

# Union Calendar No. 113

113TH CONGRESS  
1ST SESSION

# H. R. 2067

[Report No. 113–156]

To amend title 5, United States Code, to make permanent the authority of the Secretary of the Treasury to establish a separate compensation and performance management system with respect to persons holding critical scientific, technical, or professional positions within the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2013

Mr. MEADOWS introduced the following bill; which was referred to the  
Committee on Oversight and Government Reform

JULY 16, 2013

Additional sponsor: Mr. CONNOLLY

JULY 16, 2013

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

# **A BILL**

To amend title 5, United States Code, to make permanent the authority of the Secretary of the Treasury to establish a separate compensation and performance management system with respect to persons holding critical scientific, technical, or professional positions within the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

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.**

4 This Act may be cited as the “Alcohol and Tobacco  
 5 Tax and Trade Bureau Personnel Flexibilities Act”.

6 **SEC. 2. ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.**

7 (a) IN GENERAL.—Subpart I of part III of title 5,  
 8 United States Code, is amended by inserting after chapter  
 9 95 the following:

10 **“CHAPTER 96—ALCOHOL AND TOBACCO**  
 11 **TAX AND TRADE BUREAU**

“9601. Definitions; applicability.

“9602. Compensation and performance management system.

12 **“§ 9601. Definitions; applicability**

13 “(a) DEFINITIONS.—For purposes of this chapter—

14 “(1) the term ‘Secretary’ means the Secretary  
 15 of the Treasury;

16 “(2) the term ‘Bureau’ means the Alcohol and  
 17 Tobacco Tax and Trade Bureau, Department of the  
 18 Treasury; and

19 “(3) the terms ‘senior executive’ and ‘Senior  
 20 Executive Service position’ have the respective mean-  
 21 ings given them in section 3132(a).

22 “(b) APPLICABILITY.—A compensation and perform-  
 23 ance management system established under section 9602  
 24 shall not cover, and nothing in any such system shall be

1 considered to apply with respect to, a senior executive or  
2 a Senior Executive Service position.

3 **“§ 9602. Compensation and performance management**  
4 **system**

5 “(a) ESTABLISHMENT.—

6 “(1) IN GENERAL.—The Secretary shall estab-  
7 lish a system, applying such criteria and procedures  
8 as the Secretary considers appropriate, which shall  
9 govern the compensation and performance manage-  
10 ment of any number of employees holding critical  
11 scientific, technical, or professional positions in the  
12 Bureau.

13 “(2) AUTHORITY.—Subject to the provisions of  
14 this chapter—

15 “(A) the establishment of a compensation  
16 and performance management system under  
17 this section shall not be limited by any lack of  
18 specific authority under this title to take the ac-  
19 tion contemplated, or by any provision of this  
20 title or any rule or regulation prescribed under  
21 this title which is inconsistent with the action;  
22 and

23 “(B) the total number of positions covered  
24 by the system or systems established under au-  
25 thority of this section (determined on a full-

1           time equivalent basis) may not at any time ex-  
2           ceed the number equal to 50 percent of the  
3           total number of positions within the Bureau (so  
4           determined).

5           “(3) CONSULTATION.—The Secretary shall con-  
6           sult with the Director of the Office of Personnel  
7           Management in the exercise of any authority under  
8           this section.

9           “(b) NONWAIVABLE PROVISIONS; COLLABORA-  
10          TION.—A compensation and performance management  
11          system established under this section—

12               “(1) may not provide for a waiver of any provi-  
13              sion of law, rule, or regulation identified in section  
14              4703(c); and

15               “(2) shall be established and implemented in a  
16              manner consistent with subsections (f) and (g) of  
17              section 4703.

18           “(c) LIMITATIONS ON COMPENSATION.—Except as  
19          otherwise provided by law—

20               “(1) no employee compensated under a system  
21              established under this section may be paid at a rate  
22              of basic pay in excess of the rate payable for level  
23              III of the Executive Schedule under section 5314;  
24              and

1           “(2) total payments made to employees under a  
 2           system so established shall be subject to any limita-  
 3           tion on payments under section 5307, to the same  
 4           extent and in the same manner as would apply in  
 5           the case of employees paid under section 5376.

6           “(d) LEVELS OF PERFORMANCE.—A system estab-  
 7           lished under this section shall have not less than 2 levels  
 8           of performance above a retention standard.

9           “(e) DISCLOSURE OF INFORMATION.—The Secretary  
 10          of the Treasury, on request of the Director of the Office  
 11          of Personnel Management, shall furnish information relat-  
 12          ing to the operation of any compensation and performance  
 13          management system established under this section.”.

14          (b) COMPLIANCE USING A PREEXISTING SYSTEM.—  
 15          Nothing in this Act shall be considered to require that the  
 16          Secretary of the Treasury discontinue any compensation  
 17          and performance management system, originally imple-  
 18          mented as a demonstration project, or postpone any plans  
 19          to modify any such system, so long as such system (as  
 20          so implemented or modified) satisfies the requirements of  
 21          chapter 96 of title 5, United States Code, as amended by  
 22          this Act.

23          (c) CLERICAL AMENDMENT.—The analysis for part  
 24          III of title 5, United States Code, is amended by inserting  
 25          after the item relating to chapter 95 the following:

“96. Alcohol and Tobacco Tax and Trade Bureau ..... 9601”.

1 **SEC. 3. STUDY.**

2 (a) IN GENERAL.—Not later than 1 year after the  
3 date of the establishment of a compensation and perform-  
4 ance management system under section 9602 of title 5,  
5 United States Code, as amended by this Act (or, in any  
6 circumstance described in section 2(b), after the earliest  
7 date, on or after the date of the enactment of this Act,  
8 as of which a system satisfying the requirements of chap-  
9 ter 96 of such title, as so amended, is in operation) the  
10 Government Accountability Office shall submit to the ap-  
11 propriate committees of Congress a report on—

12 (1) the operation of such system; and

13 (2) the operation of ongoing demonstration  
14 projects, whether under section 4703 of title 5,  
15 United States Code, or other authority, testing the  
16 use of a pay and classification system different from  
17 the system set forth in chapter 51 and subchapter  
18 III of chapter 53 of such title 5 (relating to the Gen-  
19 eral Schedule).

20 The report shall, with respect to each system covered by  
21 such report, include an assessment of the overall effective-  
22 ness of such system (particularly as compared to the sys-  
23 tem which is based on the General Schedule) and rec-  
24 ommendations for any legislation or administrative action  
25 which the Government Accountability Office considers ap-  
26 propriate.

1       (b) APPROPRIATE COMMITTEES OF CONGRESS.—For  
2 purposes of this section, the term “appropriate committees  
3 of Congress” means—

4           (1) the Committee on Oversight and Govern-  
5 ment Reform of the House of Representatives; and

6           (2) the Committee on Homeland Security and  
7 Governmental Affairs of the Senate.





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