

**TESTIMONY
ON
THE FEDERAL WORKFORCE: LEGISLATIVE PROPOSALS FOR CHANGE
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The Federal Workforce: Legislative proposals for Change

Good afternoon, Mr. Chairman and Members of the Subcommittee on International Security, Proliferation, and Federal Services. My name is Carolyn Ban. I wear many hats that are relevant today. I am the dean of the Graduate School of Public and International Affairs at the University of Pittsburgh, where, I have to say, a decreasing percentage of our graduates are choosing to work in government. I am the President of NASPAA, the National Association of Schools of Public Affairs and Administration, which represents over 250 programs offering degrees in these areas. I am a scholar who has studied the federal civil service for over 20 years. And I am a former federal employee myself.

Impact of the Human Capital Crisis, nationally and in Southwest Pennsylvania

We have all read the reports of the impending human capital crisis. How severe the crisis will be, and how quickly it will hit, are not yet clear. But it is important to note that this isn't just a Washington issue. It will affect the whole country, both in terms of job opportunities and in terms of the quality of services we receive from the federal government. My students this semester are studying the potential impact of this crisis on Southwest Pennsylvania. We have found that the federal government is the second-largest employer in the region, with over 20,000 jobs. While about half of those are with the postal service, there are still over 10,000 people working for federal agencies covered by the Federal Civil Service system. My students' interviews with HR offices in the agencies showed a wide range of responses to the crisis, from some agencies (and I would put Social Security high on the list) that are aware of the coming crisis and are preparing carefully for it to other agencies that haven't even begun to think about it.

So the issues you are addressing in this legislation are serious. These are not just technical issues; they are issues that go to the heart of the values we want our federal government to embody. How do we support and improve the capacity of the government to meet the serious challenges we face as a society, while at the same time protecting the core value of merit that gives our government its legitimacy?

You requested that we respond to four questions. Let me briefly address each of them.

How would these proposals help recruit and retain the people agencies need to carry out their missions?

Competitive hiring and category rating

One of the most significant parts of the proposed legislation is Title II, section 202, on reform of the competitive service hiring process, which authorizes agencies, with OPM approval, to adopt a category rating system. This would allow agencies to rank candidates, not by numerical score but by overall merit. Category rating, which is called zone scoring or band scoring in other jurisdictions, is, in academic terms, like giving students an A or A- grade, rather than a 95 or a 94 on an examination.

The justification for this reform is very strong. First, even when we use valid written tests, they are not so accurate that a person who receives a 95 is necessarily better qualified than the person who got a 94. In fact, the way the Rule of Three is

currently applied, if there were ten people who received the top score, the hiring official would only be able to consider three of them, and, in the case of ties, if veterans preference didn't apply, the agency would be forced to use random numbers to pick the three finalists. That is hardly a fair, equitable, or open system.

Second, it is important to note that category rating has been tried out in a Department of Agriculture Demonstration project, where it has been very successful. I have written, in the past, about the demonstration project provision of the Civil Service Reform Act of 1978 (See Carolyn Ban, "Research and Demonstrations Under CSRA: Is Innovation Possible?" in Patricia W. Ingraham and David H. Rosenbloom, eds *The Promise and Paradox of Civil Service Reform*, 1992). What I said then was that the idea of allowing agencies to suspend civil service law to experiment with new approaches was a very positive one, but that, for a variety of reasons, no successful demonstration project has actually resulted in a change of law allowing other agencies to benefit from what we have learned. This provision would be an important change that builds on Agriculture's leadership in developing and testing a new approach. Agencies would not be required to use it; rather, they can choose to do so when it makes sense for them.

I should also note that a number of state governments use category rating. New York State, for example, moved successfully to implement this approach. Their earliest attempts to adopt it were opposed by the unions because the top category was too broad, but subsequently they have allayed union anxiety about this approach, and it appears to be working well there.

Finally, category rating is compatible with our obligation to provide veterans preference. Indeed, the evaluations of the Agriculture demonstration project show that veterans actually fare better under this system.

Noncompetitive hiring: some concerns

On the other hand, I do have some concerns about the provisions for non-competitive hiring. I want to raise two issues. First, the categories of positions for which noncompetitive hiring can be used are very broad. I recognize that many managers at the agencies would support this broad definition, but I ask the committee to consider how many positions would not be covered by these categories. How many managers don't think they need expedited hiring for their positions, for example?

This section raises basic issues about the nature of the merit system and the requirement that positions be open to all citizens. We face here a difficult trade-off between pressures for speeding up the process and our commitment to an open and fair system. Pushing agencies to reform and speed up their competitive hiring, especially through the use of new technologies, is a real alternative, and there are some agencies that have done so very effectively. There is no reason that competitive hiring needs to take three months or even longer. Even with adequate time for posting, there's no reason the entire process can't be completed in less than a month, if the managers and HR staff can work together to streamline the process.

It is not clear from the summary of the combined bill that you provided whether the provisions in S. 1603 concerning use of grade point average for noncompetitive hiring remain. If so, I would also raise a question about that section. This section both expands and makes permanent the Outstanding Scholars program put in place over 20 years ago as a result of the Luevano consent decree, which allows managers to hire noncompetitively applicants with at least a 3.5 undergraduate Grade Point Average (GPA). Managers have made frequent use of the program, because it is one of the fastest ways to hire a new employee. But the research shows some problems with its use. Unfortunately, GPA alone is a weak predictor of future job performance. If we really want to attract an outstanding workforce, then use of GPA alone is not the best way to go. Even in evaluating academic performance, we would want to be able to look at the quality of the college or university and the relevance of the degree. Under Outstanding Scholars as it currently works, there is no requirement that the undergraduate degree have any connection to the position being filled. Further, there is no recency requirement. That is, the college degree could have been received 10 or 20 years ago and still be the sole basis on which someone is hired. Statistics for FY 2000, show that the average age for all new hires under Outstanding Scholars is 29.9 years, and the average age for veterans hired under Outstanding Scholars is 39.9 years.

In sum, if the legislation does include a noncompetitive hiring process, it should allow agencies to consider more than simply grade point average. Assessment of academic performance should include both relevance and recency of degree,

and agencies should also be permitted to consider relevant experience and other credentials.

Recruitment, relocation, and retention bonuses

One section of the bill that will affect the ability of the federal agencies to recruit and retain top-flight employees calls for expanding agencies' abilities to use recruitment, relocation, and retention bonuses. This is an important tool, which is probably being underutilized, and I support giving agencies greater flexibility in the use of bonuses. Agencies will, of course, have to cover the costs of these bonuses, but they should be encouraged to use the bonuses strategically, and this provision gives them the tools to do so.

How do these bills contribute to better management in government and its effect on attrition?

Emphasis on a human capital approach

The focus throughout the bill on a human capital approach, including designating a Human Capital Officer in each agency, and on human capital strategic planning is important and should, if carried out effectively, contribute to better management.

Phased retirement and revision of the system for computing annuities for part-time employment

I support the section of the bill calling for a study of phased retirement. We know that many senior people are going to be eligible to retire soon. Allowing phased retirement will prevent the loss of valuable institutional memory by permitting retirees to stay in place long enough to manage a smooth hand-off to the new leaders moving into those positions. It will also assist agencies in planning for impending retirements, something that is difficult to do under the current system.

Phased retirement would also be supported by section 209, calling for changing the computation of annuities under CSRS, especially for people who choose to move to part-time at the end of their careers.

Dealing with poor performers: legislative change or improved management?

Another management challenge is dealing with performance problems. This is an issue I have been studying ever since CSRA passed and I was charged with helping design the initial evaluations of the new process and standards for taking "performance-based actions," that is, disciplinary actions based on performance. These provisions did not have the desired effect, and agencies still tend to use the more traditional adverse action process. This bill includes two relevant provisions. One requires that agencies develop programs to provide training to managers on dealing with employees with unacceptable performance. That's worth doing, since some managers avoid taking action because they don't fully understand the system. The bill also calls for OPM to conduct a study with recommendations for streamlining the process, and that might lead to some meaningful change.

On the other hand, I do not support the change called for in section 211 of the combined bill, which would reduce the notice of termination from 30 to 15 days. I know that the National Performance Review report included that as a recommendation. But the real delays in the process are not at the notice stage. They are at the appeals stage, which can drag on for months or years. The government is required, by law, to follow due process in these situations, and I am not sure the courts would support this provision. But its impact on the process is fairly trivial, and it does not address the chilling effect of the current appeals process.

All the research on this topic is clear. When managers get clear signals from their bosses, up to the top of the agency, that taking action against poor performers is appropriate, and that they will be backed when they do it, they will take action. When they get signals that, if they make the effort to deal with these problems they will be left hanging out to dry, they, quite sensibly, find other ways to deal with their problem employees.

Repeal of requirement for SES recertification

I should include, as a sidebar, that I support the provision in the bill for repealing the requirement for SES recertification. Agencies already had adequate mechanisms through the performance appraisal process for identifying SES members who were not performing adequately and for dealing with them. Because there was already low tolerance for inadequate performance at this high level, the recertification process has been just another paper exercise, with minimal added value for the costs incurred.

How do these bills contribute to an employee friendly environment? How do the proposals make the federal

government more attractive to current and future employees?*Support for education and training*

This bill provides strong support for education and training. The benefit here will be a double one: educational benefits will make the government a more attractive employer. And the provisions are written so that the education and training covered will be of direct benefit to the agency. I support the provision requiring agencies to link training activities to performance plans and strategic goals, to designate a training officer, and to require agencies to maintain adequate records of their training activities.

I also support the provision requiring agencies to develop training programs both for management succession and, as I mentioned above, to help managers to deal with performance problems.

And, not surprisingly, I strongly support the provision to allow agencies to pay for academic training, when it meets an agency need and is tied to a professional development program. Given the rapid changes in technology and in agency skill needs, the only way for agencies to stay current is to make sure their career employees have cutting-edge skills and knowledge, and one of the best ways to achieve this is by encouraging people to pursue academic degrees, including advanced and specialized education.

I also support the expansion of the National Security Education program in section 403 the combined bill.

Accrual of leave for newly hired federal employees with qualified experience

One of the problems agencies face, as they develop succession plans to deal with the projected loss of large numbers of mid-level and senior managers, is that the system is really designed for entry-level hiring. While agencies have the tools to hire new employees from outside government who have years of experience and management skills, managers have traditionally looked inside the agency or inside government. Years of budget cuts and controls on FTEs have only increased that tendency. And concerns about the speed of the hiring process for external hires have reinforced the tendency to promote internally. But agencies will increasingly be forced to look outside, and, when they do, they need to be able to compete with other employers for the best people. Giving new hires at this level leave only at the level of an entry-level employee is a disincentive to government service. This provision allows agencies to accrue annual leave at the higher rate that normally comes with several years of experience. It is a small, but useful, change.

How can the issue of compensation gaps between the public and private sector be addressed?*Pay provisions in the combined bill*

This bill does not call for fundamental changes in the General Schedule system of classification and compensation, but it does have several provisions that make needed adjustments to compensation. They include the following:

- Raising the cap on total compensation for SES members
- Streamlined critical pay authority
- Recruitment, relocation, and retention bonuses (discussed above)
- Correction of pay administration problems, especially in the special pay rates program

These are all worthwhile changes. They are not dramatic changes, and they will affect a relatively small number of employees, so I do not see them as having major budgetary impact.

Broader pay issues

I do think that it is time for us to take a broader look at both classification and pay systems in the federal government. Some issues require immediate attention. Raising the ceiling on SES pay would immediately reduce the projected retirements of SES members, and it is long overdue. But we need a better system for setting executive-level pay, so that we don't have to keep refighting the same fight.

And we need a better, more flexible system for classifying jobs and paying people what they are worth throughout the federal government. The current system has not had a major overhaul in over 50 years. It is based on outdated concepts

of management and limits the ability of managers to use their workforce flexibly and to reward their top employees. It also hurts employees by limiting their ability to grow on the job. This lack of flexibility, coupled with the unwillingness of the administration to fully implement the last pay reform, has definitely made the federal government less competitive as an employer. The need for more sweeping reform should not be a deterrent to passing this legislation. We need to move quickly to make these incremental changes, while at the same time, through the second Volcker Commission as well as through other efforts, we put on the table the broader questions: What should the civil service of the 21st century look like? Do we need to rethink the merit principles? Can we continue to uphold those principles while providing both managers and employees the benefits of a more flexible system for hiring, for managing staff, and for compensation? And is there an inherent conflict between our policies for contracting out some of the most interesting parts of what the government does and our desire to make public service attractive to people with skills, energy, and initiative?