

HOMELAND SECURITY FEDERAL
WORKFORCE ACT

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 589

together with

ADDITIONAL VIEWS

TO STRENGTHEN AND IMPROVE THE MANAGEMENT OF NATIONAL SECURITY, ENCOURAGE GOVERNMENT SERVICE IN AREAS OF CRITICAL NATIONAL SECURITY, AND TO ASSIST GOVERNMENT AGENCIES IN ADDRESSING DEFICIENCIES IN PERSONNEL POSSESSING SPECIALIZED SKILLS IMPORTANT TO NATIONAL SECURITY AND INCORPORATING THE GOALS AND STRATEGIES FOR RECRUITMENT AND RETENTION FOR SUCH SKILLED PERSONNEL INTO THE STRATEGIC AND PERFORMANCE MANAGEMENT SYSTEMS OF FEDERAL AGENCIES



JULY 31 (legislative day, JULY 21), 2003.—Ordered to be printed

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HOMELAND SECURITY FEDERAL WORKFORCE ACT

JULY 31 (legislative day, JULY 21), 2003.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 589]

The Committee on Governmental Affairs, to which was referred the bill (S. 589) to amend chapter 53 of title 5, United States Code, to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 589, the Homeland Security Workforce Act, is a bill to strengthen and improve the management of national security, encourage government service in the areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

S. 589 would establish a pilot program repaying student loans for individuals who agree to serve in national security positions for a minimum of three years. The legislation authorizes funds for key national security agencies to operate such a program. The pilot program established under the legislation would differ from the existing loan repayment program for federal employees in that it authorizes separate funding for the program and increases to \$10,000 the amount of loan debt repayment an employee may receive per year. The maximum amount of loan repayment an employee would be eligible to receive under this program would be \$80,000.

S. 589 would establish a National Security Fellowship Program for graduate students pursuing advanced degrees in mathematics, science, engineering, a foreign language, or other international fields that are critical areas of national security. Students who receive a fellowship would be required to work for the federal government in a position of national security for a minimum of three years. Fellowships would cover tuition costs plus a stipend equivalent to that which graduate fellows receive from the National Science Foundation. Twenty percent of the fellowship slots would be set aside for current federal employees to pursue an advanced degree or for continued academic training in national security positions. The legislation authorizes \$100 million to support the National Security Fellowship Program.

The Homeland Security Federal Workforce Act would establish a rotational assignment program to provide mid-level federal employees in national security positions at the Departments of State, Defense, Homeland Security, Treasury, Energy, Justice, and the National Security Agency the opportunity to broaden their knowledge through exposure to other agencies. The purpose of the program would be to provide training and incentives in addition to the building of professional relationships and contacts among the employees and agencies of the national security community.

S. 589 would require federal agencies to include in their strategic and performance plans the extent to which specific skills in the agency's human capital are needed to achieve the mission, goals and objectives of the agency, particularly those goals and objectives that are critical to national security.

II. BACKGROUND

In 2001 the Hart-Rudman Commission on National Security in the 21st Century issued a sobering report on our national security

needs¹ and highlighted the federal government's need to recruit and retain a highly skilled workforce.

As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in government. The declining orientation toward government service as a prestigious career is deeply troubling. Both civilian and military institutions face growing challenges, albeit of different forms and degrees, in recruiting and retaining America's most promising talent. This problem derives from multiple sources. * * * These factors are adversely affecting recruitment and retention in the Civil and Foreign Services and particularly throughout the military, where deficiencies are both widening the gap between those who serve and the rest of American society and putting in jeopardy the leadership and professionalism necessary for an effective military. If we allow the human resources of government to continue to decay, none of the reforms proposed by this or any other national security commission will produce their intended results.²

On September 11, 2001, the need for skilled personnel to meet our national security needs became even more obvious. On that day, two airliners crashed into the World Trade Center in New York City, one crashed into the Pentagon in Arlington, Virginia, and another crashed into the fields of Pennsylvania signaling a coordinated terrorist attack on the United States. Shortly after the attacks, Robert Mueller, Director of the Federal Bureau of Investigation (FBI), made a public plea for speakers of Arabic and Farsi to help the FBI and national security agencies investigate the attacks and translate documents that were in U.S. possession but which were left untranslated due to a shortage of employees with proficiency in those languages.³ In addition, the General Accounting Office (GAO) reports that federal agencies have shortages in translators and interpreters and an overall shortfall in the language proficiency levels needed to carry out agency missions.⁴ These reports demonstrate that action is needed to help federal agencies more effectively recruit and retain highly skilled individuals for national security positions. In an effort to address the critical needs in this area, the Homeland Security Federal Workforce Act was introduced.⁵

The Homeland Security Federal Workforce Act consists of several provisions to address some of the country's current national security workforce needs and to help the government better prepare for future personnel needs.

¹The United States Commission on National Security/ 21st Century, Road Map for National Security: Imperative for Change (2001).

²Id. at xx.

³Richard Lee Colvin and Soraya Sarhaddi Nelson, FBI Issues Call for Translators to Assist Probe, L.A. Times, September 18, 2001. See also Findings of the Final Report of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence Joint Inquiry into the Terrorist Attacks of September 11, 2001, December 10, 2002, (Finding 6: Prior to September 11, the Intelligence Community was not prepared to handle the challenge it faced in translating the volumes of foreign language counterterrorism intelligence it collected. Agencies within the Intelligence Community experienced backlogs in material awaiting translation, a shortage of language specialists and language-qualified field officers, and a readiness level of only 30 percent in the most critical terrorism-related languages.).

⁴Foreign Languages: Human Capital Needed to Correct Staffing and Proficiency Shortfalls, General Accounting Office, GAO-02-375, January 2002.

⁵149 Cong. Rec. S. 3512 (daily ed. March 11, 2003) (statement of Senator Daniel K. Akaka on the introduction of S. 589, the Homeland Security Federal Workforce Act). See also 147 Cong. Rec. S. 12859-12861 (daily ed. December 11, 2001) (statements of Senators Richard Durbin and Daniel Akaka on the introduction of S. 1800, the Homeland Security Federal Workforce Act).

Pilot program for student loan repayment for federal employees in areas of critical importance

According to the Hart-Rudman Commission, there are still major problems in turning interest in government positions into actual service. The Commission report notes that many young adults have completed or are enrolled in graduate school, and thus carry a much heavier student loan burden than their predecessors.⁶ This is important as high educational debt makes a huge difference in the federal government's ability to recruit talented employees. On June 4, 2003, Dr. Paul Light, Director of the Brookings Institution Center for Public Service, testified before the Committee on Governmental Affairs and stated that while the nature of the job remains the most important consideration in making a decision about where to work, college debt makes a difference in job choice for the class of 2003.⁷

However, the current federal student loan repayment program is not being used as intended. According to the Office of Personnel Management (OPM), agencies said that the barrier to using the loan repayment program is a lack of funding.⁸ With college debt playing such a large factor in where recent graduates decide to work, funding student loan repayment programs is essential to recruit skilled individuals.

In addition, the current student loan repayment program is not targeted to meet national security needs. In 2002 the Department of Defense and the Justice Department, key agencies with national security responsibilities, have together awarded student loan repayment to only seven employees. Moreover, the repayments were not on the basis of their utility to national security.⁹

To address this need, S. 589 would establish an eight year pilot program to recruit and retain qualified personnel for positions critical to national security through the repayment of student loans. Payments under this program may not exceed \$10,000 per year or \$80,000 total. This pilot program would not affect any existing student loan repayment programs, revoke or rescind any existing law, or be used as a basis for removing employees from collective bargaining units.

Similar to the loan repayment program for employees of the United States Senate, participating agencies would not have to finance the program out of existing funds. Instead, a separate account would be established at OPM and specific funds authorized to pay for the pilot program. Unlike current law, the pilot program under S. 589 would be limited to agencies with the greatest need—those agencies with national security responsibilities. S. 589 would also increase the amount of the repayment authority and provide the funding necessary to use this important tool. After the fourth year of the program, OPM would report on the status of the program including whether it has met objectives of increasing the use

⁶Supra note 1, page 114.

⁷Transforming the Department of Defense Personnel System: Finding the Right Approach, Senate Committee on Governmental Affairs, 108th Cong. (June 4, 2003) (statement of Paul Light).

⁸Federal Student Loan Repayment Program, Fiscal Year 2002, Report to Congress, Office of Personnel Management, June 2003. In contrast, see Pub. L. No. 107-68, the FY2002 Legislative Branch Appropriations Act, which authorized Senate employing offices to establish a program for Senate employees, and also authorized specific appropriations to fund the program.

⁹Id.

of student loan repayment as a recruitment and retention tool for employees in national security positions. OPM would also provide recommendations for extending this program to other agencies and employee positions.

Fellowships for graduate students to enter federal service

The Hart-Rudman Commission cautioned that the nation's need for the highest quality employees in science, mathematics, and engineering is not being met.¹⁰ For example, there will not be enough qualified American citizens to perform the new jobs being created today—including technical jobs crucial to the maintenance of national security.¹¹ As our nation's security depends on the quality of the people, both civilian and military, serving within the ranks of government, our national security is put at risk by a lack of qualified personnel with science and math skills.

The issue of math and science shortages in the federal government and its national security implication is well known at the highest levels in government. In fact, President Bush's science advisor, Dr. John H. Marburger, has expressed concern about the shortage of American scientists and engineers. He also noted that the National Academies of the United States and the nation's universities would have to help evaluate scientific proposals for how to address terrorism because “* * * there is not enough expertise in agencies to deal with them in a timely fashion.”¹² The fact that the federal government is scrambling to fill this science gap from outside sources raises concerns over how these ideas can be evaluated by government officials if there is a lack of expertise in the agencies where these ideas will be used.

On February 25, 2003, William Wulf, president of the National Academy of Engineering, noted that the supply of talented engineers in government is not keeping pace with growing demand.¹³ A new poll at that time found that a mere 24 percent of job seekers believe that the best engineering job opportunities are in the federal government compared to 52 percent for the private sector.¹⁴ In another example, a 1999 report of the National Research Council found significant science and technology weaknesses throughout the Department of State.¹⁵ These shortfalls have real consequences that hamper our ability to monitor exports of military-sensitive technology and preventing proliferation of biological warfare expertise from the former Soviet Union.

The same problem exists for personnel with foreign language skills. There is a growing need for higher levels of language competency among a broader cross-section of professionals, particularly for those who will join the federal workforce. Professional proficiency is considered to be at least a Level III proficiency in listening, reading, and speaking where an individual is capable of speaking with sufficient structural accuracy and vocabulary to partici-

¹⁰ Supra note 1 at 30.

¹¹ Id. at 39.

¹² William J. Broad, Government Reviving Ties to Scientists, New York Times, November 20, 2001.

¹³ Public, Private Leaders and NASA Head Cite Need for Government Engineers, Partnership for Public Service, February 25, 2003, <www.ourpublicservice.org>.

¹⁴ Id.

¹⁵ National Research Council, The Pervasive Role of Science, Technology, and Health in Foreign Policy: Imperatives for the Department of State (1999).

pate effectively in most formal and informal conversations on practical, social, and professional topics.¹⁶

However, current foreign language programs in the United States, both federal and academic, at best, aim toward limited working proficiency which is defined as Level II. This skill level includes the ability to satisfy routine social demands and limited work requirements and handle routine work-related interactions that are limited in scope.¹⁷ Level II proficiency is generally insufficient for more complex and sophisticated work-related national security tasks.

In 1991 the National Security Education Act¹⁸ which created the National Security Education Program (NSEP), sought to address this long-standing problem by providing limited undergraduate scholarships and graduate fellowships for students to study certain subjects, including foreign language and foreign area studies. The Act also allows the use of funds at institutions of higher learning to develop faculty expertise in the languages and cultures of less commonly studied countries. Student recipients of these funds incur an obligation either to work for an office or agency of the federal government, preferably in national security affairs, or to pursue careers as educators for a period equal to the time covered by the scholarship.

Despite the success of the program over the past twelve years, the General Accounting Office has reported that agencies still have shortages in translators and interpreters and an overall shortfall in the language proficiency levels needed to carry out their missions.¹⁹ According to the 2002 report, agency officials stated that these shortfalls have adversely affected agency operations and hindered U.S. military, law enforcement, intelligence, counterterrorism, and diplomatic efforts. Many shortages were in hard-to-learn languages from the Middle East and Asia, although shortages varied greatly depending on the agency, occupation, and language. GAO also found that foreign language shortages are, in part, caused by technology advances that allow the collection of growing amounts of information and thus require greater numbers of staff proficient in foreign languages; by rising language proficiency requirements in the face of changing and more complex agency missions; and by a competitive job market that has made attracting and retaining staff more difficult.²⁰

To address the lack of scientific and language expertise in critical national security positions, S. 589 creates a separate and distinct program from NSEP designed to focus on the overall critical national security needs of the federal government. The program established under S. 589 provides tuition and stipend for students pursuing graduate study not only in foreign languages, but also in science, mathematics, engineering, or non-proliferation studies. In exchange for tuition and a stipend, fellowship recipients are to work in a national security position for a period of at least three years.

¹⁶ Supra note 4 at 5.

¹⁷ Id.

¹⁸ National Security Education Act 1991, Pub. L. No. 102-183.

¹⁹ Supra note 4.

²⁰ Id. at 2.

The fellowship program is separate from NSEP because NSEP lacks the capacity to handle math and science education and combining the two would dilute NSEP's focus on foreign language education. In addition, the program under S. 589 is broader than NSEP in that it specifically applies to current federal employees. S. 589 invests in the government's human capital by requiring that 20 percent of all fellowships awarded go to current federal workers to enhance their training and skills in areas key to national security.

Both the fellowship program under S. 589, as well as the National Security Service Corps program, would be under the National Security Service Board headed by the Director of the Office of Personnel Management. Since the program will be overseen by OPM, S. 589 emphasizes placement and opportunities for individuals in federal agencies. On average, 65 percent of NSEP graduate fellows fulfill their service requirement in a national security position with the federal government.²¹ It is important to recruit individuals with critical national security skills and place them where they are needed most.

National Security Service Corps

According to the Hart-Rudman Commission, the national security component of the civil service is faced with an additional problem: the need to develop professionals with breadth of experience in the interagency process and with depth of knowledge about substantive policy issues.²² Both elements are crucial to ensuring the highest quality policy formulation and analysis, and are key to maintaining a robust national security workforce.

Traditional national security agencies need to work together. Better integration of these agencies in policy development and execution requires a human resource strategy that achieves the following objectives: expanded opportunities to gain expertise and to experience the culture of more than one department or agency; an assignment and promotion system that rewards those who seek broad-based, integrative approaches to problem solving instead of those focused on departmental turf protection; and the erasure of artificial barriers among departments.²³

The current federal civil service personnel system does not achieve these objectives because career civilians in the national security field rarely serve outside their parent department.²⁴ While employees can be detailed to other agencies,²⁵ there is no formal rotational program for federal workers or a government body supporting and promoting rotational assignments. Because of this problem, the Hart-Rudman Commission recommend the creation of a National Security Service Corps. S. 589 follows this advice and ensures that there is a formal rotation program between agencies with national security responsibilities.

²¹ National Security Education Program, 2000 Annual Report.

²² *Supra* note 1 at 102.

²³ *Id.*

²⁴ A recent OPM survey of SES personnel indicates that only nine percent of those surveyed have changed jobs to work in another agency since becoming an SES member, despite the fact that 45 percent said that mobility would improve job performance. See U.S. Office of Personnel Management and Senior Executives Association, pp. 27–8.

²⁵ See 5 U.S.C. § 3341.

Pursuant to the Commission's recommendations, the National Security Service Corps (NSSC) would broaden the experience base of senior departmental managers and develop leaders skilled at producing integrative solutions to U.S. national security policy problems. The program would be characterized by a rotational system and robust professional education programs. In designating positions for Corps members, departments would identify basic requirements in education and experience. Rotations to other departments and interagency professional education could be required in order to hold certain positions or to be promoted to certain levels.²⁶

S. 589 would also establish the National Security Service Board to govern the program and ensure that promotion rates for those within the NSSC were at least comparable to those elsewhere in the civil service. It would help establish the guidelines for rotational assignments needed for a Corps member to hold a given position and for the means of meeting the members' educational requirements. Such guidance and oversight will help ensure that there are compelling incentives for professionals to join the NSSC.

Miscellaneous provisions

The Government Performance and Results Act of 1993 (GPRA)²⁷ requires that federally funded agencies develop and implement an accountability system based on performance measurement, including setting goals and objectives and measuring progress toward achieving them. The legislation was enacted after finding that federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance; and because congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results.²⁸

To fully comply with GPRA, agencies must focus on whether their workforce includes all of the necessary skills to achieve agency goals and objectives. To address this issue, the Homeland Security Act (HSA) required agencies to include human capital strategic planning in their performance plans and program performance reports.²⁹ However, many agencies have important national security missions and objectives that need to be fulfilled and may lack appropriate personnel to fulfill these missions and objectives. In addition, these agencies may not fully reflect their human capital strategic planning for national security mission in their GPRA reporting. As such, S. 589 requires an additional discussion of the extent to which specific skills in the agency's workforce are needed to achieve missions critical to national security.

One of the lessons learned after September 11th was that every agency has a role in preserving the security of our nation. According to Mr. Donald Winstead, Assistant Director for Compensation Administration at the Office of Personnel Management, September 11th "forever changed the federal government's personnel requirements. Every agency must now consider its work and mission in a new context, one that was nearly unimaginable before. The skills

²⁶ Supra note 1 at 103.

²⁷ Government Performance and Results Act of 1993, Pub. L. No. 103-62.

²⁸ Id.

²⁹ The Homeland Security Act, Pub. L. No. 107-296, Sec. 1311.

needed by agencies to fulfill their expanded homeland security missions are diverse and in many cases unique to the particular mission of the agency.”³⁰

For example, the Department of Education has a role in ensuring an educated citizenry. The security, stability, and economic vitality of the United States depend on American citizens being knowledgeable about the world. To become so, we need to encourage knowledge of foreign languages and cultures. The lack of ongoing support for language and cultural programs from both the Administration and Congress contributed to the lack of skilled personnel translating key intelligence documents.

This requirement is intended to highlight an agency’s role in preserving national security and ensure that well-rounded national security workforce planning is part of an agency’s strategic plan. As a result, Congress will be better informed about the national security role of each agency and can make better informed funding decisions.

III. LEGISLATIVE HISTORY

During the 107th Congress, Senator Richard Durbin, Senator Fred Thompson, and Senator Daniel Akaka introduced the predecessor to this legislation, S. 1800. Senator George Allen, Senator Thad Cochran, Senator Susan Collins, and Senator George Voinovich cosponsored the bill. On March 12, 2002, the Committee on Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services held a hearing chaired by Senator Akaka, entitled, “Critical Skills for National Security and the Homeland Security Federal Workforce Act.”³¹

In his opening statement, Senator Akaka spoke of the “lack of critical personnel and needed skills in our national security agencies.” He emphasized that it had “taken years of neglect to reach this deficit in trained workers, and it will take sustained efforts to hire, retain and retrain employees with critical skills.”³² Senator Voinovich, a cosponsor of the legislation, stated that the bill includes “important flexibilities and innovative programs designed to make the federal government a more attractive employer for applicants with academic and professional background in areas critical to national security.”³³

Former Representative Lee Hamilton noted that the U.S. Commission on National Security/21st Century, on which he served, made recommendations on student loan repayment that were similar to those included in S. 1800. He expressed his strong support for S. 1800 and stated that the bill “would encourage more people to enter national security positions by easing the financial sacrifices often associated with graduate study and with government service.”³⁴ In his testimony, Rep. Hamilton stressed the urgent need to attract and retain talented and committed individuals to

³⁰Critical Skills for National Security and the Homeland Security Federal Workforce Act: Hearing on S. 1800 before the Subcomm. on International Security, Proliferation, and Federal Services of the Senate Committee on Governmental Affairs, 107th Cong. 468 (March 12, 2002) (testimony of Donald Winstead, Assistant Director for Compensation Administration at the Office of Personnel Management).

³¹Supra note 30.

³²Id. (opening statement of Senator Akaka).

³³Id. (opening statement of Senator Voinovich).

³⁴Id. (testimony of Representative Lee Hamilton).

government service and, in particular, civilian and military personnel in key positions in national security departments and agencies.

S. 589, the Homeland Security Federal Workforce Act, was introduced by Senator Daniel Akaka, Senator George Allen, Senator Richard Durbin, and Senator George Voinovich on March 11, 2003, and referred to the Governmental Affairs Committee. The bill is co-sponsored by Senator John Warner, Senator Sam Brownback, Senator Saxby Chambliss, Senator Jay Rockefeller, and Senator Susan Collins.

On June 17, 2003, the Committee met in open session to consider S. 589. The Committee ordered the bill favorably reported by voice vote, with no members present dissenting. Senators present were as follows: Collins, Lieberman, Voinovich, Coleman, Levin, Akaka, Carper, Lautenberg, and Pryor.

IV. SECTION-BY-SECTION ANALYSIS

This section would provide that the bill may be cited as the “Homeland Security Federal Workforce Act.”

Section 2. Findings, purpose, and effect of law

This section contains findings of Congress, including the finding that the United States must strengthen federal civilian and military personnel systems in order to improve recruitment, retention, and effectiveness at all levels. The section states that the federal government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of the changing international environment.

Subsection (b) states that the purpose of the Homeland Security Federal Workforce Act is to provide attractive incentives to recruit capable individuals for government and military service, and to provide the necessary resources, accountability, and flexibility to meet the national security educational needs of the United States, especially as such needs change over time.

Subsection (c) clarifies that nothing in the Homeland Security Federal Workforce Act shall be construed to affect the collective bargaining unit status or rights of any federal employee.

TITLE I—PILOT PROGRAM FOR STUDENT LOAN REPAYMENT FOR FEDERAL EMPLOYEES IN AREAS OF CRITICAL IMPORTANCE

This section would amend subchapter VII of chapter 53 of title 5 to establish a pilot program for student loan repayment for Federal employees in areas of critical importance to national security.

Paragraph (1) of subsection (a) would establish a new section 5379A that would limit the pilot program to the Departments of Defense, Homeland Security, State, Energy, Treasury, and Justice, the National Security Agency, and the Central Intelligence Agency. Paragraph (2) would limit the pilot to employees in positions critical to national security, as determined by the Office of Personnel Management in consultation with the employing agency. Paragraph (3) would state only federal loans are eligible for repayment under the pilot program.

Subsection (b) would direct the Director of the Office of Personnel Management to establish a pilot program to recruit and retain qualified personnel for positions critical to national security through the repayment of student loans. Paragraph (3) of subsection (b) would limit payments under the pilot program to no more than \$10,000 per year or \$80,000 total. Paragraph (4) would prohibit agencies from reimbursing any employee for payments previously made on the loan prior to any agreement established by the pilot program. Paragraph (5) would clarify that the pilot program is not to affect any existing student loan repayment programs, revoke or rescind any existing law, or be used as a basis for removing employees from collective bargaining units. Paragraph (6) would establish a fund at the Office of Personnel Management to be used by agencies to provide the repayments authorized under the program.

Subsection (c) would establish reporting requirements to assist Congress in reviewing the status of the program and its success in recruiting and retaining employees for national security positions, including an assessment as to whether the program should be expanded to other agencies or to non-national security positions to improve overall federal workforce recruitment and retention.

Subsection (d) would declare that employees who are in positions in the excepted service because of the confidential, policy-determining, policy-making, or policy-advocating character of the position are not eligible.

Subsection (e) would require that employees selected to receive benefits under the section agree in writing to remain in the federal government for at least three years. If the employee voluntarily leaves service or is separated involuntarily due to misconduct, the employee must repay the amount received. This section also discusses recovery of benefits.

Subsection (f) would clarify that an employee who fails to maintain an acceptable level of performance shall be declared ineligible for continued benefits under this section.

Subsection (g) would require agencies to take into consideration the need to maintain a balanced workforce when selecting individuals for this benefit.

Subsection (h) would state that the benefit under the pilot program will be in addition to basic pay or other form of compensation.

Subsection (i) would authorize appropriations as necessary to carry out this pilot program established under this title.

Subsection (j) would establish the length of the pilot program to be eight years. The subsection states that employees recruited under the pilot program would continue to receive benefits regardless of the length of the pilot program.

Subsection (k) would require the Office of Personnel Management to propose regulations within two months after the date of enactment, with final regulations promulgated no later than six months after the date on which the initial comment period for the proposed regulations expires.

TITLE II—FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE

Sec. 201 would amend subchapter VII of chapter 53 of title 5, as amended by section 101, to create section 5379B to establish fellowships for graduate students to enter federal service.

Subsection (a) would limit agencies eligible to participate in the fellowship program to the Departments of Defense, Homeland Security, Justice, State, Energy, and Treasury, the National Security Agency, the Central Intelligence Agency, and other federal government agencies as determined by the National Security Service Board.

Subsection (b) would require the Director of the Office of Personnel Management to establish and implement a program for the awarding of fellowships to graduate students who, in exchange for receipt of the fellowship, agree to employment with the federal government in a national security position.

Subsection (c) states that in order to be eligible to participate in the fellowship program, applicants must be accepted to graduate school and pursuing the disciplines of foreign language, science, mathematics, engineering, non-proliferation education, or other international fields that are critical areas of national security; be a U.S. citizen, U.S. national, permanent legal resident, or citizen of the Freely Associated States; and agree to employment with an agency of the federal government in a national security position.

Subsection (d) would require fellows to agree to maintain satisfactory academic progress, provide regular updates on progress to the Director of the Office of Personnel Management, and agree to be employed by the government for at least three years. Paragraph (3) of subsection (d) would require fellows who fail to meet the requirements of the program to repay the amount of the award with interest, but not higher than the rate generally applied in connection with other federal education loans.

Subsection (e) would permit a fellow who is unable to obtain a national security position due to the inability to obtain the requisite clearance to work in a non-national security position for the federal government, or teach or perform research at an institution of higher education. The Director of the Office of Personnel Management would be required to approve such a request.

Subsection (f) would require the Director of the Office of Personnel Management to consult and cooperate with the National Security Service Board to administer the fellowship program, including the establishment of guidelines and requirements for qualifications for students desiring fellowships under the program. Paragraph (2) of subsection (f) would establish the National Security Service Board.

Subsection (g) would require that twenty percent of all fellowships awarded be set aside for federal employees working in national security positions to enhance the education and training of employees in areas important to national security. Paragraph (2) of subsection (g) would allow federal employees who receive the fellowships to obtain the advanced education on a part-time or full-time basis.

Subsection (h) would allow individuals who are fellows under the program to count their service to the federal government under the

program as time used to repay student loans under Title I of this bill.

Subsection (i) would allow fellows to receive funding under the program for up to three years. Paragraphs (1) and (2) of subsection (i) would limit the amount of the fellowships to no more than the amount of tuition paid by the fellow and a stipend equal to that awarded to National Security Foundation fellows under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869).

Subsection (j) would authorize \$100,000,000 for fiscal year 2004 to enable the Director of the Office of Personnel Management to recruit and retain highly qualified employees in national security positions for the program.

Subsection (k) would clarify that selection for a fellowship position would have no impact on the employee's rights under chapter 71 of title 5, relating to collective bargaining rights.

TITLE III—NATIONAL SECURITY SERVICE CORPS

Section 301 would establish a National Security Service Corps to enhance civilian career paths, and to provide a corps experts with broad-based experience throughout the Executive Branch.

Paragraph (2) of subsection (a) would clarify that the intent of Congress in establishing the section would be to provide mid-level employees in national security positions within agencies the opportunity to broaden their knowledge through exposure to other agencies and to expand the knowledge base of national security agencies by providing for rotational assignments of their employees at other agencies.

Subsection (b) would limit the application of section 301 to the Departments of Defense, Justice, Homeland Security, State, Energy, and Treasury, and the National Security Agency. Paragraph (4) of subsection (b) would define Corps positions as positions that are at or above GS-12 of the General Schedule or are in the Senior Executive Service; have duties that do not relate to intelligence support for policy; and are designated by the head of an agency as a Corps position.

Subsection (c) would require the National Security Service Board established under section 5379B(f)(2) of title 5 to review civil service rules and regulations to facilitate the Corps program, develop incentives for rotation, and establish interagency agreements relating to the rotation of employees. Paragraph (6) of subsection (c) would require the National Security Service Board to report to the Office of Personnel Management on their findings and relevant information on the establishment of the National Security Service Corps within 180 days after the date of enactment.

Subsection (d) would require the Office of Personnel Management to issue regulations no later than 180 days after receiving the National Security Service Board report required under subsection (c) providing for the establishment and operation of the National Security Service Corps program. Paragraph (4) of subsection (d) would require agencies to designate National Security Service Corps positions and begin active participation in the operation of the Corps no later than 180 days after the promulgation of final regulations under paragraph (3) of subsection (d).

Subsection (e) would clarify that Corps participants serving in another agency will retain their rights and benefits and be considered to be employees of the original employing agency.

Subsection (f) would authorize such sums as may be necessary to carry out section 301.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401 would amend section 306(a)(3) of title 5 to require agencies to include a discussion of the specific skills needed to achieve the mission, goals and objectives of the agency in the content of their strategic plans, especially to the extent the agency's missions, goals, and objectives are critical to ensuring national security.

Section 402 would amend section 1115(a) of title 31 to require agencies to pay particular attention in their performance plans to the extent to which specific skills are needed to accomplish the performance goals and indicators that are critical to ensuring the national security.

Section 403 would amend section 1116 of title 31 to require agencies to specify which performance goals and indicators are critical to ensuring national security and whether human capital deficiencies contributed to the failure of the agency to achieve that goal in their respective program performance reports.

V. EVALUATION OF REGULATORY IMPACT

S. 589 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

VI. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 1, 2003.

Hon. SUSAN M. COLLINS,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate for S. 589, the Homeland Security Federal Workforce Act

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 589—Homeland Security Federal Workforce Act

Summary: S. 589 would authorize new programs to recruit and retain federal employees who have skills important to national security. Agencies participating in the new programs would include the Departments of Defense, Homeland Security, State, Energy, Treasury, and Justice, as well as the National Security Administration (NSA, and the Central Intelligence Agency (CIA). The bill

would create a pilot program to repay student loans for federal employees involved in national security, a national security fellowship program, and a National Security Service Corps.

CBO estimates that implementing S. 589 would cost about \$600 million over the 2004–2008 period, assuming appropriation of the necessary amounts. Enacting S. 589 would not affect direct spending or revenues. The bill contains no intergovernment or private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 589 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Proposed Changes:					
National Security Fellowship Program:					
Authorization Level	100	102	104	106	108
Estimated Outlays	10	102	104	106	108
National Security Student Loan Repayment:					
Estimated Authorization Level	20	63	66	18	8
Estimated Outlays	19	61	66	20	9
Total Changes:					
Estimated Authorization Level	120	165	170	124	116
Estimated Outlays	29	163	170	126	117

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2003, that the necessary amounts will be provided each year, and that spending will follow historical patterns for similar programs.

National Security Fellowship Program. The bill would authorize the appropriation of \$100 million in fiscal year 2004 and such sums as may be necessary for each subsequent year for the Office of Personnel Management (OPM) to establish and implement a National Security Fellowship program. This program would provide graduate study fellowship awards (for up to three years) to graduate students who agree to subsequent employment with the federal government in national security positions. Up to 20 percent of the fellowships would be set aside for current federal employees working in national security positions. All recipients of the fellowships would be required to be employed in national security positions for at least three years following their education. The legislation would also establish a National Security Service Board made up of 13 members of the national security agencies to select and place all eligible fellows. CBO estimates that implementing those programs over the 2004–2008 period would cost \$430 million, assuming that the amount authorized to be appropriated for the first year of the program would be increased to account for anticipated inflation.

National Security Student Loan Repayment. Section 101 would authorize appropriations for OPM to establish a pilot program that would repay student loans for current and future national security employees. The pilot program would be available to help agencies retain and recruit federal employees working in areas of critical importance. The eight-year program would allow agencies to offer

eligible employees up to \$10,000 annually (\$80,000 per person) to repay federal student loans. Assuming appropriation of the necessary amounts, CBO estimates that implementing this provision would cost around \$20 million in 2004 and \$175 million over the 2004–2008 period. That estimate excludes costs for the CIA and NSA because the number of potential beneficiaries of this program working for those agencies is classified.

Loan Repayment Benefit for Current Employees. Currently, there are 191,000 professional, white collar positions within the Departments of Defense, Justice, Energy, State, and Treasury. (That figure excludes positions at NSA and CIA because their personnel data are classified.) CBO expects that only a few job classifications would be deemed critical to national security—such as nuclear engineering, physics, chemistry, and foreign affairs. OPM does not currently track employment in the federal government based on any definition or classification of “national security.” The cost of implementing this legislation would depend on OPM’s interpretation of how many “national security” positions exist in the federal government.

For this estimate, CBO assumes that relatively few job classifications would be determined by OPM to be national security positions—resulting in about 20,000 possible participants. We expect that the program would mainly be used by younger workers with outstanding student loans, and we used information on the age of federal employees to estimate that the fund would be used by about 6,000 employees to pay off the average amount of outstanding student loan balance—\$25,000—at a total cost of \$150 million over the 2004–2008 period.

Loan Repayment Benefit for Future Employees. The new program could also be used to recruit and retain new hires for national security positions beginning in 2005. CBO assumes that the positions determined to be national security positions would have a lower-than-average-turnover rate, resulting in an average of 300 new employees a year who would be eligible for the student loan repayment benefit. We expect that agencies would use the new authority to actively recruit new “national security” employees and that the fund would make student loan repayments at the \$10,000 maximum until the student loans of new hires are paid off over two to three years on average. Assuming appropriation of the necessary amounts, CBO estimates that the loan repayment benefit for future employees would cost about \$25 million over the 2004–2008 period.

National Security Service Corps. Section 301 would authorize the appropriation of funds for OPM to establish a National Security Service Corps. Under the direction of the National Security Board, the National Security Corps would allow mid-level federal employees in national security positions to take up to two-year employment rotations within most other national security agencies. CBO estimates that implementing this provision would cost less than \$500,000 for OPM and the National Security Board to issue regulations and implement the program.

Intergovernmental and private-sector impact: S. 589 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Melissa Merrell; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Paul R. Cullinan, Chief for Human Resources Cost Estimates Unit, Budget Analysis Division.

VII. ADDITIONAL VIEWS OF SENATOR VOINOVICH

Overall, S. 589, the Homeland Security Federal Workforce Act, contains a number of creative concepts that are worth further consideration. Although I am a cosponsor of this legislation, I have concerns with several of its provisions. During the 1st Session of the 107th Congress, in the wake of the terrorist attacks of September 11, 2001, I cosponsored S. 1800,¹ a bill Senator Durbin introduced to address some of the federal workforce challenges on which we had been working together to develop solutions. While I was not in complete accord with the programs envisaged by S. 1800, I was pleased to support the efforts of Senators Durbin, Akaka, and others in crafting legislation on an issue of great importance to our Nation—reforming the federal government’s strategic human capital management. S. 589 is a similar measure to S. 1800, and through my cosponsorship I sought to continue our dialogue on improving the government’s educational and personnel programs to attract top quality talent to public service. Nevertheless, I am concerned that the modifications to current law proposed in S. 589, as reported by the Committee, could have the unintended consequence of further complicating the already tangled federal civil service code with additional layers of initiatives similar to existing programs.

First, the bill would establish a duplicative student loan repayment program for federal employees serving in national security positions. The current governmentwide loan repayment program was first authorized in 1990.² However, for over a decade no regulations were promulgated to implement the law, and in 2000, Congress again authorized a student loan repayment program for federal employees,³ for which the Office of Personnel Management (OPM) ultimately issued regulations in July 2001.⁴ As a result, this program, although authorized 13 years ago, is currently entering its third year of use and only recently beginning to demonstrate its utility as a recruitment and retention tool. According to a recent OPM report to Congress,⁵ in Fiscal Year 2001 only one agency authorized a student loan repayment; however, in Fiscal Year 2002, there was marked improvement as 16 federal agencies provided more than \$3.1 million in student loan repayments for 690 federal employees. While this is a heartening trend, it will take additional time to evaluate whether the program needs to be modified or supplemented with other loan repayment initiatives, such as the one proposed in S. 589. As Senator Akaka observed in his supplemental

¹Homeland Security Federal Workforce Act, S. 1800, 107th Congress.

²National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510.

³Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398.

⁴5 C.F.R. Part 537.

⁵Federal Student Loan Repayment Program, Fiscal Year 2002, Report to the Congress, Office of Personnel Management, June 2003.

views on S. 926, the Federal Employee Student Loan Assistance Act, which the Committee recently reported,⁶ adequate funding should be provided to help ensure the success of the existing federal student loan repayment program. I agree with this assessment and encourage federal agencies to make business cases for the annual funding of this important authority.

Second, the bill would establish a fellowship program similar to the National Security Education Program (NSEP), which was created by Congress in 1991.⁷ NSEP has been successfully employed to provide students opportunities for overseas study of foreign cultures and languages in return for subsequent employment in the federal government. To strengthen that program, I authored provisions that became law as part of the Homeland Security Act of 2002 to allow NSEP graduates to avail themselves of a broader array of employment opportunities in the federal government and higher education. This action was taken to address the challenge many NSEP graduates faced in being hired for national security positions in federal agencies. S. 589 would create a separate, similar program to NSEP, when the national security community and American college and graduate students could be better served by further strengthening NSEP.

Third, the bill would establish a rotational assignment program for rising federal employees and managers. One of the key elements of the Civil Service Reform Act of 1978,⁸ was the creation of a Senior Executive Service (SES), featuring mobility of the federal government's senior career managers among federal agencies with the goal of cross-pollinating best practices and fostering professional development. Unfortunately, this element of the SES has not been widely implemented, due in part to the fact that agencies are reluctant to lose top managers to other agencies, even for short periods of time. S. 589 would create a National Security Service Corps (NSSC), which would allow mid-level federal employees (GS-12 and higher, as well as SES members) in national security positions to serve on detail assignments of up to two years within other national security agencies. As with the other proposals contained in S. 589, the NSSC is similar to existing authorities, such as the successful Presidential Management Intern Program, which offers opportunities for rotational assignments including but not limited to national security positions. In addition, under existing authority an employee may participate in a reimbursable detail, which is a temporary assignment to perform the duties of a different position for a specified period of time.

Finally, the bill would require an additional reporting requirement under the Government Performance and Results Act of 1993 (GPRA).⁹ GPRA requires federal agencies to file strategic plans every three years and annual performance reports and performance plans that serve as intermediate measures of progress on the strategic plans. This law is a general management tool that allows agencies the flexibility to report to Congress on areas that are im-

⁶ Report to Accompany S. 926, Federal Employee Student Loan Assistance Act, Senate Committee on Governmental Affairs, July 21, 2003.

⁷ David L. Boren National Security Education Act of 1991, Pub. L. No. 102-183.

⁸ Civil Service Reform Act of 1978, Pub. L. No. 95-454.

⁹ Government Performance and Results Act of 1993, Pub. L. No. 103-62.

portant to their missions as well as areas in which they are facing management challenges, such as human capital and financial accountability. S. 589 would amend GPRA by requiring agencies to report on the impact of their human capital on any national security goals they might have. The Homeland Security Act of 2002 included provisions I authored to require all agencies to report on all human capital needs, a requirement that is more harmonious with GPRA's original intent and the current management challenges requirement.¹⁰ The establishment of an additional reporting requirement on a specific aspect (national security) of a specific management area (human capital) could set a precedent to encourage further Congressional micromanagement of agencies, thus unraveling the GPRA reporting process, which after a decade is becoming a useful management and budgeting tool.

In a March 2002 hearing on S. 1800, the predecessor legislation to S. 589, I stated that the bill includes "programs designed to make the federal government a more attractive employer for applicants with academic and professional backgrounds in areas critical to national security."¹¹ Despite its design and intent, however, I believe the bill in its current form would establish an array of programs similar to several that already exist, either as historically successful initiatives, such as the National Security Education Program, or more recent authorities that simply require time to prove their effectiveness, such as the federal student loan repayment program. The federal government—and the men and women who do the important work of public service for the American taxpayer each day—would be better served through a careful examination of how to strengthen such current incentives and professional development programs.

GEORGE V. VOINOVICH.

¹⁰ Homeland Security Act of 2002, Pub. L. No. 107-296.

¹¹ Critical Skills for National Security and the Homeland Security Federal Workforce Act: Hearing on S. 1800 before the Subcommittee on International Security, Proliferation, and Federal Services of the Senate Committee on Governmental Affairs, 107th Congress (March 12, 2002) (opening statement of Senator Voinovich).

VIII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing laws made by S. 589 as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES

PART I—THE AGENCIES GENERALLY

CHAPTER 3—POWERS

§ 306. Strategic plans

(a) No later than September 30, 1997, the head of each agency shall submit to the Director of the Office of Management and Budget and to the Congress a strategic plan for program activities. Such plan shall contain—

(1) a comprehensive mission statement covering the major functions and operations of the agency;

(2) general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the agency;

(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives, *a discussion of the extent to which specific skills in the agency's human capital are needed to achieve the mission, goals and objectives of the agency, especially to the extent the agency's mission, goals and objectives are critical to ensuring the national security*;

(4) a description of how the performance goals included in the plan required by section 1115(a) of title 31 shall be related to the general goals and objectives in the strategic plan;

(5) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

(6) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

PART III. EMPLOYEES

Subpart D—Pay and Allowances

CHAPTER 53—PAY RATES AND SYSTEMS

Subchapter VII—Miscellaneous Provisions

SEC. 5379. STUDENT LOAN REPAYMENTS.

(a) * * *

SEC. 5379A. PILOT PROGRAM FOR STUDENT LOAN REPAYMENT FOR FEDERAL EMPLOYEES IN AREAS OF CRITICAL IMPORTANCE.

(a) *DEFINITIONS.—In this section:*

(1) *AGENCY.—The term “agency” means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency.*

(2) *NATIONAL SECURITY POSITION.—The term “national security position” means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of the Pilot Program for Student Loan Forgiveness in Areas of Critical Importance established under this section, to involve important homeland security applications.*

(3) *STUDENT LOAN.—The term “student loan” means—*

(A) *a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);*

(B) *a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and*

(C) *a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).*

(b) *ESTABLISHMENT AND OPERATION.—*

(1) *IN GENERAL.—The Director of the Office of Personnel Management shall, in order to recruit or retain highly qualified professional personnel, establish a pilot program under which the head of an agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee if the employee is employed by the agency in a national security position.*

(2) *TERMS AND CONDITIONS OF PAYMENT.—Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned.*

(3) *PAYMENTS.—The amount paid by the agency on behalf of an employee under this section may not exceed \$10,000 towards the remaining balance of the student loan for each year that the employee remains in service in the position, except that the employee must remain in such position for at least 3 years. The*

maximum amount that may be paid on behalf of an employee under this paragraph shall be \$80,000.

(4) *LIMITATION.*—Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

(5) *RULE OF CONSTRUCTION.*—Nothing in this section shall be construed—

(A) to affect student loan repayment programs existing on the date of enactment of this section;

(B) to revoke or rescind any existing law, collective bargaining agreement, or recognition of a labor organization;

(C) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; or

(D) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.

(6) *FUND.*—As part of the program established under paragraph (1), the Director shall establish a fund within the Office of Personnel Management to be used by agencies to provide the repayments authorized under the program.

(c) *GENERAL PROVISIONS.*—

(1) *COORDINATION.*—The Director of the Office of Personnel Management shall coordinate the program established under this section with the heads of agencies to recruit employees to serve in national security positions.

(2) *REPORTS.*—

(A) *ALLOCATION AND IMPLEMENTATION.*—Not later than 6 months after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the manner in which the Director will allocate funds and implement the program under this section.

(B) *STATUS AND SUCCESS.*—Not later than 4 years after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate Committees on Congress on the status of the program and its success in recruiting and retaining employees for national security positions, including an assessment as to whether the program should be expanded to other agencies or to non-national security positions to improve overall Federal workforce recruitment and retention.

(d) *INELIGIBLE EMPLOYEES.*—An employee shall not be eligible for benefits under this section if such employee—

(1) occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

(2) does not occupy a national security position.

(e) **TERMS OF AGREEMENT.**—

(1) **IN GENERAL.**—An employee selected to receive benefits under this section shall agree in writing, before receiving any such benefit, that the employee will—

(A) remain in the service of the agency in a national security position for a period to be specified in the agreement, but not less than 3 years, unless involuntarily separated; and

(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

(2) **SERVICE WITH OTHER AGENCY.**—The repayment provided for under paragraph (1)(B) may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that repayment will be required under this subsection.

(3) **RECOVERY OF AMOUNTS.**—If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2)) is voluntarily separated before completing the required period of service fails to repay the amount provided for under paragraph (1)(B), a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(B) such other method as is provided for by law for the recovery of amounts owing to the Government.

(4) **WAIVER.**—The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

(5) **CREDITING OF ACCOUNT.**—Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the fund under subsection (b)(6). Any amount so credited shall be merged with other sums in such fund and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

(f) **TERMINATION OF REPAYMENT.**—An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

(1) separates from such agency; or

(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

(g) *EQUAL EMPLOYMENT.*—In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(h) *ADDITIONAL BENEFIT.*—Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

(i) *APPROPRIATIONS AUTHORIZED.*—For the purpose of enabling the Federal Government to recruit and retain employees critical to our national security pursuant to this section, there are authorized to be appropriated such sums as may be necessary to carry out this section for each fiscal year.

(j) *LENGTH OF PROGRAM.*—The program under this section shall remain in effect for the 8-year period beginning on the date of enactment of this section. The program shall continue to pay employees recruited under this program who are in compliance with this section their benefits through their commitment period regardless of the preceding sentence.

(k) *REGULATIONS.*—Not later than 2 months after the date of enactment of this section, the Director of the Office of Personnel Management shall propose regulations to carry out this section. Not later than 6 months after the date on which the comment period for the regulations proposed under the preceding sentence ends, the Secretary shall promulgate final regulations to carry out this section.

SEC. 5379B. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

(a) *DEFINITIONS.*—In this section:

(1) *AGENCY.*—The term “agency” means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency, and other Federal Government agencies as determined by the National Security Service Board under subsection (f).

(2) *DIRECTOR.*—The term “Director” means the Director of the Office of Personnel Management.

(3) *INSTITUTION OF HIGHER EDUCATION.*—The term “institution of higher education” has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) *NATIONAL SECURITY POSITION.*—The term “national security position” means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of a program established for Fellowships for Graduate Students to Enter Federal Services as established under this section, to involve important homeland security applications.

(5) *SCIENCE.*—The term “science” means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.

(b) *IN GENERAL.*—The Director shall establish and implement a program for the awarding of fellowships (to be known as “National Security Fellowships”) to graduate students who, in exchange for receipt of the fellowship, agree to employment with the Federal Government in a national security position.

(c) *ELIGIBILITY.*—To be eligible to participate in the program established under subsection (b), a student shall—

(1) have been accepted into a graduate school program at an accredited institution of higher education within the United States and be pursuing or intend to pursue graduate education in the United States in the disciplines of foreign languages, science, mathematics, engineering, nonproliferation education, or other international fields that are critical areas of national security (as determined by the Director);

(2) be a United States citizen, United States national, permanent legal resident, or citizen of the Freely Associated States; and

(3) agree to employment with an agency or office of the Federal Government in a national security position.

(d) *SERVICE AGREEMENT.*—In awarding a fellowship under the program under this section, the Director shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

(1) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Director) and provide regularly scheduled updates to the Director on the progress of their education and how their employment continues to relate to a national security objective of the Federal Government;

(2) will, upon completion of such education, be employed by the agency for which the fellowship was awarded for a period of at least 3 years as specified by the Director; and

(3) agrees that if the recipient is unable to meet either of the requirements described in paragraph (1) or (2), the recipient will reimburse the United States for the amount of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Director, but not higher than the rate generally applied in connection with other Federal education loans.

(e) *FEDERAL EMPLOYMENT ELIGIBILITY.*—If a recipient of a fellowship under this section demonstrates to the satisfaction of the Director that, after completing their education, the recipient is unable to obtain a national security position in the Federal Government because such recipient is not eligible for a security clearance or other applicable clearance necessary for such position, the Director may permit the recipient to fulfill the service obligation under the agreement under subsection (d) by working in another office or agency in the Federal Government for which their skills are appropriate, by teaching math, science, or foreign languages, or by performing research, at an institution of higher education, for a period of not less

than 3 years, in the area of study for which the fellowship was awarded.

(f) *FELLOWSHIP SELECTION.*—

(1) *IN GENERAL.*—*The Director shall consult and cooperate with the National Security Service Board established under paragraph (2) in the selection and placement of national security fellows under this section.*

(2) *NATIONAL SECURITY SERVICE BOARD.*—

(A) *ESTABLISHMENT OF BOARD.*—*There is established the National Security Service Board.*

(B) *MEMBERSHIP.*—*The Board shall be composed of—*

(i) *the Director of the Office of Personnel Management, who shall serve as the chairperson of the Board;*

(ii) *the Secretary of Defense;*

(iii) *the Secretary of Homeland Security;*

(iv) *the Secretary of State;*

(v) *the Secretary of the Treasury;*

(vi) *the Attorney General;*

(vii) *the Director of the Central Intelligence Agency;*

(viii) *the Director of the Federal Bureau of Investigation;*

(ix) *the Director of the National Security Agency;*

(x) *the Secretary of Energy;*

(xi) *the Director of the Office of Science and Technology Policy; and*

(xii) *2 employees, to be appointed by each of the officials described in clauses (ii) through (ix), of each Department for which such officials have responsibility for administering, of whom—*

(I) *1 shall perform senior level policy functions; and*

(II) *1 shall perform human resources functions.*

(C) *FUNCTIONS.*—*The Board shall carry out the following functions:*

(i) *Develop criteria for awarding fellowships under this section.*

(ii) *Provide for the wide dissemination of information regarding the activities assisted under this section.*

(iii) *Establish qualifications for students desiring fellowships under this section, including a requirement that the student have a demonstrated commitment to the study of the discipline for which the fellowship is to be awarded.*

(iv) *Provide the Director semi-annually with a list of fellowship recipients, including an identification of their skills, who are available to work in a national security position.*

(v) *Not later than 30 days after a fellowship recipient completes the study or education for which assistance was provided under this section, work in conjunction with the Director to make reasonable efforts to hire and place the fellow in an appropriate national security position.*

(vi) Review the administration of the program established under this section.

(vii) Develop and provide to Congress a strategic plan that identifies the skills needed by the Federal national security workforce and how the provisions of this Act, and related laws, regulations, and policies will be used to address such needs.

(viii) Carry out additional functions under section 301 of the Homeland Security Federal Workforce Act.

(g) **SPECIAL CONSIDERATION FOR CURRENT FEDERAL EMPLOYEES.**—

(1) **SET ASIDE OF FELLOWSHIPS.**—Twenty percent of the fellowships awarded under this section shall be set aside for Federal employees who are working in national security positions on the date of enactment of this section to enhance the education and training of such employees in areas important to national security.

(2) **FULL- OR PART-TIME EDUCATION.**—Federal employees who are awarded fellowships under paragraph (1) shall be permitted to obtain advanced education under the fellowship on a full-time or part-time basis.

(3) **PART-TIME EDUCATION.**—A Federal employee who pursues education or training under a fellowship under paragraph (1) on a part-time basis shall be eligible for a stipend in an amount which, when added to the employee's part-time compensation, does not exceed the amount described in subsection (i)(2).

(h) **FELLOWSHIP SERVICE.**—Any individual under this section who is employed by the Federal Government in a national security position shall be able to count the time that the individual spent in the fellowship program towards the time requirement for a reduction in student loans as described in section 5379A.

(i) **AMOUNT OF AWARD.**—A National Security Fellow who complies with the requirements of this section may receive funding under the fellowship for up to 3 years at an amount determined appropriate by the Director, but not to exceed the sum of—

(1) the amount of tuition paid by the fellow; and

(2) a stipend in an amount equal to the maximum stipend available to recipients of fellowships under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) for the year involved.

(j) **APPROPRIATIONS AUTHORIZED.**—For the purpose of enabling the Director to recruit and retain highly qualified employees in national security positions, there are authorized to be appropriated \$100,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year.

(k) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed—

(1) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; and

(2) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent

of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.

TITLE 31—MONEY AND FINANCE

Subtitle II—The Budget Process

CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

SEC. 1115. PERFORMANCE PLANS.

(a) In carrying out the provisions of section 1105(a)(29), the Director of the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

(1) establish performance goals to define the level of performance to be achieved by a program activity;

(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (b);

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

(4) *pursuant to paragraph (3), give special attention to the extent to which specific skills are needed to accomplish the performance goals and indicators that are critical to ensuring the national security;*

[(4)] (5) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

[(5)] (6) provide a basis for comparing actual program results with the established performance goals; and

[(6)] (7) describe the means to be used to verify and validate measured values.

SEC. 1116. PROGRAM PERFORMANCE REPORTS.

(a) Not later than 150 days after the end of an agency's fiscal year, the head of each agency shall prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

(b) * * *

(1) Each program performance report shall set forth the performance indicators established in the agency performance plan under section 1115, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year, *and shall specify which performance goals and indicators are critical to ensuring the national security.*

(2) If performance goals are specified in an alternative form under section 1115(b), the results of such program shall be de-

scribed in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall—

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(b)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; **[and]**

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended; *and*

(D) *whether human capital deficiencies in any way contributed to the failure of the agency to achieve the goal;*

(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;

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

(6) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(e)(1) Except as provided in paragraph (2), each program performance report shall contain an assessment by the agency head of the completeness and reliability of the performance data included in the report. The assessment shall describe any material inadequacies in the completeness and reliability of the performance data, and the actions the agency can take and is taking to resolve such inadequacies.

(2) If a program performance report is incorporated into a report submitted under section 3516, the requirements of section 3516(e) shall apply in lieu of paragraph (1).

(f) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of program performance reports under this section shall be performed only by Federal employees.