

other elements that are common to the "competitive service" of the executive branch)?

(3) Does VEO authorize the Board to extend the rights and protections of veterans' preference for purposes of appointment to those positions identified in (2) above notwithstanding they are not technically "competitive service" positions?

(4) In order to provide for effective implementation of veterans' preference rights, could the Board, under the "good cause" provision of §4(c)(4)(B) of VEO, modify the most relevant substantive regulations of the executive branch pertaining to veterans' preference in the appointment of "covered employees" so as to make them applicable to the legislative branch without reference to the "competitive service"?

(5) How would the rights and protections of subchapter I of chapter 35, Title 5 USC (pertaining to retention during RIFs), be applied to "covered employees" (as defined by §4(c)(1) of VEO)?

(6) Does VEO authorize the Board to extend the rights and protections of veterans' preference for purposes of retention during reductions in force to "covered employees" holding positions that are not technically within the "competitive service" or the "excepted service"?

(7) In order to provide for effective implementation of veterans' preference rights, could the Board, under the "good cause" provision of §4(c)(4)(B) of VEO, modify the most relevant substantive regulations of the executive branch pertaining to veterans' preference in the retention of "covered employees" during reductions in force so as to make them applicable to the legislative branch without reference to the "competitive service" or the "excepted service"?

(8) In view of the fact that VEO does not explicitly grant the Board the authority exercised by OPM under 5 USC §1103, §1104, §1301 and §1302 to execute, administer, and enforce the federal civil service system, does the Board have the authority to propose regulations that would vest the Board with responsibilities similar to OPM's over employment practices involving covered employees in the legislative branch?

(9) Is the Board empowered by the statute to give effect to the comment in the legislative history that employing offices of the legislative branch should "create systems that are consistent with the underlying principles of veterans' preference laws," as discussed by the Senate Report accompanying the bill enacted as VEO (Sen. Rept. 105-340, 105th Cong., 2d Sess., at 17 (Sept. 21, 1998)? If so, how should such effect be given?

(10) Under VEO, what steps, if any, must employing offices of the legislative branch take to "create systems that are consistent with the underlying principles of veterans' preference laws," as discussed by the Senate Report accompanying the bill enacted as VEO (Sen. Rept. 105-340 (105th Cong., 2d Sess. Sept. 21, 1998), at 17)?

(11) With respect to positions restricted to preference eligible individuals under 5 USC §3310, namely guards, elevator operators, messengers, and custodians, the Board seeks information and comment on the following issues and questions:

(a) The identity, in the legislative branch, of guard, elevator operator, messenger, and custodian positions within the meaning of these terms under 5 USC §3310.

(b) The identity of covered employing offices responsible for personnel decisions affecting employees who fill positions of guard, elevator operator, messenger, and custodian within the meaning of 5 USC §3310 and the implementing regulations.

(c) Would police officers and other employees of the United State Capitol Police be

considered "guards" under the application of the rights and protections of this section to covered employees under VEO?

(d) Whether the current methods of hiring include an entrance examination within the meaning of 5 CFR §330.401 and, if not, whether the affected employing offices believe that the statute mandates the creation of such an examination and/or allows such an examination to be required of the employing offices?

(e) What changes, if any, in the regulations are required to effectuate the rights and protections of 5 USC §3310 as applied by VEO?

(12) Which executive branch regulations, if any, should not be adopted because they are promulgated to implement inapplicable statutory provisions of veterans' preference law or are otherwise inapplicable to the legislative branch?

(13) What modification, if any, of the executive branch regulations would make them more effective for the implementation of the rights and protections made applicable under VEO as provided by VEO §4(c)(4)(B)?

Signed at Washington, D.C. on this 16th day of February, 2000.

GLENN D. NAGER,  
Chair of the Board,  
Office of Compliance.

#### FOOTNOTES

<sup>1</sup> Pub. L. 105-339 (Oct. 31, 1998).

<sup>2</sup> Sen. Rept. 105-340, 105 Cong., 2d Sess. at 19 (Sept. 21, 1998).

<sup>3</sup> Act of June 27, 1944, ch. 287, 58 Stat. 387, amended and codified in various provisions of Title 5, USC.

<sup>4</sup> Generally, these are positions that are excepted by law, by executive order, or by the action of OPM placing a position or group of positions in what are known as excepted service Schedules A, B, or C. For example, certain entire agencies such as the Postal Service, the Federal Bureau of Investigation, and the Central Intelligence Agency are excepted by law. In other cases, certain jobs or classes of jobs in an agency are excepted by OPM, 5 CFR Part 213. This includes attorneys, chaplains, student trainees, and others.

<sup>5</sup> These generally are high-level, managerial positions in the executive department whose appointment does not require Senate confirmation. See 5 USC §3123 (a)(2), which defines the term "Senior Executive Service position."

<sup>6</sup> The definition of "covered employee" under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term "covered employee": (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service.

<sup>7</sup> Compare VEO §4(c)(3)(B) with CAA §§202(d)(2), 203(c)(2), 204(c)(2), 205(c)(2), 206(c)(2), 210(e)(2), 215(d)(2), 220(d)(2)(A).

<sup>8</sup> See, e.g., 5 CFR §351.205 ("The Office of Personnel Management may establish further guidance and instructions for planning, preparation, conduct and review of reductions in force through the Federal Personnel Manual System. OPM may examine an agency's preparations for reduction in force at any stage.")

<sup>9</sup> Sen. Rept. 105-340, 105 Cong., 2d Sess. at 17 (Sept. 21, 1998).

<sup>10</sup> Compare Administrative Office of the United States Courts Personnel Act of 1990, Pub. L. 101-474, 104 Stat. 1097, §3. Individuals in this office of the judicial branch are afforded the right to veterans' preference "in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch." §3(a)(11). However, the Congress also empowered the Director the Administrative Office to establish by regulation a personnel management system that parallels many of the features of the executive branch's personnel system regulated by OPM. VEO contains no comparable provisions giving similar powers to the Board or any other legislative branch entity.

<sup>11</sup> For a description of the "excepted service," see note 4 *infra*.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business Friday, February 25, 2000, the Federal debt stood at \$5,748,251,779,017.69 (Five trillion, seven hundred forty-eight billion, two hundred fifty-one million, seven hundred seventy-nine thousand, seventeen dollars and sixty-nine cents).

One year ago, February 25, 1999, the Federal debt stood at \$5,620,928,000,000 (Five trillion, six hundred twenty billion, nine hundred twenty-eight million).

Fifteen years ago, February 25, 1985, the Federal debt stood at \$1,695,295,000,000 (One trillion, six hundred ninety-five billion, two hundred ninety-five million).

Twenty-five years ago, February 25, 1975, the Federal debt stood at \$496,984,000,000 (Four hundred ninety-six billion, nine hundred eighty-four million) which reflects a debt increase of more than \$5 trillion—\$5,251,267,779,017.69 (Five trillion, two hundred fifty-one billion, two hundred sixty-seven million, seven hundred seventy-nine thousand, seventeen dollars and sixty-nine cents) during the past 25 years.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7714. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adhesives and Components of Coatings and Paper and Paperboard Compounds" (Docket No. 92F-0111), received February 24, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-7715. A communication from the Board Members, Railroad Retirement Board, transmitting the justification of budget estimates for fiscal year 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-7716. A communication from the President, James Madison Memorial Fellowship Foundation, transmitting the annual report for fiscal year 1999; to the Committee on Health, Education, Labor, and Pensions.