemented without the approval of the Director,
 10 and, upon an agency head’s request, the Director may ap-
 11 prove for implementation changes to a plan previously ap-
 12 proved by the Director.

13 **“§ 3523. Authority to provide voluntary separation in-**
 14 **centive payments**

15 “(a) A voluntary separation incentive payment under
 16 this subchapter may be paid to an employee only as pro-
 17 vided in the agency’s plan established under section 3522.

18 “(b) A voluntary incentive payment—

19 “(1) shall be offered to agency employees on the
 20 basis of organizational unit, occupational series or
 21 level, geographic location, specified periods during
 22 which eligible employees may elect a voluntary sepa-
 23 ration incentive payment, skills, knowledge, or other
 24 such job related factors, or a combination of such
 25 factors;

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

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

4 “(A) an amount equal to the amount the
5 employee would be entitled to receive under sec-
6 tion 5595(c) if the employee were entitled to
7 payment under such section (without adjust-
8 ment for any previous payment made); or

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

11 “(4) may be made only in the case of an em-
12 ployee who voluntarily separates (whether by retire-
13 ment or resignation) under the provisions of this
14 subchapter;

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

18 “(6) shall not be taken into account in deter-
19 mining the amount of any severance pay to which
20 the employee may be entitled under section 5595,
21 based on any other separation; and

22 “(7) shall be paid from appropriations or funds
23 available for the payment of the basic pay of the em-
24 ployee.

1 **“§ 3524. Effect of subsequent employment with the**
2 **Government**

3 “(a) An individual who has received a voluntary sepa-
4 ration incentive payment under this subchapter and ac-
5 cepts any employment for compensation with the Govern-
6 ment of the United States (other than the legislative
7 branch) within five years after the date of the separation
8 on which the payment is based shall be required to pay,
9 prior to the individual’s first day of employment, the entire
10 amount of the incentive payment to the agency that paid
11 the incentive payment.

12 “(b)(1) If the employment under this section is with
13 an agency (other than the General Accounting Office), the
14 United States Postal Service, or the Postal Rate Commis-
15 sion, the Director of the Office of Personnel Management
16 may, at the request of the head of the agency, waive the
17 repayment if the individual involved possesses unique abili-
18 ties, or, in the case of an emergency involving a direct
19 threat to life or property, the individual has skills directly
20 related to resolving the emergency and will serve on a tem-
21 porary basis only so long as that individual’s services are
22 made necessary by the emergency.

23 “(2) If the employment under this section is with the
24 judicial branch, the Director of the Administrative Office
25 of the United States Courts may waive the repayment if

1 the individual involved possesses unique abilities and is the
2 only qualified applicant available for the position.

3 “(c) Employment under a personal services contract
4 with the Government of the United States (other than the
5 legislative branch) is included in the term ‘employment’
6 with respect to subsection (a), but is excluded with respect
7 to subsection (b).

8 **“§ 3525. Reduction of agency employment levels**

9 “(a) The total number of funded employee positions
10 in the agency shall be reduced by one position for each
11 vacancy created by the separation of any employee who
12 has received, or is due to receive, a voluntary separation
13 incentive payment under this subchapter. For the purpose
14 of this subsection, positions shall be counted on a full-time
15 equivalent basis.

16 “(b) The Director of the Office of Management and
17 Budget shall monitor the agency and take any action nec-
18 essary to ensure that the requirements of this section are
19 met.

20 “(c) At the request of the head of an agency, the Di-
21 rector of the Office of Management and Budget may waive
22 application of subsection (a) if the Director determines
23 that the agency plan required by section 3522 satisfac-
24 torily demonstrates downsizing or other restructuring
25 within the agency would produce a cost-effective result.

1 **“§ 3526. Regulations**

2 “The Director of the Office of Personnel Manage-
 3 ment, with the concurrence of the Director of the Office
 4 of Management and Budget, may prescribe such regula-
 5 tions as may be necessary to implement the provisions of
 6 this subchapter.”; and

7 (3) in the table of sections by striking the item
 8 relating to subchapter II and the item relating to
 9 section 3551 and inserting in its place the following:

“SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

“3521. Definitions.

“3522. Agency plans; approval.

“3523. Authority to provide voluntary separation incentive payment.

“3524. Effect of subsequent employment with the Government.

“3525. Reduction of agency employment levels.

“3526. Regulations.”.

10 (b) The Director of the Administrative Office of the
 11 United States Courts may, by regulation, establish a pro-
 12 gram substantially similar to the program established by
 13 subsection (a) for individuals serving in the judicial
 14 branch. Waivers authorized with respect to agencies by
 15 section 3525 of title 5, United States Code, as enacted
 16 by subsection (a), shall, with respect to entities of the judi-
 17 cial branch, be made by the Director of the Administrative
 18 Office of the United States Courts.

19 **SEC. 102. PREVIOUSLY ENACTED VOLUNTARY SEPARATION**
 20 **INCENTIVES.**

21 An agency head that has authority, under a statute
 22 enacted before the date of enactment of the Act, to make

1 voluntary separation incentive payments, may continue to
 2 offer voluntary separation incentives under that statute in
 3 accordance with its terms and amendments.

4 **SEC. 103. EFFECTIVE DATE.**

5 This subtitle and the amendments made by this sub-
 6 title shall take effect 60 days after the date of enactment.

7 **Subtitle B—Federal Employee Vol-**
 8 **untary Early Retirement**
 9 **Amendments**

10 **SEC. 111. VOLUNTARY EARLY RETIREMENT AUTHORITY.**

11 (a) Title 5, United States Code, is amended—

12 (1) by amending section 8336(d)(2) to read as
 13 follows:

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

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

21 “(C) is not in receipt of a decision notice of in-
 22 voluntary separation for misconduct or unacceptable
 23 performance;

24 “(D) is separated from the service voluntarily
 25 during a period in which, as determined by the Of-

1 fice of Personnel Management (upon request of the
2 agency) under regulations prescribed by the Office—

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

8 “(ii) employees serving in such agency (or
9 component) are likely to be—

10 “(I) separated;

11 “(II) subject to an immediate reduc-
12 tion in the rate of basic pay (without re-
13 gard to subchapter VI of chapter 53, or
14 comparable provisions); or

15 “(III) identified as being in positions
16 which are becoming surplus or excess to
17 the agency’s future ability to carry out its
18 mission effectively; 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) one or more organizational units;

24 “(ii) one or more occupational series or
25 levels;

1 “(iii) one or more geographical locations;

2 “(iv) specific window periods;

3 “(v) skills, knowledge, or such other simi-
4 lar job related factors; or

5 “(vi) any appropriate combination of such
6 factors;”; and

7 (2) by amending section 8414(b)(1)(B) to read
8 as follows:

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

14 “(ii) is serving under an appointment that
15 is not time limited;

16 “(iii) is not in receipt of a decision notice
17 of involuntary separation for misconduct or un-
18 acceptable performance;

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

24 “(I) such agency (or, if applicable, the
25 component in which the employee is serv-

ing) is undergoing delayering, reorganization, reduction in force or transfer of function, or other workforce restructuring (or shaping); and

“(II) employees serving in such agency (or component) are likely to be—

“(aa) separated;

“(bb) subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

“(cc) 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) one or more organizational units;

“(II) one or more occupational series or levels;

“(III) one or more geographical locations;

“(IV) specific window periods;

1 “(V) skills, knowledge, or such other
2 similar job related factors; or

3 “(VI) any appropriate combination of
4 such factors;”.

5 (b) Section 7001 of Public Law 105–174 (112 Stat.
6 91), as amended by section 651 of Public Law 106–58
7 (113 Stat. 480), is repealed.

8 **Subtitle C—Civil Service Recruit-** 9 **ment and Retention Incentives**

10 **SEC. 121. RECRUITMENT, RELOCATION, AND RETENTION** 11 **BONUSES.**

12 (a) Chapter 57 of title 5, United States Code, is
13 amended—

14 (1) by amending sections 5753 and 5754 to
15 read as follows:

16 **“§ 5753. Recruitment and relocation bonuses**

17 “(a)(1) The Office of Personnel Management may
18 authorize the head of an agency to pay a bonus to an indi-
19 vidual appointed or moved to a position that is likely to
20 be difficult to fill in the absence of such a bonus, if the
21 individual—

22 “(A)(i) is newly appointed as an employee of
23 the Federal Government; or

24 “(ii) is currently employed by the Federal Gov-
25 ernment and moves to a new position in the same

1 geographic area under circumstances described in
2 regulations of the Office; or

3 “(B) is currently employed by the Federal Gov-
4 ernment and must relocate to accept a position sta-
5 tioned in a different geographic area.

6 “(2) Except as provided by subsection (g), a bonus
7 may be paid under this section only to an employee cov-
8 ered by the General Schedule pay system established
9 under subchapter III of chapter 53.

10 “(b)(1) Payment of a bonus under this section shall
11 be contingent upon the employee entering into a written
12 service agreement to complete a period of employment
13 with the agency, not to exceed four years. The office may,
14 by regulation, prescribe a minimum service period.

15 “(2) The agreement shall set forth the length of the
16 required service period, the amount of the bonus, the
17 method of payment, and other terms and conditions under
18 which the bonus is payable, subject to subsections (c) and
19 (d) and regulations of the Office. The terms and condi-
20 tions for paying a bonus, as specified in the service agree-
21 ment, shall include the conditions under which the agree-
22 ment may be terminated before the agreed-upon service
23 period has been completed and the effect of the termi-
24 nation.

1 “(3) The agreement shall be made effective upon em-
2 ployment with the agency or movement to a new position
3 or geographic area, as applicable, except that a service
4 agreement with respect to a recruitment bonus may be
5 made effective at a later date under circumstances de-
6 scribed in regulations of the Office, such as when there
7 is an initial period of formal basic training.

8 “(c)(1) Except as provided in subsection (d), a bonus
9 under this section shall not exceed 25 percent of the an-
10 nual rate of basic pay of the employee at the beginning
11 of the service period multiplied by the number of years
12 (or fractions thereof) in the service period, not to exceed
13 four years.

14 “(2) A bonus under this section may be paid as an
15 initial lump sum, in installments, as a final lump sum
16 upon the completion of the full service period, or in a com-
17 bination of these forms of payment.

18 “(3) A bonus under this section is not part of the
19 basic pay of an employee for any purpose.

20 “(4) Under regulations of the Office, a recruitment
21 bonus under this section may be paid to an eligible indi-
22 vidual before he or she enters on duty.

23 “(d) The Office may authorize the head of an agency
24 to waive the limitation in subsection (c)(1) based on a crit-
25 ical agency need, subject to regulations prescribed by the

1 Office. Under such a waiver, the amount of the bonus may
2 be up to 50 percent of the employee's annual rate of basic
3 pay at the beginning of the service period multiplied by
4 the number of years (or fractions thereof) in the service
5 period, not to exceed 100 percent of the employee's annual
6 rate of basic pay at the beginning of the service period.

7 “(e) The Office shall require that, before paying a
8 bonus under this section, an agency shall establish a plan
9 for paying recruitment bonuses and a plan for paying relo-
10 cation bonuses, subject to regulations prescribed by the
11 Office.

12 “(f) The Office shall prescribe such regulations as it
13 considers necessary for the administration of this section,
14 including regulations governing the repayment of a re-
15 cruitment bonus in appropriate circumstances when the
16 agreed-upon service period has not been completed.

17 “(g)(1) At the request of the head of an Executive
18 agency, the Office may extend coverage under this section
19 to categories of employees within the agency who other-
20 wise would not be covered by this section.

21 “(2) The Office shall not extend coverage to the head
22 of an Executive agency, including an Executive agency
23 headed by a board or other collegial body composed of two
24 or more individual members.

1 “(h) For purposes of this section, ‘employee’ has the
 2 meaning given that term by section 2105, except that such
 3 term also includes an employee described in subsection (c)
 4 of such section.

5 **“§ 5754. Retention bonuses**

6 “(a) The Office of Personnel Management may au-
 7 thorize the head of an agency to pay a retention bonus
 8 to an employee, subject to regulations prescribed by the
 9 Office, if—

10 “(1) the unusually high or unique qualifications
 11 of the employee or a special need of the agency for
 12 the employee’s services makes it essential to retain
 13 the employee; and

14 “(2) the agency determines that, in the absence
 15 of a retention bonus, the employee would be likely to
 16 leave—

17 “(A) the Federal service; or

18 “(B) for a different position in the Federal
 19 service under conditions described in regula-
 20 tions of the Office.

21 “(b) The Office may authorize the head of an agency
 22 to pay retention bonuses to a group of employees in one
 23 or more categories of positions in one or more geographic
 24 areas, subject to the requirements of subsection (a)(1) and
 25 regulations prescribed by the Office, if there is a high risk

1 that a significant portion of employees in the group would
2 be likely to leave in the absence of retention bonuses.

3 “(c) Except as provided in subsection (i), a bonus
4 may be paid only to an employee covered by the General
5 Schedule pay system established under subchapter III of
6 chapter 53.

7 “(d)(1) Payment of a retention bonus is contingent
8 upon the employee entering into a written service agree-
9 ment with the agency to complete a period of employment
10 with the agency.

11 “(2) The agreement shall set forth the length of the
12 required service period, the amount of the bonus, the
13 method of payment, and other terms and conditions under
14 which the bonus is payable, subject to subsections (e) and
15 (f) and regulations of the Office. The terms and conditions
16 for paying a bonus, as specified in the service agreement,
17 shall include the conditions under which the agreement
18 may be terminated before the agreed-upon service period
19 has been completed and the effect of the termination.

20 “(3) Notwithstanding paragraph (1), a written serv-
21 ice agreement is not required if the agency pays a reten-
22 tion bonus in biweekly installments and sets the install-
23 ment payment at the full bonus percentage rate estab-
24 lished for the employee with no portion of the bonus de-
25 ferred. In this case, the agency shall inform the employee

1 in writing of a decision to discontinue the retention bonus
2 payments. Except as provided in regulations of the Office,
3 the employee shall continue to accrue entitlement to the
4 retention bonus through the end of the pay period in which
5 such written notice is provided.

6 “(4) An employee may not accrue entitlement to a
7 retention bonus during a service period previously estab-
8 lished for that employee under section 5753.

9 “(e)(1) Except as provided in subsection (f), a reten-
10 tion bonus, which shall be stated as a percentage of the
11 employee’s basic pay for the service period associated with
12 the bonus, may not exceed 25 percent of the employee’s
13 basic pay if paid under subsection (a) or 10 percent of
14 an employee’s basic pay if paid under subsection (b).

15 “(2) A retention bonus may be paid to an employee
16 in installments after completion of specified periods of
17 service or in a single lump sum at the end of the full pe-
18 riod of service required by the agreement. An installment
19 payment may not exceed the product derived from multi-
20 plying the amount of basic pay earned in the installment
21 period by a percentage not to exceed the bonus percentage
22 rate established for the employee. If the installment pay-
23 ment percentage is less than the bonus percentage rate,
24 the accrued but unpaid portion of the bonus is payable
25 as part of the final installment payment to the employee

1 after completion of the full service period under the terms
2 of the service agreement.

3 “(3) A retention bonus is not part of the basic pay
4 of an employee for any purpose.

5 “(f) Upon the request of the head of an agency, the
6 Office may waive the limit established under subsection
7 (e)(1) and permit the agency head to pay an otherwise
8 eligible employee or category of employees retention bo-
9 nuses of up to 50 percent of basic pay, based on a critical
10 agency need.

11 “(g) The Office shall require that, before paying a
12 bonus under this section, an agency shall establish a plan
13 for paying retention bonuses, subject to regulations pre-
14 scribed by the Office.

15 “(h) The Office shall prescribe such regulations as
16 it considers necessary for the administration of this sec-
17 tion.

18 “(i)(1) At the request of the head of an Executive
19 agency, the Office may extend coverage under this section
20 to categories of employees within the agency who other-
21 wise would not be covered by this section.

22 “(2) The Office shall not extend coverage under this
23 section to the head of an Executive agency, including an
24 Executive agency headed by a board or other collegial body
25 composed of two or more individual members.

1 “(j) For purposes of this section, ‘employee’ has the
 2 meaning given that term by section 2105, except that such
 3 term also includes an employee described in subsection (c)
 4 of such section.

5 “(2) in the table of sections by amending the
 6 item relating to section 5754 to read as follows:

“5754. Retention bonuses.”.

7 “(b) Section 407 of the Federal Employees Pay Com-
 8 parability Act of 1990 (104 Stat. 1467; 5 U.S.C. 5305
 9 note) is repealed.

10 **Sec. 122. ACADEMIC DEGREE TRAINING.**

11 “Chapter 41 of title 5, United States Code, is
 12 amended—

13 (1) by amending section 4107 to read as fol-
 14 lows:

15 **“§ 4107. Academic degree training”;**

16 “(a) Subject to subsection (b), an agency may select
 17 and assign an employee to academic degree training and
 18 may pay or reimburse the costs of academic degree train-
 19 ing from appropriated or other available funds if such
 20 training—

21 “(1) contributes significantly to meeting an
 22 identified agency training need, to resolving an iden-
 23 tified agency staffing problem, or to accomplishing
 24 goals in the agency’s strategic plan:

1 “(2) is part of a planned, systematic, and co-
2 ordinated agency employee development program
3 linked to accomplishing the agency’s strategic goals
4 and objectives; and

5 “(3) is accredited and is provided by a college
6 or university that is accredited by a nationally recog-
7 nized body.

8 “(b) In exercising authority under subsection (a), an
9 agency shall—

10 “(1) consistent with the merit system principles
11 set forth in paragraphs (2) and (7) of section
12 2301(b), take into consideration the need to—

13 “(A) maintain a balanced workforce in
14 which women, members of racial and ethnic mi-
15 nority groups, and persons with disabilities are
16 appropriately represented in Government serv-
17 ice; and

18 “(B) provide employees effective education
19 and training to improve organizational and indi-
20 vidual performance;

21 “(2) assure that the training is not for the sole
22 purpose of providing an employee an opportunity to
23 obtain an academic degree or to qualify for appoint-
24 ment to a particular position for which the academic
25 degree is a basic requirement; and

1 “(3) assure that no authority under this sub-
 2 section is exercised on behalf of any employee occu-
 3 pying or seeking to qualify for appointment to any
 4 position that is excepted from the competitive service
 5 because of its confidential policy-determining, policy-
 6 making, or policy-advocating character.”; and

7 (2) in the table of sections by mending the item
 8 relating to section 4107 to read as follows:

“4107. Academic degree training.”.

9 **SEC. 123. PROFESSIONAL CREDENTIALS.**

10 Chapter 57 of title 5, United States Code, as amend-
 11 ed by section 121, is further amended—

12 (1) by adding at the end of the following new
 13 section:

14 **“§ 5757. Expenses for credentials**

15 “(a) An agency may, when consistent with the agen-
 16 cy’s strategic goals and objectives, use appropriated or
 17 other available funds to pay for—

18 “(1) employee credentials, including profes-
 19 sional accreditation, state-imposed and professional
 20 licenses, and professional certifications; and

21 “(2) examinations to obtain these credentials.

22 “(b) No authority under subsection (a) may be exer-
 23 cised on behalf of any employee occupying or seeking to
 24 qualify for appointment to any position which is excepted
 25 from the competitive service because of its confidential,

1 policy-determining, policy-making, or policy-advocating
2 character.

3 “(c) An agency may, in accordance with regulations
4 of the Office of Personnel Management and subject to the
5 same terms and conditions that apply to continued service
6 agreements under section 4108, require such an agree-
7 ment in conjunction with payment of expenses authorized
8 under subsection (a).”; and

9 (2) in the table of sections by adding at the end
10 the following new item:

“5757. Expenses for credentials.”.

11 **SEC. 124. CORRECTION OF PAY ADMINISTRATION PROB-**
12 **LEMS.**

13 (a) Chapter 53 of title 5, United States Code, is
14 amended—

15 (1) by amending section 5302(8) to read as fol-
16 lows:

17 “(8) the term ‘rates of pay under the General
18 Schedule’, ‘rates of pay for the General Schedule’, or
19 ‘scheduled rates of basic pay’ means the unadjusted
20 rates of basic pay in the General Schedule as estab-
21 lished by section 5332, excluding additional pay of
22 any kind; and”;

23 (2) in section 5305—

24 (A) by amending subsection (a) to read as
25 follows:

1 “(a)(1) Whenever the Office of Personnel Manage-
2 ment finds that the Government’s recruitment or retention
3 efforts with respect to one or more occupations in one or
4 more areas or locations are, or are likely to become, sig-
5 nificantly handicapped due to any of the circumstances de-
6 scribed in subsection (b), the Office may establish for the
7 areas or locations involved, with respect to individuals in
8 positions paid under any of the pay systems referred to
9 in subsection (c), higher minimum rates of pay for one
10 or more grades or levels, occupational groups, series, class-
11 es, or subdivisions thereof, and may make corresponding
12 increases in all rates to the pay range for each such grade
13 or level. However, a minimum rate so established may not
14 exceed the maximum rate of basic pay (excluding any lo-
15 cality-based comparability payment under section 5304 or
16 similar provision of law) for the grade or level by more
17 than 30 percent, and no rate may be established under
18 this section in excess of the rate of basic pay payable for
19 level IV of the Executive Schedule. In the case of individ-
20 uals not subject to the provisions of this title governing
21 appointment in the competitive service, the President may
22 designate another agency to authorize special rates under
23 this section.

24 “(2) The head of an agency may determine that a
25 category of employees of the agency will not be covered

1 by a special rate authorization established under this sec-
 2 tion. The agency head shall provide formal written notice
 3 to the Office of Personnel Management (or other agency
 4 designated by the President to authorize special rates)
 5 which identifies the specific category or categories of em-
 6 ployees that will not be covered by special rates authorized
 7 under this section. If the head of an agency removes a
 8 category of employees from coverage under a special rate
 9 authorization after that authorization takes effect, the loss
 10 of coverage will take effect on the first day of the first
 11 pay period after the date of the notice.”;

12 (B) by amending subsection (b)(4) to read
 13 as follows:

14 “(4) any other circumstances which the Office
 15 of Personnel Management (or such agency as the
 16 President may designate) considers appropriate.”;

17 (C) in subsection (d)—

18 (i) by striking “President” and insert-
 19 ing “Office of Personnel Management”;
 20 and

21 (ii) by striking “he” and inserting
 22 “the President”;

23 (D) in subsection (e) by striking “basic
 24 pay” and inserting “pay”;

1 (E) by amending subsection (f) to read as
 2 follows:

3 “(f) When a schedule of special rates established
 4 under this section is adjusted under subsection (d), a cov-
 5 ered employee’s special rate will be adjusted in accordance
 6 with conversion rules prescribed by the Office of Personnel
 7 Management or by such agency as the President may des-
 8 ignate.”;

9 (F) in subsection (g)(1)—

10 (i) by striking “basic pay” and insert-
 11 ing “pay”; and

12 (ii) by striking “President (or his des-
 13 ignated agency)” and inserting “Office of
 14 Personnel Management (or such agency as
 15 the President may designate)”;

16 (G) by amending subsection (h) to read as
 17 follows:

18 “(h) Any employee’s entitlement to a rate of pay es-
 19 tablished under this section terminates when the employee
 20 is entitled to a higher rate of pay (including basic pay
 21 as adjusted to include any locality-based comparability
 22 payment under section 5304 or similar provision of law).”;
 23 and

24 (H) by adding at the end the following new
 25 subsections:

1 “(i) When an employee who is receiving a rate of pay
 2 established under this section moves to a new official duty
 3 station at which different pay schedules apply, the em-
 4 ployee shall be entitled to the rates of pay applicable in
 5 the new pay area based on the employee’s position, grade
 6 and step (or relative position in the rate range) before the
 7 movement, as determined under regulations prescribed by
 8 the Office of Personnel Management or other agency des-
 9 ignated by the President under subsection (a). Such pay
 10 conversion upon geographic movement shall be effected be-
 11 fore processing any other simultaneous pay action (other
 12 than a general pay adjustment).

13 “(j) A rate established under this section shall be con-
 14 sidered to be part of basic pay for purposes of subchapter
 15 III of chapter 83, chapter 84, chapter 87, subchapter V
 16 of chapter 55, section 5941, and for such other purposes
 17 as may be expressly provided for by law or as the Office
 18 of Personnel Management may by regulation prescribe.”;

19 (3) in section 5334—

20 (A) is subsection (b) by adding at the end
 21 the following: “If an employee’s rate after pro-
 22 motion or transfer is greater than the max-
 23 imum rate of basic pay for the employee’s
 24 grade, that rate shall be treated as a retained
 25 rate under section 5363. The Office of Per-

1 sonnel Management shall prescribe by regula-
 2 tion the circumstances under which and the ex-
 3 tent to which special rates under section 5305
 4 (or similar provision of law) or locality-adjusted
 5 rates under section 5304 (or similar provision
 6 of law) are considered to be basic pay in apply-
 7 ing the provisions of this subsection.”; and

8 (B) by adding at the end the following new
 9 subsection:

10 “(g) When an employee moves to a new official duty
 11 station at which different pay schedules apply, the em-
 12 ployee shall be entitled to the rates of pay applicable in
 13 the new pay area based on the employee’s position, grade
 14 and step (or relative position in the rate range) before the
 15 movement. Such pay conversion upon geographic move-
 16 ment shall be effected before processing any other simulta-
 17 neous pay action (other than a general pay adjustment).”;

18 (4) in section 5361—

19 (A) by striking paragraphs (3) and (4) and
 20 redesignating paragraphs (5)–(7) as paragraphs
 21 (3)–(5);

22 (B) in paragraph (4) as redesignated by
 23 striking “and” at the end;

1 (C) in paragraph (5) as redesignated by
2 striking the period and inserting a semicolon;
3 and

4 (D) by adding at the end the following new
5 paragraphs:

6 “(6) ‘rate of basic pay’ means—

7 “(A) the rate of pay prescribed by law or
8 regulation for the position held by an employee
9 before any deductions or additions of any kind,
10 but including any applicable locality-based pay-
11 ment under section 5304 or similar provision of
12 law, any applicable special salary rate under
13 section 5305 or similar provision of law, and
14 any applicable existing retained rate of pay es-
15 tablished under section 5363 or similar provi-
16 sion of law; and

17 “(B) in the case of a prevailing rate em-
18 ployee, the scheduled rate of pay determined
19 under section 5343;

20 “(7) ‘former highest applicable rate of basic
21 pay’ means the highest applicable rate of basic pay
22 payable to the employee immediately before the ac-
23 tion that triggers pay retention under section 5363;
24 and

1 “(8) ‘highest applicable basic pay rate range’
2 means the range of rates of basic pay for the grade
3 or level of the employee’s current position with the
4 highest maximum rate, except as otherwise provided
5 in regulations prescribed by the Office of Personnel
6 Management in cases where another rate range pro-
7 vides higher rates only in the lower portion of the
8 range.”;

9 (5) in section 5363—

10 (A) in subsection (a) by amending the
11 matter following paragraph (4) to read as fol-
12 lows: “is entitled to pay retention under the
13 conditions set forth in this section. Notwith-
14 standing any other provision, this section may
15 not be applied to employees whose rate of basic
16 pay is reduced solely because of the recomputa-
17 tion of pay upon movement to a new official
18 duty station at which different pay schedules
19 apply. When a geographic move is accompanied
20 by a simultaneous pay action that reduces the
21 employee’s rate of basic pay after the employ-
22 ee’s pay has been recomputed to reflect the geo-
23 graphic move, this section shall be applied, if
24 otherwise applicable.”; and

1 (B) by striking subsections (b) and (c) and
2 inserting the following new subsections:

3 “(b) If an employee is entitled to pay retention under
4 subsection (a), the following rules apply in determining the
5 employee’s rate of pay:

6 “(1) If the employee’s former highest applicable
7 rate of basic pay is less than or equal to the max-
8 imum rate of the highest applicable basic pay rate
9 range for the employee’s current position, the em-
10 ployee is entitled to the lowest payable rate of basic
11 pay in that rate range that equals or exceeds the
12 former rate, and pay retention ceases to apply; and

13 “(2) If the employee’s former highest applicable
14 rate of basic pay exceeds the maximum rate of the
15 highest applicable basic pay rate range for the em-
16 ployee’s current position, the employee is entitled to
17 a retained rate equal to the lesser of—

18 “(A) the employee’s former highest appli-
19 cable rate of basic pay; or

20 “(B) 150 percent of the maximum rate of
21 the highest applicable basic pay rate range for
22 the employee’s position.

23 “(c) An employee’s retained rate shall be increased
24 at the time of any increase in the maximum rate of the
25 highest applicable basic pay rate range for the employee’s

1 position by 50 percent of the dollar increase in that max-
2 imum rate.

3 “(d) The rate of pay for an employee who is receiving
4 a retained rate under this section and who is moved to
5 a new official duty station at which different pay schedules
6 apply shall be determined under regulations prescribed by
7 the Office of Personnel Management consistent with the
8 purposes of this section.

9 “(e) A retained rate shall be considered part of basic
10 pay for purposes of this subchapter and for purposes of
11 subchapter III of chapter 83, chapters 84 and 87, sub-
12 chapter V of chapter 55, section 5941, and for such other
13 purposes as may be expressly provided for by law or as
14 the office of Personnel Management may by regulation
15 prescribe. For other purposes, the Office shall prescribe
16 by regulation what constitutes basic pay for employees re-
17 ceiving a retained rate.

18 “(f) The preceding provisions of this section do not
19 apply (or shall cease to apply) to an employee who—

20 “(1) has a break in service of one workday or
21 more;

22 “(2) is entitled by operation of this subchapter
23 to chapter 51 to 53 to a rate of basic pay which
24 is equal to or higher than, or declines a reasonable
25 offer of a position the rate of basic pay for which

1 is equal to or higher than, the rate to which the
2 employee is entitled under this section; or

3 “(3) is demoted for personal cause or at the
4 employee’s request.”; and

5 (6) in section 5365(b) by inserting after “this
6 subchapter” the first time it appears the following:
7 “(subject to any conditions or limitations the Office
8 may establish)”.
9

10 (b) Section 403(c) of the Federal Employees Pay
11 Comparability Act of 1990 [Public Law 101–509, Sec.
12 529] is amended by striking everything after the par-
13 enthetical phrase and inserting the following: “and shall
14 be basic pay for all purposes. The rates shall be adjusted
15 at the time of adjustments in the General Schedule to
16 maintain the step linkage set forth in subsection (b)(2).”.

17 (c) Subject to any regulations the Office of Personnel
18 Management may prescribe, any employee in a covered
19 pay schedule who is receiving a retained rate under section
20 5363 of title 5, United States Code, or similar authority
21 on the effective date of this Act shall have his or her pay
22 converted on that date. The newly applicable retained rate
23 shall equal the formerly applicable retained rate as ad-
24 justed to include any applicable locality-based payment
25 under section 5304 of title 5, United States Code, or simi-
lar provision of law. Any employee in a covered pay system

1 receiving a rate that exceeds the maximum rate of the
 2 highest applicable basic pay rate range for the employee's
 3 position (as defined in section 5361(8) of such title 5, as
 4 amended by this Act) under any authority shall be consid-
 5 ered to be receiving a retained rate under section 5363
 6 of title 5.

7 **SEC. 125. CIVIL SERVICE RETIREMENT SYSTEM COMPUTA-**
 8 **TION FOR PART-TIME SERVICE.**

9 Section 8339(p) of title 5, United States Code, is
 10 amended by adding at the end the following new para-
 11 graph:

12 “(3) In the administration of paragraph (1)—

13 “(A) subparagraph (A) of such paragraph
 14 shall apply to any service performed before, on,
 15 or after April 7, 1986;

16 “(B) subparagraph (B) of such paragraph
 17 shall apply to all service performed on a part-
 18 time or full-time basis on or after April 7,
 19 1986; and

20 “(C) any service performed on a part-time
 21 basis before April 7, 1986, shall be credited as
 22 service performed on a full-time basis.”.

1 **SEC. 126. PROMOTIONAL ITEMS RECEIVED PURSUANT TO**
2 **OFFICIAL TRAVEL.**

3 (a) TRAVEL AND TRANSPORTATION ALLOWANCES.—

4 Section 404 of title 37, United States Code, is amended—

5 (1) by redesignating subsection (j) as sub-
6 section (k); and

7 (2) by inserting after subsection (i) the fol-
8 lowing new subsection:

9 “(j) Promotional items a member receives as a con-
10 sequence of travel paid by the United States, or accepted
11 under the provisions of section 1353 of title 31, United
12 States Code, may be retained by the member. Promotional
13 items include but are not limited to frequent travel pro-
14 grams, upgrades, and access to carrier clubs or facilities.
15 Such items shall be obtained under the same terms as pro-
16 vided the general public and shall be at no additional
17 cost.”.

18 (b) PER DIEM ALLOWANCES.—Section 5702 of title
19 5, United States Code, is amended—

20 (1) by redesignating subsection (c) as sub-
21 section (d); and

22 (2) by inserting after subsection (b) the fol-
23 lowing new subsection (c):

24 “(c) Notwithstanding the provisions of subsection (d),
25 promotional items an employee (including justices and
26 judges) receives as a consequence of travel paid by the

1 United States, or accepted pursuant to the provisions of
 2 section 1353 of title 31, United States Code, may be re-
 3 tained by the employee. Promotional items include but are
 4 not limited to frequent travel programs, upgrades, and ac-
 5 cess to carrier clubs or facilities. Such items shall be ob-
 6 tained under the same terms as provided the general pub-
 7 lic and shall be at no additional cost.”.

8 (c) AMENDMENT TO FOREIGN SERVICE ACT.—Sec-
 9 tion 901 of the Foreign Service Act of 1980 (22 U.S.C.
 10 4081) is amended—

11 (1) by inserting “(a)” before “The Secretary”;
 12 and

13 (2) by adding at the end the following new sub-
 14 section (b):

15 “(b) Promotional items a member of the Service re-
 16 ceives as a consequence of travel paid by the United
 17 States, or accepted pursuant to the provisions of section
 18 1353 of title 31, United States Code, may be retained by
 19 the member. Promotional items include but are not limited
 20 to frequent travel programs, upgrades, and access to car-
 21 rier clubs or facilities. Such items shall be obtained under
 22 the same terms as provided the general public and shall
 23 be at no additional cost.”.

24 (d) REPEAL OF LIMITATION ON THE USE OF TRAVEL
 25 AWARDS.—Section 6008 of the Federal Acquisition

1 Streamlining Act of 1994 (Public Law 103–355; 108 Stat.
2 3367) is repealed.

3 **SEC. 127. STUDENT VOLUNTEER TRANSIT SUBSIDY.**

4 (a) Section 7905 of Title 5, United States Code, is
5 amended in subsection (a)(1), by striking “and a member
6 of a uniformed service” and inserting “, a member of a
7 uniformed service, and a student who provides voluntary
8 services pursuant to 5 U.S.C. 3111.”

9 (b) CONFORMING AMENDMENT.—Section 3111(c)(1)
10 of title 5, United States Code, is amended by striking
11 “chapter 81 of this title” and inserting “section 7905 (re-
12 lating to commuting by means other than single-occupancy
13 motor vehicles), chapter 81.”

14 **SEC. 128. EFFECTIVE DATE.**

15 (a) Except as otherwise provided by this section, the
16 amendments made by the preceding sections shall take ef-
17 fect on the first day of the first pay period beginning on
18 or after the 180th day after enactment of this subtitle with
19 the exception of sections 126 and 127, which shall take
20 effect immediately upon enactment of this subtitle.

21 (b) A recruitment or relocation bonus service agree-
22 ment that was authorized under section 5753 of title 5,
23 United States Code, before the effective date set forth in
24 subsection (a) shall continue, until its expiration, to be

1 subject to section 5753 as in effect on the day before such
 2 effective date.

3 (c) Payment of a retention allowance that was au-
 4 thorized under section 5754 of title 5, United States Code,
 5 before the effective date set forth in subsection (a) shall
 6 continue, subject to section 5754 as in effect on the day
 7 before such effective date, until the retention allowance is
 8 reauthorized or terminated (but no longer than one year
 9 after such effective date).

10 (d) The amendments made by section 124 shall take
 11 effect on the date of enactment of this Act and shall apply
 12 only with respect to individuals who, on or after such date
 13 of enactment, separate from employment subject to sub-
 14 chapter III of chapter 83, or chapter 84, of title 5, United
 15 States Code.

16 **Subtitle D—Promotion of Results-**
 17 **Oriented Performance Evalua-**
 18 **tion and Compensation for Sen-**
 19 **ior Executives**

20 **SECTION 131. CAP ON TOTAL ANNUAL COMPENSATION.**

21 Section 5307(a) of title 5, United States Code, is
 22 amended by adding at the end the following new para-
 23 graph:

24 “(3) Notwithstanding paragraph (1), the total
 25 payment referred to under such paragraph with re-

spect to an employee paid under section 5376 or 5383 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3, United States Code. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.”.

SEC. 132. REPEAL OF SENIOR EXECUTIVE RECERTIFICATION.

(a) 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 analysis by striking the item relating to section 3393a;

(2) in subchapter V of chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1) by striking the comma at the end and inserting”; or”;

(ii) in paragraph (2) by striking “of this title, or” at the end and inserting a semicolon;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

1 (B) in section 3593(a) by amending para-
 2 graph (2) to read as follows:

3 “(2) the appointee left the Senior Executive
 4 Service for reasons other than misconduct, neglect of
 5 duty, malfeasance, or less than fully successful execu-
 6 tive performance as determined under subchapter
 7 II of chapter 43.”; and

8 (C) in section 3594(b)—

9 (i) in paragraph (1) by striking “of
 10 this title; or” at the end and inserting”;
 11 or”;

12 (ii) in paragraph (2) by striking “of
 13 this title; or” at the end and inserting a
 14 semicolon; and

15 (iii) by striking paragraph (3);

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

19 (4) in subchapter III of chapter 83—

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

23 (B) in section 8339(h), in the first sen-
 24 tence, by striking”; except that such reduction
 25 shall not apply in the case of an employee retir-

1 ing under section 8336(h) for failure to be re-
 2 certified as a senior executive”; and
 3 (5) in subchapter II of chapter 84—

4 (A) in section 8414(a)(1) by striking “for
 5 failure to be recertified as a senior executive
 6 under section 3393a or”; and

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

13 (b) Notwithstanding the amendments made by sub-
 14 section (a)(2)(A) of this section, an appeal under the final
 15 sentence of section 3592(a) of title 5, United States Code,
 16 that is pending on the day before the enactment of this
 17 Act—

18 (1) shall not abate by reason of the enactment
 19 of such amendments; and

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

22 (c) The amendment made by subsection (a)(2)(B)
 23 shall not apply with respect to an individual who, before
 24 90 days after the date of enactment of this Act, leaves
 25 the Senior Executive Service for failure to be recertified

1 as a senior executive under section 3393a of title 5, United
 2 States Code.

3 **SEC. 133. ANNUAL LEAVE ENHANCEMENTS.**

4 (a) Chapter 63 of title 5, United States Code, is
 5 amended—

6 (1) in section 6303(a)—

7 (A) in paragraph (2) by striking “and” at
 8 the end;

9 (B) in paragraph (3) by striking the period
 10 at the end and inserting “; and”; and

11 (C) by inserting after paragraph (3) the
 12 following:

13 “(4) one day for each full biweekly pay period
 14 for an employee in a position paid under section
 15 5376 or 5383, or for an employee in an equivalent
 16 category for which the minimum rate of basic pay is
 17 greater than GS–15, step 10, to which the applica-
 18 tion of the paragraph is extended by the Office by
 19 regulation under section 6311.”;

20 (2) by inserting after section 6304 the following
 21 new section:

22 **“§ 6304a. Annual leave.**

23 “(a) The head of an agency may provide an annual
 24 leave credit to an employee who is newly appointed from
 25 outside the civil service to a position paid under section

1 5376 or 5383, or for an employee in an equivalent cat-
 2 egory for which the minimum rate of basic pay is greater
 3 than GS-15, step 10, to which the application of this sec-
 4 tion is extended by the Office by regulation under section
 5 6311, when the agency head determines that the credit
 6 is needed to complete the recruitment of a highly qualified
 7 candidate.

8 “(b) The amount of the annual leave credit under
 9 subsection (a) may not exceed 10 full days and is in addi-
 10 tion to annual leave accrued by the employee under section
 11 6303.

12 “(c) In the case of an employee who receives an an-
 13 nual leave credit under subsection (a) and who separates
 14 prior to completing one year of service, the maximum
 15 amount of a lump-sum payment under section 5551 shall
 16 be equal to the amount payable for annual leave actually
 17 accrued.”; and

18 (3) in the table of sections by inserting the fol-
 19 lowing item after the item relating to section 6304:
 “6304a. Annual leave credit.”.

20 **SEC. 134. EFFECTIVE DATE.**

21 The amendments made by this subtitle shall take ef-
 22 fect on the first day of the first pay period beginning on
 23 or after 180 days following the date of enactment of this
 24 subtitle.

1 **Subtitle E—Federal Human Re-**
 2 **sources Management Innova-**
 3 **tions**

4 **SEC. 141. PROJECT MANAGEMENT AND ALTERNATIVE PER-**
 5 **SONNEL SYSTEMS.**

6 (a) Chapter 47 of title 5, United States Code, is
 7 amended—

8 (1) by amending section 4701—

9 (A) in subsection (a)—

10 (i) by striking “(a)”;

11 (ii) by amending paragraph (1) to
 12 read as follows:

13 “(1) ‘agency’ means an Executive agency and
 14 any entity that is subject to any provision of this
 15 title that could be waived under section 4703, but
 16 does not include—

17 “(A) the Federal Bureau of Investigation,
 18 the Central Intelligence Agency, the Defense In-
 19 telligence Agency, the National Imagery and
 20 Mapping Agency, the National Security Agency,
 21 and, as determined by the President, any Exec-
 22 utive agency or unit thereof which is designated
 23 by the President and which has as its principal
 24 function the conduct of foreign intelligence or
 25 counterintelligence activities; or

1 “(B) the General Accounting Office;”

2 (iii) in paragraph (4) by striking

3 “and” at the end;

4 (iv) by redesignating paragraph (5) as
5 paragraph (6); and

6 (v) by inserting after paragraph (4)
7 the following new paragraph:

8 “(5) ‘modification’ means a significant change
9 in one or more of the elements of a demonstration
10 project plan as described in section 4703(b)(1);
11 and”; and

12 (B) by striking subsection (b); and

13 (2) in section 4703—

14 (A) in subsection (a)—

15 (i) by striking “conduct and evaluate
16 demonstration projects” and inserting
17 “conduct, modify, and evaluate demonstra-
18 tion projects”;

19 (ii) by striking “, including any law or
20 regulation relating to—” and all that fol-
21 lows and inserting a period; and

22 (iii) by adding at the end the fol-
23 lowing: “The decision to initiate or modify
24 a project under this section shall be made
25 by the Office.”;

1 (B) by amending subsection (b) to read as
2 follows;

3 “(b) Before conducting or entering into any agree-
4 ment or contract to conduct a demonstration project, the
5 Office shall ensure—

6 “(1) that each project has a plan which
7 describes—

8 “(A) its purpose;

9 “(B) the employees to be covered;

10 “(C) its anticipated outcomes and resource
11 implications, including how the project relates
12 to carrying out the agency’s strategic plan, in-
13 cluding meeting performance goals and objec-
14 tives, and accomplishing its mission;

15 “(D) the personnel policies and procedures
16 the project will use that differ from those other-
17 wise available and applicable, including a spe-
18 cific citation of any provisions of law, rule, or
19 regulation to be waived and a specific descrip-
20 tion of any contemplated action for which there
21 is a lack of specific authority;

22 “(E) an evaluation plan, including the
23 methodology and criteria for evaluation; and

1 “(F) the agency’s system for ensuring that
2 the project is implemented in a manner con-
3 sistent with merit system principles;

4 “(2) notification of the proposed project to em-
5 ployees who are likely to be affected by the project;

6 “(3) an appropriate comment period;

7 “(4) publication of the final plan in the Federal
8 Register;

9 “(5) notification of the final project at least 30
10 days in advance of the date any project proposed
11 under this section is to take effect to employees who
12 are likely to be affected by the project.”;

13 “(6) publication of any subsequent modification
14 in the Federal Register; and

15 “(7) notification of any subsequent modification
16 to employees who are included in the project.”;

17 (C) in subsection (c)—

18 (i) by amending paragraph (1) to read

19 as follows:

20 “(1) any provision of chapter 63 or subpart G
21 of part III of this title.”;

22 (ii) by redesignating paragraphs (4)

23 and (5) as paragraphs (6) and (7), respec-

24 tively;

1 (iii) by inserting after paragraph (3)
 2 the following new paragraphs:

3 “(4) section 7342, 7351, or 7353;

4 “(5) Appendix 4 of this title;”;

5 (iv) in paragraph (6) as redesignated,
 6 by striking “paragraph (1), (2), or (3) of
 7 this subsection; or” and inserting “para-
 8 graphs (1) through (5);”; and

9 (v) in paragraph (7) as redesignated,
 10 by adding at the end the following: “Not-
 11 withstanding section 2302(e)(1), for pur-
 12 poses of applying section 2302(b)(11) in a
 13 demonstration project under this chapter,
 14 ‘veterans’ preference requirement’ means
 15 any of the specific provisions of the dem-
 16 onstration project plan that are designed
 17 to ensure that the project is consistent
 18 with veterans’ preference principles.”;

19 (D) by amending subsections (d) and (e) to
 20 read as follows:

21 “(d) Before the end of the five-year period beginning
 22 on the date on which a demonstration project takes effect,
 23 the Office shall determine whether the project shall be—

24 “(1) terminated;

1 “(2) continued beyond the end of such five-year
2 period for purposes of evaluation; or

3 “(3) converted to an alternative personnel sys-
4 tem under chapter 49.

5 “(e) The Office may terminate a demonstration
6 project under this chapter if it determines that the
7 project—

8 “(1) is not consistent with merit system prin-
9 ciples set forth in section 2301, veterans preference
10 principles, or the provisions of this chapter; or

11 “(2) otherwise imposes a substantial hardship
12 on, or is not in the best interests of, the public, the
13 Government, employees, or eligibles.

14 (E) by amending subsections (h) and (i) to
15 read as follows:

16 “(h) The Office shall ensure that each demonstration
17 project is evaluated. Each evaluation shall assess—

18 “(1) the project’s compliance with the plan de-
19 veloped under subsection (b)(1); and

20 “(2) the project’s impact on improving public
21 management.

22 “(i) Upon request of the Director of the Office of Per-
23 sonnel Management, agencies shall cooperate with and as-
24 sist the Office in any evaluation or conversion undertaken
25 under subsection (h) and provide the Office with requested

1 information and reports relating to the conducting of dem-
 2 onstration projects in their respective agencies.”.

3 (b) title 5, United States Code, is amended—

4 (1) by inserting after chapter 47 the following
 5 new chapter:

6 “CHAPTER 49—ALTERNATIVE PERSONNEL
 7 SYSTEMS

8 “§ 4901. Definitions

9 “For the purpose of this chapter—

10 “(i) ‘agency’ has the meaning set forth in sec-
 11 tion 4701(a)(1);

12 “(2) ‘alternative personnel system’ means a sys-
 13 tem for human resources management in an agency
 14 which—

15 “(A)(i) requires a waiver (except as prohib-
 16 ited under section 4902(c)) of one or more of
 17 the provisions of this title or any rule or regula-
 18 tion prescribed under this title; or

19 “(ii) exercises authorities not specifically in
 20 law, rule, or regulation;

21 “(B) is designed to improve the agency’s
 22 ability to carry out its strategic plan and ac-
 23 complish its mission efficiently and effectively;
 24 and

1 “(C)(i) is similar to one or more systems
 2 already tested successfully in at least one other
 3 agency as a demonstration project under chap-
 4 ter 47; or

5 “(ii) has otherwise been determined by the
 6 Office of Personnel Management not to require
 7 testing as a demonstration project before being
 8 implemented by the agency as an alternative
 9 personnel system;

10 “(3) ‘eligible’ has the meaning set forth in sec-
 11 tion 4701(a)(3);

12 “(4) ‘employee’ has the meaning set forth in
 13 section 4701(a)(2); and

14 “(5) ‘modification’ means a significant change
 15 in one or more of the elements of an alternative per-
 16 sonnel system plan as described in section
 17 4902(b)(1).

18 **“§ 4902. Alternative personnel systems**

19 “(a) An agency may implement and subsequently
 20 modify one or more alternative personnel systems in ac-
 21 cordance with the provisions of this chapter. An alter-
 22 native personnel system shall not be limited by any lack
 23 of specific authority under this title to take the action con-
 24 templated or, except as otherwise provided in this section,
 25 by any provision of this title of any rule or regulation pre-

1 scribed under this title which is inconsistent with the ac-
2 tion.

3 “(b) Except as provided in section 4903(b), before
4 implementing an alternative personnel system an agency
5 shall—

6 “(1) develop a plan for such system which
7 describes—

8 “(A) its purposes;

9 “(B) the employees to be covered;

10 “(C) its anticipated outcomes and resource
11 implications, including how the system relates
12 to carrying out the agency’s strategic plan, in-
13 cluding meeting performance goals and objec-
14 tives, and accomplishing its mission;

15 “(D) the personnel policies and procedures
16 the alternative system will use that differ from
17 those otherwise available and applicable, includ-
18 ing a specific citation of any provisions of law,
19 rule, or regulation to be waived and a specific
20 description of any contemplated action for
21 which there is a lack of specific authority; and

22 “(E) the agency’s system for ensuring that
23 the alternative system is consistent with merit
24 system principles.

1 “(2) submit the plan and any subsequent modi-
2 fication to the Office of Personnel Management for
3 approval; and

4 “(3) provide advance notification of the plan
5 and subsequent modification to employees who are
6 likely to be affected by the alternative personnel sys-
7 tem.

8 “(c) No alternative personnel system under this sec-
9 tion may provide for a waiver of—

10 “(1) any provision of chapter 63 or subpart G
11 of part III of this title;

12 “(2)(A) any provision of law referred to in sec-
13 tion 2302(b)(1); or

14 “(B) any provision of law implementing any
15 provision of law referred to in section 2302(b)(1)
16 by—

17 “(i) providing for equal employment oppor-
18 tunity through affirmative action; or

19 “(ii) providing any right or remedy avail-
20 able to any employee or applicant for employ-
21 ment in the civil service;

22 “(3) any provision of chapter 15 or subchapter
23 III of chapter 73;

24 “(4) section 7342, 7351, or 7353;

25 “(5) Appendix 4 of this title;

1 “(6) any rule or regulation prescribed under
2 any provision of law referred to in paragraphs (1)
3 through (5); or

4 “(7) any provision of chapter 23, or any rule or
5 regulation prescribed under this title, if such waiver
6 is inconsistent with any merit system principle or
7 any provision thereof relating to prohibited per-
8 sonnel practices. Notwithstanding section
9 2302(e)(1), for purposes of applying section
10 2302(b)(11) in an alternative personnel system
11 under this chapter, ‘veterans’ preference require-
12 ment’ means any of the specific provisions of the al-
13 ternative personnel system plan that are designed to
14 ensure that the system is consistent with veterans’
15 preference principles.”

16 “(d) Employees within a unit with respect to which
17 a labor organization is accorded exclusive recognition
18 under chapter 71 shall not be included within any alter-
19 native personnel system implemented or subsequently
20 modified under this chapter—

21 “(1) if the alternative system would violate a
22 collective bargaining agreement (as defined in sec-
23 tion 7103(8)) between the agency and the labor or-
24 ganization, unless there is another written agree-
25 ment with respect to the alternative system between

1 the agency and the organization permitting the in-
 2 clusion; or

3 “(2) if the alternative system would not violate
 4 such a collective bargaining agreement, until there
 5 has been consultation or negotiation, as appropriate,
 6 by the agency with the labor organization.

7 “(e) Employees within any unit with respect to which
 8 a labor organization has not been accorded exclusive rec-
 9 ognition under chapter 71 shall not be included in any
 10 alternative personnel system implemented or subsequently
 11 modified under this chapter unless there has been agency
 12 consultation regarding the alternative system with the em-
 13 ployees in the unit.

14 **“§ 4903. Responsibilities of the Office of Personnel**
 15 **Management**

16 “(a)(1) No alternative personnel system under this
 17 chapter may be implemented or subsequently modified
 18 without the approval of the Office of Personnel Manage-
 19 ment. Approval shall be based on a determination that the
 20 proposed alternative system or any subsequent modifica-
 21 tion meets all of the requirements of this chapter. The
 22 Office shall inform the agency of the approval or dis-
 23 approval of its proposed alternative system within 90 days
 24 after receiving a complete plan as described in section
 25 4902(b)(1).

1 “(2) The Office shall publish in the Federal Register
2 a notice of its approval of each alternative personnel sys-
3 tem. The notice shall include a summary of the alternative
4 system. This notice requirement shall apply to a modifica-
5 tion of an alternative personnel system which is deter-
6 mined by the Office in its sole discretion to be sufficiently
7 significant to warrant publication.

8 “(b) At the request of the agency and subject to sec-
9 tions 4703(d)(2) and 4902(d), the Office may convert a
10 demonstration project under chapter 47 to an alternative
11 personnel system, without requiring the agency to develop
12 a plan as described in section 4902(b), when the Office
13 determines that the project has demonstrated sufficient
14 success to be implemented permanently in the agency.
15 When a project is converted under this subsection, the
16 demonstration project plan under section 4703(b)(1), in-
17 cluding any subsequent modifications, is deemed to be the
18 alternative personnel system plan under section
19 4902(b)(1).

20 “(c) The Office may terminate an alternative per-
21 sonnel system if it determines that the alternative
22 system—

23 “(1) is not consistent with merit system prin-
24 ciples set forth in section 2301, veterans preference
25 principles, or the provisions of this chapter; or

1 “(2) otherwise imposes a substantial hardship
2 on, or is not in the best interests of, the public, the
3 Government, employees, or eligibles.

4 **“§ 4904. Regulations**

5 “The Office of Personnel Management shall prescribe
6 regulations needed to administer this chapter.”; and

7 (2) in the table of sections by inserting after
8 the items relating to chapter 47 the following:

 “CHAPTER 49—ALTERNATIVE PERSONNEL SYSTEMS

 “Sec.

 “4901. Definitions.

 “4902. Alternative personnel systems.

 “4903. Responsibilities of the Office of Personnel Management.

 “4904. Regulations.”.

9 (c) The table of chapters for Part III of title 5,
10 United States Code, is amended by inserting after the
11 item relating to chapter 47 the following new item:

 “49. Alternative Personnel Systems 4901”.

12 (d)(1) The demonstration project established under
13 section 10 of the National Bureau of Standards Author-
14 ization Act for Fiscal Year 1987 (15 U.S.C. 275 note)
15 shall become an alternative personnel system under chap-
16 ter 49 of title 5, United States Code, on the effective date
17 set forth in section 142.

18 (2) Section 10 of the National Technology Transfer
19 and Advancement Act of 1995 is repealed.

20 (e)(1) The demonstration project authorized by sec-
21 tion 4703 of title 5, United States Code, at the Naval

1 Weapons Center, China Lake, California, and at the Naval
2 Ocean Systems Center, San Diego, California, as subse-
3 quently modified and continued, shall become an alter-
4 native personnel system under chapter 49 of title 5,
5 United States Code, on the effective date set forth in sec-
6 tion 142.

7 (2) Section 342(a) of the National Defense Author-
8 ization Act for Fiscal Year 1995 (Public Law 103–337;
9 108 Stat. 2663), as amended, is repealed. Any demonstra-
10 tion project authorized by such section 342(a), as amend-
11 ed, shall become a demonstration project under chapter
12 47 of title 5, United States Code, on the effective date
13 set forth in section 142.

14 (f)(1) The demonstration project authorized by sec-
15 tion 4703 of title 5, United States Code, at the United
16 States Department of Agriculture, as subsequently modi-
17 fied and continued, shall become an alternative personnel
18 system under chapter 49 of title 5 on the effective date
19 set forth in section 142.

20 (2) Section 749 of the Agriculture, Rural Develop-
21 ment, Food and Drug Administration, and Related Agen-
22 cies Appropriations Act, 1999, as contained in section
23 101(a) of the Omnibus Consolidated and Emergency Sup-
24 plemental Appropriations Act, 1999 (Public Law 105–
25 277), is repealed.

1 (g) Section 1104 of title 5, United States Code, is
 2 amended—

3 (1) in subsection (b)—

4 (A) by amending paragraph (1) to read as
 5 follows:

6 “(b)(1) The Office shall establish standards which
 7 shall apply to—

8 “(A) the activities of the Office or any other
 9 agency under authority delegated under subsection
 10 (a); and

11 “(B) any agency operating a demonstration
 12 project under chapter 47 or an alternative personnel
 13 system under chapter 49.”; and

14 (B) in paragraph (2) by striking “of this
 15 section” and inserting “and any activities under
 16 chapter 47 or 49”; and

17 (2) in subsection (c) by striking “pursuant to
 18 authority delegated under subsection

19 (a)(2) of this section” and inserting “under chapter
 20 47 or 49 or pursuant to authority delegated under sub-
 21 section (a)(2)”.

22 **SEC. 142. Effective date.**

23 The amendments made by this subtitle shall take ef-
 24 fect 180 days after enactment.

Subtitle F—Federal Human Resources Hiring Flexibility

SEC. 151. EMPLOYMENT FLEXIBILITY AMENDMENTS.

Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (2) by striking the period and inserting “; and”; and

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

“(3) authority for agencies to appoint, without regard to the provisions 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.”;

(2) by inserting after section 3318 the following new section:

1 **“§ 3319. Alternative ranking and selection procedures**

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

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

6 “(2) an agency to which the Office has dele-
7 gated examining authority under section
8 1104(a)(2)—

9 may establish category rating systems for evaluating job
10 applicants for positions in the competitive service, under
11 which qualified candidates are divided into two or more
12 quality categories, consistent with regulations prescribed
13 by the Office of Personnel Management, rather than as-
14 signed individual numerical ratings.

15 “(b) Within each quality category established under
16 subsection (a), preference-eligibles shall be listed ahead of
17 individuals who are not preference eligibles. For other
18 than scientific and professional positions at GS-9 (equiva-
19 lent or higher), qualified preference-eligibles who have a
20 compensable service-connected disability of 10 percent or
21 more shall be listed in the highest quality category.

22 “(c) An appointing official may select any applicant
23 in the highest quality category or, if fewer than three can-
24 didates have been assigned to the highest quality category,
25 in a merged category consisting of the highest and the
26 second highest quality categories. Notwithstanding the

1 preceding sentence, the appointing official may not pass
 2 over a preference-eligible in the same category from which
 3 selection is made, unless the requirements of section
 4 3317(b) or 3318(b), as applicable, are satisfied.

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

8 (3) in the table of sections by amending the
 9 item relating to section 3319 to read as follows:

“3319. Alternative ranking and selection procedures.”

10 **TITLE II—BUDGETING AND MAN-**
 11 **AGING FOR RESULTS: FULL**
 12 **FUNDING FOR FEDERAL RE-**
 13 **TIREE COSTS**

14 **Subtitle A—Accrual Funding of**
 15 **Pensions and Retirement Pay**
 16 **for Federal Employees**

17 **SEC. 201. CIVIL SERVICE RETIREMENT SYSTEM.**

18 (a) CIVIL SERVICE RETIREMENT AND DISABILITY
 19 FUND.—Chapter 83 of title 5, United States Code, is
 20 amended—

21 (1) in section 8331—

22 (A) in paragraph (17)—

23 (i) by striking “normal cost” and in-
 24 serting “normal cost percentage”; and

1 (ii) by inserting “and standards
2 (using dynamic assumptions)” after “prac-
3 tice”;

4 (B) by amending paragraph (18) to read
5 as follows:

6 “(18) ‘Fund balance’ means the current net as-
7 sets of the Fund available for payment of benefits,
8 as determined by the Office in accordance with ap-
9 propriate accounting standards, but does not include
10 any amount attributable to—

11 “(A) the Federal Employees’ Retirement
12 System; or

13 “(B) contributions made under the Federal
14 Employees’ Retirement Contribution Temporary
15 Adjustment Act of 1983 by or on behalf of any
16 individual who became subject to the Federal
17 Employees’ Retirement System;”

18 (C) by amending paragraph (19) to read
19 as follows:

20 “(19) ‘accrued liability’ means the estimated ex-
21 cess of the present value of all benefits payable from
22 the Fund to employees and Members, and former
23 employees and Members, subject to this subchapter,
24 and their survivors, over the present value of deduc-
25 tions to be withheld from the future basic pay of em-

1 employees and Members currently subject to this sub-
 2 chapter and of future agency contributions to be
 3 made in their behalf;”

4 (D) in paragraph (27) by striking “and”
 5 at the end;

6 (E) in paragraph (28) by striking the pe-
 7 riod at the end and inserting a semicolon; and

8 (F) by adding at the end the following
 9 paragraphs:

10 “(29) ‘dynamic assumptions’ means economic
 11 assumptions that are used in determining actuarial
 12 costs and liabilities of a retirement system and in
 13 anticipating the effects of long-term future—

14 “(A) investment yields;

15 “(B) increases in rates of basic pay; and

16 “(C) rates of price inflation; and

17 “(30) ‘unfunded liability’ means the estimated
 18 excess of—

19 “(A) the actuarial present value of all fu-
 20 ture benefits payable from the Fund under this
 21 subchapter based on the service of current or
 22 former employees or Members, over

23 “(B) the sum of—

24 “(i) the actuarial present value of de-
 25 ductions to be withheld from the future

1 basic pay of employees and Members cur-
 2 rently subject to this chapter pursuant to
 3 section 8334;

4 “(ii) the actuarial present value of the
 5 future contributions to be made pursuant
 6 to section 8334 with respect to employees
 7 and Members currently subject to this sub-
 8 chapter;

9 “(iii) the Fund balance, as defined in
 10 paragraph (18), as of the date the un-
 11 funded liability is determined; and

12 “(iv) any other appropriate amount,
 13 as determined by the Office of Personnel
 14 Management in accordance with generally
 15 accepted actuarial practices and prin-
 16 ciples.”;

17 (2) in section 8334—

18 (A) in subsection (a)(1)—

19 (i) by striking the last two sentences;

20 (ii) by redesignating that subsection,
 21 as so amended, as (a)(1)(A); and

22 (iii) by adding at the end the fol-
 23 lowing new subparagraphs:

24 “(B) Except as provided in subparagraph
 25 (E), each employing agency having any employ-

ees or Members subject to subparagraph (A) shall contribute from amounts available for salaries and expenses an amount equal to the sum of—

“(i) the product of—

“(I) the normal cost percentage, as determined for employees (other than employees covered by clause (ii)), multiplied by

“(II) the aggregate amount of basic pay payable by the agency, for the period involved, to employees (under subclause (I)) who are within such agency; and

“(ii) the product of—

“(I) the normal cost percentage, as determined for Members, Congressional employees, law enforcement officers, firefighters, air traffic controllers, bankruptcy judges, Court of Federal Claims judges, United States magistrates, judges of the United States Court of Appeals for the Armed Forces, members of the Capitol Police, nuclear materials couriers,

1 and members of the Supreme Court
2 Police, multiplied by

3 “(II) the aggregate amount of
4 basic pay payable by the agency for
5 the period involved, to employees and
6 Members (under subclause (I)) who
7 are within such agency.

8 “(C) In determining the normal cost per-
9 centage to be applied under subparagraph (B),
10 amounts provided for under subparagraph (A)
11 shall be taken into account.

12 “(D) Contributions under this paragraph
13 shall be paid—

14 “(i) in the case of law enforcement of-
15 ficers, firefighters, air traffic controllers,
16 bankruptcy judges, Court of Federal
17 Claims judges, United States magistrates,
18 judges of the United States Court of Ap-
19 peals for the Armed Forces, members of
20 the Supreme Court Police, nuclear mate-
21 rials couriers and other employees, from
22 the appropriations or fund used to pay
23 such law enforcement officers, firefighters,
24 air traffic controllers, bankruptcy judges,
25 Court of Federal Claims judges, United

1 States magistrates, judges of the United
 2 States Court of Appeals for the Armed
 3 Forces, members of the Supreme Court
 4 Police, nuclear materials couriers and
 5 other employees, respectively;

6 “(ii) in the case of elected officials,
 7 from an appropriation or fund available for
 8 payment of other salaries of the same of-
 9 fice or establishment; and

10 “(iii) in the case of employees of the
 11 legislative branch paid by the Clerk of the
 12 House of Representatives, from the contin-
 13 gent fund of the House.

14 “(E) In the case of the United States
 15 Postal Service, the Metropolitan Washington
 16 Airports Authority, and the government of the
 17 District of Columbia an amount equal to that
 18 withheld under subparagraph (A) shall be con-
 19 tributed from the appropriation or fund used to
 20 pay the employee.”; and

21 (B) in subsection (k)—

22 (i) in paragraph (1)—

23 (I) in subparagraph (A) by strik-
 24 ing “the first sentence of subsection

1 (a)(1) of this section” and inserting
 2 “subsection (a)(1)(A)”; and

3 (II) by amending subparagraph
 4 (B) to read as follows:

5 “(B) the amount of the contribution under
 6 subsection (a)(1)(B) shall be the amount which
 7 would have been contributed under such sub-
 8 section if this subsection had not been en-
 9 acted.”; and

10 (ii) in paragraph (2)(C)(iii) by strik-
 11 ing “the first sentence of subsection
 12 (a)(1)” and inserting “subsection
 13 (a)(1)(A)”; and

14 (3) in section 8348—

15 (A) by repealing subsection (f);

16 (B) by amending subsection (g) to read as
 17 follows:

18 “(g)(1)(A) Not later than June 30, 2002, the Office
 19 of the Actuary shall determine the unfunded liability of
 20 the Fund, as of September 30, 2001, attributable to bene-
 21 fits payable under this chapter and make recommenda-
 22 tions regarding its liquidation. After considering such rec-
 23 ommendations, the Office shall establish an amortization
 24 schedule, including a series of annual installments com-

1 mencing September 30, 2002, which provides for the liq-
2 uidation of such liability by September 30, 2041.

3 “(B) The Office shall redetermine the unfunded li-
4 ability of the Fund as of the close of the fiscal year, for
5 each fiscal year beginning after September 30, 2001,
6 through the fiscal year ending September 30, 2036, and
7 shall establish a new amortization schedule, including a
8 series of annual installments commencing on September
9 30 of the subsequent fiscal year, which provides for the
10 liquidation of such liability by September 30, 2041.

11 “(C) The Office shall redetermine the unfunded li-
12 ability of the Fund as of the close of the fiscal year for
13 each fiscal year beginning after September 30, 2036, and
14 shall establish a new amortization schedule, including a
15 series of annual installments commencing on September
16 30 of the subsequent fiscal year, which provides for the
17 liquidation of such liability over five years.

18 “(D) Amortization schedules established under this
19 paragraph shall be set in accordance with generally accept-
20 ed actuarial practices and principles, with interest com-
21 puted at the rate used in the most recent valuation of the
22 Civil Service Retirement System.

23 “(2) At the end of each fiscal year, beginning on Sep-
24 tember 30, 2002, the Office shall notify the Secretary of
25 the Treasury of the amount of the first installment under

1 the most recent amortization schedule established under
2 paragraph (1). Before closing the accounts for the fiscal
3 year, the Secretary shall credit that amount to the Fund,
4 as a Government contribution, out of any money in the
5 Treasury of the United States not otherwise appropriated.

6 “(3) For the purpose of carrying out paragraph (1)
7 with respect to any fiscal year, the Office may—

8 “(A) require the Board of Actuaries of the Civil
9 Service Retirement System to make actuarial deter-
10 minations and valuations, make recommendations,
11 and maintain records in accordance with section
12 8347(f); and

13 “(B) use the latest actuarial determinations
14 and valuations made by such Board of Actuaries.”;

15 (C) in subsections (h), (i), and (m) by
16 striking “unfunded” and inserting “accrued”
17 each time it appears; and

18 (D) by adding at the end the following new
19 subsection:

20 “(n) Under regulations prescribed by the Office, the
21 head of an agency may request reconsideration of any
22 amount determined to be payable with respect to such
23 agency under section 8334(a)(1)(B)–(D). Any such re-
24 quest shall be referred to the Board of Actuaries of the
25 Civil Service Retirement System. The Board of Actuaries

1 shall review the computations of the Office and may make
 2 any adjustment with respect to any such amount which
 3 the Board determines appropriate. A determination by the
 4 Board of Actuaries under this subsection shall be final.”.

5 (b) GOVERNMENT CONTRIBUTIONS.—Section 8423
 6 of title 5, United States Code, is amended—

7 (1) in subsection (a)(2) by striking “section
 8 8422” and inserting “section 8422(a)”; and

9 (2) in subsection (b)(2) by striking “equal an-
 10 nual installments” and inserting “annual install-
 11 ments set in accordance with generally accepted ac-
 12 tual practices and principles”.

13 **SEC. 202. CENTRAL INTELLIGENCE AGENCY RETIREMENT**
 14 **AND DISABILITY SYSTEM.**

15 The Central Intelligence Agency Retirement Act,
 16 Public Law 88–643, (50 U.S.C. 2001 et seq.), 78 Stat.
 17 1043, as amended, is further amended—

18 (a) in section 101 (50 U.S.C. 2001)—

19 (1) by amending paragraph (5) to read as
 20 follows—

21 “(5) UNFUNDED LIABILITY.— “The term ‘un-
 22 funded liability’ means the estimated excess of—

23 “(A) the actuarial present value of all fu-
 24 ture benefits payable from the Fund under title

II of this Act based on the service of current
or former participants, over

“(B) the sum of—

“(i) the actuarial present value of de-
ductions to be withheld from the future
basic pay of a participants currently sub-
ject to title II of this Act pursuant to sec-
tion 211;

“(ii) the actuarial present value of the
future contributions to be made pursuant
to section 211 with respect to participants
currently subject to title II of this Act;

“(iii) the Fund balance, as defined in
paragraph (4), as of the date the unfunded
liability is determined; and

“(iv) any other appropriate amount,
as determined by the Director in accord-
ance with generally accepted actuarial
practices and principles.”;

(2) in paragraph (6)—

(A) by striking “‘normal cost’” and in-
serting “‘normal cost percentage’”; and

(B) by inserting “and standards (using dy-
namic assumptions)” after “practice”; and

1 (3) by adding at the end the following para-
2 graph:

3 “(10) DYNAMIC ASSUMPTIONS.—“The term ‘dy-
4 namic assumptions’ means economic assumptions
5 that are used in determining actuarial costs and li-
6 abilities of a retirement system and in anticipating
7 the effects of long-term future—

8 “(A) investment yields;

9 “(B) increases in rates of basic pay; and

10 “(C) rates of price inflation.”;

11 (b) in section 202 (50 U.S.C. 2012) by adding at the
12 end the following: “The Fund is appropriated for the pay-
13 ment of benefits as provided by this title.”;

14 (c) by amending section 211(a)(2) (50 U.S.C. 2021)
15 to read as follows:

16 “(2) AGENCY CONTRIBUTIONS.—“The Agency
17 shall contribute to the Fund the amount computed
18 in a manner similar to that used under section
19 8334(a) of title 5, United States Code, pursuant to
20 determinations of the normal cost percentage of the
21 Central Intelligence Agency Retirement and Dis-
22 ability System by the Director. Contributions under
23 this paragraph shall be paid from amounts available
24 for salaries and expenses.”; and

25 (d) in section 261 (50 U.S.C. 2091)—

1 (1) by repealing subsection (c) and (d) and re-
2 designating subsection (e) as subsection (c);

3 (2) by amending subsection (c), as redesignig-
4 nated, to read as follows:

5 “(c)(1) Not later than June 30, 2002, the Director
6 shall cause to be made actuarial valuations of the Fund
7 that determine the unfunded liability of the Fund, as of
8 September 30, 2001, attributable to benefits payable
9 under this title and make recommendations regarding its
10 liquidation. After considering such recommendations, the
11 Director shall establish an amortization schedule, includ-
12 ing a series of annual installments commencing September
13 30, 2002, which provides for the liquidation of such liabil-
14 ity by September 30, 2041.

15 “(2) The Director shall redetermine the unfunded li-
16 ability of the Fund as of the close of the fiscal year, for
17 each fiscal year beginning after September 30, 2001,
18 through the fiscal year ending September 30, 2036, and
19 shall establish a new amortization schedule, including a
20 series of annual installments commencing on September
21 30 of the subsequent fiscal year, which provides for the
22 liquidation of such liability by September 30, 2041.

23 “(3) The Director shall redetermine the unfunded li-
24 ability of the Fund as of the close of the fiscal year for
25 each fiscal year beginning after September 30, 2036, and

1 shall establish a new amortization schedule, including a
2 series of annual installments commencing on September
3 30 of the subsequent fiscal year, which provides for the
4 liquidation of such liability over five years.

5 “(4) Amortization schedules established under this
6 subsection shall be set in accordance with generally accept-
7 ed actuarial practices and principles, with interest com-
8 puted at the rate used in the most recent valuation of the
9 Civil Service Retirement and Disability System.”; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(d) At the end of each fiscal year, beginning on Sep-
13 tember 30, 2002, the Director shall notify the Secretary
14 of the Treasury of the amount of the first installment
15 under the most recent amortization schedule established
16 under subsection (c). Before closing the accounts for that
17 fiscal year, the Secretary shall credit that amount to the
18 Fund, as a Government contribution, out of any money
19 in the Treasury of the United States not otherwise appro-
20 priated. For the purposes of Section 504 of the National
21 Security Act of 1947, this amount shall be considered au-
22 thorized.”.

23 (e) by adding at the end of the Central Intelligence
24 Agency Retirement Act (50 U.S.C. 2001 et seq.) the fol-
25 lowing new section 308:

1 **§ 308. Full funding of Retiree Costs for Employees**
2 **Designated under Section 302**

3 (a) In addition to other government contributions re-
4 quired by law, the Agency shall contribute to the Civil
5 Service Retirement and Disability fund (hereinafter in this
6 section referred to as the “Fund”) amounts calculated in
7 accordance with section 8423 of title 5, United States
8 Code, based on the projected number of employees to be
9 designated pursuant to section 302 of this Act. In addi-
10 tion, the Agency, in a manner similar to that established
11 for employee contributions to the Fund by section 8422
12 of title 5, United States Code, will contribute an amount
13 equal to the difference between that which would be con-
14 tributed by the number of employees projected to be des-
15 ignated under section 302 and the amounts that are actu-
16 ally being deducted and contributed from the basic pay
17 of an equal number of employees pursuant to section
18 8422. The amounts of the Agency’s contributions under
19 this subsection shall be determined by the Director of the
20 Office of Personnel Management, in consultation with the
21 Director, and shall be paid by the Agency from funds
22 available for salaries and expenses. Agency employees des-
23 ignated pursuant to section 302 of this Act shall, com-
24 mencing with such designation, have deducted from their
25 basic pay the full amount required by section 8422 of title

1 5, United States Code, and such deductions shall be con-
2 tributed to the Fund.

3 (b) (1) The Director of the Office of Personnel Man-
4 agement, in consultation with the Director, shall deter-
5 mine the total amount of unpaid contributions (govern-
6 ment and employee contributions) and interest attrib-
7 utable to the number of individuals employed with the
8 Agency on September 30, 2001, who are projected to be
9 designated under section 302 of this Act, but are not yet
10 designated under that section as of that date. The amount
11 shall be referred to as the section 302 unfunded liability.

12 (2) Not later than June 30, 2002, the Director of
13 the Office of Personnel Management, in consultation with
14 the Director, shall establish an amortization schedule, set-
15 ting forth a series of annual installments commencing
16 September 30, 2002, which provides for the liquidation of
17 the section 302 unfunded liability by September 30, 2011.

18 (3) At the end of each fiscal year, beginning on Sep-
19 tember 30, 2002, the Director shall notify the Secretary
20 of the Treasury of the amount of the annual installment
21 under the amortization schedule established under para-
22 graph (2) of this subsection. Before closing the accounts
23 for that fiscal year, the Secretary shall credit that amount
24 to the Fund, out of any money in the Treasury of the
25 United States not otherwise appropriated.

1 (c) Amounts paid by the Agency pursuant to this sec-
 2 tion are deemed to be specifically authorized by the Con-
 3 gress for the purposes of section 504 of the National Secu-
 4 rity Act of 1947.

5 **SEC. 203. FOREIGN SERVICE RETIREMENT AND DISABILITY**
 6 **SYSTEM.**

7 Chapter 8 of Title I of the Foreign Service Act of
 8 1980, Public Law 96–465, (22 U.S.C. 4041 et seq.) 94
 9 Stat. 2071, as amended, is further amended—

10 (a) in section 804 (22 U.S.C. 4044)—

11 (1) by amending paragraph (5) to read as fol-
 12 lows:

13 “(5) ‘normal cost percentage’ means the entry-
 14 age normal cost computed in accordance with gen-
 15 erally accepted actuarial practice and standards
 16 (using dynamic assumptions) and expressed as a
 17 level percentage of aggregate basic pay;”;

18 (2) by amending paragraph (14) to read as fol-
 19 lows:

20 “(14) ‘unfunded liability’ means the estimated
 21 excess of—

22 “(A) the actuarial present value of all fu-
 23 ture benefits payable from the Fund under this
 24 part based on the service of current or former
 25 participants, over

1 “(B) the sum of—

2 “(i) the actuarial present value of de-
3 ductions to be withheld from the future
4 basic pay of participants currently subject
5 to this part pursuant to section 805;

6 “(ii) the actuarial present value of the
7 future contributions to be made pursuant
8 to section 805 with respect to participants
9 currently subject to this part;

10 “(iii) the Fund balance, as defined in
11 paragraph (7), as of the date the unfunded
12 liability is determined, excluding any
13 amount attributable to the Foreign Service
14 Pension System, or contributions made
15 under the Federal Employees’ Retirement
16 Contribution Temporary Adjustment Act
17 of 1983 by or on behalf of any individual
18 who became subject to the Foreign Service
19 Pension System; and

20 “(iv) any other appropriate amount,
21 as determined by the Secretary of the
22 Treasury in accordance with generally ac-
23 cepted actuarial practices and principles.”;
24 and

1 (3) by adding at the end the following new
2 paragraph:

3 “(15) ‘dynamic assumptions’ means economic
4 assumptions that are used in determining actuarial
5 costs and liabilities of a retirement system and in
6 anticipating the effects of long-term future—

7 “(A) investment yields;

8 “(B) increases in rates of basic pay; and

9 “(C) rates of price inflation.”;

10 (b) in section 852 (22 U.S.C. 4071a)—

11 (1) in paragraph (4)—

12 (A) by striking “normal cost” and insert-
13 ing “normal cost percentage”; and

14 (B) by striking “by the Secretary of
15 State”;

16 (2) in paragraph (7)—

17 (A) by striking “supplemental” and insert-
18 ing “unfunded”;

19 (B) in subparagraph (B)(i) by striking
20 “(I)” and “and (II) contributions for past civil-
21 ian and military service”; and

22 (C) in subparagraph (B)(ii) by inserting
23 before the semicolon “with respect to partici-
24 pants currently subject to this part”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(9) ‘dynamic assumptions’ means economic as-
4 sumptions that are used in determining actuarial
5 costs and liabilities of a retirement system and in
6 anticipating the effects of long-term future—

7 “(A) investment yields;

8 “(B) increases in rates of basic pay; and

9 “(C) rates of price inflation.”;

10 (c) in section 805(a)(1) (22 U.S.C. 4045(a)(i))—

11 (1) by striking the second sentence;

12 (2) (by redesignating that subsection, as so
13 amended, as (a)(1)(A);

14 (3) by redesignating the last sentence of that
15 subsection, as so amended as (a)(1)(C);

16 (4) by inserting after subparagraph (A) the fol-
17 lowing new subparagraph:

18 “(B) Each employing agency having par-
19 ticipants shall contribute to the Fund the
20 amount computed in a manner similar to that
21 used under section 8334(a) of title 5, United
22 States Code, pursuant to determinations of the
23 normal cost percentage of the Foreign Service
24 Retirement and Disability System. Contribu-
25 tions under this subparagraph shall be paid

1 from the appropriations or fund used for pay-
2 ment of the salary of the participant.”;

3 (5) in subsection (a)(2)(A) by striking “An
4 equal amount shall be contributed by the Depart-
5 ment” and inserting in its place “Each employing
6 agency having participants shall contribute to the
7 Fund the amount computed in a manner similar to
8 that used under section 8334(a) of title 5, United
9 States Code, pursuant to determinations of the nor-
10 mal cost percentage of the Foreign Service Retirement
11 and Disability System”; and

12 (6) in subsection (a)(2)(B) by striking “An
13 equal amount shall be contributed by the Depart-
14 ment” and inserting in its place “Each employing
15 agency having participants shall contribute to the
16 Fund from amounts available for salaries and ex-
17 penses the amount computed in a manner similar to
18 that used under section 8334(a) of title 5, United
19 States Code, pursuant to determinations of the nor-
20 mal cost percentage of the Foreign Service Retirement
21 and Disability System”;

22 (d) by repealing sections 821 and 822 (22 U.S.C.
23 4061 and 4062) and by adding the following new section:

1 **§ 821. Unfunded liability.**

2 “(a)(1) Not later than June 30, 2002, the Secretary
3 of State shall cause to be made actuarial valuations of the
4 Fund that determine the unfunded liability of the Fund,
5 as of September 30, 2001, attributable to benefits payable
6 under this subchapter and make recommendations regard-
7 ing its liquidation. After considering such recommenda-
8 tions, the Secretary of State shall establish an amortiza-
9 tion schedule, including a series of annual installments
10 commencing September 30, 2002, which provides for the
11 liquidation of such liability by September 30, 2041.

12 “(2) The Secretary of State shall redetermine the un-
13 funded liability of the Fund as of the close of the fiscal
14 year, for each fiscal year beginning after September 30,
15 2001, through the fiscal year ending September 30, 2036,
16 and shall establish a new amortization schedule, including
17 a series of annual installments commencing on September
18 30 of the subsequent fiscal year, which provides for the
19 liquidation of such liability by September 30, 2041.

20 “(3) The Secretary of State shall redetermine the un-
21 funded liability of the Fund as of the close of the fiscal
22 year for each fiscal year beginning after September 30,
23 2036, and shall establish a new amortization schedule, in-
24 cluding a series of annual installments commencing on
25 September 30 of the subsequent fiscal year, which pro-
26 vides for the liquidation of such liability over five years.

1 “(4) Amortization schedules established under this
 2 subsection shall be set in accordance with generally accept-
 3 ed actuarial practices and principles, with interest com-
 4 puted at the rate used in the most recent valuation of the
 5 Foreign Service Retirement and Disability System.

6 “(b) At the end of each fiscal year, beginning on Sep-
 7 tember 30, 2002,
 8 the Secretary of State shall notify the Secretary of the
 9 Treasury of the amount of the first installment under the
 10 most recent amortization schedule established under para-
 11 graph (1). Before closing the accounts for that fiscal year,
 12 the Secretary of the Treasury shall credit that amount to
 13 the Fund, as a Government contribution, out of any
 14 money in the Treasury of the United States not otherwise
 15 appropriated.”;

16 (e) in section 857 (22 U.S.C. 4071f(b)(1)) by striking
 17 “equal annual installments” and inserting “annual install-
 18 ments set in accordance with generally accepted actuarial
 19 practices and principles”;

20 (f) in section 859 (22 U.S.C. 4071h(b)(1)) by adding
 21 “percentage” after “normal cost”;

22 (g) in section 802 (22 U.S.C. 4042) by adding at the
 23 end the following: “The Fund is appropriated for the pay-
 24 ment of benefits as provided by this subchapter.”; and

1 (h) in section 818 (22 U.S.C. 4058) by striking “Sys-
 2 tem” and inserting “Systems under this subchapter”.

3 **SEC. 204. PUBLIC HEALTH SERVICE COMMISSIONED CORPS**
 4 **RETIREMENT SYSTEM.**

5 Title II of the Public Health Service Act (42 U.S.C.
 6 202 et seq.) is amended by adding at the end the following
 7 new part:

8 **“PART C—PUBLIC HEALTH SERVICE COMMIS-**
 9 **SIONED CORPS RETIREMENT SYSTEM “ES-**
 10 **TABLISHMENT AND PURPOSE OF FUND**

11 “SEC. 251. There is established on the books of the
 12 Treasury a fund to be known as the Public Health Service
 13 Commissioned Corps Retirement Fund (hereinafter in this
 14 part referred to as the ‘Fund’), which shall be adminis-
 15 tered by the Secretary of Health and Human Services
 16 (hereinafter in this part referred to as the ‘Secretary’).
 17 The Fund shall be used for the accumulation of funds in
 18 order to finance on an actuarially sound basis liabilities
 19 of the Department of Health and Human Services for ben-
 20 efits payable on account of retirement, disability, or death
 21 to commissioned officers of the Public Health Service and
 22 to their survivors pursuant to part A of this title.

23 **“ASSETS OF THE FUND**

24 “SEC. 252. There shall be deposited into the Fund
 25 the following, which shall constitute the assets of the
 26 Fund:

1 “(1) Amounts paid into the Fund under section
2 255.

3 “(2) Any return on investment of the assets of
4 the Fund.

5 “(3) Amounts transferred into the Fund pursu-
6 ant to section 257(d) of the Public Health Service
7 Commissioned Corps Retirement Funding Reform
8 Act of 2001.

9 “PAYMENT FROM THE FUND

10 “SEC. 253. There shall be paid from the Fund bene-
11 fits payable on account of retirement, disability, or death
12 to commissioned officers of the Public Health Service and
13 to their survivors pursuant to part A of this title.

14 “DETERMINATION OF CONTRIBUTIONS TO THE FUND

15 “SEC. 254. (a)(1) Not later than June 30, 2002, the
16 Secretary shall determine the unfunded liability of the
17 Fund attributable to service performed as of September
18 30, 2001, which is ‘active service’ for the purpose of sec-
19 tion 212. The Secretary shall establish an amortization
20 schedule, including a series of annual installments com-
21 mencing September 30, 2002, which provides for the liq-
22 uidation of such liability by September 30, 2041.

23 “(2) The Secretary shall redetermine the unfunded
24 liability of the Fund as of the close of the fiscal year, for
25 each fiscal year beginning after September 30, 2001,
26 through the fiscal year ending September 30, 2036, and

1 shall establish a new amortization schedule, including a
 2 series of annual installments commencing on September
 3 30 of the subsequent fiscal year, which provides for the
 4 liquidation of such liability by September 30, 2041.

5 “(3) The Secretary shall redetermine the unfunded
 6 liability of the Fund as of the close of the fiscal year for
 7 each fiscal year beginning after September 30, 2036, and
 8 shall establish a new amortization schedule, including a
 9 series of annual installments commencing on September
 10 30 of the subsequent fiscal year, which provides for the
 11 liquidation of such liability over 5 years.

12 “(b) The Secretary shall determine each fiscal year,
 13 in sufficient time for inclusion in the budget request for
 14 the following fiscal year, the total amount of Department
 15 of Health and Human Services contributions to be made
 16 to the Fund during the fiscal year under section 255(a).
 17 That amount shall be the sum of—

18 “(1) the product of—

19 “(A) the current estimate of the value of
 20 the single level percentage of basic pay to be de-
 21 termined under subsection (c)(1) at the time of
 22 the most recent actuarial valuation under sub-
 23 section (c); and

24 “(B) the total amount of basic pay ex-
 25 pected to be paid during that fiscal year to

1 commissioned officers of the Public Health
2 Service on active duty (other than active duty
3 for training); and

4 “(2) the product of—

5 “(A) the current estimate of the value of
6 the single level percentage of basic pay and of
7 compensation (paid pursuant to section 206 of
8 title 37, United States Code) to be determined
9 under subsection (c)(2) at the time of the most
10 recent actuarial valuation under subsection (c);
11 and

12 “(B) the total amount of basic pay and of
13 compensation (paid pursuant to section 206 of
14 title 37, United States Code) expected to be
15 paid during the fiscal year to commissioned of-
16 ficers of the Reserve Corps of the Public Health
17 Service (other than officers on full-time duty
18 other than for training) who are not otherwise
19 described in subparagraph (A).

20 “(c) Not less often than every four years thereafter
21 (or by the fiscal year end prior to the effective date of
22 any statutory change affecting benefits payable on account
23 of retirement, disability, or death to commissioned officers
24 or their survivors), the Secretary shall carry out an actu-
25 arial valuation of benefits payable on account of retire-

1 ment, disability, or death to commissioned officers of the
 2 Public Health Service and to their survivors pursuant to
 3 part A of this title. Each such actuarial valuation shall
 4 be signed by an enrolled Actuary and shall include—

5 “(1) a determination (using the aggregate
 6 entry-age normal cost method) of a single level per-
 7 centage of basic pay for commissioned officers of the
 8 Public Health Service on active duty (other than ac-
 9 tive duty for training); and

10 “(2) a determination (using the aggregate
 11 entry-age normal cost method) of a single level per-
 12 centage of basic pay and of compensation (paid pur-
 13 suant to section 206 of title 37, United States Code)
 14 of commissioned officers of the Reserve Corps of the
 15 Public Health Service (other than officers on full
 16 time duty other than for training) who are not oth-
 17 erwise described by subparagraph (1).

18 “(d) All determinations under this section shall be in
 19 accordance with generally accepted actuarial principles
 20 and practices and, where appropriate, shall follow the gen-
 21 eral pattern of methods and assumptions approved by the
 22 Department of Defense Retirement Board of Actuaries.

23 “(e) The Secretary shall provide for the keeping of
 24 such records as are necessary for determining the actu-
 25 arial status of the Fund.

1 “PAYMENTS INTO THE FUND

2 “SEC. 255. (a) From amounts available to the De-
3 partment of Health and Human Services for salaries and
4 expenses, the Secretary shall pay into the Fund at the end
5 of each month the amount that is the sum of—

6 “(1) the product of—

7 “(A) the level percentage of basic pay de-
8 termined using all the methods and assump-
9 tions approved for the most recent (as of the
10 first day of the current fiscal year) actuarial
11 valuation under sections 254(c)(1) (except that
12 any statutory change affecting benefits payable
13 on account of retirement, disability, or death to
14 commissioned officers or their survivors that is
15 effective after the date of that valuation and on
16 or before the first day of the current fiscal year
17 shall be used in such determination); and

18 “(B) the total amount of basic pay accrued
19 for that month by commissioned officers of the
20 Public Health Service on active duty (other
21 than active duty for training); and

22 “(2) the product of—

23 “(A) the level percentage of basic pay and
24 of compensation (paid pursuant to section 206
25 of title 37, United States Code) determined

1 using all the methods and assumptions ap-
 2 proved for the most recent (as of the first day
 3 of the current fiscal year) actuarial valuation
 4 under section 254(c)(2) (except that any statu-
 5 tory change affecting benefits payable on ac-
 6 count of retirement, disability, or death to com-
 7 missioned officers or their survivors that is ef-
 8 fective after the date of that valuation and on
 9 or before the first day of the current fiscal year
 10 shall be used in such determinations); and

11 “(B) the total amount of basic pay and of
 12 compensation (paid pursuant to section 206 of
 13 title 37, United States Code) accrued for that
 14 month by commissioned officers of the Reserve
 15 Corps of the Public Health Service (other than
 16 officers on full-time duty other than for train-
 17 ing).

18 “(b) At the end of each fiscal year, beginning on Sep-
 19 tember 30, 2002, the Secretary shall certify to the Sec-
 20 retary of the Treasury the amount of the first installment
 21 under the most recent amortization schedule established
 22 under section 254(a). Before closing the accounts for that
 23 fiscal year, the Secretary of the Treasury shall pay into
 24 the Fund from the General Fund of the Treasury the
 25 amount so certified. Such payment shall be the contribu-

1 tion to the Fund for the fiscal year beginning on the fol-
 2 lowing day;

3 “INVESTMENTS OF ASSETS OF FUND

4 “SEC. 256. The Secretary may request the Secretary
 5 of the Treasury to invest such portion of the Fund as is
 6 not, in the judgment of the Secretary, required to meet
 7 the current needs of the Fund. Such investments shall be
 8 made by the Secretary of the Treasury in public debt secu-
 9 rities with maturities suitable to the needs of the Fund,
 10 as determined by the Secretary, and bearing interest at
 11 rates determined by the Secretary of the Treasury, taking
 12 into consideration current market yields on outstanding
 13 marketable obligations of the United States of comparable
 14 maturities. The income on such investments shall be cred-
 15 ited to and form a part of the Fund.

16 “IMPLEMENTATION YEAR EXCEPTIONS

17 “SEC. 257. (a) To avoid funding shortfalls in the first
 18 year should formal actuarial determinations not be avail-
 19 able in time for budget preparation, the amounts used in
 20 the first year in sections 255(a)(1)(A) and 255(a)(2)(A)
 21 shall be set equal to those estimates in sections
 22 254(b)(1)(A) and 254(b)(2)(A) if final determinations are
 23 not available. The original unfunded liability as defined
 24 in section 254(a) shall include an adjustment to correct
 25 for this difference between the formal actuarial determina-

1 tions and the estimates in sections 254(b)(1)(A) and
 2 254(b)(2)(A).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) CONDITION OF DETAIL.—Section 214 of the
 5 Public Health Service Act (42 U.S.C. 215) is
 6 amended by adding at the end the following new
 7 subsection:

8 “(e) The Secretary shall condition any detail under
 9 subsection (a), (b), or (c) upon the agreement of the exec-
 10 utive department, State, subdivision, Committee of the
 11 Congress, or institution concerned to pay to the Depart-
 12 ment of Health and Human Services, in advance or by
 13 way of reimbursement, for the full cost of the detail in-
 14 cluding that portion of the contributions under section
 15 255(a) that is attributable to the detailed personnel.”.

16 (2) EXEMPTION FROM SEQUESTRATION.—Sec-
 17 tion 255(g)(1)(B) of the Balanced Budget and
 18 Emergency Deficit Control Act of 1985 (2 U.S.C.
 19 905(g)(1)(B)) is amended—

20 (A) by inserting after the item relating to
 21 the “Pensions for former Presidents” the fol-
 22 lowing item: “Public Health Service Commis-
 23 sioned Corps Retirement Fund (75–8274–0–7–
 24 602);”, and sec. 255(g)(1)(A) of the Balanced

1 Budget and Emergency Deficit Control Act of
 2 1985 (2 U.S.C. 905(g)(1)(A)) is amended—
 3 (B) by inserting after the item relating to “pay-
 4 ment to the foreign service retirement and disability
 5 fund” the following item: “Payment to the Public
 6 Health Service Commissioned Corps Retirement
 7 Fund (75–0380–0–1–551);”.

8 (c) TRANSFER OF APPROPRIATIONS.—There shall be
 9 transferred into the Fund on October 1, 2002, any obli-
 10 gated or unobligated balances of appropriations made to
 11 the Department of Health and Human Services that are
 12 currently available for benefits payable on account of re-
 13 tirement, disability, or death to commissioned officers of
 14 the Public Health Service and to their survivors pursuant
 15 to part A of title II of the Public Health Service Act, and
 16 amounts so transferred shall be part of the assets of the
 17 Fund.

18 **SEC. 205. NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-**
 19 **ISTRATION COMMISSIONED OFFICER CORPS**
 20 **RETIREMENT SYSTEM.**

21 Title 33, United States Code, is amended by inserting
 22 after section 853g the following new section 853g–1:

23 “(a)(1) ESTABLISHMENT AND PURPOSE OF THE
 24 NOAA COMMISSIONED OFFICER CORPS RETIREMENT
 25 FUND.—There is established on the books of the Treasury

1 a fund to be known as the National Oceanic and Atmos-
 2 pheric Administration Commissioned Officer Corps Retire-
 3 ment Fund (hereinafter in this section referred to as the
 4 ‘Fund’), which shall be administered by the Secretary of
 5 Commerce (hereinafter in this section referred to as ‘the
 6 Secretary’). The Fund shall be used for the accumulation
 7 of funds in order to finance on an actuarially sound basis
 8 liabilities of the Department of Commerce under military
 9 retirement and survivor benefit programs for the commis-
 10 sioned officers corps of the National Oceanic and Atmos-
 11 pheric Administration (hereinafter referred to as
 12 ‘NOAA’).

13 “(2) The term ‘military retirement and survivor ben-
 14 efit program’ means—

15 “(A) the provisions of this title and title 10 cre-
 16 ating entitlement to, or determining, the amount of
 17 retired pay;

18 “(B) the programs under the jurisdiction of the
 19 Department of Defense providing annuities for sur-
 20 vivors and members and former members of the
 21 armed forces, including chapter 73 of title 10, sec-
 22 tion 4 of Public Law No. 92–425, and section 5 of
 23 Public Law No. 96–202, as made applicable to the
 24 NOAA Commissioned Officer Corps by section 857a
 25 of title 33, United States Code.

1 “(b) ASSETS OF THE FUND.—There shall be depos-
2 ited into the Fund the following, which shall constitute
3 the assets of the Fund:

4 “(1) Amounts paid into the Fund under section
5 105.

6 “(2) Any return on investment of the assets of
7 the Fund.

8 “(3) Amounts transferred into the Fund pursu-
9 ant to section 108(c) of this Act.

10 “(c) PAYMENT FROM THE FUND.—There shall be
11 paid from the Fund benefits payable on account of mili-
12 tary retirement and survivor benefit programs to commis-
13 sioned officers of the NOAA Commissioned Officer Corps
14 and their survivors.

15 “(d)(1)(A) Determination of Contributions to the
16 Fund. Not later than June 30, 2002, the Secretary shall
17 determine the unfunded liability of the Fund attributable
18 to service performed as of September 30, 2001, which is
19 ‘active service’ for the purpose of section 212. The Sec-
20 retary shall establish an amortization schedule, including
21 a series of annual installments commencing September 30,
22 2002, which provides for the liquidation of such liability
23 by September 30, 2041.

24 “(B) The Secretary shall redetermine the unfunded
25 liability of the Fund as of the close of the fiscal year, for

1 each fiscal year beginning after September 30, 2001,
2 through the fiscal year ending September 30, 2036, and
3 shall establish a new amortization schedule, including a
4 series of annual installments commencing on September
5 30 of the subsequent fiscal year, which provides for the
6 liquidation of such liability by September 30, 2041.

7 “(C) The Secretary shall redetermine the unfunded
8 liability of the Fund as of the close of the fiscal year for
9 each fiscal year beginning after September 30, 2036, and
10 shall establish a new authorization schedule, including se-
11 ries of annual installments commencing on September 30
12 of the subsequent fiscal year, which provides for the liq-
13 uidation of such liability over 5 years.

14 “(2) The Secretary shall determine each fiscal year,
15 in sufficient time for inclusion in the budget request for
16 the following fiscal year, the total amount of Department
17 of Commerce contributions to be made to the Fund during
18 that fiscal year under (e)(a). The amount shall be the
19 product of—

20 “(A) the current estimate of the value of the
21 single level percentage of basic pay to be determined
22 under subsection (b) at the time of the most recent
23 actuarial valuation under subsection (b); and

1 “(B) the total amount of basic pay expected to
2 be paid during that fiscal year to commissioned offi-
3 cers of NOAA on active duty.

4 “(3) Not less often than every four years (or by the
5 fiscal year end prior to the effective date of any statutory
6 change affecting benefits payable on account of retire-
7 ment, disability, or death to commissioned officers or their
8 survivors), the Secretary shall carry out an actuarial valu-
9 ation of benefits payable on account of military retirement
10 and survivor benefit programs to commissioned officers of
11 the NOAA Commissioned Officer Corps and to their sur-
12 vivors. Each such actuarial valuation shall be signed by
13 an enrolled Actuary and shall include a determination
14 (using the aggregate entry-age normal cost method) of a
15 single level percentage of basic pay for commissioned offi-
16 cers of NOAA on active duty.

17 “(4) All determinations under this section shall be in
18 accordance with generally accepted actuarial principles
19 and practices, and, where appropriate, shall follow the
20 general pattern of methods and assumptions approved by
21 the Department of Defense Retirement Board of Actu-
22 aries.

23 “(5) The Secretary shall provide for the keeping of
24 such records as are necessary for determining the actu-
25 arial status of the Fund.

1 “(e)(1) PAYMENTS INTO THE FUND.—From amounts
2 appropriated to the National Oceanic Atmospheric Admin-
3 istration for salaries and expenses, the Secretary shall pay
4 into the Fund at the end of each month the amount that
5 is the product of—

6 “(A) the level percentage of basic pay deter-
7 mined using all the methods and assumptions ap-
8 proved for the most recent (as of the first day of the
9 current fiscal year) actuarial valuation under section
10 5(c)(1) (except that any statutory change affecting
11 benefits payable on account of military retirement
12 and survivor benefit programs to commissioned offi-
13 cers of the NOAA Commissioned Officer Corps and
14 to their survivors that is effective date after the date
15 of that valuation and on or before the first day of
16 the current fiscal year shall be used in such deter-
17 mination); and

18 “(B) the total amount of basic pay accrued for
19 that month by commissioned officers of NOAA on
20 active duty.

21 “(2)(A) At the beginning of each fiscal year, the Sec-
22 retary shall determine the sum of—

23 “(i) the amount of the payment for that year
24 under the amortization of the original unfunded li-
25 ability of the Fund;

1 “(ii) the amount (including any negative
2 amount) for that year under the most recent amorti-
3 zation schedule determined by the Secretary for the
4 amortization of any cumulative actuarial gain or loss
5 to the Fund, resulting from changes in benefits; and

6 “(iii) the amount (including any negative
7 amount) for that year under the most recent amorti-
8 zation schedule determined by the Secretary for the
9 amortization or any cumulative actuarial gain or loss
10 to the Fund resulting from changes in actuarial as-
11 sumptions and from experience different from the
12 assumed since the last valuation. The Secretary shall
13 promptly certify the amount of the sum to the Sec-
14 retary of the Treasury.

15 “(B) Upon receiving the certification pursuant to
16 paragraph (1), the Secretary of Treasury shall promptly
17 pay into the Fund from the General Fund of the Treasury
18 the amount so certified. Such payment shall be the con-
19 tribution to the Fund for the fiscal year.

20 “(f) INVESTMENT OF ASSETS OF THE FUND.—The
21 Secretary may request the Secretary of the Treasury to
22 invest such portion of the Fund as is not, in the judgment
23 of the Secretary, required to meet the current needs of
24 the Fund. Such investments shall be made by the Sec-
25 retary of the Treasury in public debt securities with matu-

1 rities suitable to the needs of the Fund, as determined
 2 by the Secretary, and bearing interest at rates determined
 3 by the Secretary of the Treasury, taking into consideration
 4 current market yields on outstanding marketable obliga-
 5 tions of the United States of comparable maturities. The
 6 income of such investments shall be credited to and form
 7 a part of the Fund.

8 “(g)(1) IMPLEMENTATION YEAR EXCEPTIONS.—To
 9 avoid funding shortfalls in the first year should formal ac-
 10 tuarial determinations not be available in time for budget
 11 preparation, the amounts used in the first year in section
 12 105(a)(1) shall be set equal to the estimate in section
 13 104(b)(1) if final determinations are not available. The
 14 original unfunded liability as determined in section 104(a)
 15 shall include an adjustment to correct for this difference
 16 between the formal actuarial determinations and the esti-
 17 mates in section 104(b)(1).

18 “(2) EXEMPTION FROM SEQUESTRATION.—Section
 19 255(g)(1)(B) of the Balanced Budget and Emergency
 20 Deficit Control Act of 1985, as amended, (2 U.S.C.
 21 905(g)(1)(B)) is further amended by striking ‘National
 22 Oceanic and Atmospheric Administration retirement (13–
 23 1450–0–1–306);’, and inserting in lieu there of: the fol-
 24 lowing item: ‘National Oceanic and Atmospheric Adminis-
 25 tration Commissioned Officer Corps Retirement Fund;’;

1 “(3) TRANSFER OF APPROPRIATIONS.—Any obli-
 2 gated and unobligated balance of appropriations made to
 3 the Department of Commerce that are currently available
 4 for benefits payable on account of military retirement and
 5 survivor benefit programs to commissioned officers of the
 6 NOAA Commissioned Officer Corps and to their survivors,
 7 and amounts so transferred shall be part of the assets of
 8 the Fund, effective October 1, 2002.

9 “(4) EFFECTIVE DATE.—Subsection (c) (relating to
 10 payments from the Fund) and (e) (relating to payments
 11 into the Fund) of this section, shall take effect on October
 12 1, 2002.”.

13 **SEC. 206. COAST GUARD MILITARY RETIREMENT SYSTEM.**

14 (a) Title 14, United States Code, is amended by in-
 15 serting after chapter 13, the following new chapter:

 “CHAPTER 14—COAST GUARD MILITARY RETIREMENT FUND

 “Sec.

 “561. Establishment and purpose of Fund; definition.

 “562. Assets of Fund.

 “563. Payments for the Fund.

 “564. Determinations of contributions to the Fund.

 “565. Payments into the Fund.

 “566. Investment of assets of Fund.

 “567. Implementation year exceptions.

16 **“§ 561. Establishment and purpose of Fund; definition**

17 “(a) There is established on the books of the Treas-
 18 ury a fund to be known as the Coast Guard Military Re-
 19 tirement Fund (hereinafter in this chapter referred to as
 20 the ‘Fund’), which shall be administered by the Secretary
 21 of the Department of Transportation. The Fund shall be

1 used for the accumulation of funds in order to finance on
 2 an actuarially sound basis liabilities of the Coast Guard
 3 under military retirement and survivor benefit programs.

4 “(b) In this chapter, ‘military retirement and survivor
 5 benefit programs’ means—

6 “(1) the provisions of this title and title 10,
 7 United States Code, creating entitlement to, or de-
 8 termining, the amount of retired pay;

9 “(2) the programs providing annuities for sur-
 10 vivors of members and former members of the
 11 armed forces, including chapter 73 of title 10, sec-
 12 tion 4 of Public Law 92–425, and section 5 of Pub-
 13 lic Law 96–402; and

14 “(3) the authority provided in section 1048(h)
 15 of title 10.

16 “(c) In this chapter, reference to ‘the Secretary’ shall
 17 mean the Secretary of Transportation when the Coast
 18 Guard is not operating as a service in the Navy. When
 19 the Coast Guard is operating as a service in the Navy,
 20 ‘the Secretary’ shall refer to the Secretary of Defense.

21 **“§ 562. Assets of the Fund**

22 “There shall be deposited into the Fund the fol-
 23 lowing, which shall constitute the assets of the Fund:

24 “(1) Amounts paid into the Fund under section
 25 565 of this title.

1 “(2) Any return on investment of the assets of
2 the Fund.

3 “(3) Amounts transferred into the Fund.

4 **“§ 563. Payment from the Fund**

5 “(a) There shall be paid from the Fund—

6 “(1) retired pay payable to persons on the re-
7 tired list of the Coast Guard;

8 “(2) retired pay payable under chapter 67 of
9 title 10, to former members of the Coast Guard and
10 the former United States Lighthouse Service;

11 “(3) benefits payable under programs that pro-
12 vide annuities for survivors of members and former
13 members of the armed forces, including chapter 73
14 of title 10, section 4 of Public Law 92–425, and sec-
15 tion 5 of Public Law 96–402; and

16 “(4) amounts payable under section 108(h) of
17 title 10.

18 “(b) The assets of the Fund are hereby made avail-
19 able for payments under subsection (a).

20 **“§ 564. Determination of contributions to the Fund**

21 “(a) The Secretary shall determine the amount that
22 is the present value (as of October 1, 2001) of future bene-
23 fits payable from the Fund that are attributable to service
24 in the Coast Guard and the former United States Light-
25 house Service performed as of September 30, 2001. That

1 amount is the original unfunded liability of the Fund. The
2 Secretary shall determine by June 30, 2002, an amortiza-
3 tion schedule for the liquidation of such liability over the
4 period ending September 30, 2041, with the first payment
5 commencing on September 30, 2002. Contributions to the
6 Fund for the liquidation of the original unfunded liability
7 in accordance with such schedule shall be made as pro-
8 vided in section 565(b) of this title.

9 “(b) The Secretary shall determine each fiscal year,
10 in sufficient time for inclusion in the budget request for
11 the following fiscal year, the total amount of Department
12 of Transportation, or Department of Defense, contribu-
13 tions to be made to the Fund during that fiscal year under
14 section 565(a) of this title. That amount shall be the sum
15 of the following:

16 “(1) the product of—

17 “(A) the current estimate of the value of
18 the single level percentage of basic pay to be de-
19 termined under subsection (c)(1)(A) at the time
20 of the most recent actuarial valuation under
21 subsection (c); and

22 “(B) the total amount of basic pay ex-
23 pected to be paid during that fiscal year to
24 members of the Coast Guard on active duty
25 (other than active duty for training); and

1 “(2) the product of—

2 “(A) the current estimate of the value of
3 the single level percentage of basic pay and of
4 compensation (paid pursuant to section 206 of
5 title 37, United States Code) to be determined
6 under subsection (c)(1)(B) at the time of the
7 most recent actuarial valuation under sub-
8 section (c); and

9 “(B) the total amount of basic pay and
10 compensation (paid pursuant to section 206 of
11 title 37) expected to be paid during that fiscal
12 year to members of the Coast Guard Ready Re-
13 serve (other than members of full-time Reserve
14 duty other than for training) who are not other-
15 wise described in subparagraph (1)(B).

16 “(c)(1) Not less often than every four years (or prior
17 to the effective date of any statutory change affecting ben-
18 efits payable on account of retirement, disability, or death
19 to commissioned officers or their survivors), the Secretary
20 shall carry out an actuarial valuation of the Coast Guard
21 military retirement and survivor benefit programs. Each
22 actuarial valuation of such programs shall be signed by
23 an enrolled Actuary and shall include—

24 “(A) a determination (using the aggregate
25 entry-age normal cost method) of single level per-

1 centage of basic pay for members of the Coast
2 Guard on active duty (other than active duty for
3 training); and

4 “(B) a determination (using the aggregate
5 entry-age normal cost method) of single level per-
6 centage of basic pay and of compensation (paid pur-
7 suant to section 206 of title 37) for members of the
8 Ready Reserve of the Coast Guard (other than mem-
9 bers on full-time Reserve duty other than for train-
10 ing) who are not otherwise described in subpara-
11 graph (1)(B). Such single level percentages shall be
12 used for the purpose of subsection (b) and section
13 565(a) of this title.

14 “(2) If at the time of any such valuation the Sec-
15 retary determines that, based upon changes in benefits
16 since the last such valuation, there has been an actuarial
17 gain or loss to the Fund, the Secretary shall determine
18 an amortization method and schedule for the amortization
19 of the cumulative gain or loss to the Fund created by such
20 change in benefits and any previous such changes in bene-
21 fits through a decrease or an increase in the payment that
22 would otherwise be made to the Fund.

23 “(3) If at the time of any such valuation the Sec-
24 retary determines that, based upon changes in actuarial
25 assumptions and upon experience different from that as-

1 sumed since the last valuation, there has been an actuarial
2 gain or loss to the Fund, the Secretary shall determine
3 an amortization method and schedule for the amortization
4 of the cumulative gain or loss to the Fund created by such
5 change in actuarial assumptions and any previous such
6 changes in assumptions through an increase or decrease
7 in the payments that would otherwise be made to the
8 Fund.

9 “(4) Contributions to the Fund in accordance with
10 amortization schedules under paragraphs (2) and (3) shall
11 be made as provided in section 565(b) of this title.

12 “(d) All determinations under this section shall be in
13 accordance with generally accepted actuarial principles
14 and practices and, where appropriate, shall follow the gen-
15 eral pattern of methods and assumptions approved by the
16 Department of Defense Retirement Board of Actuaries.

17 “(e) The Secretary shall provide for the keeping of
18 such records as are necessary for determining the actu-
19 arial status of the Fund.

20 **“§ 565. Payments into the Fund**

21 “(a) From amounts appropriated to the Coast Guard
22 for salaries and expenses, the Secretary shall pay into the
23 Fund at the end of each month as the Department of
24 Transportation, or Department of Defense, contribution

1 to the Fund for that month the amount that is the sum
2 of the following:

3 “(1) the product of—

4 “(A) the level percentage of basic pay de-
5 termined using all the methods and assump-
6 tions approved for the most recent (as of the
7 first day of the current fiscal year) actuarial
8 valuation under section 564(c)(1)(A) of this
9 title (except that any statutory changes in the
10 military retirement and survivor benefit systems
11 that is effective after the date of that valuation
12 and on or before the first day of the current fis-
13 cal year shall be used in such determination);
14 and

15 “(B) the total amount of basic pay accrued
16 for that month by members of the Coast Guard
17 on active duty (other than active duty for train-
18 ing); and

19 “(2) the product of—

20 “(A) the level percentage of basic pay and
21 of compensation (accrued pursuant to section
22 206 of title 37) determined using all the meth-
23 ods and assumptions approved for the most re-
24 cent (as of the first day of the current fiscal
25 year) actuarial valuation under section

1 564(c)(1)(B) of this title (except that any stat-
2 utory change in the military retirement and
3 survivor benefit systems that is effective after
4 the date of that valuation and on or before the
5 first day of the current fiscal year shall be used
6 in such determination); and

7 “(B) the total amount of basic pay and of
8 compensation (paid pursuant to section 206 of
9 title 37, United States Code) accrued for that
10 month by members of the Ready Reserve (other
11 than members of full-time Reserve duty other
12 than for training) who are not otherwise de-
13 scribed in paragraph (1)(B).

14 “(b)(1) At the beginning of each fiscal year the Sec-
15 retary of the Treasury shall promptly pay into the Fund
16 from the General Fund of the Treasury the amount cer-
17 tified to the Secretary of the Treasury by the Secretary
18 under paragraph (3). Such payment shall be the contribu-
19 tion to the Fund for that fiscal year required by sections
20 564(a) and 564(c) (2) and (3) of this title.

21 “(2) At the beginning of each fiscal year the Sec-
22 retary shall determine the sum of the following:

23 “(A) The amount of the payment for that year
24 under the amortization schedule determined under

1 section 564(a) of this title for the amortization of
 2 the original unfunded liability of the Fund;

3 “(B) The amount (including any negative
 4 amount) for that year under the most recent amorti-
 5 zation schedule determined by the Secretary under
 6 section 564(c)(2) of this title for the amortization of
 7 any cumulative actuarial gain or loss to the Fund,
 8 resulting from changes in benefits; and

9 “(C) The amount (including any negative
 10 amount) for that year under the most recent amorti-
 11 zation schedule determined by the Secretary under
 12 section 564(c)(3) of this title for the amortization of
 13 any cumulative actuarial gain or loss to the Fund,
 14 resulting from changes in actuarial assumptions and
 15 from experience different from that assumed since
 16 the last valuation.

17 “(3) The Secretary shall promptly certify the amount
 18 determined under paragraph (2) each year to the Sec-
 19 retary of the Treasury.

20 **“§ 566. Investment of assets of Fund**

21 “The Secretary may request the Secretary of the
 22 Treasury to invest such portion of the Fund as is not,
 23 in the judgment of the Secretary, required to meet the
 24 current needs of the Fund. Such investments shall be
 25 made by the Secretary of the Treasury in public debt secu-

1 rities with maturities suitable to the needs of the Fund,
 2 as determined by the Secretary, and bearing interest at
 3 rates determined by the Secretary of the Treasury, taking
 4 into consideration current market yields on outstanding
 5 marketable obligations of the United States of comparable
 6 maturities. The income on such investments shall be cred-
 7 ited to and form a part of the Fund.

8 **“§ 567. Implementation Year Exceptions**

9 “To avoid funding shortfalls in the first year should
 10 formal actuarial determinations not be available in time
 11 for budget preparation, the amounts used in the first year
 12 in sections 565(a)(1)(A) and 565(a)(2)(A) shall be set
 13 equal to those estimates in sections 564(b)(1)(A) and
 14 564(b)(2)(A) if final determinations are not available. The
 15 original unfunded liability as defined in section 564(a)
 16 shall include an adjustment to correct for this difference
 17 between the formal actuarial determinations and the esti-
 18 mates in sections 564(b)(1)(A) and 254(b)(2)(A).”.

19 (b) The table of chapters at the beginning of part
 20 I, of title 14, as added by section 566, are amended by
 21 inserting after the item relating to chapter 13 the fol-
 22 lowing new item:

“14. Coast Guard Military Retirement Fund 561”.

23 (c) Section 255(g)(1)(B) of the Balanced Budget and
 24 Emergency Deficit Control Act of 1985 (2 U.S.C.
 25 905(g)(1)(B)) is amended by striking “Retired Pay, Coast

1 Guard (69–0241–0–1–403)” and inserting “Coast Guard
2 Military Retirement Fund (69–0241–01–403)”.

3 (d) There shall be transferred into the Fund on Octo-
4 ber 1, 2002, any obligated and unobligated balances of
5 appropriations made to the Department of Transportation
6 that are currently available for retired pay, and amounts
7 so transferred shall be part of the assets of the Fund.

8 (e) Sections 563 (relating to payments from the
9 Fund) and 565 (relating to payments into the Fund) of
10 title 14, United States Code, shall take effect on October
11 1, 2002.

12 **Subtitle B—Accrual Funding of**
13 **Post-Retirement Health Benefits**
14 **Costs for Federal Employees**

15 **SEC. 211. FEDERAL EMPLOYEES HEALTH BENEFITS FUND.**

16 (a) Section 8906 of title 5, United States Code, is
17 amended—

18 (1) by redesignating subsection (c) as para-
19 graph (c)(1) and by adding at the end the following
20 new paragraphs:

21 “(2) In addition to Government contributions
22 required by subsection (b) and paragraph (1), each
23 employing agency shall contribute amounts as deter-
24 mined by the Office to be necessary to prefund the
25 accruing actuarial cost of post-retirement health

1 benefits for each of the agency's current employees
2 who are eligible for Government contributions under
3 this section. Amounts under this paragraph shall be
4 paid by the employing agency separate from other
5 contributions under this section, from the appropria-
6 tions or fund used for payment of the salary of the
7 employee, on a schedule to be determined by the Of-
8 fice.

9 “(3) Paragraph (2) shall not apply to the
10 United States Postal Service or the Government of
11 the District of Columbia.”; and

12 (2) by amending paragraph 1 of subsection (g)
13 to read:

14 “(1) Except as provided in paragraphs (2) and (3),
15 all government contributions authorized by this section for
16 health benefits for an annuitant shall be paid from the
17 Employees Health Benefits Fund to the extent that funds
18 are available in accordance with section 8909(j)(6) and,
19 if necessary, from annual appropriations which are au-
20 thorized to be made for that purpose and which may be
21 made available until expended.”.

22 (b) Section 8909 of title 5, United States Code, is
23 amended by adding at the end the following new sub-
24 section:

1 “(j)(1) Not later than June 30, 2002, the Office shall
2 determine the existing liability of the Fund for post-retire-
3 ment health benefits, excluding the liability of the United
4 States Postal Service for service under section 8906(g)(2),
5 under this chapter as of September 30, 2001. The Office
6 shall establish an amortization schedule, including a series
7 of annual installments commencing September 30, 2002,
8 which provides for the liquidation of such liability by Sep-
9 tember 30, 2041.

10 “(2) At the close of each fiscal year, for fiscal years
11 beginning after September 30, 2001, the Office shall de-
12 termine the supplemental liability of the Fund for post-
13 retirement health benefits, excluding the liability attrib-
14 utable to the United States Postal Service for service sub-
15 ject to section 8906(g)(2), and shall establish an amortiza-
16 tion schedule, including a series of annual installments
17 commencing on September 30 of the subsequent fiscal
18 year, which provides for liquidation of such supplemental
19 liability over 30 years.

20 “(3) Amortization schedules established under this
21 paragraph shall be set in accordance with generally accept-
22 ed actuarial practices and principles.

23 “(4) At the end of each fiscal year on and after Sep-
24 tember 30, 2002, the Office shall notify the Secretary of
25 the Treasury of the amounts of the next installments

1 under the most recent amortization schedules established
2 under paragraphs (1) and (2). Before closing the accounts
3 for the fiscal year, the Secretary shall credit the sum of
4 these amounts (including in that sum any negative
5 amount for the amortization of the supplemental liability)
6 to the Fund, as a Government contribution, out of any
7 money in the Treasury of the United States not otherwise
8 appropriated.

9 “(5) For the purpose of carrying out paragraphs (1)
10 and (2), the Office shall perform or arrange for actuarial
11 determinations and valuations and shall prescribe reten-
12 tion of such records as it considers necessary for making
13 periodic actuarial valuations of the Fund.

14 “(6) Notwithstanding subsection (b), the amounts de-
15 posited into the Fund pursuant to this subsection and sec-
16 tion 8906(c)(2) to prefund post-retirement health benefits
17 costs shall be segregated within the Fund so that such
18 amounts, as well as earnings and proceeds under para-
19 graph (c) attributable to them, may be used exclusively
20 for the purpose of paying Government contributions for
21 post-retirement health benefits costs. When such amounts
22 are used in combination with amounts withheld from an-
23 nuitants to pay for health benefits, a portion of the con-
24 tributions shall then be set aside in the Fund as described
25 in paragraph (b).

1 “(7) Under this subsection, ‘supplemental liability’
2 means—

3 “(A) the actuarial present value for future post-
4 retirement health benefits that are the liability of
5 the Fund, less

6 “(B) the sum of—

7 “(i) the actuarial present value of all fu-
8 ture contributions by agencies and annuitants
9 to the Fund toward those benefits pursuant to
10 section 8906;

11 “(ii) the present value of all scheduled am-
12 ortization payments to the Fund pursuant to
13 paragraphs (1) and (2);

14 “(iii) the Fund balance as of the date the
15 supplemental liability is determined, to the ex-
16 tent that such balance is attributable to post-re-
17 tirement benefits; and

18 “(iv) any other appropriate amount, as de-
19 termined by the Office in accordance with gen-
20 erally accepted actuarial practices and prin-
21 ciples.”.

22 **SEC. 212. UNIFORMED SERVICES HEALTH BENEFITS FOR**
23 **RETIREES.**

24 (a) Section 1111 of title 10, United States Code, is
25 amended—

1 (1) in subsection (a)—

2 (A) by striking “Medicare-Eligible”; and

3 (B) by striking “for medicare eligible bene-
4 ficiaries” and inserting “including care provided
5 in military treatment facilities”;

6 (2) in subsection (b)(1), by striking “for medi-
7 care eligible beneficiaries”, “medicare eligible” and
8 “medicare-eligible”;

9 (3) by striking subsection (b)(2); and

10 (4) by redesignating subsection (b)(3) as (b)(2);

11 (b) Section 1113(a) of such title 10 is amended by
12 striking “for medicare-eligible beneficiaries” and inserting
13 “including care provided in military treatment facilities”.

14 (c) Section 1114(a)(1) of such title 10 is amended
15 by striking “medicare-eligible”.

16 (d) Section 1116 of such title 10 is amended—

17 (1) in subsection (a), by inserting before the
18 colon “, less the amount in paragraph (c)”;

19 (2) in subsection (a)(1)(B), by adding at the
20 end the following new paragraph:

21 “The amount paid into the Fund under this sub-
22 section shall be paid from the funds available for the mili-
23 tary personnel accounts.”;

1 (3) in subsection (a)(2)(B), by striking “De-
 2 fense Health Program” and inserting “military per-
 3 sonnel accounts”; and

4 (4) by adding at the end the following new sub-
 5 section (c):

6 “(c) The Secretaries of Health and Human Services,
 7 Commerce, and Transportation shall pay into the Fund
 8 each month, from amounts available for salaries and ex-
 9 penses, the portion of the amounts determined by the Sec-
 10 retary of Defense under (a)(1) and (a)(2) which are attrib-
 11 utable to service performed, respectively, by the uniformed
 12 services of the Coast Guard, the Commissioned Officer
 13 Corps of the Public Health Service, and the Commissioned
 14 Officer Corps of the National Oceanic and Atmospheric
 15 Administration.”.

16 (5) by adding at the end the following new sub-
 17 section (d):

18 “(d) To avoid funding differences in the first year
 19 should formal actuarial determinations not be available in
 20 time for budget preparation, the monthly dollar amounts
 21 used in the first year sections 1116(a)(1)(A) and
 22 1116(a)(2)(A) shall be set equal to those estimates in sec-
 23 tion 1115(b)(1)(A)(i) and 1115(b)(1)(B)(i) if formal actu-
 24 arial determinations are not available. The original un-
 25 funded liability as defined in 1115(a) shall include an ad-

1 justment to correct for the difference between the formal
 2 actuarial determinations and the estimates in section
 3 1115(b)(1).”.

4 (e) CONFORMING AMENDMENT.—The heading for
 5 chapter 56 of title 10, United States Code, is amended
 6 to read as follows:

7 “CHAPTER 56—UNIFORMED SERVICES RETIREE
 8 HEALTH CARE FUND”.

9 **SEC. 213. EFFECTIVE DATE.**

10 Except as otherwise provided herein, this Title shall
 11 take effect upon enactment with respect to fiscal years be-
 12 ginning after 2002.

13 **TITLE III—FEDERAL PROPERTY**
 14 **ASSET MANAGEMENT REFORMS**

15 **SEC. 301. DEFINITIONS.**

16 Section 3 of the Federal Property and Administrative
 17 Services Act of 1949 (hereinafter in this title referred to
 18 as the “Act”), as amended (40 U.S.C. Sec 472), is amend-
 19 ed by adding at the end the following:

20 “(m) The term ‘landholding agency’ means any Fed-
 21 eral agency that, by specific or general statutory authority,
 22 has jurisdiction, custody, and control over real property,
 23 or interests therein. The term does not include agencies
 24 when they are disposing of real property for public benefit
 25 purposes pursuant to section 203 of the Act (40 U.S.C.

1 Sec. 484), and does not apply to Indian lands—i.e., lands
 2 held in trust or restricted fee status for individual Indians
 3 or Indian Tribes.”.

4 **Subtitle A—Life Cycle Planning** 5 **and Management**

6 Title II of the Act, as amended, is amended by adding
 7 at the end thereof the following new sections:

8 “SEC. 213. (a) ASSET MANAGEMENT PRINCIPLES.—

9 In accordance with the authorities vested in the Adminis-
 10 trator under section 205(c) of this Act, the Administrator,
 11 in collaboration with the heads of Federal agencies and
 12 the Office of Management and Budget, shall establish and
 13 maintain current asset management principles to be ap-
 14 plied where appropriate to real and personal property as-
 15 sets subject to this Act and under the jurisdiction, custody
 16 and control of such agencies. With respect to the outlease
 17 of Federal Property through the use of public-private part-
 18 nerships authorized in section 216(d), the Administrator
 19 shall require the use of the following principles: (1) under
 20 no circumstances shall the liability of the government aris-
 21 ing from an arrangement with a non-governmental entity
 22 or from the operation of any partnership, cooperative ven-
 23 ture, limited liability company, corporation, trust, or other
 24 business arrangement created as the result of an agree-
 25 ment with a non-governmental entity exceed the amount

1 of the Federal government's capital contribution or equity
 2 contribution; (2) such projects will only be undertaken if
 3 the federal asset is not developed to its highest and best
 4 use and the project is economically viable; determination
 5 of economic viability would include, among other relevant
 6 economic factors, the internal rate of return of the invest-
 7 ment to the government (with preference given to higher
 8 rates of return) at leaseback rates not exceeding market
 9 rates; and (3) projects will only be undertaken if the mar-
 10 ket conditions are favorable to development and 'full occu-
 11 pancy' by government or private tenants.

12 “(b) PERFORMANCE MEASUREMENT BENCH-
 13 MARKS.—The Administrator, in consultation with the
 14 heads of landholding agencies, shall establish performance
 15 measures to determine the effectiveness of Federal real
 16 property management. These measures shall monitor and
 17 assess: (1) the disposal of non-performing real property
 18 assets; (2) the reduction in vacant Federal space; (3) the
 19 realization of equity value in Federal real property assets;
 20 (4) the value added through cooperative arrangements
 21 with the commercial real estate community; and (5) the
 22 enhancement of Federal agency productivity through an
 23 improved working environment. The performance meas-
 24 ures shall be designed to: (1) enable the Congress and
 25 heads of agencies to track progress in the achievement of

1 property management objectives on a government wide
2 basis; and (2) allow for comparing the performance of
3 agencies against industry and other public sector agencies
4 in terms of performance. In developing and implementing
5 the performance measures, the Administrator shall use ex-
6 isting data sources and automated data collection tools to
7 the maximum extent practical.

8 “(c) INVENTORY DATABASE.—In order to accumu-
9 late and maintain a single, comprehensive descriptive list-
10 ing of all Federal real property interests under the custody
11 and control of each Federal agency, the Administrator, in
12 coordination with the heads of Federal agencies, shall col-
13 lect such descriptive information, except for classified in-
14 formation, as the Administrator deems will best describe
15 the nature, use, and extent of the real property holdings
16 of the United States. For purposes of this section, real
17 property holdings include all public lands of the United
18 States and all real property of the United States located
19 outside the States of the Union, to include, but not be
20 limited to the District of Columbia, Puerto Rico, American
21 Samoa, Guam, the Trust Territory of the Pacific Islands
22 and the Virgin Islands. To facilitate the reporting on a
23 uniform basis, the Administrator is authorized to establish
24 data and other information technology standards for use

1 by Federal agencies in developing or upgrading agency
2 real property information systems.

3 “(d) PUBLIC INFORMATION ACCESS.—The listing
4 compiled pursuant to this section shall be public record;
5 however, the Administrator is authorized to withhold in-
6 formation, including the location of classified facilities,
7 when it is determined that withholding such information
8 would be in the public interest. Nothing herein shall re-
9 quire the public release of information that is exempt from
10 disclosure pursuant to the Freedom of Information Act,
11 as amended (5 U.S.C. § 552).

12 “(e) JURISDICTION OF ADMINISTRATOR.—Except for
13 the purpose of maintaining the property listing described
14 in subparagraphs (c) and (d), above, nothing in this sec-
15 tion shall authorize the Administrator to assume jurisdic-
16 tion over the acquisition, management, or disposal of real
17 property not subject to this Act.

18 “SEC. 214. (a) Within 180 days of the effective date
19 of this section, the head of each landholding agency shall
20 appoint, or designate from among senior management offi-
21 cials within such agency, a Senior Real Property Officer.
22 Such individual shall be selected with special attention to
23 the qualifications required to administer the functions de-
24 scribed under this section. The head of any landholding
25 agency who so desires may also appoint a Real Property

1 Officer for any major component part of an agency, and
2 such Real Property Officers, for the purposes of complying
3 with this title, shall report to the Senior Real Property
4 Officer.

5 “(b) The Senior Real Property Officer for each agen-
6 cy shall be responsible for continuously monitoring agency
7 real property assets to—

8 “(1) manage each asset, including but not lim-
9 ited to its functional use, occupancy, reinvestment
10 requirements and future utility, in a manner fully
11 consistent with and supportive of the goals and ob-
12 jectives set forth in the agency’s Strategic Plan re-
13 quired under section 3 of the Government Perform-
14 ance and Results Act of 1993, Public Law 103–62
15 (5 U.S.C. § 306), consistent with the framework pro-
16 vided by the real property asset management prin-
17 ciples published by the Administrator pursuant to
18 section 213(a), and reflected to an agency asset
19 management plan. The asset management plan shall
20 be prepared according to guidelines issued by the
21 Administrator, shall be maintained to reflect current
22 agency program and budget priorities, and be con-
23 sistent with capital planning and programming guid-
24 ance issued by the Office of Management and Budg-
25 et;

1 “(2) identify real property assets that can ben-
2 efit from the application of the enhanced asset man-
3 agement tools described in section 216;

4 “(3) apply enhanced asset management tools, in
5 those cases where a real property asset can so ben-
6 efit, in such a way that any resulting transaction
7 will result in a fair return on the Federal govern-
8 ment investment and protect the Federal govern-
9 ment from unreasonable financial or other risks; and

10 “(4) provide to the Administrator a listing and
11 description of the real property assets, under the ju-
12 risdiction, custody and control of that agency, in-
13 cluding public lands of the United States and prop-
14 erty located in foreign lands, along with any other
15 relevant information the Administrator may request,
16 for inclusion in a government-wide listing of all Fed-
17 eral real property interests established and main-
18 tained in accordance with section 213(c) of this title.

19 “(5) determine the performance of the agency
20 against the performance measures established under
21 section 213(b) and report the results of such moni-
22 toring to the Congress in the agency’s budget sub-
23 mission under section 1005 of title 31, United
24 States Code.

1 “(c) Except as otherwise provided by Federal law,
 2 prior to a Federal agency acquiring any interests in real
 3 property from any non-Federal source, the Senior Real
 4 Property Officer of the acquiring agency shall give first
 5 consideration to available Federal real property hold-
 6 ings.”.

7 **Subtitle B—Enhanced Authorities**
 8 **for Real Property Asset Manage-**
 9 **ment**

10 **SEC. 311. ENHANCED ASSET MANAGEMENT TOOLS.**

11 Title II of the Act, as amended, is amended by adding
 12 at the end thereof the following new sections:

13 “CRITERIA FOR USING ENHANCED ASSET MANAGEMENT
 14 TOOLS

15 “SEC. 215. (a) Subject to the requirements of sub-
 16 section (b) of this section, the head of a landholding agen-
 17 cy may apply an enhanced asset management tool de-
 18 scribed in section 216 to a real property interest under
 19 the agency’s jurisdiction, custody and control when the
 20 head of the agency has determined that such real property
 21 interest—

22 “(1) when used to acquire replacement real
 23 property, is not excess property within the meaning
 24 given in subsection 3(e) of this Act (40 U.S.C.
 25 § 472(e)); provided, further, the agency shall include
 26 as part of the documentation required under sub-

1 section (b)(3) a description of the need and mission
2 requirement fulfilled by the Federal property;

3 “(2) is used to fulfill or support a continuing
4 mission requirement of the agency; and

5 “(3) can, by applying an enhanced asset man-
6 agement tool, improve the support of such mission.

7 “(b) Before applying an enhanced asset management
8 tool defined in section 216 to a real property interest iden-
9 tified under subsection (a) of this section, the head of the
10 agency shall determine that such application meets all of
11 the following criteria:

12 “(1) Supports the goals and objectives set forth
13 in the agency’s Strategic Plan required under sec-
14 tion 3 of the Government Performance and Results
15 Act of 1993, Public Law 103–62 (5 U.S.C. § 306)
16 and the agency’s real property asset management
17 plan as required in section 214.

18 “(2) Use of the real property is economical,
19 cost effective, and in the best interests of the United
20 States.

21 “(3) Is documented in a business plan which,
22 commensurate with the nature of the selected tool,
23 analyzes all reasonable options for using the prop-
24 erty; takes into account applicable provisions of law
25 including but not limited to the National Environ-

1 mental Policy Act of 1969, as amended; and evi-
 2 dences compliance with the requirements of the
 3 McKinney-Vento Homeless Assistance Act, including
 4 (i) describing the result of the determination by the
 5 Department of Housing and Urban Development of
 6 the suitability of the property for use to assist the
 7 homeless; and (ii) explaining the rationale for the
 8 landholding agency’s decision not to make the prop-
 9 erty available for use to assist the homeless.

10 “ENHANCED ASSET MANAGEMENT TOOLS

11 “SEC. 216. (a) INTERAGENCY TRANSFERS OR EX-
 12 CHANGES.—Any landholding agency may acquire replace-
 13 ment real property by transfer or exchange of real prop-
 14 erty subject to this Act with other Federal agencies under
 15 terms mutually agreeable to the agencies involved.

16 “(b) SALES TO OR EXCHANGES WITH NON-FED-
 17 ERAL SOURCES.—Any landholding agency may acquire re-
 18 placement real property by selling or exchanging a real
 19 property asset or interests therein with any non-Federal
 20 source; provided that: (1) this transaction does not conflict
 21 with other applicable laws governing the acquisition of in-
 22 terests in real property by Federal agencies; (2) the agen-
 23 cy first made the property available for transfer or ex-
 24 change to other Federal agencies; and (3) the transaction
 25 results in the agency receiving fair market value consider-
 26 ation, as determined by the agency head, which consider-

1 ation may be future consideration, for the asset sold or
 2 exchanged.

3 “(c) SUBLEASES.—The head of any landholding
 4 agency, by lease, permit, license or similar instrument,
 5 may make available to other Federal agencies and to non-
 6 Federal entities the unexpired portion of any government
 7 lease for real property; provided that the term of any sub-
 8 lease shall not exceed the unexpired portion of the term
 9 of the original government lease of the property and the
 10 sublease results in the agency receiving fair market rental
 11 value for the asset. Prior to subleasing to any private per-
 12 son or private sector entity, the Federal agency shall give
 13 consideration to the needs of the following entities with
 14 the needs of entities listed in paragraph (1) being consid-
 15 ered before the needs of entities listed in paragraph (2):

16 “(1) FIRST PRIORITY.—The needs of each of
 17 the following entities, equally, shall be given first
 18 priority by the agency:

19 “(A) Federal agencies; and

20 “(B) Indian tribes (as defined by section 4
 21 of the Indian Health Care Improvement Act
 22 (25 U.S.C § 1603)), urban Indian organizations
 23 (as defined by that section), and tribal organi-
 24 zations (as defined by section 4 of the Indian
 25 Self-Determination and Education Assistance

1 Act (25 U.S.C. 450b)), through the Secretaries
2 of the Department of the Interior and the De-
3 partment of Health and Human Services, when
4 the property is to be used in connection with an
5 Indian Self-Determination contract or grant
6 pursuant to the Indian Self-Determination Act
7 (25 U.S.C. 450f et seq.).

8 “(2) SECOND PRIORITY.—The needs of each of
9 the following entities, equally, shall be given second
10 priority by the agency:

11 “(A) State and local governments; and

12 “(B) Indian tribes, tribal organizations,
13 and urban Indian organizations (defined as in
14 paragraph (1)(B)), through the Secretaries of
15 the Department of the Interior the Department
16 of Health and Human Services when the prop-
17 erty is to be used for purposes other than as
18 described in paragraph (1) and such uses of the
19 property are authorized by law other than this
20 subsection.

21 “(d) OUTLEASES.—The head of any landholding
22 agency may make available by outlease agreements with
23 other Federal agencies and non-Federal entities any un-
24 used or underused portion of or interest in any agency
25 real and related personal property after finding that (i)

1 there is no long-term mission requirement for the prop-
 2 erty, but the Federal Government is not permitted to dis-
 3 pose of it; or (ii) there is a continuing long-term mission
 4 requirement for the property to remain in Government
 5 ownership, and (iii) the use of the real property by the
 6 lessee will not be inconsistent with the statutory mission
 7 of the landholding agency; provided that such an outlease
 8 transaction to a non-Federal entity is conducted competi-
 9 tively.

10 “(1) OUTLEASE AGREEMENTS.—In order to re-
 11 duce vacant space and realize the equity value of
 12 Government-owned real property assets, provide
 13 Federal agencies with modern functional work envi-
 14 ronments, and work cooperatively with the commer-
 15 cial real estate community, any outlease agreements
 16 authorized under this subsection—

17 “(A) may be a partnership, cooperative
 18 venture, limited liability company, corporation,
 19 trust, sole proprietorship, or other business ar-
 20 rangement;

21 “(B) shall be for a term no longer than 50
 22 years;

23 “(C) shall result in the agency receiving
 24 fair market value consideration, as defined by
 25 the agency head, for the asset, including cash,

1 other property (either real or personal), serv-
2 ices, and/or in-kind or future consideration;

3 “(D) may provide a leaseback option to the
4 Federal government to occupy space in any fa-
5 cilities acquired, constructed, repaired, ren-
6 ovated, or rehabilitated by the non-govern-
7 mental entity, provided that the agreement does
8 not guarantee government occupancy; provided
9 further that any subsequent agreements to
10 leaseback space in such facilities must be in ac-
11 cordance with the competition requirements of
12 Title III of this Act (41 U.S.C. § 253 et seq.);

13 “(E) shall provide (i) that neither the
14 United States, nor its agencies or employees,
15 shall be liable for any actions, debts or liability
16 of the lessee, and (ii) that the lessee shall not
17 be authorized to execute and shall not execute
18 any instrument or document creating or evi-
19 dencing any indebtedness unless such instru-
20 ment or document specifically disclaims any li-
21 ability of the United States, and of any Federal
22 agency or employee thereunder in excess of the
23 Government’s capital contribution in the lessee;

24 “(F) shall provide (i) that the Govern-
25 ment’s interest under the agreement is senior to

1 that of any lender to a non-government entity,
2 and (ii) that under no circumstances shall the
3 liability of the United States arising from its
4 arrangement with the non-governmental entity
5 or from the operations of any partnership, coop-
6 erative venture, limited liability company, cor-
7 poration, trust, or other business arrangement
8 created as the result of the agreement with a
9 non-governmental entity exceed the amount of
10 the Federal government's capital contribution
11 or equity contribution to the partnership, coop-
12 erative venture, limited liability company, cor-
13 poration, trust, or other business arrangement;
14 and

15 “(G) may contain such other terms and
16 conditions as the head of the agency making
17 the property available deems necessary to pro-
18 tect the interests of the Federal government.

19 “(2) ORDER OF CONSIDERATION.—In making
20 property available for outlease, the landholding agen-
21 cy shall follow the order of consideration listed in
22 subsection (c) of this section.

23 “(3) PREREQUISITES TO AGREEMENTS.—Prior
24 to the head of any landholding agency executing any
25 agreement authorized under subsection (d) of this

1 section that would result in the development or sub-
2 stantial rehabilitation or renovation of Federal as-
3 sets in a business arrangement with a non-Federal
4 entity, the head of such agency shall undertake an
5 analysis of the proposed arrangement or transaction
6 to determine the business and legal risks and bene-
7 fits to the Federal Government that would likely re-
8 sult from the proposed arrangement or transaction.

9 “(4) SCORING.—For the sole purpose of scoring
10 lease-back agreements, if the non-Federal entity
11 shall exercise management control of the business of
12 the public-private entity and holds a majority inter-
13 est in ownership in the public-private venture; then
14 the project shall not be considered to be constructed
15 on government-owned land for purposes of the appli-
16 cation of scoring rules. All leaseback agreements
17 must meet the requirements of an operating lease as
18 specified in relevant OMB Circulars.

19 “(5) AUTHORITY FOR DISPOSITION OF LEASED
20 PROPERTY.—If, during the term of an outlease in-
21 volving the development or substantial rehabilitation/
22 renovation of a Federal asset in a business arrange-
23 ment with a non-Federal entity, the head of the
24 agency determines that the property is no longer
25 needed by the agency, the head of the agency may

1 initiate action for the transfer to the lessee of all
2 right, title, and interest of the United States in the
3 property by requesting the Administrator of General
4 Services to dispose of the property. A disposition
5 under this section may be made for such consider-
6 ation as the head of the agency and the Administra-
7 tion jointly determine is in the best interests of the
8 United States and upon such other terms and condi-
9 tions as the head of the agency and the Adminis-
10 trator consider appropriate.

11 “(6) OTHER AUTHORITIES.—The authority
12 under this subsection shall not be construed to affect
13 any other authority of any agency to outlease prop-
14 erty or to otherwise make property available for any
15 reason.

16 “(7) SUNSET PROVISION.—The authority to
17 enter into new outlease agreements under subsection
18 216(d) expires 10 years after the date of enactment.
19 The effectiveness of the use of such authority shall
20 be reviewed biennially by the General Accounting Of-
21 fice.

22 “FORMS OF CONSIDERATION

23 “SEC. 217. Notwithstanding any other provision of
24 law, the forms of consideration received from an enhanced
25 asset management tool as described in section 216 may
26 include cash or cash equivalents, other property (either

1 real of personal), in-kind assets, services, future consider-
 2 ation, or any combination thereof.

3 “TRANSACTIONAL REPORTS

4 “SEC. 218. For those transactions authorized under
 5 section 216 involving the sale, exchange or outlease to a
 6 non-Federal source of any asset valued in excess of \$2
 7 million at the time of the transaction, the head of the land-
 8 holding agency performing the transaction shall submit
 9 the business plan required by subsection 215(b)(3) to the
 10 Office of Management and Budget and to appropriate
 11 Committees of the United States Senate and the House
 12 of Representatives at least 30 calendar days prior to final
 13 execution of such transaction. The \$2 million threshold
 14 in this subsection may be adjusted upward or downward
 15 by the Administrator to reflect the annual inflation/defla-
 16 tion factor as determined by the Department of Commerce
 17 Consumer Price Index.”.

18 **SEC. 312. REPEAL OF SECTION 321 OF THE FEDERAL PROP-**
 19 **ERTY AND ADMINISTRATION SERVICES ACT.**

20 Section 321 of the Act of June 30, 1932, 47 Stat.
 21 412 (40 U.S.C. § 303b), is repealed.

22 **SEC. 313. DISPOSAL OF SURPLUS PROPERTY.**

23 Subsection 203(b) of the Act, as amended to read as
 24 follow:

25 “(b)(1) The care and handling of surplus property,
 26 pending its disposition, and the disposal of such property,

1 may be performed by the General Services Administration
2 or, when so determined by the Administrator, by the execu-
3 tive agency in possession thereof or by any other execu-
4 tive agency consenting thereto.

5 “(2) Upon the written request of a landholding agen-
6 cy, the Administrator shall delegate all responsibilities and
7 authorities for the care and handling of surplus real and
8 related personal property, pending its disposition, and for
9 the disposal of such property, provided to the Adminis-
10 trator elsewhere in this Act, to the head of the landholding
11 agency. The Administrator of General Services retains the
12 authority to promulgate general policies and procedures
13 for disposing of such property. These policies and proce-
14 dures shall require that the General Services
15 Administration—

16 “(A) notify the agencies responsible elsewhere
17 in this Act for sponsoring public benefit conveyances
18 of the availability of excess property as soon as it
19 has been declared excess and solicit their input on
20 whether their public benefit represents the highest
21 and best use of such property;

22 “(B) serve as the central point of contact for
23 agencies, prospective donees, and the public on the
24 availability of surplus property as soon as it has
25 been declared surplus;

1 “(C) assure that the agencies with the authority
2 to make disposal decisions give full consideration to
3 the public benefit uses of surplus Federal property
4 in making their disposal decisions; and

5 “(D) serve as a clearinghouse for information
6 on all phases of the surplus property disposal proc-
7 ess, including appeals from sponsoring agencies and
8 prospective donees that insufficient consideration
9 was given to public benefit donations.”.

10 **Subtitle C—Incentives for Real and**
11 **Personal Property Management**
12 **Improvement**

13 **SEC. 321. PROCEEDS FROM TRANSFER OR DISPOSITION OF**
14 **PROPERTY.**

15 Section 204 of the Act, as amended (40 U.S.C.
16 § 485), is amended as follows:

17 (a) In paragraph (2) of subsection (h) by strik-
18 ing “(b)” and inserting in lieu thereof “(c)”, and by
19 striking the phrase “, to the extent provided in ap-
20 propriations Acts,”.

21 (b) By revising subsection (i) to read as follows:

22 “Federal agencies may retain from the proceeds of
23 the sale of personal property amounts necessary to re-
24 cover, to the extent practicable, the full costs, direct and
25 indirect, incurred by the agencies in disposing of such

(d) By striking subsections (a) and (b) and by inserting in lieu thereof the following subsections (a), (b), and (c):

“SEC. 204. (a)(1) AGENCY RETENTION OF PROCEEDS FROM REAL PROPERTY.—Proceeds resulting from the transfer or disposition of real and related property under this Title shall be credited to the fund, account (including the capital asset account provided in subsection (b) of this section) or appropriation of the agency which made the property available and shall be treated as provided in subsections (b) and (c) of this section.

25 “(2) PROCEEDS FROM PERSONAL PROPERTY.—Pro-
26 ceeds from any transfer of excess personal property to a

1 Federal agency or from any sale, lease, or other disposi-
2 tion of surplus personal property shall be treated as pre-
3 scribed in subsection (j) or as otherwise authorized by law.

4 “(3) OTHER PROCEEDS.—All proceeds under this
5 Title not deposited or credited to a specific agency ac-
6 count, shall be covered into the Treasury as miscellaneous
7 receipts except as provided in subsections (d), (e), (f), (g),
8 (h), (i), and (j) of this section or as otherwise authorized
9 by law.

10 “(b) MONETARY PROCEEDS TO AGENCY CAPITAL
11 ASSET ACCOUNTS.—Monetary proceeds received by agen-
12 cies from the transfer or disposition of real and related
13 personal property shall be credited to an existing account
14 or an account to be established in the Treasury to pay
15 for the capital expenditures of the particular agency mak-
16 ing the property available, which account shall be known
17 as the agency’s capital asset account. Subject to sub-
18 section (c), any amounts credited or deposited to such ac-
19 count under this section, along with such other amounts
20 as may be appropriated or credited from time to time in
21 annual appropriations acts, shall be devoted to the sole
22 purpose of funding that agency’s capital asset expendi-
23 tures, including any expenses necessary and incident to
24 the agency’s real property capital acquisitions, improve-
25 ments, and dispositions, and such funds shall remain

1 available until expended, in accordance with the agency's
2 asset management plan as required in section 214 of the
3 Act as amended by this title, without further authoriza-
4 tion: *Provided*, That: (1) monies from an exchange or sale
5 of real property, or a portion of a real property holding,
6 under subsection 216(b) of the Act as amended by this
7 title shall be applied only to the replacement of that prop-
8 erty or to the rehabilitation of the portion of that real
9 property holding that remains in Federal ownership, and
10 (2) the head of each landholding agency shall include with
11 the materials the agency annually submits under section
12 1105 of title 31, United States Code, a detailed accounting
13 of all real property transactions carried out under Title
14 II of the Act and of receipts and disbursements from the
15 agency's capital asset account during the previous fiscal
16 year.

17 “(c) TRANSACTIONAL AND OTHER COSTS.—Federal
18 agencies may be reimbursed from the monetary proceeds
19 of real property dispositions or from other available re-
20 sources, including from the agency's capital asset account,
21 the full costs, direct and indirect, to the agency of dis-
22 posing of such property, including but not limited to the
23 costs of site remediation, restoration or other environ-
24 mental services, relocating affected tenants and occupants,
25 advertising and marketing, community outreach, sur-

1 veying, appraisal, brokerage, historic preservation services,
2 title insurance, due diligence, document notarization and
3 recording services and the costs of managing leases and
4 providing necessary services to the lessees.”.

5 **SEC. 322. RELATIONSHIP TO OTHER AGENCIES’ AUTHORI-**
6 **TIES TO USE DISPOSAL PROCEDURES.**

7 Nothing in this Title shall be construed to repeal or
8 supersede any other provision of Federal law directing the
9 use of proceeds from specific real property transactions
10 or directing how or where a particular Federal agency is
11 to deposit, credit or use the proceeds from the sale, ex-
12 change or other disposition of Federal property except as
13 expressly provided for herein.

14 **SEC. 323. IMPACT ON OTHER AUTHORITIES TO USE DIS-**
15 **POSAL PROCEEDS.**

16 (a) Section 2(a) of the Land and Water Conservation
17 Act of 1965, as amended (16 U.S.C. § 460l–5(a)), is su-
18 perseded only to the extent that the Federal Property and
19 Administrative Services Act of 1949, as amended, or a
20 provision of this title, provide for an alternative disposition
21 of the proceeds from the disposal of any surplus real prop-
22 erty and related personal property subject to this Act, or
23 the disposal of any interest therein.

24 (b) Subsection 3302(b) of title 31, United States
25 Code, is superseded only to the extent that this Act or

1 any other Act provides for the disposition of money re-
2 ceived by the Government.

3 **SEC. 324. USING SHARE OF SALE PROCEEDS TO MAINTAIN**
4 **HISTORIC TREASURY RECEIPTS.**

5 For purposes of implementing subtitle C of this title,
6 the following shall apply:

7 (a) For fiscal years 2002 through 2006, OMB shall
8 allocate by agency a pro rata share of the baseline esti-
9 mate of total surplus real property sales receipts trans-
10 ferred to the Land and Water Conservation Fund that
11 were contained in the President's Budget for Fiscal Year
12 2002, made pursuant to section 1109 of title 31, United
13 States Code. OMB shall notify the affected agencies and
14 Appropriations Committees of the U.S. House of Rep-
15 resentatives and Senate in writing of this allocation within
16 30 days of enactment of this title and shall not subse-
17 quently revise the allocation.

18 (b) On September 30 of each fiscal year, each agency
19 shall transfer to the Treasury an amount equal to its allo-
20 cation for that fiscal year, out of the proceeds realized
21 from any sales of the agency's surplus real property assets
22 during that fiscal year.

23 (c) If an agency's actual sale proceeds in any fiscal
24 year are less than the amount allocated to it by OMB for
25 that fiscal year, the agency shall transfer all of its sale

1 proceeds to the Treasury, and its allocation for the subse-
 2 quent fiscal year shall be increased by the difference.

3 (d) On September 30, 2006, if an agency has trans-
 4 ferred less sale proceeds to the Treasury than its total al-
 5 location for the five years, the agency shall transfer the
 6 difference out of any other funds available to the agency.

7 **Subtitle D—Streamlined and** 8 **Enhanced Disposal Authorities**

9 **SEC. 331. INCLUDING NONPROFIT ORGANIZATIONS AS ELI-** 10 **GIBLE DONEES.**

11 (a) Section 203 of the Act, as amended (40 U.S.C.
 12 § 484), is amended in paragraph (k)(3) as follows—

13 (1) by striking “or municipality” and inserting
 14 in lieu thereof “municipality, or qualified nonprofit
 15 organization established for the primary purpose of
 16 preserving historic monuments”; and

17 (2) by inserting after the first sentence “Such
 18 property may be conveyed to a nonprofit organiza-
 19 tion only if the State, political subdivision, instru-
 20 mentalities thereof, and municipality in which the
 21 property is located do not request conveyance under
 22 this section within thirty days after notice to them
 23 of the proposed conveyance by the Administrator to
 24 that nonprofit organization.”.

1 (b) Section 203 of the Federal Property and Adminis-
 2 trative Services Act of 1949, as amended (40 U.S.C.
 3 § 484), is amended by revising paragraph (k)(4)(C) to
 4 read as follows:

5 “(C) the Secretary of the Interior, in the
 6 case of property transferred pursuant to the
 7 Surplus Property Act of 1944, as amended, and
 8 pursuant to this Act, to States, political sub-
 9 divisions, and instrumentalities thereof, and
 10 municipalities for use as a public park or public
 11 recreation area, and to State, political subdivi-
 12 sions, and instrumentalities thereof, municipali-
 13 ties, and nonprofit organizations for use as an
 14 historic monument for the benefit of the public;
 15 or”.

16 **SEC. 332. ELIMINATION OF CERTAIN NEGOTIATED SALE RE-**
 17 **QUIREMENTS.**

18 (a) Section 203 of the Act, as amended (40 U.S.C.
 19 § 484), is amended in subsection (e) as follows:

20 (1) By striking subparagraphs (3)(A), (3)(B),
 21 (3)(C), and (3)(E),

22 (2) By redesignating subparagraph (3)(D) and
 23 subparagraphs (3)(F) through (3)(I), as subpara-
 24 graphs (3)(A) through (3)(E), respectively,

1 (3) By amending redesignated subparagraph
2 (3)(E) to read as follows:

3 “(E) otherwise authorized by this Act or
4 other law or with respect to personal property
5 deemed advantageous to the Government.”,

6 (4) By amending subparagraph (6)(A) to read
7 as follows:

8 “(6)(A) An explanatory statement shall be pre-
9 pared of the circumstances of each disposal by nego-
10 tiation of any real property that has an estimated
11 fair market value in excess of the threshold value for
12 which transactional reports are required under Sec-
13 tion 218.”,

14 (5) By deleting subparagraphs (6)(C) and
15 (6)(D).

16 (b) Section 203 of the Federal Property and Adminis-
17 trative Services Act of 1949, as amended, is further
18 amended by adding to the end thereof the following new
19 subsection:

20 “(s) The authority of any department, agency, or in-
21 strumentality of the executive branch or wholly owned
22 Government corporation to convey surplus real and related
23 personal property for public airport purposes under sub-
24 chapter II of title 49, United States Code, shall be subject
25 to the requirements of this Act, and any surplus real prop-

erty available for conveyance under that subchapter shall first be made available to the Administrator for disposal under this section, including conveyance for any public benefit purposes, including public airport use, as the Administrator, after consultation with the affected agencies, deems advisable.”.

SEC. 333. EXCHANGE AND SALE OF PERSONAL PROPERTY.

Subsection 201(c) of the Act, as amended (40 U.S.C. § 481(c)), is revised to read as follows:

“(c) In acquiring personal property or related services, or a combination thereof, any executive agency, under regulations to be prescribed by the Administrator, subject to regulations prescribed by the Administrator for Federal Procurement Policy pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. § 401 et seq.), may exchange or sell personal property and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for similar property or related services, or a combination thereof, acquired: Provided, that any transaction carried out under the authority of this subsection shall be evidenced in writing. Sales of property pursuant to this subsection shall be governed by subsection 203(e) of this title, and shall be exempted from the provisions of section 5 of title 41, United States Code.”.

1 **SEC. 334. EXPANSION OF ABANDONMENT AUTHORITY.**

2 Subsection 202(h) of the Act, as amended (40 U.S.C.
3 § 483(h)), is amended to read as follows:

4 “(h) The Administrator may authorize the abandon-
5 ment, destruction, or other disposal of property which has
6 no commercial value or of which the estimated cost of con-
7 tinued care and handling would exceed the estimated fair
8 market value.”.

9 **SEC. 335. CLARIFYING CERTAIN DONATION AUTHORITIES.**

10 Subsection 203(j) of the Act, as amended (40 U.S.C.
11 § 484(j)), is further amended as follows:

12 (a) Paragraph (j)(1) is amended—

13 (1) by striking the phrase “the fair and equi-
14 table distribution, through donation,” and inserting
15 in lieu thereof “donation on a fair and equitable
16 basis”; and

17 (2) by striking “paragraphs (2) and (3)” and
18 inserting in lieu thereof “paragraph (2)”.

19 (b) Paragraph (j)(2) is deleted.

20 (c) Paragraph (j)(3) is renumbered (j)(2) and amend-
21 ed as follows:

22 (1) By deleting the introductory paragraph and
23 inserting in lieu thereof the following:

24 “(2) The Administrator shall, pursuant to cri-
25 teria that are based on need and utilization and es-
26 tablished after such consultation with State agencies

1 as is feasible, allocate surplus personal property
2 among the States on a fair and equitable basis, tak-
3 ing into account the condition of the property as well
4 as the original acquisition cost thereof, and transfer
5 to the State agency property selected by it for pur-
6 pose of donation within the State—”.

7 (2) in subparagraph (B) by—

8 (A) deleting “providers of assistance to
9 homeless individuals, providers of assistance to
10 families or individuals whose annual incomes
11 are below the poverty line (as that term is de-
12 fined in section 673 of the Community Services
13 Block Grant Act),”;

14 (B) striking out “schools for the mentally
15 retarded, schools for the physically handi-
16 capped” and by inserting in lieu thereof
17 “schools for persons with mental or physical
18 disabilities”;

19 (C) striking the word “and” before “librar-
20 ies”; and

21 (D) inserting “and educational activities
22 identified by the Secretary of Defense as being
23 of special interest of the Armed Services,” fol-
24 lowing the word “region,”; and

1 (3) By adding a new subparagraph (C) to read
2 as follows:

3 “(C) to nonprofit institutions or organiza-
4 tions that are exempt from taxation under sec-
5 tion 501 of title 26, United States Code, and
6 which have for their primary function the provi-
7 sion of food, shelter, or other necessities to
8 homeless individuals or families or individuals
9 whose annual income is below the poverty line
10 (as that term is defined in section 673 of the
11 Community Service Block Grant Act) for use in
12 assisting the poor and homeless.”.

13 (d) Paragraph (j)(4) is renumbered (j)(3).

14 (e) Paragraph (j)(5) is renumbered (j)(4).

15 **SEC. 336. STREAMLINING CONSIDERATION OF SURPLUS**
16 **REAL PROPERTY FOR HOMELESS ASSIST-**
17 **ANCE.**

18 (a) Section 501 of the McKinney-Vento Homeless As-
19 sistance Act, as amended (42 U.S.C. § 11411) is amended
20 as follows:

21 (1) In the first sentence of subsection (a), by
22 inserting before the period the following: “, and that
23 have not been previously reported on by an agency
24 under this subsection”.

1 (2) In the second sentence of subsection (a), by
 2 inserting after “to the Secretary” the following:
 3 “, which shall not include information previously re-
 4 ported on by an agency under this subsection”.

5 (3) In subsection (b)(1), (c)(1)(A), and
 6 (c)(2)(A), by striking “45” and inserting “30”.

7 (4) In subsection (c)(1)(A)(i), by inserting after
 8 “(a)” the following: “that have not been previously
 9 published”.

10 (5) In subsection (c)(1)(A)(ii), by inserting
 11 after “properties” the following: “that have not been
 12 previously published”.

13 (6) By striking subsections (c)(1)(D) and
 14 (c)(4),

15 (7) In subsection (c)(2)(B), by inserting at the
 16 end the following new sentence: “Such efforts as are
 17 necessary to provide for the widest possible dissemi-
 18 nation of the information on such list shall include
 19 publishing the information on an Internet website
 20 maintained by the Secretary and providing notice of
 21 the information on such list to the local Continuum
 22 of Care organization for homeless assistance within
 23 the jurisdiction in which the property is located, or
 24 if there is no such organization, then to the State.”.

1 (8) In subsections (d)(1) and (d)(2), by striking
2 “60” and inserting “90”.

3 (9) In subsection (d)(4)(A), by amending to
4 read as follows: “(4)(A) Written notice of intent to
5 apply for a property published under subsection
6 (c)(1)(A)(ii) of this section may be filed at any time
7 after the 90-day period prescribed in paragraph (1)
8 has expired. In such case, an application submitted
9 pursuant to the notice may be approved for disposal
10 for use to assist the homeless only if the property re-
11 mains available for use to assist the homeless. If the
12 property remains available for use to assist the
13 homeless, the use to assist the homeless shall be
14 given the same priority of consideration as a public
15 health use under section 484(k) of title 40, United
16 States Code.”,

17 (10) In subsection (e)(3), by inserting the fol-
18 lowing sentence immediately after the first sentence:
19 “The Secretary of Health and Human Services shall
20 give a preference to applications that contain a cer-
21 tification that their proposal is consistent with the
22 local Continuum of Care strategy for homeless as-
23 sistance.”,

24 (11) In subsection (f)(3)(A), by adding at the
25 end the following: “Such priority of consideration

1 shall apply only with respect to properties as to
 2 which the written notice of intent to apply for a
 3 property set forth in subsection (d)(2) of this section
 4 is received by the Secretary of Health and Human
 5 Services within the 90-day period described in sec-
 6 tion (d)(1).”.

7 (12) In subsection (h) heading, by striking
 8 “Applicability to Property under Base Closure Proc-
 9 ess” and inserting “Exemptions”; and

10 (13) In subsection (h), by adding the following
 11 new paragraph at the end:

12 “(3) The provisions of this section shall not
 13 apply to buildings and property that are—

14 “(A) in a secured area for national defense
 15 purposes; or

16 “(B) inaccessible by road and can be
 17 reached only by crossing private property.”.

18 (b) Within 30 days of the date of enactment of this
 19 section, the Secretary of Housing and Urban Development
 20 shall survey landholding agencies to determine whether
 21 the properties included in the last comprehensive list of
 22 properties published pursuant to section 501(c)(1)(A) of
 23 the McKinney-Vento Homeless Assistance Act remain
 24 available for application for use to assist homeless. The
 25 Secretary shall publish in the Federal Register a list of

1 all such properties. Such properties shall remain available
2 for application for use to assist the homeless in accordance
3 with sections 501(d) and 501(e) of such Act (as amended
4 by subsection (a) of this section) as if such properties had
5 been published under section 501(c)(1)(A)(ii) of such Act.

6 **Subtitle E—Miscellaneous**

7 **SEC. 341. SCOPE AND CONSTRUCTION.**

8 The authorities granted by this title to the heads of
9 Federal agencies for the management of real and personal
10 property and the conduct of transactions involving such
11 property, including the disposition of the proceeds there-
12 from, shall be in addition to, and not in lieu of, any au-
13 thorities provided in any law existing on the date of enact-
14 ment hereof. Except as expressly provided herein, nothing
15 in this title shall be construed to repeal or supersede any
16 such authorities.

17 **SEC. 342. SEVERABILITY.**

18 Although this title is intended to be integrated legis-
19 lation, should any portion or provision of this title be
20 found to be invalid or otherwise unenforceable by a court
21 of competent jurisdiction, such portion or portions of this
22 title shall be considered independent and severable for all
23 other provisions of this title and such invalidity shall not,
24 by itself, invalidate any other provisions of this title, which

1 remaining provisions shall have the full force and effect
2 of law.

3 **SEC. 343. NO WAIVER.**

4 Nothing in this title should be construed to limit or
5 waive any right, remedy, immunity, or jurisdiction of any
6 Federal agency or any claim, judgement, lien, or benefit
7 due the United States of America.

8 **SEC. 344. AGENCY DISCRETION.**

9 The provisions of this title, including those author-
10 izing the exercise of agency discretion, are not intended
11 to, and do not, create or enlarge any substantive or proce-
12 dural rights or causes of action against the United States,
13 it agencies, it officers, or any person.

14 **SEC. 345. EFFECTIVE DATE.**

15 This title and the amendments made by its provisions
16 shall be effective upon enactment of this title except as
17 otherwise specifically provided for herein.

18 **SEC. 346. REPORT OF THE COMPTROLLER GENERAL.**

19 Not later than five years after the date of enactment
20 of this title, the Comptroller General of the United States
21 shall submit to the Congress a report on the use by Fed-
22 eral landholding agencies of the authorities provided by
23 this title.

