

**Calendar No. 1100**

110TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
110-523 }

FEDERAL SUPERVISOR TRAINING ACT OF  
2007

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 967

TO AMEND CHAPTER 41 OF TITLE 5, UNITED STATES CODE, TO  
PROVIDE FOR THE ESTABLISHMENT AND AUTHORIZATION OF  
FUNDING FOR CERTAIN TRAINING PROGRAMS FOR SUPER-  
VISORS OF FEDERAL EMPLOYEES



NOVEMBER 19, 2008.—Ordered to be printed

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### FEDERAL SUPERVISOR TRAINING ACT OF 2007

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Mr. LIEBERMAN, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

### R E P O R T

[To accompany S. 967]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 967) to amend chapter 41 of title 5, United States Code, to provide for the establishment and authorization of funding for certain training programs for supervisors of Federal employees, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

#### I. PURPOSE AND SUMMARY

S. 967, the Federal Supervisor Training Act, requires agencies to increase the amount and quality of leadership training provided to supervisors, with the goal of improving the overall effectiveness and efficiency in the federal government. The bill requires mandatory training for federal supervisors every three years on effective supervision, including how to improve employee performance, manage poor-performing employees, and protect employees' rights.

#### II. BACKGROUND AND NEED FOR LEGISLATION

The quality of employee supervision has a profound effect on the success of federal agencies. Numerous studies show that there is a strong relationship between effective supervision and high performance of individual work groups and that supervisory management is an important determinant of performance for federal agencies overall.<sup>1</sup> Conversely, the price to federal agencies of poor super-

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<sup>1</sup> See James Thompson, *Training Supervisors to Be Leaders: A Missing Element in Efforts to Improve Federal Performance*, Partnership for Public Service (June 2007), at page 3; Gene A. Brewer, "In the Eye of the Storm: Frontline Supervisors and Federal Agency Performance,"

Continued

vision can be enormous.<sup>2</sup> Weak supervisors not only cause job performance to suffer, but also harm morale and drive good employees away, adding to recruitment and training costs.<sup>3</sup> And supervisory behavior affects the number of complaints and grievances, which can impose large costs and burdens on agencies to resolve.<sup>4</sup>

The importance of maintaining a cadre of skilled and effective supervisors in the federal government will only increase. The U.S. Office of Personnel Management (OPM) estimates that, over the course of the next ten years, 60 percent of the 1.9 million member federal workforce will be eligible for retirement, and it is expected that 40 percent of those employees will retire.<sup>5</sup> This potentially high attrition rate is forcing agencies to prepare for a mass exodus of talent, skills, and institutional knowledge. To cultivate new leaders, federal agencies not only must develop strategic succession plans and implement vigorous recruitment efforts to attract the best and the brightest—but must also foster the supervisory talent of the federal workforce.

Successful supervisors require strong interpersonal as well as technical skills.<sup>6</sup> For example, good supervisors mediate between higher level managers and lower level staff, clearly articulating organizational goals and setting fair performance standards. They communicate well with their staff, giving advice, identifying developmental needs, and serving as mentors. Supervisors should also promote teamwork and address any work-related conflicts in the work group. Supervisors set the tone for a professional work environment, and a positive work environment can lead to a more efficient and effective workforce.

Despite the vital importance of having supervisors with effective leadership skills, federal agencies have been found to be weak in this area.<sup>7</sup> Studies show that this deficiency arises in part because supervisors are frequently selected for their technical expertise, rather than based on an assessment of their ability to manage people.<sup>8</sup> And this weakness is compounded by the failure of many agencies to have comprehensive managerial development and succession plans, including training.<sup>9</sup>

The Committee therefore believes that, as a key part of the federal government's efforts to enlarge and maintain its cadre of successful supervisors, agencies should strengthen their training programs in supervisory skills. Several studies have found that current leadership development of first-line supervisors is insufficient and have concluded that agencies should ensure that all super-

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Journal of Public Administration Research and Theory, Vol. 15, No. 4 (2005), pages 505–527; Report to the Partnership for Public Service, *Can We Really Manage? Understanding Supervision and its Importance in Government*, by Erin M. O'Driscoll and Andrew J. Whitehouse (April 5, 2005).

<sup>2</sup>See Report by the Human Resources Management Panel of the National Academy of Public Administration (NAPA), *First Line Supervisors in Federal Service: Selection, Development and Management*, (February 2003) (hereinafter referred to as the “NAPA report”).

<sup>3</sup>Id. Studies have found that poor supervisors or managers are the most common reason employees leave a position. See U.S. Merit Systems Protection Board (MSPB), Office of Policy Evaluation, *Making the Public Service Work: Recommendations for Change* (September 3, 2002), at page 12 (hereinafter referred to as “MSPB recommendations”).

<sup>4</sup>See NAPA report, note 2 above, at page 4.

<sup>5</sup>U.S. Office of Personnel Management (OPM), *Congressional Budget Justification, Performance Budget, Fiscal Year 2009* (submitted February 4, 2008).

<sup>6</sup>See, generally, the references cited in note 1 above.

<sup>7</sup>See MSPB recommendations, note 3 above, at page 12.

<sup>8</sup>Id.

<sup>9</sup>Id.

visors receive the training they need in managerial and leadership skills.<sup>10</sup> For example, according to the Human Resources Panel of the National Academy of Public Administration,

Federal agencies need to do a better job of developing and training supervisors. While some have successful training programs, it is uncommon for first-line supervisory training to be part of an agency's comprehensive leader development program.<sup>11</sup>

Moreover, federal employees generally believe that they need more training to do their jobs well, and, with respect to managers specifically, one in three believe that more training would help them perform their job duties better.<sup>12</sup> In testimony before the this Committee's Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, managers have stated that there is not enough of a commitment by their agencies to provide management training.<sup>13</sup> Managers also testified that when budgets are tight, training is one of the first discretionary spending items to be cut.<sup>14</sup>

The private sector is making important investments in manager training. In 2007, businesses spent approximately \$12 billion on management and supervisory training—the largest category of training provided in the private sector—due, in part, to the aging of the workforce and the need for succession planning.<sup>15</sup> These factors are at play in the federal government as well, and, like the private sector, the federal government should make a substantial investment in training of supervisors.

Managers need proper training on how to motivate, evaluate, and manage employees. Such training should include not only classroom work, but also experienced managers and supervisors can share their knowledge with those younger less experienced managers and supervisors through mentorship and coaching programs, and improve overall motivation and understanding of the organization's mission.<sup>16</sup>

Moreover, especially in the government, managers need training in more than general supervisory skills; they also need to be trained specifically on employee rights and protections, prohibited personnel practices, and ways to address hostile work environments. Colleen Kelley, National President of the National Treasury Employees Union, emphasized this point in her testimony before the Subcommittee, and concluded—

<sup>10</sup> MSPB recommendations, note 3 above, at pages vi, 13; Thompson, report published by the Partnership for Public Service, note 1 above, at page 13; NAPA report, note 2 above, at page 35.

<sup>11</sup> NAPA report, note 2 above, at page 3.

<sup>12</sup> See OPM, 2006 Federal Human Capital Survey (May 31, 2006); MSPB, *Accomplishing Our Mission: Results of the Merit Principles Survey 2005* (February 2007).

<sup>13</sup> Testimony of Mr. Darryl Perkinson, National President, Federal Managers Association, at a hearing entitled "Enhancing Employee Performance: A Hearing on Pending Legislation" before this Committee's Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, 10th Congress, 2d Session, June 29, 2006, S. Hrg. 109-709 (hereinafter referred to as "Enhancing Employee Performance hearing").

<sup>14</sup> *Id.*

<sup>15</sup> "Training 2007 Industry Report," Training (November/December 2007). That report explained: "Management and supervisory training receives a great deal of funding due, in part, to the aging of the workforce. With large numbers of retirements looming, companies are focused on succession planning," at page 11.

<sup>16</sup> Jim Mahlmann, "Ensuring Strong Leadership through Mentorship and Coaching," *The Federal Manager*, Vol. XXVII, Iss. II (Spring 2007).

A key way to lessen discrimination in the federal workplace and ensure workplace fairness is for proper supervisor training so that they fully understand the duties and obligations they have.<sup>17</sup>

The Committee believes that S. 967 will help to address these deficiencies in supervisory training within the federal government, by requiring enhancement in both the quality and quantity of such training. Federal agencies are currently required to have a management training program, which supervisors are supposed to complete within the first three years of becoming a supervisor.<sup>18</sup> The Committee believes that three years is too long for a new supervisor to be responsible for managing employees without being specifically trained on how to manage. Furthermore, the Committee is concerned that there does not appear to be any systematic process by which current supervisors will pass along their knowledge of management practices and supervisory skills to younger employees interested in becoming managers. To address these two issues, S. 967 requires training within the first year of an employee becoming a manager and establishes a mentoring program under which experienced managers will be paired with younger managers for professional development.

The subject matter of the training under this legislation covers the interpersonal and managerial skills used in carrying out the functions of a supervisor, including establishing employee goals and appraising performance, mentoring and motivating employees, and managing employees with unacceptable performance. Moreover, S. 967 specifically mandates training relating to prohibitions against unlawful discrimination, whistleblower protections, and the procedures and processes to enforce employee rights in the federal government.

Another current challenge for supervisors is that sufficient supervisory training is not required and is often not available. After initial training, no further management training is required. While some agencies will provide management training, tight budgets often restrict the agencies' ability to provide such training. Furthermore, there has been no clear reporting from agencies on the amount of dollars being spent on supervisory training and the number of managers and supervisors being provided ongoing management training. The Committee believes that S. 967 responds to these existing deficiencies, by requiring supervisors to undergo training every three years, and by requiring agencies to submit annual reports to OPM on their progress implementing the supervisor training requirements.

In addition to requiring more frequent training, S. 967 requires that the training be interactive and instructor-based. According to the OPM's 2006 Human Capital Survey, nearly 90 percent of managers and supervisors found in-classroom training to be effective.<sup>19</sup> This represents the highest-rated method of training according to federal workers. However, in-classroom training may not always be the most efficient, effective, and cost effective. It is not the Committee's intention to limit training to a classroom or preclude com-

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<sup>17</sup>Testimony of Ms. Colleen Kelley, National President, National Treasury Employees Union, at Enhancing Employee Performance hearing, note 13 above.

<sup>18</sup>5 C.F.R. § 410.

<sup>19</sup>OPM, note 11 above.

puter-based training, online training, teleconference training, or other efficient and effective methods of training. Internet and computer-based training can be effective methods of training and agencies should explore these options in providing supervisor training. However, the Committee does believe that there should be a designated instructor for any training, so that the trainee can ask questions and be provided some interaction to better retain the material. The Committee encourages OPM and agencies to use all available training techniques, while ensuring that each course has a designated instructor for the trainee to address any questions or further discussions on the concepts raised in the training.

To help ensure the quality and consistency of federal supervisory training, the bill requires OPM to provide government-wide regulations establishing supervisory training standards and measurements for training effectiveness. As the federal agency responsible for human resources policy, OPM has the expertise and jurisdiction to aid other agencies in the development and implementation of supervisory training programs. While it is fully expected that each agency will provide supervisory training that includes content that is particular to that agency's culture and mission, the Committee believes OPM should be a vital resource in that process by issuing regulations regarding overall supervisory training standards.

The increased training under this bill will raise agencies' training budgets, but the Committee believes that the benefits of increased supervisory training will be well worth the cost. The current spending on supervisor training programs is unknown in the federal government, so the increase required by this legislation cannot be estimated with certainty. Acknowledging such uncertainties, the Congressional Budget Office (CBO) has estimated that the cost of S. 967 will be approximately \$295 million over 5 years.<sup>20</sup>

These increased costs of training should be offset by substantial savings, because enhanced management will lead to improvements in efficiency and performance of the agencies. This has been the experience in the private sector, where supervisory training has been found to contribute to the bottom line:

Our Study demonstrates an important correlation between management development and profitability; namely, organizations with a higher percentage of middle managers and the appropriate percentage of staff participating in management development report higher profits per FTE [full time equivalent employee].<sup>21</sup>

There is every reason to expect that, as in the private sector, improved supervisory training in the federal government will yield substantial net benefits. As a recent report published by the Partnership for Public Service explained, the case for enhanced leadership development training for supervisors can be made at several levels, including "the business level." The methodology for assessing the dollar impact of leadership training is not very far along, but the report states that "quantitative and qualitative work that

<sup>20</sup> Congressional Budget Office (CBO) Cost Estimate, S. 967, Federal Supervisor Training Act of 2007 (September 12, 2007). Acknowledging the uncertainties, "CBO estimates that implementing S. 967 would cost \$55 million in 2008 and \$295 million over the 2008–2012 period," at page 1.

<sup>21</sup> IBM Business Consulting Services, *The Capability Within, The Global Human Capital Study 2005* (2005), at page 18.

has been done and the opinions of those most closely associated with these programs point to a highly favorable return on investment.”<sup>22</sup>

Moreover, agencies may expect especially tangible savings to result from training for managers and supervisors that equips them to deal better with problem employees without inviting legal complaints. This aspect of supervisor training was emphasized in a letter from the Senior Executives Association to the Subcommittee Chairman:

The proliferation of EEO complaints and the complexity of the rules surrounding whistleblower reprisal cases often make managers reluctant to deal effectively and quickly with poor performers and employee misconduct. Giving managers the training they need to deal with problem employees in a manner that is both swift and appropriate will save the government funds by avoiding EEO and other complaints from employees, as well as ensuring managers remove poor performers rather than avoiding dealing with the problem and thereby keeping them on the payroll. We believe that the cost of this training will be more than offset by savings from the resulting decrease in complaints, appeals and grievances, as well as increases in the effectiveness of government agencies.<sup>23</sup>

Finally, it is worth considering the persuasive statement of the human resources director of a large defense agency, who emphasized the ethical, as well as the practical, reasons why improved supervisory training is warranted:

It's the right thing to do to give people leaders who can help them perform. The right thing to do and the good business decision happen to be the same thing. We see an enormous pay-off out of this.<sup>24</sup>

### III. LEGISLATIVE HISTORY

S. 967 was introduced by Senator Daniel K. Akaka on March 22, 2007, and subsequently was referred to the Committee on Homeland Security and Governmental Affairs. The bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia (OGM) on March 30, 2007.

The bill is similar to S. 3584, the Federal Supervisor Training Act of 2006, introduced by Senator Akaka in the 109th Congress on June 27, 2006, and referred to the Committee on Homeland Security and Governmental Affairs OGM Subcommittee. A hearing was held to discuss this bill, other pending legislation, and performance management issues in the federal workforce on June 29, 2006, entitled “Enhancing Employee Performance: A Hearing on Pending Legislation.”<sup>25</sup> Presenting testimony before the Sub-

<sup>22</sup>Thompson, report published by the Partnership for Public Service, note 1 above, at page 19.

<sup>23</sup>Letter from Senior Executives Association President Carol A. Bonosaro and General Counsel William L. Bransford to Senator Daniel K. Akaka regarding S. 967 and the Fiscal Benefits of Training Supervisors, June 12, 2007.

<sup>24</sup>Jeff Neal, Director of Human Resources for the Defense Logistics Agency, as quoted in Thompson, report published by the Partnership for Public Service, note 1 above, at page 19.

<sup>25</sup>Enhancing Employee Performance hearing, note 13 above.

committee were the Honorable Dan G. Blair, Deputy Director, Office of Personnel Management; Mr. Darryl Perkinson, National President, Federal Managers Association on behalf of the Government Managers Coalition; Ms. Colleen Kelley, National President, National Treasury Employees Union; Ms. Jacqueline Simon, Public Policy Director, American Federation of Government Employees; and Ms. Patricia McGinnis, President and Chief Executive Officer, Council for Excellence in Government. The testimony presented highlighted the need for more management and supervisory training.

On June 12, 2007, OGM polled the bill out of Subcommittee favorably and on June 13, 2007, the Committee on Homeland Security and Governmental Affairs ordered the bill to be reported favorably to the Senate en bloc with an amendment by a voice vote. The amendment, offered by Senator Akaka during the Committee markup, provided technical corrections as requested by the Office of Personnel Management and additional language to assess the effectiveness of the bill's provisions. Members present were Senators Akaka, Coleman, Collins, Landrieu, Levin, Lieberman, McCaskill, Obama, Tester, Voinovich, and Warner.

#### IV. SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section provides that the legislation in S. 967 may be cited as the “Federal Supervisor Training Act of 2007.”

##### *Section 2. Mandatory training programs for supervisors*

5 U.S.C. § 4121 now requires agencies, in consultation with OPM, to establish training programs for managers and potential managers, and subsection (a) of section 2 makes several amendments to this section.

Subsection (a)(1) defines the term “supervisor” for purposes of 5 U.S.C. § 4121 to include individuals defined as supervisors and managers under 5 U.S.C. chapter 71, and other federal employees as defined by the Director of OPM by regulation.

Subsection (a)(2) provides that agencies, in establishing training programs under § 4121, must do so under operating competencies promulgated by OPM. This provision therefore also indicates that OPM should produce operating competencies to guide agencies through the process of developing and implementing training programs.

Subsection (a)(3) replaces the current supervisor-training requirements with the new minimum requirements specified in the bill. Under these requirements, agencies must establish—

- Interactive instructor-based training to supervisors in: (i) Developing performance expectations with the employee and conducting performance appraisals, (ii) mentoring employees and improving their performance, (iii) addressing poor performance, (iv) addressing hostile work environments, and (v) carrying out other supervisory duties.
- Training for managers on the rights and protections afforded federal employees against prohibited personnel practices under 5 U.S.C. § 2302, and particularly under the non-discrimination and

whistleblower-protection provisions in subsections (b)(1) and (8) of that section.

- Mentoring programs under which experienced supervisors would transfer knowledge and advice to new supervisors and point out strengths and areas for development.

Individuals must complete initial training not later than one year after they are appointed to be supervisors, and must be retrained on the same topics at least once every three years after initial training. This retraining can be done all at once or supervisors can receive credit towards the every-three-year retraining requirement for similar training previously completed.

OPM must prescribe regulations to carry out this section, including measures for agencies to assess effectiveness of agency supervisory training.

Subsection (b) specifies that the regulations for carrying out the supervisor training requirements must be promulgated by OPM not later than 180 days after enactment of this legislation.

Subsection (c)(1) provides that the effective date of the new training requirements will be 180 days after enactment of the bill and will apply to any new or current supervisor.

Subsection (c)(2) allows for current supervisors to meet the new supervisory training requirements of the bill within three years of the enactment date and then every three years thereafter.

### *Section 3. Management competencies*

Subsection (a) adds a new section 4305 to 5 U.S.C., to provide an assessment of how effective the new management training is. Under this new code section—

- OPM will issue guidance to agencies on competencies that supervisors are expected to meet in order to effectively manage employee performance.

- Each agency will—(1) develop competencies to assess each supervisor's performance, and in doing so must consider OPM's guidance; (2) assess the capacity of agency supervisors to meet the OPM guidance on competencies; (3) develop and implement a supervisor training program to address issues identified in the assessment; and (4) measure the effectiveness of the training program.

- Each agency will also submit an annual report to OPM on the agency's progress in implementing this program for training and assessment.

Subsection (b) makes technical and conforming changes to 5 U.S.C. chapter 43.

## V. ESTIMATED COST OF LEGISLATION

SEPTEMBER 12, 2007.

Hon. JOSEPH I. LIEBERMAN,  
*Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 967, the Federal Supervisor Training Act of 2007.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

*S. 967—Federal Supervisor Training Act of 2007*

Summary: S. 967 would amend current law to require training for existing and newly hired federal employees that supervise other employees. The legislation also would direct the Office of Personnel Management (OPM) to issue guidance to agencies on standards that supervisors are expected to meet and would require agencies to review their training programs and report on their effectiveness to OPM.

CBO estimates that implementing S. 967 would cost \$55 million in 2008 and \$295 million over the 2008–2012 period, assuming appropriation of the necessary funds. Enacting the bill would not affect direct spending or revenues.

S. 967 contains no intergovernmental or private-sector mandates as defined in 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. 967 is shown in the following table. The costs of this legislation fall within all budget functions that include salaries and expenses.

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Training Program for Supervisors:					
Estimated Authorization Level .....	55	55	55	55	55
Estimated Outlays .....	50	55	55	55	55
Review of Training Process:					
Estimated Authorization Level .....	5	5	5	5	5
Estimated Outlays .....	5	5	5	5	5
Total Changes:					
Estimated Authorization Level .....	60	60	60	60	60
Estimated Outlays .....	55	60	60	60	60

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the start of fiscal year 2008, that the necessary amounts will be appropriated for each fiscal year, and that outlays will follow historical trends for similar activities.

S. 967 would require agencies to set new performance standards and train new supervisors within 12 months after such employees assume supervisory duties. Under the bill, all current supervisors would be trained within three years after enactment of the legislation; and supervisors would receive “refresher” training every three years thereafter. This training would include working with supervisors to develop employee goals and objectives, mentoring programs, and informing managers about prohibited personnel practices and employee rights.

Based on information from OPM, CBO estimates that there are about 210,000 supervisors in the federal government. (In 2006, about 3,200 new supervisors were hired.) In addition, OPM and human resources managers at federal agencies that CBO contacted

expect the cost of managers' training seminars would range from hundreds of dollars per session up to a few thousand dollars for week-long seminars.

CBO is unaware of any comprehensive information or report on the extent of supervisor training throughout the federal government. There is no existing requirement for federal agencies to provide training for all supervisors. Under current law, agencies are required to have a comprehensive training program for managers, but there is no mandate for managers to participate in that training. Although the use of training programs is not uniform throughout the federal government, information from some of the largest employing agencies, including the Departments of Defense, Energy, and Justice, suggests that agencies have supervisor training programs, usually for new supervisors. For this estimate, CBO expects that initial supervisor training would cost about \$2,000 per employee, and the refresher training for current supervisors would cost about \$1,000 per employee.

Using information provided by major agencies and OPM, CBO expects that about 25 percent of all new managers are not provided with mandatory supervisor training that covers mentoring employees, establishing employees' goals, and other employee-management techniques. In addition, CBO expects that about 75 percent of all current managers typically do not receive subsequent retraining on a regular basis. Using those assumptions, CBO estimates that requiring federal agencies to provide mandatory training for new supervisors would cost about \$2 million annually. In addition, providing refresher training for all supervisors every three years would cost \$53 million in 2008 and about \$260 million over the 2008–2012 period, assuming agencies would implement that requirement over a three-year period.

S. 967 also would require agencies to annually review and assess their supervisor training programs. Using information provided by OPM, a review of large employing agencies, and the cost of similar reports, CBO estimates that requiring agencies to review their training programs annually and report to OPM would cost \$5 million in 2008 and \$25 million over the 2008–2012 period.

Intergovernmental and private-sector impact: S. 967 contains no intergovernmental or private-sector mandates as defined in UMRA 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: Elizabeth Cove; Impact on the Private Sector: Justin Hall and Patrice Gordon,

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

## VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill.

## VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as

reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law, in which no change is proposed, is shown in roman):

## **TITLE 5, UNITED STATES CODE: GOVERNMENT ORGANIZATION AND EMPLOYEES**

### ***PART III—EMPLOYEES***

#### **CHAPTER 41—TRAINING**

##### **SEC. 4121. SPECIFIC TRAINING PROGRAMS.**

(a) *In this section, the term “supervisor” means—*

(1) *a supervisor as defined under section 7103(a)(10);*

(2) *a management official as defined under section 7103(a)(11); and*

(3) *any other employee as the Director of the Office of Personnel Management may by regulation prescribe.*

(b) *Under operating competencies promulgated by, and in consultation with, [In consultation with] the Director of the Office of Personnel Management, the head of each agency shall establish—*

(1) *a comprehensive management succession program to provide training to employees to develop managers for the agency; and*

**[**(2) *a program to provide training to managers on actions, options, and strategies a manager may use in—*

(A) *relating to employees with unacceptable performance;*

(B) *mentoring employees and improving employee performance and productivity; and*

(C) *conducting employee performance appraisals.]*

(2)(A) *a program to provide interactive instructor-based training to supervisors on actions, options, and strategies a supervisor may use in—*

(i) *developing and discussing relevant goals and objectives together with the employee, communicating and discussing progress relative to performance goals and objectives and conducting performance appraisals;*

(ii) *mentoring and motivating employees and improving employee performance and productivity;*

(iii) *effectively managing employees with unacceptable performance;*

(iv) *addressing reports of a hostile work environment, reprisal, or harassment of, or by, another supervisor or employee; and*

(v) *otherwise carrying out the duties or responsibilities of a supervisor;*

(B) *a program to provide interactive instructor-based training to supervisors on the prohibited personnel practices under section 2302 (particularly with respect to such practices described under subsection (b)(1) and (8) of that section) and the procedures and processes used to enforce employee rights; and*

(C) *a program under which experienced supervisors mentor new supervisors by—*

(i) transferring knowledge and advice in areas such as communication, critical thinking, responsibility, flexibility, motivating employees, teamwork, and professional development; and

(ii) pointing out strengths and areas for development.

(c)(1) Not later than 1 year after the date on which an individual is appointed to the position of supervisor, that individual shall be required to have completed each program established under subsection (b)(2).

(2) After completion of a program under subsection (b)(2)(A) and (B), each supervisor shall be required to complete a program under subsection (b)(2)(A) and (B) at least once every 3 years.

(3) Each program established under subsection (b)(2) shall include provisions under which credit shall be given for periods of similar training previously completed.

(d) Notwithstanding section 4118(c), the Director of the Office of Personnel Management shall prescribe regulations to carry out this section, including the monitoring of agency compliance with this section. Such regulations shall include measures by which to address the effectiveness of agency supervisor training programs.

**CHAPTER 43—PERFORMANCE APPRAISAL**

**Subchapter I—General Provisions**

Sec.

4301. Definitions.

\* \* \* \* \*

4305. [Regulations.] Management Competencies.

4306. Regulations.

\* \* \* \* \*

**SEC. 4304. RESPONSIBILITIES OF THE OFFICE OF PERSONNEL MANAGEMENT.**

\* \* \* \* \*

(b)(3) If the Office determines that a system does not meet the requirements of this subchapter (including regulations prescribed under [4305] 4306, the Office shall direct the agency to implement an appropriate system or to correct operations under the system and any such agency shall take any action so required.

**SEC. 4305. MANAGEMENT COMPETENCIES.**

(a) In this section, the term “supervisor” means—

(1) a supervisor as defined under section 7103(a)(10);

(2) a management official as defined under section 7103(a)(11); and

(3) any other employee as the director of the Office of Personnel Management may by regulation prescribe.

(b) The Director of the Office of Personnel Management shall issue guidance to agencies on competencies supervisors are expected to demonstrate in order to effectively manage, and be accountable for managing, the performance of employees.

(c) Each agency shall—

(1) develop competencies to assess the performance of each supervisor and in developing such competencies shall consider the guidance developed by the Director of the Office of Personnel

*Management under subsection (b) and any other qualifications or factors determined by the agency;*

*(2) assess the overall capacity of the supervisors in the agency to meet the guidance developed by the Director of the Office of Personnel Management issued under subsection (b);*

*(3) develop and implement a supervisor training program to strengthen issues identified during such assessment; and*

*(4) measure the effectiveness of the supervisor training program established under paragraph (3) in improving supervisor competence.*

*(d) Every year, or on any basis requested by the Director of the Office of Personnel Management, each agency shall submit a report to the Office on the progress of the agency in implementing this section, including reasons used to assess program effectiveness.*

**[SEC. 4305.] SEC. 4306. REGULATIONS.**

The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

