

INTERAGENCY PERSONNEL ROTATION
ACT OF 2011

—
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1268

TO INCREASE THE EFFICIENCY AND EFFECTIVENESS OF THE
GOVERNMENT BY PROVIDING FOR GREATER INTERAGENCY
EXPERIENCE AMONG NATIONAL SECURITY AND HOMELAND
SECURITY PERSONNEL THROUGH THE DEVELOPMENT OF A
NATIONAL SECURITY AND HOMELAND SECURITY HUMAN CAP-
ITAL STRATEGY AND INTERAGENCY ROTATIONAL SERVICE BY
EMPLOYEES, AND FOR OTHER PURPOSES



NOVEMBER 13, 2012.—Ordered to be printed

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INTERAGENCY PERSONNEL ROTATION ACT OF 2011

NOVEMBER 13, 2012.—Ordered to be printed

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

R E P O R T

[To accompany S. 1268]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1268) to increase the efficiency and effectiveness of the Government by providing for greater interagency experience among national security and homeland security personnel through the development of a national security and homeland security human capital strategy and interagency rotational service by employees, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

One of the most important lessons learned from the tragedy of September 11, 2001, is that government agencies tasked with maintaining our national security—and the people working for them—must continually strive to break down the bureaucratic and cultural barriers that can keep them from working together effectively and efficiently to achieve their common purpose of protecting the United States and its people. The Interagency Personnel Rotation Act of 2011 seeks to do just that, by facilitating the ability of federal national and homeland security workers to rotate through Executive Branch departments and agencies other than their own, so that they can forge relationships and better understand the workings of other agencies and thereby promote a unified government effort in this realm.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Countering national and homeland security threats of the 21st Century effectively and efficiently requires the U.S. government to

integrate the capabilities and efforts of multiple Executive Branch departments and agencies into a single, unified approach. One important way to achieve this so-called “whole of government” approach is to have government personnel rotate through departments or agencies other than their own and thereby develop a broader understanding of the threats to national and homeland security and the government’s abilities to counter them. The Department of Defense (DoD) has effectively used such rotations to overcome rivalry among the Military Services and to foster “jointness”—that is, a DoD-wide rather than Service-specific perspective among military officers. Rotations are also used commonly in the private sector to develop corporate leaders. S. 1268 applies this concept to departments and agencies across the Executive Branch involved in national and homeland security by creating an overall framework for rotations but providing substantial discretion to the Executive Branch to implement the framework in practice.

A. The need for interagency integration to meet 21st Century threats

Countering national and homeland security threats of the 21st Century effectively and efficiently requires seamlessly integrating the capabilities and efforts from multiple Executive Branch departments and agencies.¹ The Obama Administration recognized this imperative in its National Security Strategy of 2010, which called for “strengthening national capacity” through a “whole-of-government approach” and stated that “to succeed, we must update, balance, and integrate all of the tools of American power.”² The heightened need for interagency integration has been recognized by various Congressional committees³ and current and former senior national and homeland security officials.⁴

The basic national and homeland security architecture of the Executive Branch dates back to the National Security Act of 1947, which created the National Security Council (NSC), the Director of Central Intelligence, and what eventually became DoD.⁵ The NSC is composed primarily of cabinet secretaries and is responsible for advising the President. Although the NSC provided some level of coordination, the departments and agencies engaged in national and homeland security confronted 20th Century threats with relative autonomy from each other. In contrast, national and homeland security threats of the 21st Century intertwine traditional security areas such as defense, diplomacy, and intelligence to a far greater degree and thus require greater integration among the relevant departments and agencies. In addition, 21st Century threats involve areas that previously were not within the national security community such as energy, finance, economics, public health, and

¹ See Catherine Dale, Nina M. Serafino, and Pat Towell, *Organizing the U.S. Government for National Security: Overview of the Interagency Reform Debates*, CRS Report RL34455, December 16, 2008, available at <http://www.fas.org/sgp/crs/natsec/RL34455.pdf>.

² White House, *National Security Strategy* (2010).

³ This Committee (and ultimately the whole Congress) recognized the need to apply all instruments of national power in an integrated manner to counter terrorism when it authored the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108–458, (2004)).

⁴ See, e.g., General Peter Pace, USMC, Vice Chairman Joint Chiefs of Staff, “Extemporaneous Remarks as delivered to the Marine Corps Association/ Naval Institute’s Forum 2004,” September 7, 2004, available at [http://www.jcs.mil/vice chairman/speeches/MCANavalInstituteFORUM2004.html](http://www.jcs.mil/vice%20chairman/speeches/MCANavalInstituteFORUM2004.html); Catherine Dale, *National Security Professionals and Interagency Reform: Proposals, Recent Experience, and Issues for Congress*, CRS Report RL34565, September 26, 2011.

⁵ The National Security Act of 1947, P.L. 80–253 (1947).

law enforcement—plus the area of “homeland security.” In other words, new agencies that were previously not at the “national security table”—such as the Departments of Treasury, Health and Human Services, Energy, and Commerce—now have national and homeland security functions. Moreover, the Department of Homeland Security (DHS) did not exist prior to the tragic attacks of September 11, 2001. Thus, integration is needed between the traditional security departments and agencies and these new participants.

The need for improved interagency integration is heightened by five factors. First, nonstate actors such as terrorist groups, proliferators, and organized crime are responsible for an increasing number of critical national and homeland security threats. These actors are aided in their operations by globalization—including information technology, transportation, and financial mechanisms. Most nonstate actors do not operate within defined borders, field uniformed military forces, or engage in traditional diplomacy. Countering nonstate actors does not fit neatly into the bureaucratic boundaries that have separated departments and agencies in the past.

Second, the stated intention of terrorists to use weapons of mass destruction (WMD) against the United States leaves little margin for government error. Of course, during the Cold War the Soviet Union fielded nuclear weapons capable of destroying the United States many times over, but the Soviet Union was a more traditional, rational adversary whose actions were restrained by the need for self-preservation. In contrast, the 9/11 attacks illustrate the intention of adherents to violent Islamist extremism to kill large numbers of Americans on their home soil in suicide operations, and evidence acquired since 9/11 has evinced al Qaeda’s desire to acquire WMD. Any ineffectiveness in interagency activities to prevent terrorists from acquiring WMD can have devastating consequences.

Third, critical national and homeland security threats cross the so-called “foreign/domestic divide”—that is, the divergence of legal authorities, internal regulatory compliance, and culture between departments and agencies focused on matters outside of U.S. borders versus within U.S. borders. Departments and agencies on either side of the “foreign/domestic divide” must collaborate closely.

Fourth, critical national and homeland security threats must be countered in “Internet time”—such as to counter a pandemic, interdict a WMD being smuggled across borders, or respond to enemy propaganda within a news cycle.

And fifth, our government’s constrained fiscal situation leaves no room for inefficiency, even if the ultimate result of interagency activity is effective.

Examples of critical national and homeland security threats of the 21st Century that require significant interagency integration include the following:

- *Counterterrorism.* Countering terrorism requires integration at two levels. At the tactical level, entities such as the Departments of Defense, Homeland Security, Justice, State, and Treasury as well as the Intelligence Community must work closely together to identify operatives, find financiers and logisticians, prevent attacks, and dismantle networks. At the strategic level, departments

and agencies must counter terrorist ideology in order to prevent and roll-back its spread and drain the wellsprings of terrorist operatives, supporters, and finances.

- *Counterproliferation.* Both state and nonstate actors are engaged in proliferation and seek to acquire WMD. Entities such as the Departments of Defense, Homeland Security, Justice, State, and Treasury as well as the Intelligence Community must work closely together to identify and protect sources of WMD material, identify and engage with scientists with relevant expertise, map networks of sellers, buyers, and smugglers, and detect and interdict smuggling.

- *Counterinsurgency.* Close civilian/military coordination is necessary for finding and defeating insurgents while protecting the larger population and providing the economic, educational, and rule-of-law support necessary to “win hearts and minds” and turn the larger population against the insurgency. The insurgency following the defeat of Saddam Hussein’s military during the Iraq War and the insurgency in Afghanistan demonstrate the importance of stabilization and reconstruction to ensuring the success of U.S. security strategy. Accordingly, integration is necessary between DoD and civilian departments and agencies involved in stabilization and reconstruction—such as the Departments of Agriculture, Commerce, Education, Health and Human Services, and Justice.

- *Cybersecurity.* Cyber threats have the potential to disable U.S. military capabilities, harm U.S. critical infrastructure, and burden the daily lives of U.S. citizens. The U.S. response involves both DoD for military cybersecurity and DHS for cybersecurity of civilian departments and agencies. Coordination is critical between DoD and DHS for sharing of information concerning new threats and defenses, and between DHS and other civilian departments and agencies.

- *Emergency Management.* Responding to a domestic natural or man-made disaster requires integration of capabilities from across the Executive Branch. For example, this Committee has found that poor integration was a cause of the federal government’s inadequate response to Hurricane Katrina in 2005.⁶ This need for integration is even more significant in a domestic catastrophic event, which could involve disaster conditions so great in magnitude that federal coordination of resources and capabilities becomes an absolute necessity. The foundational document governing the federal government’s response activities, called the National Response Framework, includes 15 emergency support functions on a range of activities vital to an effective coordinated response, such as communications, logistics and public health, each with a lead federal department and supporting departments and agencies.⁷

- *Public Health.* Even more than traditional emergency management generally, preparedness for and response to a natural or man-made epidemic would require close integration among departments and agencies. A pandemic is not confined to a single geographic area, and a particularly contagious pathogen could spread

⁶Senate Committee on Homeland Security and Governmental Affairs. *Hurricane Katrina: A Nation Still Unprepared*. 109th Cong., 2nd sess., S. Rept. 109-322 (2006).

⁷Department of Homeland Security, *National Response Framework* (2008), available at <http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf>.

quickly throughout the United States and abroad due to airplane travel. The Department of Health and Human Services would have to work closely with departments such as DHS and DoD to ensure distribution of vaccines and antidotes quickly while public order is maintained, and the Department of State would need to coordinate with foreign governments.⁸

B. The role of rotation programs in improving integration

Prominent U.S. corporations that face the challenge of integration across their bureaucratic components often use personnel rotations in order to foster cohesion and develop future leaders. For example, General Electric implements rotational programs for their experienced and entry-level employees to promote seeing “the bigger picture.”⁹ International rotations are required for senior-level promotion at IBM.¹⁰ Edward Jones, which has been rated fifth in the nation for best places to work, also has incorporated a rotational program for entry-level employees, which seeks to allow employees to “network internally and develop a broad knowledge of the firm’s inner workings.”¹¹

The paradigmatic use of rotations to achieve greater integration in government is the military joint duty system mandated by the Goldwater-Nichols DoD Reorganization Act of 1986.¹² Prior to that Act, DoD was dominated by strong Military Services—the Army, Navy, Air Force, and Marines—with weak coordinating mechanisms across them. A critical theme identified by Congress was that officers in each Military Service had little understanding of the other Services and would approach issues not from the perspective of the corporate DoD but rather from their individual Service’s perspective. There were no incentives for officers to think ‘jointly’ and every incentive for officers to prioritize their Service’s needs. The Joint Chiefs of Staff (composed of the heads of the Army, Navy, Air Force, and Marines, as well as the Chairman of the Joint Chiefs of Staff) had a staff supporting it—called the Joint Staff—but that staff was not manned by the Military Services’ best and brightest officers. Indeed, duty outside of one’s Military Service was considered detrimental to an officer’s career, which led the Joint Staff to be populated by lesser-quality officers.

Ultimately, Congress concluded that DoD needed to be reorganized. Congress decided that organization mattered and that, while good people could overcome bad organization temporarily, they could not do so consistently—nor should they have to. This theme was echoed by the 9/11 Commission in its 2004 recommendations for government reorganization to counter terrorism—namely, that government organization has a direct impact on government per-

⁸ See Homeland Security Presidential Directive 21, *Public Health and Medical Preparedness*.

⁹ GE Careers, <http://www.ge.com/careers/students/entry-level.html>, January 4, 2012.

¹⁰ Interview with Margot Conrad, Partnership for Public Service, November 18, 2011.

¹¹ Edward Jones Careers, [http://careers.edwardjones.com/us/students/Full-Time Opportunities/HeadquartersRotationalProgram/index.html](http://careers.edwardjones.com/us/students/Full-Time%20Opportunities/HeadquartersRotationalProgram/index.html), January 27, 2012.

¹² For a general discussion of the Goldwater-Nichols Act, see Gordon Lederman, *Reorganizing the Joint Chiefs of Staff: The Goldwater-Nichols Department of Defense Reorganization Act of 1986* (Greenwood, 1999), and James Locher III, *Victory on the Potomac* (Texas A&M University Press, 2004).

formance, and that improved organization is an essential ingredient for improving performance.¹³

Critically, the Goldwater-Nichols Act sought to change the military's Service-specific culture and mentality over the long term by creating incentives to motivate the best-and-brightest officers to do a rotational tour outside of their Service. The Act required officers to serve on joint duty—including on the Joint Staff or a combatant commanders' staff—and to fulfill certain educational requirements in order to be eligible for promotion to general or admiral. In addition, officers could not be penalized for serving on joint duty, as the promotion rates for such officers were required to match the promotion rates for officers who remained within their Services. The National Defense Authorization Act for Fiscal Year 2002 clarified that service to achieve eligibility for general or admiral needed to be a "full tour" of duty in a joint duty assignment and to achieve a joint designation.¹⁴

It is noteworthy that the Services were resistant to the personnel provisions of the Goldwater-Nichols Act. Even senior military personnel who supported the need for significant reorganization of DoD and favored the strengthening of the Chairman of the Joint Chiefs of Staff and of the combatant commanders opposed the personnel requirements.¹⁵ However, Congress overcame that resistance and imposed the personnel requirements on DoD.

Twenty-five years after the enactment of Goldwater-Nichols, that Act is seen as an unqualified success in improving DoD's organizational functioning. Joint military operations have vastly improved in their effectiveness. DoD's culture is widely regarded as having changed from Service-specific to "joint," with the Act's personnel requirements being the driving force of this change. Air Force General Michael Hayden, who served as Director of the National Security Agency, Principal Deputy Director of National Intelligence, and Director of the Central Intelligence Agency, commented at one of his Senate confirmation hearings, "Now, I can tell you as a military officer, one of the most powerful sentences of legislation I've seen in my military career was that one sentence in Goldwater-Nichols. It says: The promotion rates of officers on the joint staff shall be equal to or greater than the promotion rates of the officers on the military headquarters staff."¹⁶ The effects of the personnel requirements were not felt for over a decade, as a new generation of officers developed and served in joint assignments.¹⁷ The Joint Staff and combatant commanders' staffs are now attracting the best and the brightest due to the promotion requirement.¹⁸

¹³*The 9/11 Commission Report*, National Commission on Terrorist Attacks Upon the United States, July 2004, available at <http://www.911commission.gov/report/911Report.pdf>.

¹⁴Dale, *National Security Professionals and Interagency Reform*, September 26, 2011. The John Warner National Defense Authorization Act for Fiscal Year 2007 established a four-tiered system of joint qualification, with the purpose being "to ensure a systematic, progressive, career-long development of officers in joint matters and to ensure that officers serving as general and flag officers have the requisite experience and education to be highly proficient in joint matters." *Id.*, at 6.

¹⁵Lederman, *Reorganizing the Joint Chiefs of Staff*.

¹⁶Senate Committee on Armed Services, Intelligence Nominations Hearing, April 21, 2005.

¹⁷See Peter Chiarelli, "Beyond Goldwater-Nichols," *Joint Forces Quarterly* (Autumn 1993), at

¹⁸See Letter from former Chairman of the Joint Chief of Staff, General Colin Powell USA (ret.), to then-Lieutenant Colonel General Peter Chiarelli, cited in Peter Chiarelli, "Beyond Goldwater-Nichols," *Joint Forces Quarterly* (Autumn 1993), at 77 and n.25 (stating that the quality of officers assigned to the Joint Staff has improved due to the Goldwater-Nichols Act); see also statement by Lieutenant General Norman Ehlert USMC (ret.), cited in *id.* at 77 and n.26

The success of DoD's rotation program for military officers inspired Congress to require a similar type of rotation program for the Intelligence Community. As identified by the 9/11 Commission, the Intelligence Community has been composed of disparate agencies and elements including the Central Intelligence Agency, National Security Agency, National Geospatial-Intelligence Agency, National Reconnaissance Office, Defense Intelligence Agency, and intelligence offices in the Departments of Defense, Energy, Homeland Security, State, and Treasury. Congress enacted the Intelligence Reform and Terrorism Prevention Act of 2004 to implement the Commission's key recommendations. Among other things, the Act created a Director of National Intelligence to serve as the leader of the Intelligence Community and to integrate the agencies and elements of the Intelligence Community into a single intelligence enterprise.

Congress recognized the need to change the culture of Intelligence Community personnel to become less agency/element-specific and more 'joint.' Accordingly, the Intelligence Reform and Terrorism Prevention Act mandated that the Director of National Intelligence provide incentives for Intelligence Community employees to serve on the staffs of 'joint' bodies—that is, Intelligence Community entities outside of the traditional Intelligence Community agencies and elements including the Office of the Director of National Intelligence and national intelligence centers such as the National Counterterrorism Center.¹⁹ Also akin to the Goldwater-Nichols Act, that Act required personnel who serve in such positions to be promoted by their home departments or agencies at the same rate as personnel who have not served in such positions.²⁰ Finally, the Act required that the Director of National Intelligence “facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities.”²¹

In response, the Director of National Intelligence launched a program requiring intelligence professionals to serve a rotational period within the other agencies and elements of the Intelligence Community in order to qualify for senior-level promotion.²² That program received Harvard University's 2008 Innovations in American Government Award.²³ However, as demonstrated by the military's rotation program, Congressional vigilance and oversight will be essential to ensure the proper implementation of the requirement, and once the requirement is fully implemented it will take a decade or more for the benefits of the rotation program to mani-

(“Many observers agree with [General Powell] and are convinced that [the Goldwater-Nichols Act's personnel requirement] has improved both the quality of the officers serving on the Joint Staff and their work. General Ehlert has noted that: “[The Marine Corps] used to send officers who were retiring to work on the Joint Staff—not since Goldwater-Nichols. Now we send our sharpest folks and so the other services.”).

¹⁹ Intelligence Reform and Terrorism Prevention Act, P.L. 108–458, Section 1011.

²⁰ *Id.*

²¹ *Id.*

²² Intelligence Community Directive Number 601, Office of the Director of National Intelligence, available at http://www.dni.gov/electronic_reading_room/ICD_601.pdf.

²³ *Intelligence Community Joint Duty Program Highlighted*, Press Release, Office of the Director of National Intelligence, June 30, 2009, available at http://www.dni.gov/press_releases/20090630_release.pdf.

fest as a new generation of intelligence officers—who have done rotations—reach senior-level intelligence positions.

C. Government and nongovernmental support for creating a rotation program to foster interagency integration for national and homeland security missions

The notion of a rotational program across the Executive Branch for national and homeland security missions has been suggested or endorsed by governmental and nongovernmental experts since at least 2001.

- In 2001, the Congressionally-created U.S. Commission on National Security/21st Century (called the “Hart-Rudman Commission,” after its chairmen, former Senators Gary Hart and Warren Rudman) proposed the creation of an interagency cadre called the National Security Service Corps in order to develop leaders “skilled at producing integrative solutions to U.S. national security policy problems.” The Commission proposed that the program include rotational assignments and professional education as prerequisites for certain promotions.²⁴

- In 2006, the Congressional-mandated DoD Quadrennial Defense Review noted, “Much as the Goldwater-Nichols requirement that senior officers complete a joint duty assignment has contributed to integrating the different cultures of the Military [Services] into a more effective joint force, the QDR recommends creating incentives for senior Department and non-Department personnel to develop skills suited to the integrated interagency environment.”²⁵ The report endorsed creation of “an interagency cadre of senior military and civilian professionals able to effectively integrate and orchestrate the contributions of individual government agencies on behalf of larger national security interests.”²⁶ The 2010 Quadrennial Defense Review reiterated DoD’s support for improved cross-agency training, education, and professional experience opportunities.²⁷

- In 2008, the Congressionally-created Commission on the Prevention of WMD Proliferation and Terrorism (called the Graham/Talent Commission, after its chairmen, former Senators Bob Gra-

²⁴The United States Commission on National Security/ 21st Century (“Hart-Rudman Commission”), *Road Map for National Security: Imperative for Change, Phase III Report*, February 15, 2001, at xvi, 101–102. The Commission recommended that the program include a wide range of departments and agencies such as Commerce, Defense, Energy, Homeland Security, Justice, State, and Treasury but exclude the military, the Intelligence Community, and the Foreign Service. The Commission recommended that an interagency advisory group oversee and establish guidelines for the rotations and education, while the departments and agencies would have authority over their own personnel and make promotion decisions. See also Dale, *National Security Professionals and Interagency Reform*, September 26, 2011.

²⁵Department of Defense, *Quadrennial Defense Review Report*, February 6, 2006, at 79, available at <http://www.defenselink.mil/qdr/report/Report20060203.pdf>.

²⁶*Id.* See also Dale, *National Security Professionals and Interagency Reform*, September 26, 2011.

²⁷Department of Defense, *Quadrennial Defense Review Report* (February 2010), at 69. That report stated that improving DoD’s cooperation with other agencies is “a central facet of statecraft.” As the report stated, “Finally, the Department of Defense will continue to advocate for an improved interagency strategic planning process that makes optimal use of all national instruments of statecraft. The complexity of 21st century conflicts demands that the U.S. government significantly improve interagency comprehensive assessments, analysis, planning, and execution for whole-of-government operations, including systems to monitor and evaluate those operations in order to advance U.S. national interests. One solution is to allocate additional resources across the government and fully implement the National Security Professional (NSP) program to improve cross-agency training, education, and professional experience opportunities. This will help foster a common approach to strategic and operational planning and implementation, improving prospects for success in future contingencies. *Id.*, at 71.

ham and Jim Talent) recommended that the government “build a national security workforce for the 21st Century” including by “establishing a program of education, training, and joint duty with the goal of creating a culture of interagency collaboration, flexibility, and innovation.”²⁸ More specifically, the Commission stated that “the President’s top national security officials should consider including assignments in more than one department and agency as a prerequisite for advancements to the National Security Council or to department or agency leadership level.”²⁹

- Also in 2010, the Department of State released its first Quadrennial Diplomacy and Development Review report.³⁰ That report called for “expanding interagency rotations” for State Department and U.S. Agency for International Development (USAID) personnel.³¹ As the report stated, “Our training must focus more on how to engage and coordinate other agencies as well as ensure their representatives are effectively integrated into a Mission’s Country Team. To foster these skills, we will increase rotational assignments to and where possible from other agencies at all levels in both State and USAID.”³² The report also called for the criteria for selection of Deputy Chiefs of Mission or Chiefs of Mission to include “how well candidates have worked with the interagency or managed multi-agency missions in previous postings” and that “service at other agencies, such as USAID,” should be considered in promotions to the Senior Foreign Service, selection as Deputy Chief of Mission, and recommendations for presidential appointment as Chief of Mission.”³³

In keeping with these calls for creation of a rotation program, President George W. Bush issued Executive Order 13434 on May 17, 2007, *National Security Professional Development*. The stated purpose of the executive order was to enhance national security by “promot[ing] the education, training, and experience of current and future professionals in national security positions (security professionals)” across the Executive Branch.³⁴ The executive order required that the Director of the Office of Personnel Management (OPM), “consistent with applicable merit-based hiring and advancement principles, lead the establishment of a national security professional development program . . . that provides for interagency and intergovernmental assignments and fellowship opportunities and provides for professional development guidelines for career advancement.”³⁵

To design this program, the executive order created an Executive Steering Committee chaired by the OPM Director and including the Secretaries of State, Treasury, Defense, Agriculture, Labor, Health and Human Services, Housing and Urban Development, Transpor-

²⁸*World at Risk: The Report of the Commission on the Prevention of WMD Proliferation and Terrorism* (December 2008), at 101–2.

²⁹*Id.*, at 103. The Commission went on to state, “Greater opportunity for education and training is a necessary but not sufficient condition for creating an effective national security workforce for the 21st Century. To foster true interagency collaboration, national security officers from across the government must have the experience of working closely with colleagues from other agencies.” *Id.*

³⁰*Leading Through Civilian Power: The First Quadrennial Diplomacy and Development Review* (2010).

³¹*Id.*, at xvi.

³²*Id.*, at 174.

³³*Id.*, at 30.

³⁴Executive Order 13434 (May 17, 2007), Section 1.

³⁵*Id.*, Section 5.

tation, Energy, Education, and Homeland Security and also the Attorney General, the Director of National Intelligence, and the Director of the Office of Management and Budget (OMB).³⁶ In practice, the Executive Steering Committee was led by the OMB Deputy Director for Management rather than the OPM Director.³⁷

Pursuant to the executive order, a national strategy was approved by President Bush and released in 2007.³⁸ That strategy discussed the importance of interagency rotations in fostering interagency integration:

Inter-office, interagency, and inter-governmental assignments, fellowships, and exchanges, including those with appropriate non-governmental organizations, provide personnel with a wealth of information about the capabilities, missions, procedures, and requirements of their national security partners. Further, they foster an improved awareness of the missions and personnel in other offices, which helps to break down cultural barriers and promote professional relationships that have valuable practical applications during national security missions. As personnel increasingly learn to work together and synchronize common missions, we will achieve unity of effort to improve the Nation's overall national security-related capabilities.

In order to achieve a more cohesive national security system, the Federal Government will provide opportunities for inter-governmental, interagency, and inter-office assignments, fellowships, and exchanges, including non-governmental organizations where appropriate, in order to accomplish the following objectives: (1) enable national security professionals to understand the roles, responsibilities, and cultures of other organizations and disciplines; (2) promote the exchange of ideas and practices; (3) build trust and familiarity among national security professionals with differing perspectives; and (4) minimize obstacles to coordination.³⁹

In 2008, the National Security Professional Development Integration Office was created to coordinate and monitor implementation of the program. DoD serves as the executive agent for the office, meaning that it provides the funds for its operation and the office space, but DoD does not direct the office's operations because the office is serving an Executive Branch-wide function and not a DoD-specific function.⁴⁰

Subsequently, 17 departments and agencies individually developed criteria for identifying national security professionals for inclusion in this program. In total, the 17 departments and agencies identified approximately 14,000 national security professional positions, with approximately 1,200 at the Senior Executive Service (SES) level and the rest at the level of General Schedule Pay Scale

³⁶*Id.*, Section 3(b).

³⁷Statement of Major General (ret.) William A. Navas, Jr., Hearing on National Security Reform: Implementing a National Security Service Workforce, before the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia (April 30, 2009), at 4.

³⁸White House, *National Strategy for the Development of Security Professionals* (July 2007), available at <http://humancapital.doe.gov/resources/National-Strategy-for-the-Development-of-Security-Professionals.pdf>.

³⁹*Id.*, at 9.

⁴⁰Statement of Major General Navas, at 5.

(GS) 13 to 15.⁴¹ In addition, the OPM Director issued guidelines for departments and agencies to develop regulations to make inter-agency experience a requirement for selection to an SES position that was identified as a national security professional position.⁴² However, the departments and agencies did not adopt such regulations to provide incentives for the best-and-brightest among their personnel to rotate to another department or agency. Interagency rotations did not occur under this national security professional development program.

D. The Interagency Personnel Rotation Act of 2011

The Interagency Personnel Rotation Act of 2011 responds to the imperative to improve interagency integration for 21st Century national and homeland security missions. The Act utilizes personnel rotations in order to improve interagency integration, building on private-sector experience and Congress's successful mandate of rotations for military officers via the Goldwater-Nichols Act. The Act also responds to the evidence that, despite the best intentions, the Executive Branch has not been able to institute an organized inter-agency personnel rotation program. Indeed, as the Goldwater-Nichols Act and the Intelligence Reform and Terrorism Prevention Act demonstrate—and as former Vice Chairman of the Joint Chiefs of Staff General Pace recognized—the Executive Branch often cannot effect internal reorganization by itself and instead needs Congress to institute it via legislation and drive it via aggressive oversight.

1. The Act uses interagency communities of interest as the building blocks for rotations

Although the Committee looked to the Goldwater-Nichols Act as a paradigm, it recognizes the significant differences between a rotational program covering the Military Services and a rotational program covering the myriad civilian Executive Branch departments and agencies involved in national and homeland security. The variegated nature of the civilian personnel systems across these departments and agencies led the Committee to develop a framework that provides significantly more flexibility for the Executive Branch in implementation than the Goldwater-Nichols Act did for the military. In addition, rather than mandate a single rotational framework, S. 1268 incorporates the Committee's view that civilian inter-agency personnel rotations should focus primarily on improving interagency integration within the Executive Branch *against a particular threat or for a particular mission*. Accordingly, the fundamental building block of the Act is the concept of a National Security Interagency Community of Interest (ICI)—that is, the positions across multiple departments and agencies that have significant responsibility for the same substantive, functional, or regional subject area related to national or homeland security that requires inter-agency integration. The Act seeks to improve interagency integration *within an ICI* in order to increase the effectiveness and efficiency of the Executive Branch for that particular national or homeland security mission.

⁴¹*Id.*, at 5. These numbers excluded Intelligence Community personnel, as intelligence personnel numbers were classified.

⁴²*Id.*

- The Committee on National Security Personnel (discussed below) determines the ICI topics. Examples of ICIs could include counterinsurgency, counterproliferation, and counterterrorism.

- Subject to guidelines and oversight from the Committee on National Security Personnel, the head of each department or agency identifies which positions in that department or agency are within an ICI and then which positions in that department or agency are open for receiving personnel on rotation from other departments and agencies. The positions are to be at the level of GS–11 to GS–15. The Committee expects that most rotations will be at the more junior to mid-level of that spectrum rather than more senior—essentially, the level of personnel who have achieved a basic level of proficiency in their department or agency’s mission but who have many years of public service remaining, and most likely not management-level positions. Thus the rotational experience will pay dividends for many years.

- The Act limits the positions within an ICI to positions that have “significant responsibility” for the subject area of the ICI because many positions in departments and agencies would likely have some connection, however attenuated, to an ICI subject area. The Committee does not intend that positions that have attenuated or little responsibility for the subject area be included in an ICI.

- For example, an ICI focused on counterproliferation could include positions in, among other offices, the Department of State’s Bureau of International Security and Nonproliferation, the Department of Homeland Security’s Immigration and Customs Enforcement (ICE), and DoD’s Office of the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs and the Defense Threat Reduction Agency.

- Personnel would rotate within the ICI related to their expertise—that is, personnel with counterproliferation expertise would rotate to positions in the counterproliferation ICI, not to positions in other ICIs such as cybersecurity or stabilization and reconstruction. Thus, the rotations would build personal relationships, overall cohesion, and a sense of interagency mission and strategy across that ICI, with the effect of increasing that ICI’s overall effectiveness and efficiency.

2. Departments and agencies will not need additional personnel to implement the rotations framework in this Act

In crafting the bill, the Committee was particularly cognizant of the significant constraints on the federal budget and therefore designed a program that would operate at minimal cost. The Committee made sure that the rotation of individuals among agencies would not result in a need to hire any additional personnel.⁴³

Most importantly, as noted above, the essential building blocks for the rotations framework under this Act are the ICIs, with rotation of personnel occurring within an ICI. The Committee envisions that rotations would occur either on one-for-one basis or in a round-robin format. To use the example cited above, an employee in the Department of State’s Bureau of International Security and Nonproliferation would rotate to a position in DoD’s Office of the

⁴³In so structuring the bill, the Committee chose not to follow the military rotation model, in which the Services have additional personnel—a so-called “float”—who are available for rotation or to do the work of those rotated out of a particular position.

Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs, while an employee in that DoD office would rotate to a position in the Bureau (a “one-for-one” rotation). Or, the State civil servant would rotate to the DoD office, the DoD employee would rotate to ICE, and an ICE employee would rotate to the Bureau (a “round-robin” rotation). All of the personnel rotating would have expertise in counterproliferation, and all the positions would be within the counterproliferation ICI. Thus, each department or agency would gain counterproliferation personnel to compensate for counterproliferation personnel who have left for a rotation.

Moreover, as noted above, the Act permits rotations for employees between GS–11 and GS–15 levels, but the Committee envisions that most rotations will involve employees at the lower end to middle of this scale—essentially, employees who have mastered the basic skills and competencies within their departments and agencies but are not mid- or senior-level managers. The Committee understands that it would be difficult for a GS–15 manager in one department or agency to rotate to a GS–15 managerial position in another department or agency and perform adequately. However, the Committee envisions that most of the rotations would involve employees performing so-called “action officer” rather than managerial responsibilities. At that level as opposed to the managerial level, personnel on rotation would be well-equipped to contribute to the mission of the receiving department or agency and to prevent loss of mission performance or the need for additional personnel from other parts of the receiving department or agency to backfill the employee who has left for a rotation.

Section 6(g) of the bill emphasizes the point: it requires that the rotation framework be instituted in a manner that ensures a reasonable equivalence of the number of personnel rotating into and out of a department or agency within an ICI. In addition, the subsection requires that the positions of personnel on rotation be filled within a reasonable period of time by incoming personnel on rotation or by other available personnel.

Even if for some reason the position of an employee who is on rotation cannot be filled or filled adequately by an incoming employee on rotation, the bill’s flexibility in setting the minimum length of a rotation gives agencies the ability to design rotations to have minimal effect on a department or agency’s performance. The Act contains a qualitative rather than quantitative minimum for a rotation: that the rotation must be of sufficient length to gain an adequately detailed understanding and perspective of the department or agency to which the employee is rotating. Thus, if necessary, a rotation can be of a sufficiently brief period of time that the impact on the employee’s home department or agency’s mission will be limited.

3. The Act seeks to encourage rotations not only to other departments or agencies but also to interagency bodies

The Act seeks to encourage rotations not just among departments and agencies generally—provided the positions are within an ICI—but also to what the Act calls “interagency bodies.” Section 5(c)(1) of the Act requires the Committee on National Security Personnel to identify such interagency bodies, which are (1) entities in

the Executive Branch that are “primarily involved in interagency activities” relating to national and homeland security, or (2) components of agencies that are “primarily involved in interagency activities” related to national or homeland security and “have a mission distinct from the agency within which the component is located.”

By analogy, the Goldwater-Nichols Act sought to remedy the lack of a “joint” culture and perspective among military officers and, in doing so, to provide incentives for the best-and-brightest military officers to serve on the Joint Staff and the staffs of the combatant commanders. Previously, service on such staffs had been considered detrimental to an officer’s career, and thus the best-and-brightest officers would not serve on them. Following the enactment of the Goldwater-Nichols Act, the Joint Staff and staffs of combatant commanders were transformed to be the tour of choice for ambitious officers.⁴⁴

The Executive Branch has a small but growing architecture of interagency bodies equivalent to the Joint Staff and combatant commanders’ staffs within DoD. Just as the Joint Staff and combatant commanders’ staffs are outside of the Military Services and play a critical role in ensuring integration across the Military Services, the Executive Branch’s growing architecture of interagency bodies plays a critical role in ensuring interagency integration on a variety of national and homeland security issues. The Committee believes that it is essential that these interagency bodies be staffed by the best-and-brightest of Executive Branch personnel because of these bodies’ criticality for interagency effectiveness and efficiency. These bodies fall into two structural categories, as listed in the Act.

First, there are interagency bodies that are not tied to any particular department or agency and instead work directly for the President on interagency issues. For example, the National Security Staff (NSS) supports the work of the NSC in assisting the President in national and homeland security decisionmaking and coordinating among departments and agencies on such issues. The NSS reports to the Assistant to the President for National Security Affairs (the so-called “National Security Advisor”). The NSS has relatively few direct hires; the vast majority of NSS staffers are detailed from departments and agencies for often one- to two-year assignments. Another example is the National Counterterrorism Center’s Directorate of Strategic Operational Planning, created by the Intelligence Reform and Terrorism Prevention Act of 2004 at the 9/11 Commission’s recommendation. The Act states that the Directorate of Strategic Operational Planning is responsible for planning “counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies.”⁴⁵ The Act defines “strategic operational planning” as including “the mission, objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the

⁴⁴Deputy Secretary of Defense John White, “Meeting the Needs of the Secretary of Defense,” in *The Goldwater-Nichols DOD Reorganization Act: A Ten-Year Retrospective* (National Defense University press, 1999), at 60–61 (“One of the most important contributions of Goldwater-Nichols was to require joint assignments and inaugurate the concept of the Joint Specialty Officer. Overnight, this enhances the career value of joint assignments. As a result, the quality of officers assigned to joint entities improved dramatically. Today, as a general matter, the best officers don’t avoid joint tours they fight for them. I see evidence of this every day as I interact with officers on the Joint Staff and in [the Office of the Secretary of Defense].”).

⁴⁵Intelligence Reform and Terrorism Prevention Act of 2004, Section 1021.

assignment of roles and responsibilities.”⁴⁶ The National Counterterrorism Center is housed administratively within the Office of the Director of National Intelligence. However, for purposes of the strategic operational planning function, the Director of the National Counterterrorism Center reports directly to the President.⁴⁷ (In contrast, the Director of the National Counterterrorism Center reports directly to the Director of National Intelligence for the Center’s intelligence analysis function.)

Second, there are entities within departments and agencies that serve interagency coordination functions separate from the particular missions of their parent departments and agencies. These entities are being created in order to improve interagency integration at the tactical or operational level, while the NSS focuses on interagency integration at the strategic level. These entities are headed by an employee of the department or agency in which the entity is housed administratively, and the head of each entity reports to superiors within that department or agency. The entities usually seek staff from other departments and agencies involved in the same mission area in order to bring knowledge and understanding of other departments’ and agencies’ capabilities and objectives, reach-back to those departments and agencies in order to access information, and interagency credibility for the entities’ activities and products. Examples of these entities include the Human Smuggling and Trafficking Center;⁴⁸ the Export Enforcement Coordination Center;⁴⁹ the Center for Strategic Counterterrorism Communications;⁵⁰ the National Intellectual Property Rights Co-

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ This Center was created by a Memorandum of Understanding in July 2004 among the Departments of Homeland Security, Justice and State and subsequently established in statute by the Intelligence Reform and Terrorism Prevention Act of 2004, Intelligence Reform and Terrorism Prevention Act of 2004, Section 7202. The Center is responsible for preparing strategic assessments, facilitating the sharing of information, and coordinating selected initiatives concerning human smuggling and trafficking across departments and agencies. The Center’s director is selected on a round-robin from the Departments of State, Homeland Security, and Justice for a three-year term. The Center’s staff is drawn from a variety of departments and agencies. As the charter that established the Center prior to the 2004 legislation states, “The principal determinant of the success of the Center will be its ability to draw on and integrate the diverse experience and perspectives of its full-time staff. With this in mind, it is critical that key members of the community of interest provide well-qualified personnel to the Center.” <http://www.state.gov/m/ds/hstcenter/41444.htm>.

⁴⁹ This Center was created by Executive Order 13558 in 2010. The purpose of the Center is to serve as the primary forum for departments and agencies (specifically, the Departments of Commerce, Defense, Energy, Homeland Security, State, and Treasury and the Intelligence Community) to share information and coordinate export control investigations and to establish a government-wide statistical tracking capability for such investigations. The Center is located in ICE with DHS and is headed by an ICE employee designated by the Secretary of Homeland Security. Pursuant to the executive order, the Center has a deputy director from the Department of Commerce and a deputy director from the Department of Justice, as well as a liaison from the Intelligence Community.

⁵⁰ This Center was created by Executive Order 13584 in 2011. The purpose of the Center is to “coordinate, orient, and inform Government-wide public communications activities directed at audiences abroad and targeted against violent extremists and terrorist organizations, especially al-Qa’ida and its affiliates and adherents.” The Center is located in the Department of State, and its director is selected by the Secretary of State. Its staff includes personnel detailed from DoD and the Intelligence Community.

ordination Center,⁵¹ and Provincial Reconstruction Teams (PRTs).⁵²

A key element of ensuring that interagency bodies are included in the rotations framework is determining which official is responsible for applying the framework of this Act to each interagency body. The Act therefore designates the National Security Advisor to fulfill the responsibilities that the head of a department or agency fulfills with respect to that department or agency under this Act. The Act also designates the Director of the National Counterterrorism Center to fulfill that role for the Directorate of Strategic Operational Planning. And the Act requires the Committee on National Security Personnel to designate the federal official responsible for each interagency body that it identifies. The Committee on National Security Personnel should not designate the head of the department or agency in which the interagency body is located to be the responsible official; instead, the Committee should designate the official with direct leadership responsibility for the Center, most often the Center's director, as the responsible federal official.

The Act requires that the federal official responsible for applying the framework of this Act to the interagency body select which positions in the interagency body are within a particular ICI and also which positions are open for rotation. The Committee presumes that many of the positions in these bodies are staffed by personnel on detail, as opposed to a permanent cadre, and thus will be designated as ICI positions open for rotation. However, there may be certain positions at an interagency body that do not fall within an ICI because the positions' responsibilities are, for example, administrative in nature. For example, the Executive Secretariat at the National Security Staff plays a critical administrative role in workflow and document management, but Executive Secretariat positions would likely not fall within any ICI. The Act thus permits the head of an interagency body to designate certain positions in that interagency body to qualify as interagency rotational service so that personnel serving on rotation in such positions would receive the promotion benefits mandated by the Act (as discussed below) and thus would attract highly qualified Executive Branch personnel to them. So, for example, the National Security Advisor could designate Executive Secretariat positions to qualify for interagency rotational service even though they are not within an ICI.

⁵¹At the impetus of the NSS and Congress, DHS established this center within DHS Customs and Border Protection in order to create a "strategic interagency partnership" for sharing information, coordinating enforcement actions, and conducting investigations related to intellectual property theft. <http://www.iprcenter.gov/>. The Center is headed by a Customs and Border Protection agent and staffed by personnel from a wide variety of departments and agencies—including the Federal Bureau of Investigation (FBI), the Postal Service, and investigative entities from DoD. The Center does not have a minimum length of time for personnel from other departments and agencies to be detailed to it, instead finding a way to utilize detailees however brief or intermittent their detail is. Although intellectual property rights would not appear to be a national or homeland security issue, a recent investigative report by the Senate Committee on Armed Services concluded that counterfeit parts, particularly electronic parts, "all too often end up in critical defense systems in the United States." This Center plays a role in preventing counterfeit parts from being used in U.S. military equipment.

⁵²These teams are joint military-civilian counterinsurgency units serving as the "primary civil-military relations tool" in the Afghanistan and Iraq Wars. Robert Bebbler, "The Role of Provincial Reconstruction Teams (PRTs) in Counterinsurgency Operations: Khost Province, Afghanistan," in *Small Wars Journal* (November 10, 2008), at 3. They are designed to improve local security, build local governance, and engage in reconstruction and development. PRTs are generally headed by a military officer and include scores of military personnel along with representatives from various civilian departments and agencies. *Id.*

4. *Limitations on interagency rotational service*

As discussed above, the Act's overall objective is to encourage the best-and-brightest personnel from a department and agency to serve in another department or agency or an interagency body. This objective is not fulfilled if such personnel are able to serve in another part of their home department or agency and have such service qualify as interagency rotational service. By analogy, the Goldwater-Nichols Act did not permit, for example, a naval officer who specializes in surface warfare to serve a rotation within the Navy related to submarine warfare and have that qualify as a joint rotation.

Still, the Act recognizes that a department and agency may face a continuing challenge in integrating its internal components and may be utilizing rotations across its bureaucratic components in order to do so. In addition, a department or agency that houses an interagency body may face a challenge in staffing that interagency body because its personnel may believe that serving in a new entity will not be rewarded. Accordingly, the Act permits the following:

- During the first three years after an ICI is identified, a rotation from one component of a department or agency to another component of that same department or agency (assuming both positions are in the same ICI) shall qualify as interagency rotational service provided that the two components are of sufficiently different functionality. The head of the department or agency shall determine these components, subject to the approval of the Committee on National Security Personnel. For example, the Secretary of Homeland Security could determine that DHS's Immigration and Customs Enforcement and DHS's Customs and Border Protection are sufficiently different in functionality so that a rotation from one to the other constitutes interagency rotational service. (The determination would be made by the Secretary of Homeland Security, not by the head of one of the components involved.)

- A rotation from a component of a department or agency to an interagency body housed administratively in that department or agency would qualify as an interagency rotational service. However, there are certain entities that could potentially qualify as an interagency body but are so large and inextricably tied to the mission of the parent department or agency that a rotation from the parent department or agency to that entity should not qualify as interagency rotational service. The Committee expects that the Committee on National Security Personnel would ensure that the allowance for rotations to interagency bodies by personnel of a department or agency housing such bodies is used appropriately.

For example, this Committee has recognized that FBI Joint Terrorism Task Forces (JTTFs) play a lead role in counterterrorism investigations domestically and rely heavily on personnel on rotation from other departments and agencies.⁵³ JTTFs might qualify as interagency bodies, and this Act would encourage and facilitate personnel from other departments and agencies to be assigned to JTTFs. However, JTTFs are such a large and fundamental part of the FBI's internal functioning that permitting service by FBI per-

⁵³ Senator Joseph I. Lieberman and Senator Susan M. Collins, *A Ticking Time Bomb: Counterterrorism Lessons from the U.S. Government's Failure to Prevent the Fort Hood Attack* (Senate Committee on Homeland Security and Governmental Affairs, 2011), at 74–75.

sonnel in them to qualify as a rotation under this Act would be contrary to the Act's purpose. Accordingly, the Act specifies that service by FBI personnel in JTTFs does not qualify as interagency rotational service.

5. Ensuring that personnel on rotation contribute to the receiving department or agency's mission

The Committee considers that it is critical that personnel serving on an interagency rotation contribute to the receiving department or agency's mission. In other words, personnel on rotation are distinctly not representatives of their home departments or agencies, viewing policy or operational issues from the perspective of their home departments or agencies and seeking to protect or further their departments' or agencies' interests.

A critical way to ensure that personnel on rotation do not prioritize protecting their home departments or agencies is to provide appropriate incentives via the personnel performance appraisal system. Accordingly, the Act requires that personnel serving on interagency rotations receive performance evaluations based primarily on their contribution to the work of the receiving department or agency or interagency body. The Act does permit other factors specific to the home departments or agencies to be considered, but the Committee expects that such factors will generally be administrative matters such as physical fitness or continuing education requirements—not how well the personnel protected the home departments' or agencies' interests during the rotations.

The Act specifies that officials at the home departments and agencies conduct the evaluations, rather than the supervisors of the personnel at the receiving departments and agencies. The Committee's rationale is that many departments' and agencies' personnel appraisal systems tend to be idiosyncratic, each with its own subtle lexicon to convey whether personnel are truly meritorious. Having performance evaluations done by officials at the receiving departments and agencies would likely put personnel on rotations at a disadvantage for promotion in their home departments and agencies because such officials would not know the appropriate lexicon. However, the Act requires that the officials at the home departments or agencies who are conducting the evaluations rely on the input of the supervisors from the receiving departments or agencies or interagency bodies. The Act also requires that, in order to ensure that personnel doing rotations are not disadvantaged, such evaluations are provided the same weight for promotions and other rewards as evaluations of personnel who have not performed rotations.

6. Incentives for the best-and-brightest personnel to perform interagency rotational service

As Congress recognized in the Goldwater-Nichols Act and the Intelligence Reform and Terrorism Prevention Act, incentives are necessary to ensure that the best-and-brightest personnel from departments and agencies perform interagency rotational service. Incentives are particularly important given that departments and agencies generally want to keep their best-and-brightest personnel in-house, performing the work of the home departments and agen-

cies. This desire will likely be exacerbated by the government's constrained fiscal situation.

Thus, an essential component of this Act is its incentives for the best-and-brightest personnel to perform interagency rotational service. To begin, the Act requires that personnel who are performing rotational service are entitled to return to their previous positions in their home departments or agencies within a reasonable period of time after the end of the rotational service. In this way, personnel can be assured that they will not be penalized for leaving their positions for a rotation.

Even more importantly, the Act provides personnel who have done a rotation with an advantage for promotion to the Senior Executive Service (SES) or its equivalent. As noted above, the Goldwater-Nichols Act made promotion to general or admiral contingent on a military officer having done a joint duty rotation, and this requirement is credited with having caused a tectonic shift toward jointness in the military's culture. The Executive Branch or particular departments or agencies may on their own institute such a requirement with respect to SES promotions for civilian personnel. However, given the complex and variegated nature of the civilian personnel systems across the Executive Branch, the Act contains the following incentive structure:

- The Act requires that heads of departments and agencies identify SES or equivalent positions in their departments and agencies that are within ICIs.
- The Act requires that personnel who have served on a rotation receive a strong preference in the competition for promotion to such positions.
- In addition, the Act requires that, on October 1st of each fiscal year, the heads of departments and agencies that have ICI positions designate how many of their departments' or agencies' SES or equivalent positions within the ICIs shall be filled by personnel who have done a rotation. This requirement begins for each ICI on October 1st of the second fiscal year after the fiscal year in which the ICI is identified.
- No later than thirty days after the end of each fiscal year, the heads of the departments and agencies that have failed to meet these targets shall submit reports to Congress identifying the failure and indicating what remedial actions have been or will be taken.

7. Administration and oversight of the rotational service framework

As noted above, the Executive Branch has attempted to create a rotational framework with the promulgation of EO 13434, but that effort did not produce results. A major reason for EO 13434's inchoateness was the lack of an effective oversight mechanism, which among other things would have ensured that departments and agencies implemented EO 13434 in a timely and consistent manner. Moreover, it is critical that Congress be able to conduct oversight effectively of implementation of this Act.

Accordingly, this Act establishes the Committee on National Security Personnel to design and oversee implementation of the framework created by this Act and thus to ensure that the Executive Branch implements the Act in good faith, consistently across

departments and agencies, and in a timely manner. The Committee has designed this framework so that implementing the bill would not require the hiring of new staff either to design or to oversee the rotational framework.

The OMB Director will chair the Committee on National Security Personnel, which also will include the OPM Director and the National Security Advisor. In consultation with the OPM Director and the National Security Advisor, the OMB Director will issue directives and establish standards for implementing the Act. The Act does not specify all of the types of directives and standards that will be required nor all of the actions that the Committee will need to take, but it does offer examples such as identifying the ICIs and ensuring that rotations are accomplished in a manner (e.g., “one-for-one” or “round-robin”) that prevents departments and agencies from needing additional personnel or suffering a decline in mission performance. The Act does specify that the Committee shall validate the actions taken by departments and agencies to implement its directives and standards.

Each member of the Committee on National Security Personnel would bring particular expertise and capability to the Committee. The OMB Director has responsibility for Executive Branch-wide management issues, has preexisting authority to issue directives and standards for departments and agencies, and is confirmed by the Senate and thus serves as a primary point of accountability to Congress for the implementation of this Act. The National Security Advisor brings expertise in the national and homeland security threats and missions that the United States faces, which is particularly important for identifying and terminating ICIs on a continuing basis and identifying which departments and agencies play a role in each ICI. The National Security Advisor’s presence on the Committee also serves to convey that—as with the Goldwater-Nichols Act and the Intelligence Reform and Terrorism Prevention Act—the rotational framework instituted by this Act is a fundamental element of U.S. national security power for the 21st Century. The OPM Director brings human capital expertise, which is essential given the complexity of a rotational program that spans multiple departments and agencies, each with its own human capital system.

Pursuant to the Act, the Committee on National Security Personnel is assisted by a board composed of a designee at the level of Executive Schedule level III selected by each of the Secretaries of State, Defense, Homeland Security, Justice, Treasury, Energy, Health and Human Services, and Commerce and by the Director of National Intelligence. The Committee may add designees of other heads of departments and agencies. Similarly, EO 13434 created an Executive Steering Committee comprised of representatives of departments and agencies. However, the Act specifies that the designees be at the Executive Schedule level III in order to (1) ensure senior representation, (2) convey the importance of the rotational framework for national and homeland security policy, and (3) enable the board to make recommendations to the Committee quickly. In addition, the Act specifies that the Committee is to be advised by the Chief Human Capital Officers Council to ensure that the departments’ and agencies’ lead officials for human capital also are consulted.

The Committee on National Security Personnel will require staff support to administer the rotational framework required by this Act. However, this Act does not require the creation of any new positions or the spending of any additional funds for this purpose. As noted above, the Executive Branch created the National Security Professional Development Integration Office as the staff support for implementation of EO 13434, and this office is housed in DoD for purely administrative reasons. There is no statutory authorization for this office or its funding, but the office is funded under DoD's Five-Year Defense Program. This office serves an Executive Branch-wide function, not a DoD-specific function. Given this office's Executive Branch-wide function—and that this Act supplants EO 13434—the Act transfers the office and its three Full-Time Equivalent positions to OMB and OPM for them to utilize as staff support for implementation of this Act. The Act contains specific language, developed in consultation with the Congressional Budget Office, to enable this offset even though the office does not have a statutory authorization.

The Act specifies that DoD is prohibited from creating a new office that would duplicate the aforementioned office's functioning, although DoD may utilize its personnel to administer implementation of the rotational framework required under this Act for DoD specifically. Indeed, with respect to staffing support in the departments and agencies, the Act specifies that department and agency personnel who were already designated to administer implementation of EO 13434 be responsible for implementation of this Act. Accordingly, the Committee does not expect that any new positions will need to be created in order to implement this Act.

8. Initial implementation period

The Act requires that, during the first five years after enactment, the Executive Branch establish two ICIs—domestic emergency management, and stabilization and reconstruction. The Act requires that twenty to twenty-five personnel from across departments and agencies in each ICI perform interagency rotational service each year during that five-year period. In addition, the Act specifies that such rotations occur within a metropolitan area, thus preventing inter-city relocation expenses.

This Committee is aware that the National Security Professional Development Integration Office is designing a rotational program for domestic emergency management and that the program is being structured to prevent any costs to participating departments and agencies. The Committee intends that the ICI and rotations mandated by the Act for domestic emergency management encompass this program.

9. The quadrennial strategy requirement and the importance of performance measures

The Act requires that the Committee on National Security Personnel produce a quadrennial National Security Human Capital Strategy to develop the personnel necessary for accomplishing national security and homeland security objectives that require interagency integration. The quadrennial nature of the strategy is modeled on the quadrennial DoD, State Department, and DHS strategies; in addition, a quadrennial requirement is appropriate, as op-

posed to a shorter time span, given that personnel systems are relatively static and require long periods of time to change—e.g., to develop appropriate new human capital policies, to attract personnel to new positions, and to have those personnel serve in such positions. In addition, the Act requires the Committee to draft an implementation report two years after each strategy.

One potential critique of the Act is that it does not sunset after a limited period of time—for example, three or five years—and thus force Congress to assess its effectiveness and determine whether to reauthorize it. This Committee is sympathetic to the motivation behind this critique—namely, that Congress should conduct vigorous and sustained oversight concerning the Act’s implementation and should not hesitate to change or even revoke the Act should the framework prove unworkable or counterproductive. However, a sunset itself would be unworkable and counterproductive for the Act because a critical element of the Act is instituting incentives—over the long term—for the best-and-brightest personnel to perform interagency rotational service.

- If the Act is subject to a sunset, personnel would understandably surmise that the “strong preference” for SES selection would eventually be ignored or revoked by their home departments and agencies; these personnel thus would be dissuaded from performing interagency rotational service.

- The effect of the Act’s rotational framework on interagency efficiency and effectiveness will not be felt until successive waves of personnel serve on rotations, return to their home departments and agencies with a broader perspective, eventually achieve SES and GS-level managerial positions, and use their leadership positions to enable whole-of-government solutions to national and homeland security problems.

- Indeed, as noted above, the Goldwater-Nichols Act’s personnel incentives to foster jointness across the Military Services took one if not two decades to come to fruition in terms of creating a new generation of military officers who had a joint rather than Service-specific mindset.

Although a sunset is inappropriate, the Committee emphasizes that performance measures are critical for ensuring that the framework is implemented fully and delivers the desired benefits over the long term. Accordingly, the Act requires that the strategy and the implementation reports include data on the following performance measures: (1) the percentage of ICI positions available for interagency rotational service that were actually filled; (2) the number of personnel participating in interagency rotational service in each department and agency and interagency body; (3) the length of interagency rotational service; (4) reports by departments and agencies if they failed to meet their targets for SES promotion; (5) the training and education of personnel who perform interagency rotational service; (6) the positions held by employees who perform interagency rotational service after completing such service; and (7) to the extent possible, an evaluation of the utility of interagency rotational service in improving interagency integration. The Committee also expects that the strategy and implementation reports will include additional performance measures that the Committee may identify as the Act is implemented.

10. The importance of consultation with outside experts

The Committee recognizes the complexity involved in creating an interagency rotational framework. Thus, the Act directs the Committee on National Security Personnel to consult with nongovernment organizations in designing and implementing this legislation. For example, the Simons Center for the Study of Interagency Cooperation, located at Fort Leavenworth, Kansas, is a program of the non-profit Command and General Staff College Foundation. The Simons Center's mission, which is to increase the body of interagency knowledge and to facilitate broader and more effective cooperation within the U.S. government at the operational and tactical levels, equips it to provide useful and practical advice and guidance on initiatives designed to increase interagency efficiency and effectiveness.

III. LEGISLATIVE HISTORY

Chairman Lieberman, Ranking Member Collins, and Chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia (OGM Subcommittee) Akaka introduced S. 1268 on June 23, 2011. The bill was read twice and referred to the Committee on Homeland Security and Governmental Affairs.

The bill's provisions benefited from, among other things, the airing of the issues at an OGM Subcommittee hearing last Congress (held on April 30, 2009), entitled "National Security Reform: Implementing a National Security Service Workforce." Witnesses included: Ms. Nancy Kichak, Associate Director, Strategic Human Resource Policy, OPM; Major General William A. Navas, Jr., USA, Retired, Executive Director, National Security Professional Development Integration Office; Dr. Ronald P. Sanders, Chief Human Capital Officer, Office of the Director of National Intelligence; The Honorable Bob Graham, Chairman, Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism; The Honorable Thomas R. Pickering, former Under Secretary of State for Political Affairs and Guiding Coalition Member, Project on National Security Reform; Dr. James R. Thompson, Associate Professor and Head, Department of Public Administration, University of Illinois-Chicago. At the hearing, Ms. Kichak testified on national security professional development and said the issue is of "critical importance to the Federal Government." Major General Navas described the implementation of EO 13434 and spoke of the need for "interagency experience to see the big picture, connect the dots, coordinate effectively, and act decisively." Mr. Sanders provided an update on the implementation of the Intelligence Community's Civilian Joint Duty Program and how it can serve as a model for developing a national security workforce. Senator Graham and Ambassador Pickering spoke highly of interagency rotations and strongly advocated for their implementation. Dr. Thompson referenced the 9/11 Commission's conclusion that the 2001 terrorist attack was allowed to occur in large part by a lack of interagency communication and advocated for a joint duty program.

The Committee considered S. 1268 at a business meeting on October 19, 2011. Senators Lieberman, Collins, and Akaka offered a substitute amendment, which made minor and technical changes to

the bill. The Committee adopted a modification (making minor and technical changes) offered by Senators Lieberman, Collins, and Akaka to the substitute amendment, and then adopted the modification and the substitute amendment, both by a voice vote. The Senators present for both votes were Lieberman, Akaka, Carper, McCaskill, Begich, Collins, Brown, and Johnson.

Finally, the Committee ordered the bill, as amended, favorably reported, again by a voice vote. The Senators present were Lieberman, Akaka, Carper, Pryor, McCaskill, Begich, Collins, Brown, and Johnson. Senator Johnson asked to be recorded in opposition.

IV. SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

This section states that the bill's short title is the Interagency Personnel Rotation Act of 2011.

Sec. 2. Finding and purpose

This section states that 21st Century national security and homeland security challenges require a whole-of-government approach in order for the U.S. government to operate in the most effective and efficient manner.

Sec. 3. Definitions

This section defines several terms used in the bill. The term "National Security Interagency Community of Interest" (ICI) is defined in subsection 3(9) as positions in the Executive Branch which as a group (1) are positions in multiple agencies and (2) have significant responsibility for the same substantive, functional, or regional subject area related to national security or homeland security. (An ICI could be, for example, cybersecurity, counterinsurgency, or counterproliferation.)

Subsection 3(5) defines an "ICI position" as a position that is identified by the head of an agency as a position in that agency that has significant responsibility for an ICI and is at or greater than GS-11 (or a comparable level of responsibility to GS-11). Political appointees are excluded from the definition.

In addition, subsection 3(8) defines "Interagency Rotational Service" as service by an employee in an ICI position that is (1) within an ICI in which the employee has served, and (2) within either (a) an agency different from the agency employing that employee or (b) in an interagency body such as the NSS of the NSC or the Directorate of Strategic Operational Planning of the National Counterterrorism Center. (Interagency bodies are discussed in this section-by-section in section 5 below.)

Sec. 4. Committee on National Security Personnel

This section establishes the Committee on National Security Personnel ("Committee") within the Executive Office of the President. Pursuant to subsections 4(b)–(c), the Committee is chaired by the OMB Director and includes the OPM Director and the National Security Advisor. Subsection 4(d) directs the OMB Director, in consultation with the other two members of the Committee, to issue directives and standards for implementation of this Act and to vali-

date the actions taken by the departments and agencies to implement them.

Subsection 4(e)(1) establishes a board to assist the Committee. That subsection directs that the members shall include one designee at Executive Schedule level III selected by each of the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security, the Attorney General, the Secretary of the Treasury, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Commerce, the Director of National Intelligence, and the heads of other agencies with the Committee's concurrence. In addition, subsection 4(e)(2) requires the Chief Human Capital Officers Council to advise the Committee on technical human capital issues.

Subsection 4(e)(3) requires that agency heads designate officials within their agencies who are already responsible for implementing EO 13434 (which concerns national security professional development) to be responsible for implementing this Act.

Finally, subsection 4(e)(4) transfers the functions and funding of the National Security Professional Development Integration Office, established to administer EO 13434, to OMB and OPM to administer the implementation of this Act.

Sec. 5. National security interagency communities of interest

Subsection 5(a) requires the Committee to identify ICIs on an ongoing basis. Pursuant to subsection 5(b), the heads of agencies shall identify positions within their agencies that are within each ICI and, among such positions, those positions that are open to being filled by employees on rotation from other agencies.

Subsection 5(c) also requires the Committee to identify "interagency bodies." Pursuant to subsection 5(c)(1), interagency bodies are entities whose primary mission is focused on interagency activity. That subsection directs the Committee to identify the NSC (meaning the NSS, which serves the NSC, reports to the National Security Advisor, and is located in the Executive Office of the President) as an interagency body. That subsection also directs the Committee to identify the National Counterterrorism Center's Directorate of Strategic Operational Planning as an interagency body. (This Directorate is responsible for developing interagency plans for countering terrorism. The National Counterterrorism Center is located within the Office of the Director of National Intelligence; the Center's Director reports to the Director of National Intelligence but reports to the President for purposes of this Executive Branch-wide counterterrorism planning activity.)

Subsection 5(c)(2) states that the heads of interagency bodies may designate positions within their interagency bodies that are ICI positions (e.g., NSS positions responsible for counterterrorism could be positions within a counterterrorism ICI). That subsection also states that the heads of interagency bodies may designate other positions in their entities that would not otherwise be ICI positions (e.g., a position in the NSS Executive Secretariat) but for which service in them shall be deemed to be interagency rotational service.

Sec. 6. Interagency community of interest rotational service

Subsection 6(b)(1) requires the Committee to provide for employees serving in an ICI position to be assigned on a rotational basis to another ICI position that is in another agency or in an interagency body and within the same ICI as the employee's original ICI position. Subsection 6(b)(2) provides an exception—namely, that an employee may be assigned to an ICI position in another covered agency or in an interagency body that is not in the ICI of the employee's original position if the employee has particular non-governmental or other expertise that is relevant to the assigned ICI position.

Pursuant to subsection 6(c), the head of an agency with positions in an ICI determines which of those positions are open for interagency rotational service.

Subsection 6(d) directs the Committee to determine the minimum length of a rotation, which may vary by position. However, this subsection requires that the period of rotational service be sufficient for employees to gain an adequately detailed understanding and perspective of the agencies or interagency bodies to which they are rotating.

Subsection 6(e) states that interagency rotational service shall be voluntary on the part of an employee unless the head of an agency has preexisting authority to assign an employee involuntarily.

Subsection 6(f) states that employees performing interagency rotational service shall receive the same training at the agency to which they are rotating as that agency provides to its own new employees.

Subsection 6(g) contains a subsection designed to prevent agencies from needing a "personnel float" (*i.e.*, additional personnel) in order to implement this legislation: This subsection requires the Committee to ensure that employees are rotating across agencies within an ICI in a manner that ensures that the original positions of employees performing rotational service are filled within a reasonable period by employees rotating into the various agencies or by other available employees. This subsection also notes that some positions of personnel doing a rotation may not need to be filled if the agency will not lose effectiveness or otherwise incur costs from the employee's absence.

Subsection 6(h) requires that rotational positions be filled by fair and open competition except for positions that are otherwise exempt from fair and open competition. Subsection 6(i) also prevents the bill from altering current personnel rights under other provisions of law; this subsection states that an employee performing interagency rotational service shall have the same rights that would be available to the employee if the employee was detailed or assigned under another provision of law (*i.e.*, other than this legislation) from the agency employing the employee to the receiving agency.

Subsection 6(j) requires the Committee to consult with relevant organizations in formulating and implementing this Act. The Act gives a non-inclusive list of such organizations, specifying/The Homeland Security and Governmental Affairs Committee expects such organizations to include, among others, the Simons Center for the Study of Interagency Cooperation at the Command and General Staff College Foundation.

Subsection 6(l) states that employees performing interagency rotational service shall receive performance evaluations that are based primarily on their contribution to the work of the agency in which they are serving their rotations and to the functioning of the relevant ICI. Pursuant to this subsection, officials of the employee's home agency shall conduct such performance evaluations based on input from the employee's supervisors during the rotation.

Subsection 6(k) authorizes the Secretary of Defense to assign military officers to ICI positions. Also, subsection 6(m) section contains a specific provision for Foreign Service Officers, stating that service in a rotation freezes "time in class," which means that a Foreign Service Officer's service in an interagency rotation does not count against the maximum time that such officer may serve at a particular grade or level in the Foreign Service before having to be promoted or retire.

Finally, subsection 6(n) requires the Executive Branch to submit to Congress annually a list of ICI positions and ICI positions open for rotation with an explanation of the criteria of selection.

Sec. 7. Selection of senior positions in an interagency community of interest

Subsection 7(a) requires that there be a strong preference for personnel who have done interagency rotational service to be selected for SES positions within their home agency that are within their ICI.

Subsection 7(b) states that, beginning the second fiscal year after an ICI is identified by the Committee, and every year thereafter, the head of each agency that has positions within that ICI shall establish the minimum number of that agency's senior positions in that ICI that shall be filled by personnel who have performed interagency rotational service. This subsection requires agency heads to submit that target number to Congress at the beginning of the fiscal year and then to report at the end of the fiscal year if that target number has not been reached.

Subsection 7(c)(1) states that, for the first three fiscal years after the Committee identifies an ICI, service in another component of an employee's agency may count as interagency rotational service (e.g., an employee of the Department of Homeland Security Immigration and Customs Enforcement may do a rotation to the Department of Homeland Security Customs and Border Protection and have that count as interagency rotational service), subject to the Committee's approval.

Finally, subsection 7(c)(2) states that, for the first three fiscal years after the Committee identifies an ICI, service by an employee of an agency or component of the Intelligence Community pursuant to the Intelligence Community's internal rotation program shall constitute interagency rotational service.

Sec. 8. Implementation

Subsection 8(a) requires the Executive Branch to establish at least two ICIs during the first four fiscal years after the fiscal year of enactment: emergency management, and stabilization and reconstruction. That subsection requires, for each such fiscal year, between 20 and 25 personnel to perform interagency rotational service for each of the two ICIs. Pursuant to that subsection, the rota-

tions for each such ICI shall take place within a single metropolitan area.

Pursuant to subsection 8(b), for each such fiscal year, an agency shall prioritize rotations under this legislation for purposes of utilizing the funds that the agency already has available for rotations generally.

Subsection 8(c) requires that the Committee submit a plan to Congress within 270 days after enactment of the Act for the establishment of these two ICIs.

Sec. 9. Strategy and performance evaluation

Subsection 9(a)(1) requires that, no later than the beginning of the third fiscal year after the fiscal year of enactment, and every four years thereafter, the Committee shall issue a National Security Human Capital Strategy to develop the personnel necessary for accomplishing national security and homeland security objectives that require interagency integration. Subsection 9(a)(2) requires the Committee to consult annually with the majority and minority of relevant Congressional committees and, as the Committee determines appropriate, to solicit the views of other relevant entities.

Pursuant to subsection 9(a)(3), the strategy shall, among other things: (1) provide for the implementation of this Act; (2) identify best practices from ICIs already in operation; (3) identify any additional ICIs to be identified by the Committee; and (4) include a description of how the strategy incorporates views and suggestions obtained through the consultations with Congress.

In addition, subsection 9(a)(3) requires the strategy to include the following performance measures over a multi-year period: (1) the percentage of ICI positions available for interagency rotational service that were actually filled; (2) the number of personnel participating in interagency rotational service in each agency and interagency body; (3) the length of interagency rotational service; (4) reports by agencies if they failed to meet their targets for SES promotion under section 7; (5) the training and education of personnel who perform interagency rotational service; (6) the positions held by employees who perform interagency rotational service after completing such service; and (7) to the extent possible, an evaluation of the utility of interagency rotational service in improving interagency integration.

Subsection 9(b) requires that, two years after each strategy, the Committee shall issue a report that updates and assesses the implementation of the strategy, including data on the performance measures.

Finally, subsection 9(c) requires that the strategies and reports be submitted to Congress.

Sec. 10. Report by GAO

No later than the end of the second fiscal year after the fiscal year of enactment, GAO shall issue a report to Congress concerning: (1) the extent to which rotations enabled the employees performing such rotations to gain an adequately detailed understanding of the agency or interagency body in which the rotational service was performed; (2) the effectiveness of the Committee in overseeing and managing the rotational service under this Act; (3) the participation of agencies in interagency rotational service; (4)

the extent to which employees were rewarded for performing inter-agency rotational service; and (5) the extent to which or likelihood that interagency rotational service improved or is projected to improve interagency integration.

Sec. 11. Prohibition of printed reports

To limit costs, all strategies, reports, or other submissions produced by the Committee be published electronically rather than in hard-copy.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. S. 1268 would have no regulatory impact. In addition, the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would not effect state, local, and tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

DECEMBER 22, 2011.

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. 1268, the Interagency Personnel Rotation Act of 2011.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1268—Interagency Personnel Rotation Act of 2011

S. 1268 would establish a Committee on National Security Personnel within the Executive Office of the President to improve the integration of national security and homeland security personnel. The committee would identify areas of interest for interagency cooperation among agencies responsible for national security and homeland security. CBO estimates that implementing S. 1268 would cost less than \$1 million annually over the 2012–2016 period, assuming the availability of appropriated funds. Those costs would be incurred to implement new regulations, provide additional staff training, and to cover additional administrative expenses. CBO estimates that enacting the legislation would affect direct spending; therefore, pay-as-you-go procedures would apply. Enacting the bill would not affect revenues.

S. 1268 contains two provisions that would have an insignificant effect on direct spending. The bill would rescind certain funds previously appropriated to the Department of Defense. In addition, S. 1268 would make it possible for a small number of Foreign Service officers to retire one year later than they would have otherwise. Postponing retirement would initially reduce retirement costs. However, that initial reduction would be largely offset in later years by a small increase in retirement benefits because the af-

pected Foreign Service officers would have an additional year of service. CBO estimates that both of those provisions would have an insignificant net effect on direct spending over the next 10 years.

S. 1268 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.

The CBO staff contacts for this estimate are Matthew Pickford and Jason Wheelock. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW

This legislation does not make any changes to existing law.

