

CHANDLER PUMPING PLANT  
WATER EXCHANGE FEASIBILITY  
STUDY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3986, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Idaho (Mr. SIMPSON) that the House suspend the rules and pass the bill, H.R. 3986, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 218, nays 201, not voting 14, as follows:

[Roll No. 480]

YEAS—218

Aderholt	Gillmor	Packard
Archer	Gilman	Pease
Armey	Goode	Peterson (PA)
Bachus	Goodlatte	Petri
Baird	Goodling	Pickering
Baker	Goss	Pitts
Ballenger	Graham	Pombo
Barr	Granger	Porter
Barrett (NE)	Green (WI)	Portman
Bartlett	Greenwood	Pryce (OH)
Barton	Gutknecht	Quinn
Bass	Hall (OH)	Radanovich
Bereuter	Hansen	Ramstad
Biggett	Hastings (WA)	Regula
Bilbray	Hayes	Reynolds
Bilirakis	Hayworth	Riley
Bliley	Hefley	Rogan
Blunt	Herger	Rogers
Boehlert	Hill (MT)	Rohrabacher
Boehner	Hilleary	Ros-Lehtinen
Bonilla	Hobson	Roukema
Bono	Hoekstra	Royce
Boswell	Horn	Ryan (WI)
Brady (TX)	Hostettler	Ryun (KS)
Bryant	Hulshof	Salmon
Burr	Hunter	Sanford
Burton	Hutchinson	Saxton
Callahan	Hyde	Scarborough
Calvert	Inslee	Schaffer
Camp	Isakson	Sensenbrenner
Canady	Istook	Sessions
Cannon	Jenkins	Shadegg
Castle	Johnson (CT)	Shaw
Chabot	Johnson, Sam	Shays
Chambliss	Jones (NC)	Sherwood
Chenoweth-Hage	Kasich	Shimkus
Coburn	Kelly	Shuster
Collins	King (NY)	Simpson
Combest	Kingston	Skeen
Cook	Knollenberg	Smith (MI)
Cooksey	Kolbe	Smith (NJ)
Cox	Kuykendall	Smith (TX)
Crane	LaHood	Souder
Cubin	Largent	Spence
Cunningham	Latham	Stearns
Davis (VA)	LaTourette	Stump
Deal	Leach	Sununu
DeLay	Lewis (CA)	Sweeney
DeMint	Lewis (KY)	Talent
Diaz-Balart	Linder	Tancredo
Dickey	LoBiondo	Tauzin
Dicks	Lucas (OK)	Taylor (NC)
Doolittle	Manzullo	Terry
Dreier	Martinez	Thomas
Duncan	McCrery	Thompson (CA)
Dunn	McHugh	Thornberry
Ehlers	McInnis	Thune
Ehrlich	McKeon	Tiahrt
Emerson	Metcalf	Toomey
English	Mica	Toomey
Everett	Miller (FL)	Trafficant
Ewing	Miller, Gary	Upton
Fletcher	Moran (KS)	Vitter
Foley	Morella	Walden
Fossella	Myrick	Walsh
Fowler	Ney	Wamp
Frelinghuysen	Northup	Watkins
Galleghy	Norwood	Watts (OK)
Ganske	Nussle	Weldon (FL)
Gibbons	Ose	Weldon (PA)
Gilchrest	Oxley	Weller

Whitfield  
Wicker

Wilson  
Wolf

Young (AK)  
Young (FL)

GAO PERSONNEL FLEXIBILITY  
ACT OF 2000

Mr. BURTON of Indiana. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4642) to make certain personnel flexibilities available with respect to the General Accounting Office, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4642

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. VOLUNTARY EARLY RETIREMENT AUTHORITY.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Effective for purposes of the period beginning on the date of enactment of this Act and ending on December 31, 2003, paragraph (2) of section 8336(d) of title 5, United States Code, shall, with respect to officers and employees of the General Accounting Office, be applied as if it had been amended to read as follows:

“(2)(A) has been employed continuously by the General Accounting Office for at least the 31-day period immediately preceding the start of the period referred to in subparagraph (D);

“(B) is serving under an appointment that is not time limited;

“(C) has not received a notice of involuntary separation, for misconduct or unacceptable performance, with respect to which final action remains pending; and

“(D) is separated from the service voluntarily during a period with respect to which the Comptroller General determines that the application of this subsection is necessary and appropriate for the purpose of—

“(i) realigning the General Accounting Office’s workforce in order to meet budgetary constraints or mission needs;

“(ii) correcting skill imbalances; or

“(iii) reducing high-grade, managerial, or supervisory positions;”.

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Effective for purposes of the period beginning on the date of enactment of this Act and ending on December 31, 2003, subparagraph (B) of section 8414(b)(1) of title 5, United States Code, shall, with respect to officers and employees of the General Accounting Office, be applied as if it had been amended to read as follows:

“(B)(i) has been employed continuously by the General Accounting Office for at least the 31-day period immediately preceding the start of the period referred to in clause (iv);

“(ii) is serving under an appointment that is not time limited;

“(iii) has not received a notice of involuntary separation, for misconduct or unacceptable performance, with respect to which final action remains pending; and

“(iv) is separated from the service voluntarily during a period with respect to which the Comptroller General determines that the application of this subsection is necessary and appropriate for the purpose of—

“(I) realigning the General Accounting Office’s workforce in order to meet budgetary constraints or mission needs;

“(II) correcting skill imbalances; or

“(III) reducing high-grade, managerial, or supervisory positions;”.

(c) NUMERICAL LIMITATION.—Not to exceed 10 percent of the General Accounting Office’s workforce (as of the start of a fiscal year) shall be permitted to take voluntary early retirement in such fiscal year pursuant to this section.

(d) REGULATIONS.—The Comptroller General shall prescribe any regulations necessary to carry out this section, including

NAYS—201

Ackerman  
Allen  
Andrews  
Baca  
Baldacci  
Baldwin  
Barcia  
Barrett (WI)  
Becerra  
Bentsen  
Berkley  
Berman  
Berry  
Bishop  
Blagojevich  
Blumenauer  
Bonior  
Borski  
Boucher  
Boyd  
Brady (PA)  
Brown (FL)  
Brown (OH)  
Capps  
Capuano  
Cardin  
Carson  
Clay  
Clayton  
Clement  
Clyburn  
Coble  
Condit  
Conyers  
Costello  
Coyne  
Cramer  
Crowley  
Cummings  
Danner  
Davis (FL)  
Davis (IL)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Deutsch  
Dingell  
Dixon  
Doggett  
Doyle  
Edwards  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Forbes  
Ford  
Gejdenson  
Gekas  
Gephardt  
Gonzalez  
Gordon

Green (TX)  
Gutierrez  
Hall (TX)  
Hastings (FL)  
Hill (IN)  
Hilliard  
Hinchey  
Hinojosa  
Hoeffel  
Holden  
Holt  
Hooley  
Hoyer  
Jackson (IL)  
Jackson-Lee (TX)  
Jefferson  
John  
Johnson, E.B.  
Jones (OH)  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick  
Kind (WI)  
Klecza  
Kucinich  
LaFalce  
Lampson  
Lantos  
Larson  
Lee  
Levin  
Lewis (GA)  
Lipinski  
Lofgren  
Lowe  
Lucas (KY)  
Luther  
Maloney (CT)  
Maloney (NY)  
Markey  
Mascara  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McDermott  
McGovern  
McIntyre  
McKinney  
Meehan  
Meeke (FL)  
Meeke (NY)  
Menendez  
Millender  
McDonald  
Miller, George  
Minge  
Mink  
Moakley  
Mollohan  
Moore  
Moran (VA)  
Murtha  
Nadler  
Napolitano  
Neal

Oberstar  
Obey  
Olver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor  
Paul  
Payne  
Pelosi  
Peterson (MN)  
Phelps  
Pickett  
Pomeroy  
Price (NC)  
Rahall  
Rangel  
Reyes  
Rivers  
Rodriguez  
Roemer  
Rothman  
Roybal-Allard  
Rush  
Sabo  
Sanchez  
Sanders  
Sandlin  
Sawyer  
Schakowsky  
Scott  
Serrano  
Sherman  
Shows  
Sisisky  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Spratt  
Stabenow  
Stark  
Stenholm  
Strickland  
Stupak  
Tanner  
Tauscher  
Taylor (MS)  
Thompson (MS)  
Thurman  
Tierney  
Towns  
Turner  
Udall (CO)  
Udall (NM)  
Velazquez  
Visclosky  
Waters  
Watt (NC)  
Waxman  
Weiner  
Wexler  
Weygand  
Woolsey  
Wu  
Wynn

NOT VOTING—14

Abercrombie  
Buyer  
Campbell  
Dooley  
Franks (NJ)

Houghton  
Klink  
Lazio  
McCollum  
McIntosh

McNulty  
Nethercutt  
Vento  
Wise

□ 1526

Mr. UDALL of New Mexico changed his vote from “yea” to “nay.”

Mr. INSLEE changed his vote from “nay” to “yea.”

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

regulations under which an early retirement offer may be made to any employee or group of employees based on—

- (1) geographic area, organizational unit, or occupational series or level;
- (2) skills, knowledge, or performance; or
- (3) such other similar factors (or combination of factors described in this or any other paragraph of this subsection) as the Comptroller General considers necessary and appropriate in order to achieve the purpose involved.

#### SEC. 2. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) IN GENERAL.—Effective for purposes of the period beginning on the date of enactment of this Act and ending on December 31, 2003, the authority to provide voluntary separation incentive payments shall be available to the Comptroller General with respect to employees of the General Accounting Office.

(b) TERMS AND CONDITIONS.—The authority to provide voluntary separation incentive payments under this section shall be available in accordance with the provisions of subsections (a)(2)–(e) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note), except that—

(1) subsection (a)(2)(D) of such section shall be disregarded;

(2) subsection (a)(2)(G) of such section shall be applied by construing the citations therein to be references to the appropriate authorities in connection with employees of the General Accounting Office;

(3) subsection (b)(1) of such section shall be applied by substituting “Committee on Government Reform” for “Committee on Government Reform and Oversight”;

(4)(A) subsection (b)(2)(A) of such section shall be applied by substituting “eliminated (if any)” for “eliminated”;

(B) subsection (b)(2)(C) of such section shall be applied by substituting “such positions or functions as are to be eliminated and such employees as are to be separated” for “the eliminated positions and functions”;

(C) the agency strategic plan referred to in subsection (b) of such section shall, in addition to the information described in paragraph (2) thereof, contain the following: the steps to be taken to realign the General Accounting Office’s workforce in order to meet budgetary constraints or mission needs, correct skill imbalances, or reduce high-grade, managerial, or supervisory positions;

(5) subsection (c)(1) of such section shall be applied by substituting “to the extent necessary (A) to realign the General Accounting Office’s workforce in order to meet budgetary constraints or mission needs, (B) to correct skill imbalances, or (C) to reduce high-grade, managerial, or supervisory positions, in conformance with that agency’s strategic plan (as referred to in subsection (b)).” for the matter following “only”;

(6) subsection (c)(2)(D) of such section shall be applied by substituting “December 31, 2003, or the end of the 3-month period beginning on the date on which such payment is offered to such employee, whichever is earlier” for “December 31, 1997”;

(7) instead of the amount described in paragraph (1) of subsection (d) of such section, the amount required under such paragraph shall be determined in accordance with subsection (c)(1) of this section.

(c) ADDITIONAL CONTRIBUTION TO RETIREMENT FUND.—

(1) DETERMINATION OF AMOUNT REQUIRED.—The amount required under this paragraph shall be the amount determined under subparagraph (A) or (B), whichever is greater, for the fiscal year involved.

(A) FIRST METHOD.—The amount required under this subparagraph shall be determined as follows:

(i) First, determine the sum of the following:

(I) The amount equal to 19 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8336(d) of title 5, United States Code.

(II) The amount equal to 58 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8336 of such title 5 (not including any employee covered by subclause (I)).

(ii) Second, reduce the sum of the amounts determined under clause (i) by the sum of the following (but not below zero):

(I) The amount equal to 419 percent of the final basic pay of each employee described in paragraph (2), who is covered by subchapter III of chapter 83 of title 5, United States Code, and who resigns.

(II) The amount equal to 17 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8414(b) of such title 5.

(III) The amount equal to 8 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8412 of such title 5.

(IV) The amount equal to 211 percent of the final basic pay of each employee described in paragraph (2), who is covered by chapter 84 of such title 5, and who resigns.

(B) SECOND METHOD.—The amount required under this subparagraph shall be equal to 45 percent of the final basic pay of each employee described in paragraph (2).

(2) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year involved.

#### (3) REGULATIONS.—

(A) IN GENERAL.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection, including provisions under which any additional contribution determined under this subsection shall, at the election of the General Accounting Office, be payable either in a lump sum or through installment payments made over a period of not to exceed 3 years.

(B) INTEREST.—The regulations shall include provisions under which, if the installment method is chosen, interest shall be payable at the same rate as provided for under section 8348(f) of title 5, United States Code.

(4) RULE OF CONSTRUCTION.—As used in this subsection, the term “resign” shall not be considered to include early retirement or a separation giving rise to an immediate annuity.

#### (d) DEFINITIONS.—

(1) FINAL BASIC PAY.—As used in this section, the term “final basic pay” has the same meaning as under section 663(d)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note).

(2) EMPLOYEE.—As used in this section and, for purposes of this section, the provisions of law cited in subsection (b), the term “employee” shall be considered to refer to an officer or employee of the General Accounting Office.

(e) NUMERICAL LIMITATION.—Not to exceed 5 percent of the General Accounting Office’s workforce (as of the start of a fiscal year) shall be permitted to receive a voluntary separation incentive payment under this sec-

tion based on their separating from service in such fiscal year.

(f) REGULATIONS.—The Comptroller General shall prescribe any regulations necessary to carry out this section, excluding subsection (c). Such regulations shall include provisions under which a voluntary separation incentive payment may be offered to any employee or group of employees based on—

(1) geographic area, organizational unit, or occupational series or level;

(2) skills, knowledge, or performance; or

(3) such other similar factors (or combination of factors described in this or any other paragraph of this subsection) as the Comptroller General considers necessary and appropriate in order to achieve the purpose involved.

#### SEC. 3. REDUCTIONS IN FORCE.

(a) MODIFIED PROCEDURES.—

(1) IN GENERAL.—Subsection (h) of section 732 of title 31, United States Code, is amended to read as follows:

“(h)(1)(A) Notwithstanding any other provision of law, the Comptroller General shall prescribe regulations, consistent with regulations issued by the Office of Personnel Management under authority of section 3502(a) of title 5 for the separation of employees of the General Accounting Office during a reduction in force or other adjustment in force.

“(B) The regulations must give effect to the following factors in descending order of priority—

“(i) tenure of employment;

“(ii) military preference subject to section 3501(a)(3) of title 5;

“(iii) veterans’ preference under sections 3502(b) and 3502(c) of title 5;

“(iv) performance ratings;

“(v) length of service computed in accordance with the second sentence of section 3502(a) of title 5; and

“(vi) other objective factors such as skills and knowledge that the Comptroller General considers necessary and appropriate to realign the agency’s workforce in order to meet current and future mission needs, to correct skill imbalances, or to reduce high-grade, managerial, or supervisory positions.

“(C) Notwithstanding subparagraph (B), the regulations relating to removal from the General Accounting Office Senior Executive Service in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

“(2)(A) The regulations shall provide a right of appeal to the General Accounting Office Personnel Appeals Board regarding a personnel action under the regulations, consistent with section 753 of this title.

“(B) The regulations shall provide that final decision by the General Accounting Office Personnel Appeals Board may be reviewed by the United States Court of Appeals for the Federal Circuit consistent with section 755 of this title.

“(3)(A) Except as provided in subparagraph (B), an employee may not be released, due to a reduction in force, unless such employee is given written notice at least 60 days before such employee is so released. Such notice shall include—

“(i) the personnel action to be taken with respect to the employee involved;

“(ii) the effective date of the action;

“(iii) a description of the procedures applicable in identifying employees for release;

“(iv) the employee’s ranking relative to other competing employees, and how that ranking was determined; and

“(v) a description of any appeal or other rights which may be available.

“(B) The Comptroller General may, in writing, shorten the period of advance notice

required under subparagraph (A) with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable, except that such period may not be less than 30 days.”.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall apply with respect to all reduction-in-force actions taking effect on or after—

(A) the 180th day following the date of enactment of this Act; or

(B) if earlier, the date the Comptroller General issues the regulations required under such amendment.

(3) SAVINGS PROVISIONS.—If, before the effective date determined under paragraph (2), specific notice of a reduction-in-force action is given to an individual in accordance with section 1 of chapter 5 of GAO Order 2351.1 (dated February 28, 1996), then, for purposes of determining such individual's rights in connection with such action, the amendment made by paragraph (1) shall be treated as if it had never been enacted.

(b) AUTHORITY TO PERMIT VOLUNTARY SEPARATIONS TO AVOID REDUCTIONS IN FORCE.—

(1) IN GENERAL.—Section 732 of title 31, United States Code (as amended by subsection (a)), is amended by adding at the end the following:

“(i) The regulations under subsection (h) shall include provisions under which, at the discretion of the Comptroller General, the opportunity to separate voluntarily (in order to permit the retention of an individual occupying a similar position) shall, with respect to the General Accounting Office, be available to the same extent and in the same manner as described in subsection (f)(1)-(4) of section 3502 of title 5 (with respect to the Department of Defense or a military department).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

#### SEC. 4. SENIOR-LEVEL POSITIONS.

##### (a) CRITICAL POSITIONS.—

(1) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 732 the following:

##### “§ 732a. Critical positions

“(a) The Comptroller General may establish senior-level positions to meet critical scientific, technical or professional needs of the General Accounting Office. An individual serving in such a position shall—

“(1) be subject to the laws and regulations applicable to the General Accounting Office Senior Executive Service under section 733 of this title, with respect to rates of basic pay, performance awards, ranks, carry over of annual leave, benefits, performance appraisals, removal or suspension, and reductions in force;

“(2) have the same rights of appeal to the General Accounting Office Personnel Appeals Board as are provided to the Office Senior Executive Service;

“(3) be exempt from the same provisions of law as are made inapplicable to the Office Senior Executive Service under section 733(d) of this title, except for section 732(e) of this title;

“(4) be entitled to discontinued service retirement under chapter 83 or 84 of title 5 as if a member of the Office Senior Executive Service; and

“(5) be subject to reassignment by the Comptroller General to any position in the Office Senior Executive Service under section 733 of this title, as the Comptroller General determines necessary and appropriate.

“(b) Senior-level positions under this section may include positions referred to in section 731(d), (e)(1), or (e)(2) of this title.”.

(2) NUMERICAL LIMITATION APPLIES.—Section 732(c)(4) of title 31, United States Code, is amended—

(A) by inserting “(including senior-level positions under section 732a of this title)” after “129 positions”; and

(B) by striking “title;” and inserting “title and senior-level positions described in section 732a(b) of this title;”.

(3) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 31, United States Code, is amended by inserting after the item relating to section 732 the following:

“732a. Critical positions.”.

(b) REASSIGNMENT TO SENIOR-LEVEL POSITIONS.—Section 733(a) of title 31, United States Code, is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

“(7) allowing the Comptroller General to reassign an officer or employee in the Office Senior Executive Service to any senior-level position established under section 732a of this title, as the Comptroller General determines necessary and appropriate; and”.

#### SEC. 5. EXPERTS AND CONSULTANTS.

Section 731(e) of title 31, United States Code, is amended—

(1) in paragraph (1) by striking “not more than 3 years” and inserting “terms of not more than 3 years, but which shall be renewable”; and

(2) in paragraph (2) by striking “level V” and inserting “level IV”.

#### SEC. 6. REPORTING REQUIREMENTS.

(a) ANNUAL REPORTS.—The Comptroller General shall include in each report submitted to Congress under section 719(a) of title 31, United States Code, during the 5-year period beginning on the date of enactment of this Act—

(1) a review of all actions taken pursuant to sections 1 through 3 of this Act during the period covered by the report, including—

(A) the number of officers or employees who separated from service pursuant to section 1 or 2, or who were released pursuant to a reduction in force conducted under the amendment made by section 3, during such period;

(B) an assessment of the effectiveness and usefulness of those sections in contributing to the agency's ability to carry out its mission, meet its performance goals, and fulfill its strategic plan; and

(C) with respect to the amendment made by section 3, an assessment of the impact such amendment has had with respect to preference eligibles, including—

(i) whether a disproportionate number or percentage of preference eligibles were included among those who became subject to reduction-in-force actions as a result of such amendment;

(ii) whether a disproportionate number or percentage of preference eligibles were in fact released pursuant to reductions in force under such amendment; and

(iii) to the extent that either of the foregoing is answered in the affirmative, the reasons for the disproportionate impact involved (particularly, whether such amendment caused or contributed to the disproportionate impact involved); and

(2) recommendations for any legislation which the Comptroller General considers appropriate with respect to any of those sections.

(b) THREE-YEAR ASSESSMENT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report concerning the implementation and effectiveness of this Act. Such report shall include—

(1) a summary of the portions of the annual reports required under subsection (a);

(2) recommendations for continuation of section 1 or 2 or any legislative changes to section 1 or 2 or the amendment made by section 3; and

(3) any assessment or recommendations of the General Accounting Office Personnel Appeals Board or of any interested groups or associations representing officers or employees of the General Accounting Office.

(c) PREFERENCE ELIGIBLE DEFINED.—For purposes of this section, the term “preference eligible” has the meaning given such term under section 2108(3) of title 5, United States Code.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Indiana (Mr. BURTON) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BURTON).

□ 1530

#### GENERAL LEAVE

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4642.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for H.R. 4642, a bill to improve the effectiveness of the General Accounting Office through improvement to its personnel system. I would like to thank my colleague, the gentleman from Florida (Mr. SCARBOROUGH), chairman of the Subcommittee on Civil Service for his work and efforts on this legislation.

The General Accounting Office sometimes referred to as the “watchdog” of Congress or the “investigative arm” of Congress today faces many of the same personnel problems confronting other Federal agencies. As my colleagues know, the Federal Government is nearing a crisis in its ability to recruit, retain and reward a skilled, trained, and knowledgeable workforce for the 21st century.

Mr. Speaker, like the rest of the government, GAO is fundamentally constrained by personnel issues in its ability to meet future obligations to Congress and the country. It is to ensure that GAO can successfully confront these personnel problems and secure its future that I rise in support of this very important legislation.

Mr. Speaker, I think that I can safely speak for all Members on both sides of the aisle in saying that GAO makes many contributions to helping us improve the economy, effectiveness and efficiency of government and in pointing out waste and abuse in government programs. Not a week goes by without a major GAO report about some important aspect of government operations.

From my own perspective and experience, I know that the Committee on Government Reform has a unique relationship with GAO, not only does the

committee authorize GAO, but under House rules, it also officially receives every GAO record that is sent to Congress. The Committee on Government Reform also receives more GAO testimony than any other committee in Congress.

The agency is invaluable to the entire congressional community. All Members of Congress, including myself, rely upon GAO for briefings, testimony, oversight, information and review of executive operations.

Mr. Speaker, I urge my colleagues to support this legislation for GAO to ensure that our watchdog can continue to effectively do its job for Congress in the future.

As my colleagues know, we have a new Comptroller General at GAO, David M. Walker, who was confirmed about 19 months ago. Mr. Walker is committed to making sure that the agency can successfully meet its mission. Mr. Walker has developed a new strategic plan to keep aligned with our needs on the Hill. He has embarked on a reorganization designed to streamline operations and remove redundancies and he has determined to meet personnel crises head on.

As Mr. Walker seeks to make constructive changes, continue improvements in GAO, he faces a personnel quandary that has been many years in the making, a series of budget cuts in the last decade forced GAO to undergo a severe downsizing and a hiring freeze which resulted in a 39 percent staff reduction and significant imbalances among the staff remaining.

The impact of these cuts and freezes continues to hamper the agency. GAO also faces one of the government's most significant problems of the next few years. The anticipated retirement of many mid-level and senior-level employees who have been with the government for decades and who represent the greatest source of knowledge and experience in the Federal sector.

For example, nearly 55 percent of GAO's senior executive service are eligible to retire in the next 4 years and 34 percent of the agency's total workforce will be eligible to leave government.

This potential mass exodus has the ability to undermine GAO's effectiveness to an unprecedented loss of institutional memory that could directly impact its products and services to Congress. These executives and personnel have provided such long service to the government and have a storehouse of knowledge and experience that cannot be duplicated or easily replaced.

In the case of GAO, because of the wide variety of issues they handle, this is a loss of expertise across many, many areas of government. The expected loss of so many seasoned executives and supervisors, combined with the massive downsizing experienced during the past decades, when taken together, is at the core of GAO's current and future personnel problems.

Indeed, it is this one-two punch of recent and expected personnel departures that Mr. Walker and the GAO are now trying to confront, in part through the legislation now before us.

In his efforts to more effectively focus GAO on the needs of Congress in the 21st century, the Comptroller General has also recognized that the skills GAO employees have today may not always be suited for the agency's needs in the future. GAO has undertaken a number of initiatives from the new strategic plan to a skills and knowledge database of its employees.

These efforts will help the agency to ascertain both the current skill set and future skills gap of its work force. The legislation will also help to remedy this problem by providing flexibility in filling the gaps.

Mr. Speaker, as I think my comments have proved, GAO urgently needs this important legislation to help it face the future and by doing so help us here in the Congress. This bill will allow GAO to overcome its pressing personnel problems by providing the Comptroller General with the ability to correct workforce skill imbalances to successfully handle current and future issues, and to help achieve a more balanced, productive and focused workforce.

H.R. 4642 provides the agency with a set of tools so that it can better fulfill its mission to support Congress. The bill will help GAO build a workforce for the future to implement its strategic plan and be positioned to serve the varied important needs of the Congress.

The bill has three main provisions, which I will address very briefly. First, the legislation will allow the Comptroller General to hire scientific and technical experts who will have the same pay and benefits as the SES and reclassify senior executives without loss of pay. This creates a new career path for selected technical positions and helps to redress the loss of institutional memory so critical to the agency's work.

Second, the Comptroller General will be able to offer voluntary early retirement and cash buyouts to employees in jobs deemed surplus. This tool which the Comptroller General would use judiciously can help to realign the agency in ways to improve its focus in critical areas.

The final provision addresses the Comptroller General's ability to run a reduction in force or a RIF. The Comptroller General already has the authority to conduct a RIF; but under existing rules, a RIF would be based largely on a person's length of service but also would rely upon tenure and military preference.

Under this legislation, a RIF would be based on a person's skills, performance, and knowledge, as well as length of service and tenure, while retaining the statutory preference for military veterans, which I strongly support.

This is an important change because, absent this provision, efforts to re-

shape the agency to better serve Congress in the future could be hampered by continued loss of employees critical to implementing strategic plans, goals, and objectives.

This legislation gives GAO the flexibility it needs to maximize its performance and focus on the future. It helps rebalance the agency's personnel structure after years of budget and personnel cuts, and it continues efforts to sustain an environment in which performance in government matters.

I have been pleased to sponsor this legislation with my good friend, the gentleman from Florida (Chairman SCARBOROUGH) of the Subcommittee on Civil Service; and we have been supported by the gentleman from California (Mr. WAXMAN) in the legislation that has been discussed in several hearings in which the Comptroller General outlined the importance of the bill and the reasons why it was necessary to take this action.

Mr. Speaker, as a result of this bill's progress in Congress, there is considerable Member support and recognition of the need for this important legislation. The legislation is also supported by Mr. Walker's two predecessors in office, Comptrollers General, Elmer Staats and Charles Browser, who together represent 30 years of GAO leadership supported it.

I would further note that the administration does not oppose this bill as it only affects the agency of the legislative branch. It is important to highlight that the provisions of this bill will not have an impact on executive branch agencies or their employees.

I know that several of my colleagues initially objected to this bill because they believed it might have an impact on some of their constituents. Let me reiterate that this legislation will only affect the GAO and does not have any application to the executive branch of the Federal Government.

Furthermore, I hope that my colleagues recognize that the legislation before them now includes several changes from the original bill which are designed to ensure that the provisions, if they are implemented, are done so in an equitable and responsible manner.

This includes a requirement that GAO must issue regulations on RIF selection criteria after a public comment period. GAO must also report back to the Congress on how it implemented the law.

I believe these and other safeguards will help to satisfy any concerns of the local delegation.

In summary, Mr. Speaker, I urge my colleagues to support this bill so that GAO can achieve its goal of being a model Federal agency of sustaining a strong and effective workforce and of meeting its mission to Congress and to the American people.

Mr. Speaker, I include for the RECORD a legislative history of GAO's personnel legislation.

LEGISLATION AUTHORIZING GAO TO TAKE  
CERTAIN PERSONNEL ACTIONS

I. PURPOSE

The General Accounting Office (GAO) has requested these personnel authorities to enable the agency to effectively address human capital challenges in order to more effectively fulfill its mission. GAO explained that it recently completed a thorough evaluation of its workforce needs and resources and found that they do not match up. This arose in part because of the severe downsizing and hiring freezes from 1992-1997. Also, the kinds of skills, knowledge, and performance needed by GAO in its workforce are changing with the impact of information technology, globalization, and other trends in the broader society. Finally, these kinds of imbalances threaten to become worse, because the retirement of many employees possessing necessary expertise are or are close to being eligible for retirement.

GAO has said that it is doing what it can administratively to correct these imbalances, e.g., by enhanced entry-level recruitment, active management of promotion decisions, and compilation of an inventory of the agency's human capital needs and resources. The agency is also being restructured to have less hierarchy and fewer field offices. GAO explained, however, that its current law is designed for "downsizing," not "rightsizing," and prevents GAO from taking needed management steps.

GAO has thus explained why this new legislative authority is necessary to enable GAO to effectively address the agency's human capital requirements. This legislation is appropriate for GAO considering its role and responsibilities in the legislative branch and its unique relationship to the Congress, and also taking account of the specific, fact-based demonstration that GAO has made explaining why the requested authority is needed and appropriate.

II. SUMMARY OF PROVISIONS

The legislation provides narrowly tailored authority, preserving due process protections, in four specific areas: (1) to offer early retirement (early-outs) on a voluntary basis to a limited number of qualified employees in each fiscal year; (2) to offer separation pay (buyouts) on a voluntary basis to a limited number of qualified employees in each fiscal year for a five-year period after enactment of the legislation; (3) to release officers and employees in a reduction in force (RIF) or an adjustment in force carried out for downsizing, realigning, or correcting skill imbalances; and (4) to establish senior-level positions to meet critical scientific, technical or professional needs and to extend to those positions the rights and benefits of Senior Executive Service employees. Regulations governing the RIF provision must give effect to tenure, military preference, veterans preference, performance, length of service, and other factors such as skills and knowledge.

In addition, the legislation requires that the Comptroller General report annually to the Congress on the use and effectiveness of the legislation, and provide the Congress with a report in three years summarizing the use and effectiveness of the legislation and recommending whether it should be continued or changed.

III. EMPLOYEE RIGHTS AND PROTECTIONS UNDER  
THE NEW AUTHORITIES

First, as a general matter, it is essential that the Comptroller General consult with employees concerning plans for implementation of the legislation in advance of issuing proposed orders or regulations for comment. GAO has described the efforts taken by the Comptroller General to foster two-way com-

munication between the Office of the Comptroller General and all agency officers and employees, including extensive discussions regarding the need for and development of this legislation. Broad consultation with officers and employees should be continued at each stage of the legislation's implementation. In addition, in developing implementing regulations, GAO is obligated under existing law to afford notice and opportunity for comment, and GAO has said it will follow the best practices of regulatory agencies in regards to summarizing and responding on the public record to significant comments received.

The legislation itself contains a number of provisions and preserves rights and protections under existing laws to assure that employees will not be subject to arbitrary and illegal action. Notably, this legislation in no way affects existing laws that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, and disability, that forbid prohibited personnel practices, or that require compliance with merit principles. GAO's implementation of the authorities granted by this legislation must continue to be in conformity with those existing laws.

This legislation requires that, to implement the provisions authorizing early retirement, separation pay, and reductions in force, the agency must issue regulations that provide criteria for, in effect, two levels of decision-making: the decision to use the authorities and the decision regarding which officers or employees shall be subject to actions under the authorities.

GAO has stated that these regulations must set forth clearly defined criteria and require consistent and well documented application of those criteria. Any decisions based upon individual data, such as skills/knowledge and performance, will be based on identification and measurement systems. Ratings from the agency's performance appraisal systems will be the basis for measuring individual performance, and GAO has stated that an individual's ratings for three years will be used. Similarly, skills and knowledge must be ascertained in a well-documented skills inventory. GAO has explained that its staff will fill out such a skills inventory, subject to supervisory review, which will be used in conjunction with the agency's strategic plan to identify any "gaps" or "overages" in workforce skills and knowledge. If GAO finds it necessary to use the RIF authority before a skills inventory is completed, the agency would use existing organizational groups and units.

In giving effect to military preference, GAO must comply with the requirements of its own Personnel Act, section 732(b)(5) of title 31, which requires GAO to provide a preference to veterans in a way and to an extent consistent with the system in the executive branch. In the executive branch under section 3502(b) of title 5, a preference eligible with a compensable service connected disability of at least 30% and whose performance has not been rated unacceptable is retained in preference to other preference eligibles. Section 3502(c) of title 5 requires that all other preference eligibles whose performance has not been rated unacceptable be retained in preference to all other competing employees. Therefore, these provisions would bind GAO, and preference eligibles would be the last to be terminated in their applicable unit/job or skill group under a reduction in force.

The legislation allows the provisions authorizing early retirement, separation pay, and reductions in force to be exercised only for workforce realignment and other purposes as specified in the legislation. Addressing individual employee performance is not

among these specified purposes, and it is only for the specified purposes that the Comptroller General may consider individual performance data among the criteria for offering early retirement or separation pay or for carrying out a reduction in force. For example, GAO may not use these authorities for the purpose of replacing lower-performing employees with higher-performing employees or to address problems in individual employees' performance. To address performance problems, GAO must continue to use its performance management system under existing law, which affords affected employees particular procedural and substantive rights. Under this legislation as under existing law, individuals are not subject to being "targeted," i.e., reductions in force may not be carried out for the purpose of removing a particular individual or individuals.

The legislation requires that GAO regulations governing RIFs be consistent with Office of Personnel Management regulations. The use of the term "consistent with" recognizes that because of the form of GAO's personnel system, GAO's organizational structure, and the authorities granted under this and other legislation applicable to GAO, the implementing GAO regulations may vary from the approach taken by OPM. Nevertheless, the GAO regulations should follow the OPM approach where such considerations do not apply.

GAO's Personnel Appeals Board (PAB) will serve as an independent body to review and decide any cases arising out of a reduction in force where individuals feel they have not been treated in accordance with law or regulations. GAO has stated that this review authority of the PAB is established under existing statute and under provisions of GAO's existing regulations that GAO will retain. If an action under the RIF authority was unlawful, the individual employee shall be restored to the grade or rate of pay to which the employee is entitled, retroactively effective to the date of the improper action.

As to the senior level positions established under the legislation, employees appointed to those positions will generally enjoy the same rights and privileges as members of GAO's Senior Executive Service. Furthermore, except as otherwise specified in the legislation, the employees appointed to the new senior level positions will enjoy the rights and protections that apply generally to professional employees at GAO. Any employees transferred under this provision from GAO's SES to a non-executive senior level position will retain their current pay and will have an equivalent pay system to what they had in the SES.

The new early-out authority will be in addition to, and will not detract from, any rights to early retirement established under existing law.

Finally, the legislation requires GAO to report on the implementation of the new authorities both annually and in a 3-year assessment, and GAO has said that these reports will include information about any impact upon employee attitudes and opinions, as measured by employee feedback survey responses. The 3-year assessment will include not only recommendations of the Comptroller General for continuation or change of the authorities granted by this legislation, but also any assessments or recommendations of the GAO Personnel Appeals Board and of any interested GAO employee groups.

I encourage all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members of Congress are well acquainted with the General Accounting Office. It is Congress' and the Nation's primary watchdog agency responsible for providing credible, objective and nonpartisan reports and evaluations of the programs and management of the executive branch.

The GAO has for years provided Congress with invaluable assistance, now it is asking us for assistance by providing GAO with needed human capital authorities, and we should meet this request.

Mr. Speaker, from 1992 to 1997, GAO's budget was cut by one-third. In order to achieve these reductions, the GAO was forced to reduce its staff by almost 40 percent and close many field offices. Since then, it has had to impose hiring freezes, cut training and suspend incentive programs. During the same period, GAO has faced a problem common to much of the Federal Government, an aging workforce.

By the end of fiscal year 2004, over one-third of the GAO's employees would be eligible for retirement. As a result of these pressures, GAO's workforce is out of shape. There are too many senior- and middle-level employees and too few at the lower levels. These imbalances have been well documented in a human capital profile completed by the Comptroller General.

In addition, the types of skills, knowledge and performance needed by GAO have changed over time as the world has been radically altered by the information age technology. Major policy issues have also become increasingly complex, requiring greater technical skill and sophistication to support the needs of Congress.

Mr. Speaker, all of these trends have led to a human capital profile at the General Accounting Office which does not currently operate in the most efficient or effective manner. More seriously, it puts the GAO at risk of being unable to meet the demands and needs of the Congress in the future.

The legislation before us would provide GAO with authority to address these concerns. For example, the bill would authorize the Comptroller General to offer early retirement opportunities and separation pay to a limited number of qualified personnel each of the next 3 fiscal years.

Under the legislation, the Comptroller could also establish senior-level positions to meet critical scientific or technical needs. Finally, the bill requires the Comptroller to report annually to the Congress on the effect of this legislation and to submit a 3-year assessment of the implementation and effectiveness of this act.

These and other flexibilities in the bill will bring the GAO closer to the personnel policies of our legislative branch organizations such as the Committees of Congress and the Congressional Budget Office. However, this legislation should not be viewed as a precedent for changes in executive branch personnel policy.

Mr. Speaker, we have an outstanding Comptroller General in Mr. Walker. He is putting all of his efforts into making the GAO the kind of agency that we will all be proud of.

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This legislation before us today is a result of an enormous amount of effort that he has put into giving us recommendations to make GAO a better organization. I think that we ought to join together in a bipartisan move today in supporting this legislation and making sure that the GAO will be there to serve the needs of the Congress and the American people.

Mr. Speaker, I yield back the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Indiana (Mr. BURTON) that the House suspend the rules and pass the bill, H.R. 4642, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### 2002 WINTER OLYMPIC COMMEMORATIVE COIN ACT

Mr. BACHUS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3679) to provide for the minting of commemorative coins to support the 2002 Salt Lake Olympic Winter Games and the programs of the United States Olympic Committee, as amended.

The Clerk read as follows:

H.R. 3679

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "2002 Winter Olympic Commemorative Coin Act".

##### SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) FIVE DOLLAR GOLD COINS.—Not more than 80,000 \$5 coins, which shall weigh 8.359 grams, have a diameter of 0.850 inches, and contain 90 percent gold and 10 percent alloy.

(2) ONE DOLLAR SILVER COINS.—Not more than 400,000 \$1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(b) DESIGN.—The design of the coins minted under this Act shall be emblematic of the participation of American athletes in the 2002 Olympic Winter Games. On each coin there shall be a designation of the value of the coin, an inscription of the year "2002", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(d) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code,

all coins minted under this Act shall be considered to be numismatic items.

##### SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act from any available source, including from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

##### SEC. 4. SELECTION OF DESIGN.

The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

(A) the Commission of Fine Arts;

(B) the United States Olympic Committee; and

(C) Olympic Properties of the United States—Salt Lake 2002, L.L.C., a Delaware limited liability company created and owned by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 (hereinafter in this Act referred to as "Olympic Properties of the United States"); and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

##### SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2002, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) TERMINATION OF MINTING AUTHORITY.—No coins shall be minted under this Act after December 31, 2002.

##### SEC. 6. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

##### SEC. 7. SURCHARGES.

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of \$35 per coin for the \$5 coins and \$10 per coin for the \$1 coins.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary as follows:

(1) SALT LAKE ORGANIZING COMMITTEE FOR THE OLYMPIC WINTER GAMES OF 2002.—One half to the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 for use in staging and promoting the 2002 Salt Lake Olympic Winter Games.

(2) UNITED STATES OLYMPIC COMMITTEE.—One half to the United States Olympic Committee for use by the Committee for the objects and purposes of the Committee as established in the Amateur Sports Act of 1978.

(c) AUDITS.—Each organization that receives any payment from the Secretary under this section shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alabama (Mr. BACHUS) and the gentleman from California (Ms. WATERS) each will control 20 minutes.