

ALPHONSE F. AUCLAIR POST
OFFICE BUILDING

BRUCE F. COTTA POST OFFICE
BUILDING

MICHAEL LEE WOODCOCK POST
OFFICE BUILDING

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

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

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

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

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

SMITHSONIAN INSTITUTION PERSONNEL FLEXIBILITY ACT OF 2002

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

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

The legislative clerk read as follows:

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

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

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

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

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

S. 3149

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

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—

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

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

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

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

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

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

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

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

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

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

(vi) any employee who—

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

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

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

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

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

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

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

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

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

(A) organizational unit;

(B) occupational series or level;

(C) geographic location;

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 4. INSTITUTION PLAN; CONSULTATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) WAIVER OF REPAYMENT REQUIREMENT.—

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

(A) the individual involved possesses unique abilities; or

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

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

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

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

(A) possesses unique abilities; and

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

SEC. 6. ADDITIONAL SPACE AND RESOURCES FOR NATIONAL COLLECTIONS HELD BY THE SMITHSONIAN INSTITUTION.

(a) IN GENERAL.—Public Law 94-98 (20 U.S.C. 50 note; 89 Stat. 480) is amended by adding at the end the following:

“SEC. 4. ADDITIONAL SPACE AND RESOURCES FOR NATIONAL COLLECTIONS HELD BY THE SMITHSONIAN INSTITUTION.

“(a) IN GENERAL.—The Board of Regents of the Smithsonian Institution may plan, design, construct, and equip additional storage and laboratory space at the museum support facility of the Smithsonian Institution in Suitland, Maryland, to accommodate the care, preservation, conservation, deposit, and study of national collections held in trust by the Institution.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$2,000,000 for fiscal year 2003; and

“(2) such sums as are necessary for each of fiscal years 2004 through 2008.”.

(b) CONFORMING AMENDMENT.—Section 3 of Public Law 94-98 (20 U.S.C. 50 note; 89 Stat. 480) is amended in the first sentence by striking “the purposes of this Act.” and inserting “this Act (other than section 4).”.

(c) MUSEUM SUPPORT CENTER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Smithsonian Institution may enter into a single procurement contract for the construction of additional facilities at the Museum Support Center of the Institution.

(2) REQUIREMENT.—The contract entered into under paragraph (1) and the solicitation for the contract shall include the clause specified in section 52.232-18 of title 48, Code of Federal Regulations.

SEC. 7. PATENT OFFICE BUILDING IMPROVEMENTS.

(a) AUTHORIZATION.—Pursuant to sections 5579, 5583, 5586, and 5588 of the Revised Statutes (20 U.S.C. 41, 46, 50, and 52) and Public Law 85-357 (72 Stat. 68), the Board of Regents of the Smithsonian Institution may plan, design, and construct improvements, which may include a roof covering for the courtyard, to the Patent Office Building transferred to the Smithsonian Institution by Public Law 85-357 (72 Stat. 68) in order to provide increased public space, enhanced visitors' services, and improved public access.

(b) DESIGN AND SPECIFICATIONS.—The design and specifications for any exterior alterations authorized by subsection (a) shall be—

(1) submitted by the Secretary to the Commission of Fine Arts for comments and recommendations; and

(2) subject to the review and approval of the National Capital Planning Commission in accordance with section 8722 of title 40, United States Code, and D.C. Code 6-641.15.

(c) AUTHORITY OF HISTORIC PRESERVATION AGENCIES.—

(1) IN GENERAL.—The Secretary shall—

(A) take into account the effect of the improvements authorized by subsection (a) on the historic character of the Patent Office Building; and

(B) provide the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such improvements.

(2) STATUS OF SMITHSONIAN.—In carrying out this subsection, and for other projects in the District of Columbia subject to the review and approval of the National Capital Planning Commission in accordance with D.C. Code 6-641.15, the Smithsonian Institution shall be deemed to be an agency for purposes of compliance with regulations promulgated by the Advisory Council on Historic Preservation pursuant to section 106 of

the National Historic Preservation Act (16 U.S.C. 470f).

(d) RENOVATION OF PATENT OFFICE BUILDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Smithsonian Institution may enter into a single procurement contract for the repair and renovation of the Patent Office Building.

(2) REQUIREMENT.—The contract entered into under paragraph (1) and the solicitation for the contract shall include the clause specified in section 52.232-18 of title 48, Code of Federal Regulations.

SEC. 8. SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) On December 4, 1987, Congress approved House Concurrent Resolution 57, designating jazz as “a rare and valuable national American treasure”.

(2) Jazz has inspired some of the Nation's leading creative artists and ranks as 1 of the greatest cultural exports of the United States.

(3) Jazz is an original American art form which has inspired dancers, choreographers, poets, novelists, filmmakers, classical composers, and musicians in many other kinds of music.

(4) Jazz has become an international language that bridges cultural differences and brings people of all races, ages, and backgrounds together.

(5) The jazz heritage of the United States should be appreciated as broadly as possible and should be part of the educational curriculum for children in the United States.

(6) The Smithsonian Institution's National Museum of American History has established April as Jazz Appreciation Month to pay tribute to jazz as both a historic and living American art form.

(7) The Smithsonian Institution's National Museum of American History has received great contributions toward this effort from other governmental agencies and cultural organizations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Smithsonian Institution has played a vital role in the preservation of American culture, including art and music;

(2) the Smithsonian Institution's National Museum of American History should be commended for establishing a Jazz Appreciation Month; and

(3) musicians, schools, colleges, libraries, concert halls, museums, radio and television stations, and other organizations should develop programs to explore, perpetuate, and honor jazz as a national and world treasure.

INSPECTOR GENERAL ACT OF 1978 AMENDMENT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 443, S. 2530.

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

The legislative clerk read as follows:

A bill (S. 2530) to amend the Inspector General Act of 1978—5 U.S.C. App—to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

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

Mr. THOMPSON. Mr. President, I am pleased that the Senate is taking up S. 2530, a bill to provide statutory law enforcement authority for certain Inspectors

General, which I have introduced along with Senator LIEBERMAN. In July of 2000, the Governmental Affairs Committee held a hearing on Inspector General issues. Among the issues addressed in that hearing was the need for statutory law enforcement authority. This bill was reported favorably by the committee on June 25, 2002 without opposition.

Currently there are 23 Offices of Inspector General whose qualified law enforcement agents are deputized by the Attorney General on a periodic basis. Over the last five years, IGs have been responsible for over 25,000 successful criminal prosecutions, over \$12 billion in investigative recoveries, and over 35,000 suspensions and debarments based on their investigations. In addition, they have played key roles in numerous joint task forces with Federal, State and local law enforcement officials. Under the current system, the Attorney General must renew each of these law enforcement deputations periodically.

Unfortunately, there are some problems that exist under the current regime. First, the deputation process places a heavy burden on the U.S. Marshals Service. The Marshals Service is given responsibility for 2,500 IG agents without sufficient resources to conduct proper oversight. In addition, as we learned at our hearing, gaps in the renewal process could compromise ongoing investigations. Finally, many are concerned that the current blanket deputation process could leave an agent's actions open to legal challenge.

This bill would remedy these problems without conferring any additional authorities on the IGs. And it provides for more oversight than currently exists under the deputation process. Specifically, it requires that the IGs conduct periodic peer reviews of their use of law enforcement authority and to provide reports from those reviews to the relevant IG as well as the Attorney General. Those peer reviews are not currently required under the deputation process. If the Attorney General determines that an IG no longer needs law enforcement authority, or that an IG has violated relevant guidelines, then that authority can be rescinded. Simply put, by making the process statutory, we will solidify a process already in place, provide for more oversight of the law enforcement authority than currently exists, and relieve some unnecessary administrative burdens.

In addition, I believe that the bill is even more important in light of the events of September 11. The IGs provided valuable personnel and law enforcement assistance in the months following the tragedy. They served as sky marshals while permanent personnel were being trained. They helped the FBI run down leads in its followup investigation. And they worked within their own agencies to provide information about individuals on the FBI's watch list. The IG community's law enforcement agents provide a valuable