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Report

Radical Civil Service Reform Is Not Radical: Lessons for the Federal Government from the States

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Executive Summary

For decades politicians and commentators have bemoaned the state of the federal civil service. There are widespread complaints that the system fails to reward good performers and punish bad ones and that it does not nimbly respond to social needs. President Donald Trump's and the Department of Government Efficiency's efforts to dismiss federal employees and streamline the bureaucracy have revived the debate about whether reforms to such a system can bring positive results.

Yet most federal civil service reform proposals involve modest changes to the hiring or firing capabilities of the president and federal managers. Even Trump's Schedule F plan, now titled Schedule Policy/Career, which creates functional at-will employment for higher-level officials, by one estimate would affect only about 2% of federal civilian employees.[1]

There are examples of far more radical civil service reform efforts with bipartisan pedigrees. Starting especially with a 1996 reform under Georgia's Democratic Governor Zell Miller, about 20 states have implemented some version of radical civil service reform.[2] These reforms have made many or almost all state employees at-will, decentralized hiring capabilities to agency managers, allowed more variation in pay based on capabilities and performance, and limited collective bargaining with public employee unions. Most observers and researchers agree that state reforms' effects have

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been either positive or, at worst, neutral. There have been general reports of improved performance with little evidence of politicization. These broad state-level efforts demonstrate that root-and-branch civil service reform is more than a mere possibility.

Despite the decades of evidence, states' reforms have had remarkably little impact on the conversation about the federal civil service. Yet the federal government can and should learn from them. This report describes the recent civil service reforms in the American states, their effects, and what lessons can be imported to the federal service.

Four major lessons emerge from this analysis:

- At-will employment should be the norm, not the exception, for federal workers. States that have created at-will employment and kept employee grievances inside departments have seen improved management and limited evidence of politicization or patronage.
- Decentralized and flexible hiring should be fully adopted by the federal government. Many states since the 1990s have granted individual departments extensive flexibility for hiring; the federal government, despite some notable reforms, lags behind.
- More flexibility for pay should be adopted at the federal level. Many states have limited the number of job classifications, collapsed the number of pay bands and expanded their range, and increased the use of merit pay. The reports on these reforms have been generally positive, although the manner in which they have been implemented has determined whether or not they were a success.
- Union collective bargaining over the conditions of employment should be banned at the federal level. States that have limited or have resisted public employee union collective bargaining by all reports have more efficient service.

Although there is no civil service panacea, and much of the success of the system will depend on the management capabilities of political appointees or civil service officials, these four systematic reforms will give qualified federal managers more opportunities to exercise their influence and improve the efficiency and accountability of the federal workforce. The evidence that the reforms have done the same in the states is convincing.

A Brief History of Civil Service Reform

The original movement for a merit-based civil service was a movement for efficiency. Business groups that depended on the mail or on customs inspectors demanded a nonpoliticized federal personnel system to improve these services and reduce their costs. A review of votes for the Pendleton Civil Service Act of 1883 showed that the presence of a large post office or customhouse in a congressman's district increased his chance of voting for the bill, meaning that those areas more affected by civil service reform were more likely to vote for it.[3] The original act imposed objective standards and tests for government positions that substituted for previous political patronage. Starting with New York in 1883, nine states adopted civil service systems over the next 50 years.[4]

There is evidence that the original civil service reform movement worked. The earliest reports of the U.S. Civil Service Commission, although obviously self-interested, demonstrated many examples of increased efficiency and provided testimonials of postmasters and customs collectors

on improvements. An early independent estimate found millions of dollars in savings in customs alone.[5] One recent study found that U.S. cities affected by the Civil Service Act reduced postal delivery errors and increased productivity.[6]

But the movement for a professional civil service soon went beyond objective hiring standards. Pushed by a growing public-sector union movement, it advocated for more protections for workers from dismissal and discipline, a greater focus on seniority over merit in compensation and promotion, and other changes that together reduced efficiency.[7] As part of the New Deal and specifically as a requirement of the 1939 amendments to the Social Security Act, the federal government began requiring states to adopt formal civil service systems, and over the following decades top-down civil service became the norm at the federal and state levels.[8] President Jimmy Carter told Congress in 1978 that the civil service system "has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay and confusion."[9] Yet the Civil Service Reform Act (CSRA), which passed that year and is still the basis for the modern federal civil service, if anything cemented the power of the traditional civil service and expanded the input of unions in the system.[10]

In the 1990s, many states began making substantial reforms to their legacy civil service systems. These states were often late to adopt a formal civil service (a general civil service system was not embraced until the 1940s in Georgia and the 1970s in Texas), but they were willing to end procedural restrictions on dismissals and centralized hiring based on tests and to give managers substantially more discretion in terms of their power to organize and direct their workforce. After a first burst of reform in the 1990s and early 2000s, state civil service reform slowed for a time.[11] But after the Republican state-level victories in 2010, there was an increase in new reform laws, and new decentralizing civil service laws have continued to pass up to present day.[12]

The general consensus is that the worst-case scenarios predicted by opponents of what became known as "radical civil service reform" have not played out, and most post-reform reports and studies indicate more satisfaction among government managers and a more flexible and productive workforce. At this point, so-called radical reform has become normal. Although the federal government has adopted some reform measures recently, such as giving managers more authority over hiring, it has not adopted the more comprehensive models of the reformed states.

Reforms to Discipline and Removal Procedures

No aspect of the civil service is more controversial than protections against the disciplining or removal of employees. Yet the protection of employees against discipline was a relative latecomer to the civil service system. The first federal law affecting dismissal, the Lloyd-La Follette Act, was passed in 1912, almost 30 years after the original Pendleton act, and its protections were minimal. The act allowed managers to remove employees for general reasons of efficiency and only provided the removed employees with a limited opportunity to respond to charges, and only inside their own agencies, without a resort to outside arbiters or courts.[13] The Civil Service Commission eventually issued regulations that gave it more power to oversee dismissals, and courts later became involved in supervising dismissals as well. But it was not until 1978's CSRA that the Merit Systems Protection Board (MSPB) provided statutory outside review of disciplinary actions.[14] Most states did not establish similar protections against discipline until the post–New Deal era.

Starting in the 1990s, several states ended or sharply limited statutory protections for civil service employees. In 1996 Georgia's Democratic Governor Zell Miller, who had become a fan of Philip Howard's book *The Death of Common Sense*, announced in his State of the State Address that the "solution" of the establishment of formal civil service protections in 1943 was now the "problem." He said the existing law did not reward merit and "only provides cover for bad workers." The Senate Majority Leader used a pile of more than 1,100 pages that he said the state had accumulated to fire a single bad employee. The personnel directors in the agencies themselves were tired of the old system and became effective allies for reform.[15] The resulting act made every state employee hired after July 1, 1996 at-will with no appeal rights against disciplinary action. In 1998 the governor, after a push from the legislature, did require agencies to set up formal appeal processes for bad performance reviews or termination for cause. Those appeals, however, could only go as high as the director of the agency.[16]

Other states followed Georgia. In 2001, Florida passed Service First, which put a large number of higher-ranking state workers into the Selected Exempt Service, which is at-will. It also ended the previous policy of layoffs based only on seniority for all state workers.[17] Although most Florida employees remained in the protected career service, the reform made termination for that class easier, such as by ending the reimbursement of legal fees when employees appealed adverse personnel actions.[18] Utah gradually expanded the number of at-will employees around this time until they comprised more than a third of state employment.[19] In 2010 the state ended the Career Service Review Board and replaced it with a more constrained office, and it limited the number of personnel actions for which career employees could file grievances.[20]

After a wave of Republican victories in the states in 2010, many other states began radical civil service reform. After passage of a new state civil service law in 2011, Indiana vastly increased the number of employees in the "unclassified" or at-will service. Its state employee handbook notes that the state now adheres to "the employment at-will doctrine." The handbook's entire section on disciplinary action is four sentences long and only says to consult individual supervisors for specifics.[21] In 2012 Arizona also eliminated civil service protections for new hires. Employees who accepted a raise, promotion, or transfer were transitioned to at-will status.[22] The percentage of the Arizona state workforce that was at-will went from 21% to 67% in two years.[23] In 2012 Tennessee made comprehensive reforms to its civil service system, including streamlining the appeals of grievances and allowing layoffs that were determined by factors other than seniority.[24] A 2015 Kansas law directed that new hires, rehired employees, and those voluntarily transferred or promoted be put in the unclassified or at-will service. The number of unclassified or at-will positions grew from about a third to a large majority of state positions by 2020.[25] Many state employees voluntarily gave up classified status in exchange for pay raises or promotions.[26]

Texas is somewhat sui generis in that it has a long-standing policy of decentralized manager power and at-will employment going back decades, with even the modestly powerful Texas Merit Council eliminated in the mid-1980s. The state's compilation of employee laws notes that absent a specific contract or stated policy, "all state employees are employed 'at-will.'"[27] There is no probationary period or appeal process for state employees, although, like other at-will states, there usually are internal grievance processes inside agencies.

The evidence that at-will employment increased performance is suggestive but convincing. A 2002 study of Texas, Georgia, and Florida found that the length of time for firing "decreases significantly" after reform and that "satisfaction levels with personnel administration generally increase."[28] A comprehensive 2010 survey of human resource (HR) directors in Colorado, Florida, Georgia, Kansas, Missouri, and South Carolina found that "managers' attitudes are mixed, but they are more likely to register agreement with positive assessments of at-will employment than negative assessments."[29] Interviews in the same year by *Governing* magazine with Florida personnel directors were all positive about the Service First implementation. David Ferguson, the head of personnel for the Florida Department of Transportation for 30 years, said that Service First was the best

thing that ever happened to personnel administration in Florida. He did not have complaints about politicization.[30] In Indiana, the state personnel director found that formal complaints by employees were down the year after reform, and that "[a]gency performance [was] up in almost every category, including customer service and teamwork."[31] A recent survey of 214 public HR professionals found that those in at-will systems tended to rate their states' management capacities higher than those in traditional civil service systems, including in retention.[32]

Dismissal rates in civil service reform states that more closely approximate the private sector are another indication of reform success. When Utah's state auditor looked at annual dismissal for cause rates in 2010, it found that typical civil service employees had a rate of 0.3% but that personnel outside of the typical service system had a rate of 1.93%, close to the private-sector involuntary separation rate of around 2% at that time.[33] The auditor partially attributed this to the fact that grievances in the non-civil service systems were limited to inside particular departments and could not be appealed to an outside board.[34]

The higher dismissal rates could be evidence of a politicized system, but there is limited evidence for politicization or even serious downsides to at-will employment. Although Georgia continued to leave open the possibility of litigation for those fired for nonjustifiable reasons, the state personnel office did not report a single lawsuit based on improper firing in the first five years after the system's creation.[35] A 2006 survey of Georgia employees did find that most felt at-will created a "less-trusting environment" and was less "motivational." Yet a study by Georgia's State Personnel Administration found no substantial problems with overall job satisfaction after the state reform.[36] The 2002 study of Texas, Georgia, and Florida found "no convincing evidence presented of widespread, systemic abuse in any of the three states" analyzed.[37]

Federal Options for Discipline and Removal

The inability of federal managers to discipline or remove poor performers has been one of the most consistent complaints about the federal civil service. There have been few substantive reforms to these processes since the CSRA of 1978, and the reforms in that act and subsequent ones have proven ineffectual.

In the federal government, a removal, demotion, suspension, furlough, or reduction in pay grade or pay of an employee for cause is an "adverse action." Under Title 5 of the U.S. Code, agencies can take adverse actions against employees under Chapter 43 or Chapter 75. Prior to the CSRA, Chapter 75 was the only statutory mechanism by which an agency could discipline or remove a poorly performing employee.[38] To take adverse actions under this statute, agencies were required (and are still required when using this statute) to use "a preponderance of the evidence" to show that the actions would "promote the efficiency of the service."[39] This proved to be an incredibly difficult bar for agencies to meet. In 1976, Congress found, for example, that only 226 out of 2,833,000 federal employees (0.0079%) were fired under Chapter 75 for poor job performance.[40]

In response to this finding and others, Congress enacted another statutory mechanism for discipline and removal of poorly performing federal employees—Chapter 43. Congress believed that this statute would "provide agencies with a streamlined, merit-based removal process that was designed to exclusively address poor performance." Unlike Chapter 75, Chapter 43 allows agencies to remove employees if they do not meet necessary performance requirements and requires a lower burden of proof for discipline and removal. Additionally, Chapter 43 created a performance appraisal system that agencies can use to evaluate employees' performance against specific performance standards.[41]

By and large, Chapter 43 has failed to make discipline and removal of poorly performing employees easier. A report from MSPB found that between 1998 and 2007, agencies removed 62% of poorly performing employees using Chapter 75 and only 38% of such employees using Chapter 43. Managers seem to find Chapter 43, like Chapter 75, to be "too complex, rigid, burdensome, and antiquated to effectively address poor performing employees."[42] The inability to remove bad employees was brought to public attention when Department of Veterans Affairs (VA) medical facilities were caught using fraudulent wait time records and secret wait lists to misrepresent how long veterans waited for medical appointments. Only eight employees were held accountable, despite the fact that 177,000 veterans had to wait extra months to receive care and more than 40 died.[43]

Perhaps as important as the formal standards around discipline is the fact that federal employees have the right to appeal a suspension, demotion, or removal to an outside body. An employee can first appeal an adverse action to the MSPB. If the employee loses at the MSPB, then the employee can ask the U.S. Court of Appeals for the Federal Circuit to review the decision.[44] The federal removal procedures take agencies, on average, between 6 and 12 months to complete (and that is without counting appeals).[45] The federal government dismisses only about half a percent of its employees a year, about a third of the rate of private-sector employers.[46]

President Trump in his first term made some reforms to the system through executive order. In May 2018, he issued Executive Order (EO) 13839, "Promoting Accountability and Streamlining Removal Procedures Consistent with Merit System Principles." Among other things, EO 13839 encouraged agencies, when taking action under Chapter 43, to lessen performance improvement plan (PIP) times and not get bogged down in uniform standards of discipline and removal because "disciplinary action should be calibrated to the specific facts and circumstances of each individual employee's situation." In October 2020, President Trump signed EO 13957, which aimed to reclassify several high-ranking federal positions as "Schedule F." Those within these positions could be removed at-will. President Biden rescinded both EOs in 2021. A 2024 regulation formalized the preexisting removal procedures to preempt a return of Schedule F, although Trump released a new EO to reimpose a version of it after his second inauguration.[47]

More expansive reforms to the disciplinary procedures will require congressional action. If Congress is willing, it could amend the CSRA to implement the wholesale at-will model that states such as Georgia have pioneered. But if Congress does not want to go that far, other reforms can be made. First, the probationary or trial period that exists for federal employees in the competitive service can be extended. The federal probationary period typically lasts one year, and during this time, newly hired employees have very limited procedural and appeal rights. Congress should amend Title 5 of the U.S. Code to allow agencies to extend the probationary period so that they have more leeway to dismiss poorly performing employees.

Congress can also amend Chapters 43 and 75 to provide more flexibility for managers in firing. For example, the time that employees are given to respond to an action against them under Chapter 43, currently 30 days, should be severely cut down. Moreover, agencies should not be required to provide poorly performing employees with an opportunity to improve their performance under a PIP before discipline or removal; they should be able to hold their employees accountable immediately in certain circumstances. Finally, the ability of the MSPB to meddle in agency affairs should be sharply limited. The MSPB should not be able to second-guess an adverse action that an agency has taken, nor should the MSPB be able to handle employee appeals over agency heads.

In a similar vein, Congress should allow each agency to conduct reductions in force (RIFs), or layoffs, however that agency sees fit. An RIF occurs when an agency decides to eliminate positions, and RIF regulations determine whether employees in the agency get to keep their positions or are entitled to different positions. These regulations require four factors to be taken into account in an RIF: tenure of employment (e.g., type of appointment), veteran's preference, length of service, and performance rating. Length of service or seniority is typically considered the most

important factor, so a "first in, last out" policy is typical.[48] Allowing agencies to set their own regulations governing RIF proceedings would require statutory and regulatory reform—similar to that conducted in the states—that would allow them to decide their own methods of layoffs.

Beyond the evidence of the states, there are other reasons to believe that broad federal civil service reform would not lead to mass politicization or patronage. For one, Supreme Court jurisprudence from *Elrod v. Burns* (1976) onward states that the First Amendment forbids governments from making personnel decisions based on patronage or party membership unless personnel are in policymaking positions.[49] There also are separate whistleblower laws that should largely remain in place; they prevent firing for impure or nefarious motives and should still be enforced by some reformed version of the MSPB. Any reform to general discipline would not end federal offices such as the Office of Special Counsel, which enforces rules concerning whistleblower protection and the Hatch Act, among others.[50] Some argue that the federal government would experience more politicization due to the rapid shifts in political control in Washington, D.C., versus the states. Yet several civil service reform states, including Texas and Georgia, have seen complete changes in partisan control without attendant politicization or patronage.[51] Widespread and comprehensive at-will employment in the federal government would most likely work in a similar manner to that of the states by creating more efficiency with minimal politicization.

Reforming and Decentralizing Hiring Practices

The primary goals of the original civil service movement were to limit patronage and to ensure that hires could pass objective tests. The tests would both ensure competency and prevent politicians from controlling who took particular jobs. The core of the Pendleton act of 1883 was the creation of a testing system for federal employees to be administered by a new and independent Civil Service Commission.[52] This model was similar to that put in place in New York State the same year, which was extended by the state the following year to local governments.[53] After the New Deal, the creation of so-called merit hiring with an independent commission or agency supervision became the state model everywhere.[54]

Yet in recent years, civil service reform states have decentralized hiring again and allowed agency managers to hire whomever they think is best, without explicit approval from an outside agency or formal tests. Agencies can now hire based on an applicant's "knowledge, skills, and abilities" (KSAs) or general "competencies." Formal job applications and tests that were required to be administered to all comers have been replaced with department and manager discretion. Central civil service commissions in many states have been transformed into independent personnel departments whose job is assisting agencies in hiring rather than administering a mandatory hiring program across all agencies. In some states, an agency manager can hire someone directly off the street if he or she thinks that the individual would fit the position.[55]

Several states have demonstrated the possibilities of decentralized hiring processes. Starting with reforms that allowed agencies to hire internally in 1994, Florida has expanded the realm of discretion of state managers.[56] Today, the state still requires agencies to use the People First online system to advertise vacancies, but they are allowed to limit the search to different possible recruits, including internal ones. As a Florida State Personnel System manual says, "Recruiting efforts and hiring decisions are carried out in the sound discretion of each agency's head." The state says its "employment process is decentralized with each state agency being responsible for their recruitment, selection, and hiring decisions."[57] Georgia substantially decentralized hiring as well as part of its 1996 reforms.

Until 2012, Tennessee had a registry and a point system where managers had to hire from a limited number of approved candidates (three to five) who had acquired the highest number of points. After the passage of the Tennessee Excellence, Accountability and Management (TEAM) Act[58] that year, the state ended formal civil service exams and allowed agencies to rewrite job descriptions for KSAs. The central personnel agency then would provide agencies with a list of all potential employees who met those qualifications and allow them to hire from that list. The state also started hiring outside recruiters to find the best employees.[59] As part of Kansas's 2015 civil service reform, all future hires went into the "unclassified" service, which was not only at-will but could be filled by direct appointment, "with or without competition," as the Kansas Legislative Research Department's *2020 Briefing Book* states.[60]

Other states have gone much further in allowing completely decentralized hiring. Texas does not even have a central personnel office, and agency heads can hire however they see fit. As one research report noted, "The state of Texas' human resource (HR) function is renowned for its decentralization and deregulation."[61] Yet joint groups such as the State Agency Coordinating Council allow smaller agencies with limited resources to borrow models and resources from larger ones. Texas does, like other states, have a centralized website for hiring, but the job postings are decided by agency managers.[62]

The evidence that more decentralized hiring has helped managers is convincing. As the 2002 study of Texas, Florida, and Georgia stated:

> Ask almost any state government manager in almost any of the other 47 states about what it's like to find and hire good people, and what you'll invariably hear is a long list of complaints. … Ask personnel officials or hiring authorities in Texas, Georgia, or Florida how they like their style of personnel management, and you'll hear how relieved they are *not* to have to suffer the dictates of a highly structured, centralized, rule-driven personnel system.[63]

Due to the extent of decentralization in Texas, it provides a good case study for the effects of reformed hiring practices. According to a survey of independent agency HR leaders in the state, which encompassed the large majority of such leaders when performed in the early 2000s, most HR officials appreciated the decentralized system. Almost 75% said they had the expertise and staff inside their departments to be effective, while only 19% disagreed; 91% said they used discretion under state law to create HR policies tailored to the specific needs and of their agencies; and only 11.6% said they could ever "think of an instance" when someone's political beliefs or connections influenced hiring, promotion, or other job rewards. Considering the large number of employees such managers come in contact with in their work, this means a vanishingly small percentage of job actions involved favoritism. More than 75% believed that a central HR office would remove the "flexibility that state agencies need to be effective."[64] A previously discussed survey of 214 state HR professionals found that those in reformed civil service states ranked their system higher on effectiveness in recruitment, hiring, promotion, and retention.[65]

Federal Options for Hiring Decentralization

The federal government, like many states, has decentralized hiring and no longer relies mainly on formal civil service tests. Most hires are through résumé-based requirements for KSAs.[66] Although the central personnel office for the federal government—the Office of Personnel Management (OPM)—technically still has final examining authority for most civil service positions, the 1978

CSRA allowed OPM to give what's known as Delegated Examining Authority to agencies to make the decisions themselves. In recent years, agencies have also been able to acquire a less constrained Direct-Hire Authority from OPM when there is a shortage of candidates or a critical hiring need.

Yet the federal government still has a stultified hiring process by all reports. The federal government today has an average time-to-hire almost triple that of the private sector.[67] The difficulty of getting qualified hires through the process can be daunting. David Shulkin explained the problems with recruiting when he became Under Secretary for Health at the VA: "Perversely, I wasn't allowed to see résumés, which were instead filtered by the human resource professionals and then sent to a committee of three Senior Executive Service (SES) employees." When the hiring group applied the formal criteria and suggested someone who worked at the Federal Aviation Administration, Shulkin noted that the candidate had no healthcare experience. His request to see the résumés of the other candidates was refused. When he rejected the candidate, the position had to be reposted and competed for again. Shulkin noted, "Time and time again, I referred experienced health care executives who had worked with me in previous positions to apply for open VA hospital jobs, but they never made it through the screening process."[68]

One of the main reasons the current hiring system is strained is that to obtain hiring authority from OPM, a department needs to adhere to OPM regulations, including the 318-page OPM document on hiring practices, which includes requirements such as an eight-point recruitment process plan. OPM also approves minimum employee qualification standards for agency hiring.[69]

Since a 2010 presidential memorandum, the standard hiring procedure for federal positions is known as Category Rating. Departments must perform a "job analysis" of positions with a "clear definition" of evaluations and, generally, create a point system for these evaluations. The candidates are then placed into three categories: Best Qualified, Well-Qualified, and Qualified. Agencies have discretion to hire only within the top tier. They must complete a formal certificate of all eligible hires and document all actions relative to these hires for potential auditing by OPM. Eligible veterans get bonus points to determine their category rating and then must be hired over non-veterans if they make it to the highest category ranking of candidates.[70]

A common complaint among federal managers is that HR generalists, as opposed to hiring managers or subject matter experts, typically review résumés and rate candidates. Although managers set the frameworks and methods of evaluating applicants, HR offices decide if applications meet the minimum qualification requirements, how they achieve the quality ranking factors, and if they have any independent selective placement factors.[71]

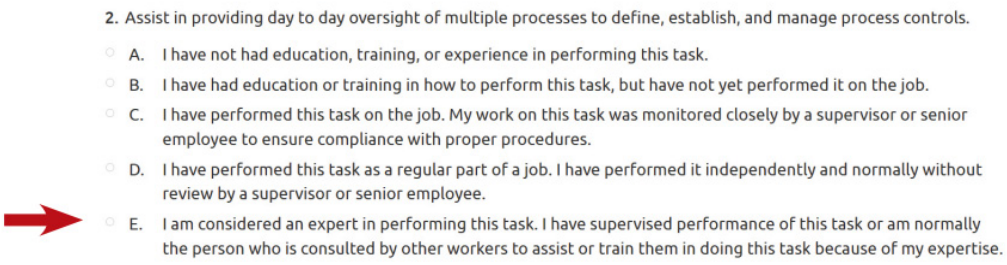
In some cases, agencies use software to match keywords in the requirements and to rate résumés. The National Commission on Military, National, and Public Service explained, "These approaches miss applicants with relevant skills and experience that do not lend themselves to an exact keyword match; they also advantage applicants familiar with the process who craft resumes that closely mirror job descriptions." Worse still, agencies often rely on a candidate's self-assessment as part of the application process (**Figure 1**). During the self-assessment, many job seekers indicate that they are an "expert" on every item, regardless of whether they are actually qualified, because they want to advance to the next stage of the hiring process. Meanwhile, highly qualified applicants who rate themselves honestly are rejected.[72] The Chance to Compete Act, passed in December 2024, allows a "subject matter expert" in an agency to develop job assessments "in partnership with human resources employees" and to "administer the assessment," but doesn't make clear how this will be implemented. President Trump issued an executive order to support the intentions of the act in January 2025.[73]

Another centralized aspect of federal hiring is OPM's main website. USAJOBS was created in 1996 and initially lauded as a way for agencies to more easily fill vacancies with qualified candidates. Yet today, agencies and federal job applicants alike consider USAJOBS confusing and difficult to use.

A public comment, for example, noted: "A significant barrier to public service (especially Federal public service) is the unwieldy application process. I have used USAJOBS many times, and have found the process extremely complicated, easy to mess up, and to take so long that even if I was offered my dream Federal job, I would have already had to take another position."[74]

Figure 1

USAJOBS Example of a Candidate's Self-Assessment



Source: Screenshot from *Inspired to Serve: The Final Report of the National Commission on Military, National, and Public Service*, National Commission on Military, National, and Public Service, March 2020

The formalized system of OPM hiring, combined with the centralized job site, leads to an overall ineffective process. The National Commission report said that most USAJOBS announcements are "unintelligible to job seekers who are not familiar with Federal personnel systems." The report also found that applicants who apply to a federal job using a standard one-page résumé, which is common in the private sector, "are disadvantaged by review systems that emphasize the presence of specific keywords rather than a holistic assessment of an applicant's qualifications." According to an employee with the U.S. Digital Service: "We did an analysis of what an application looked like for a software engineer in the private sector at a major company versus USAJOBS. The former was a paragraph long, stated the mission, and had an easy apply button. The USAJOBS [posting] was seven pages long, and the description of what the job was, was three-quarters of the way down the page."[75]

Congress could take a lesson from the states and completely decentralize hiring authority. Individual agencies would be given the authority to hire in a manner that they saw fit. They should especially be able to have different hiring procedures for different jobs, so that the process for hiring a custodian would not match that for hiring a research scientist. The only formal requirement would be that all jobs be posted on USAJOBS, although the website would not be the only means by which to apply. OPM would transition into an advisory agency whose job would be to assist departments that need hiring assistance or to gather different HR departments together to share ideas and methods.

If the federal government is not going to completely decentralize hiring, there are many paths they could take to loosen the strictures on it. They could expand Direct-Hire Authority beyond when departments had a "critical hiring need" or "severe shortage of candidates." OPM could allow managers to directly oversee rating and hiring, instead of delegating it out to an independent HR department, thus expanding the reforms of the Chance to Compete Act.[76] Many small reforms—such as ending requirements for formal points scoring—that would more closely bring the federal government in line with civil service reform states would allow federal managers far more flexibility.[77]

Compensation and Classification Reform

In earlier years, Congress appropriated lump sums to agencies, and agency managers had discretion to use those lump sums for what they determined were the right number of employees at the right pay scale.[78] But agency pay discretion angered some union groups and led to demands for standardized job "classification" schedules that would place different jobs into distinct pay grades. According to one history, the main advocates for classification at the federal level were the National Association of Letter Carriers, the National Federation of Federal Employees, and similar unions. The Classification Act of 1923 provided congressionally fixed salaries that could respond to the demands of unions and Congress for generalized pay raises. These classifications could also establish more equality in pay among similar jobs in the system. The unions also successfully demanded that these classification and pay categories focus on seniority rather than efficiency ratings or performance.[79] States in the 20th century likewise began to more systematically classify jobs based on their titles and tried to ensure equity for titles across different agencies. Classifications were typically enforced by a central classification agency or a general civil service commission. Hundreds or thousands of different job classifications and pay bands that were tied tightly to job classifications and seniority made compensation straightforward albeit unresponsive to individual agency demands.

As part of recent civil service reforms, many states have simplified their classification systems in a process known as broadbanding, which reduces the number of job classifications and pay scales. Broadbanding has allowed agency heads more discretion to classify employees into sevent different types of positions and to decide employee pay within those positions. States also began to allow more discretion to managers to provide particular types of incentive pay or create pay-for-performance programs and to move beyond seniority-based pay increases.

Florida has performed some of the most expansive classification reforms. In 1994 Florida agencies were given flexibility to increase the base rate of pay outside of the previous classification system. The following year, 25 of 27 agencies used that flexibility. Florida's policy analysis office concluded that this effort, combined with the other reforms, "appears to have had a generally positive impact on state government."[80] After another reform act in 2001, the state collapsed 3,300 separate title classifications into just 38 broad occupational groups, with 25 pay bands stretched across them. There were no automatic steps inside the pay bands based on seniority.[81] The Florida Department of Management Services' Workforce Operations program still handled general job classification and policy, but Florida managers had the ability to increase pay inside those bands up to 300% above the minimum pay.[82]

Other states have made similar reforms. Wisconsin in the 1990s adopted a broadband pay structure, with many job classifications collapsed into broad groups with wider pay ranges.[83] South Carolina in 1996 reduced job classes from 2,500 to 500 and the number of pay ranges from 50 to 10.[84] After civil service reform in 1996, Georgia kept its State Job Classification System, which gave each pay grade a minimum, market average, and maximum pay rate. But the state allowed starting salaries above the minimum and up to the market rate depending on the background of the applicant.[85] By 2008, 12 states used general broadband systems, while another 4 used it for at least some of their workforce.[86]

Several comprehensive reports have found evidence of efficiency from broadbanding, although the type of implementation mattered. A 2003 report by the National Academy of Public Administration, "Broadband Pay Experience in the Public Sector," looked at broadbanding in five states as well as

some individual federal agencies. The federal agencies' officials supported the changes and found them generally successful. Of the states, Florida's reform was "highly successful." Virginia reported that "[a]necdotal reactions are favorable," and in Washington 83% of those surveyed supported the system. Two states, Wisconsin and South Carolina, reported no problems with broadbanding, but provided no particular evidence of success, either.[87] A Volcker Commission report from the same year surveyed broadbanding experience and came out in support of it.[88] An academic survey of agency managers in six states found generally positive responses to broadbanding. In South Carolina, managers stated that they appreciated the reform, and the Division of State Human Resources said that pay band reform helped the state improve recruitment, retention, and employee development generally. More than 40% of HR professionals in states generally thought that broadbanding increased flexibility and improved efficiency. Although this was less than a majority, the study did not report those who weren't sure or found no effect, and it did not find significant negative responses.[89] One reported downside to broadbanding is that overall employee costs typically go up. But that change has to be balanced with the increased productivity and flexibility of the government workforce overall. Concerns about increased costs have been met by capping overall compensation for each department.

States have now had extensive experiences with incentive pay programs as well.[90] The success of these reforms has been more ambiguous and highly dependent on the administration in different states. Part of Georgia's 1996 civil service reforms was GeorgiaGain, which allowed increased pay-for-performance programs. Two surveys found that employees reported dissatisfaction with the management of the incentive program.[91] Georgia state officials were more positive: They argued that efficiency had improved and noted that the largest raises had been given to "outstanding" employees. The tying of performance pay to ratings and the limitations on general agency budgets have also meant that agency heads reduced the tendency to rank many or most employees as outstanding.[92] One study noted that resignations increased in Georgia agencies after reforms, but those resignations were largely among average-rated staff. Higher-performing staff tended to stay, as one would expect with an incentive pay program.[93]

Texas has the Texas Incentive and Productivity Commission, which administers two separate merit-based reward programs. A survey of Texas HR professionals found that almost two-thirds believed that merit pay reflected actual differences in performance, while 28% said they didn't know and 10% said that it didn't.[94] A cross-state survey of civil service reform states, however, found that many HR professionals thought office politics was more important than performance in incentive pay programs. As many as 50% thought that the pay programs increased productivity in Florida and South Carolina, but very few thought so in Kansas and Missouri.[95] On the whole, performance pay seems beneficial but is dependent on the implementing state and agency. Agencies with clear measures of output or productivity seem to benefit more than those with ambiguous goals and outcomes.

Federal Options for Compensation and Classification Reform

OPM and federal agencies have decentralized classification to some extent since the post-Carter period, so agencies generally have delegated authority to classify the jobs under their purview. The era when outside personnel specialists performed detailed individual classification checks after the fact is largely over.[96] Yet OPM still decides the nature of positions and of classifications and oversees the job classification process.[97]

OPM's *Handbook of Occupational Groups and Families* contains more than 200 pages with detailed descriptions of 49 major "groups" or "families" of occupations for employees (such as "0300 – General Administrative, Clerical, and Office Services Group"). Inside these groups are often two dozen or more "series" of jobs (such as "Computer Operation Series 0332"). Other documents clarify the specific "classes of positions" or jobs inside these series. The document on the Computer Operation Series is 55 pages and describes that a computer operator is a position "the paramount duties of which involve operating or supervising the operation of the controls of the digital computer system." After defining terms such as "modem," "hardware," and "online," the document explains how classifiers are supposed to group employees into six different classes of position of Computer Operator. The document explains that there are nine factors that determine the class of positions (such as the "complexity" and "guidelines" of the position's work), and each factor has several subfactors. These subfactors allow the allocation of up to 2,350 "points," which then help distribute positions into the seven different salary scales.[98]

A job position's salary is determined by the classification system, which is now governed by the Classification Act of 1949 and has been codified in Chapter 51 of Title 5 of the U.S. Code.[99] The system has 15 grades (GS-1 to GS-15), with 10 steps in each grade.[100] Above those grades is the SES, where compensation is somewhat more flexible and more closely based on performance.[101]

The process for classifying individual positions for GS work is done by the departments, but as with hiring capability, this is the result of delegation that can be revoked. Chapter 51 permits agencies to classify positions in their respective classes and grades, develop internal guides to help with classification, and organize and assign work for each position. OPM monitors agencies to ensure that they are classifying positions in accordance with these standards. If OPM believes that an agency is not adhering to its published standards, then it can revoke or suspend the agency's authority to classify positions. Moreover, OPM provides the final decision on any classification appeals filed by agencies or employees.[102]

OPM also sets the overall pay structure and pay administration policies for GS employees; these policies are tightly controlled.[103] Grade increases are considered to be promotions and include a 10%–15% increase in pay, while step increases, also known as within-grade increases (WGIs), are considered to be periodic raises and include a 2%–3% increase in pay.[104] One of the most rigid parts of the federal pay program is that the steps inside classifications are based on longevity instead of performance. In steps 1–3, employees must wait one year for a step increase; in steps 4–6, two years; and in steps 7–9, three years. According to OPM, it normally takes an employee 18 years to advance from step 1 to step 10 within a single grade. The only way in which an employee can advance through his or her grade faster is by receiving a quality step increase (QSI). QSIs are additional step increases that award outstanding performance by employees. However, they are few and far between; employees can only receive, at most, one QSI every year, and these are given out sparingly.[105] An employee can be promoted to a higher GS grade, depending on OPM regulations, qualification standards, and agency-specific policies, only up to the full promotion potential advertised in the original job posting to which the employee applied. Otherwise, to get a grade promotion, the employee has to apply for a different job.[106]

Congress could provide agencies with greater discretion by amending the law to allow broadbanding, as Wisconsin, Florida, South Carolina, and other states have done. There is precedent for this in the federal government. The so-called China Lake experiment at the Naval Weapons Center gave line managers greater authority over assigning, promoting, and rewarding subordinates by lumping the then-18 GS grades into only 6 or fewer. Reports showed better recruiting and lower turnover, but at the cost of increased overall spending.[107] The National Institute of Standards and Technology (NIST) and the Government Accountability Office (GAO) have adopted broadbanding and found the system to be successful. For example, after NIST switched from the GS system to broadbanding,

employee and supervisor surveys showed that employees felt that higher performance was better rewarded, more employees were satisfied with their pay, and supervisors felt that they had more control over their employees' pay and could better reward them.[108]

Two comprehensive federal broadbanding reforms have been the subject of some study. In 1995, Congress established the Acquisition Demo program to give broader discretion to reward defense procurement officials. A decade later, an evaluation of the program found that it led to higher retention levels for "high contributors" and increasing separations for "low contributors." Employees in the system believed that there was a stronger connection between pay and performance than employees in a control group.[109] Even more dramatically, in the wake of 9/11, the 2004 National Defense Authorization Act allowed the Department of Defense to overhaul its entire personnel system, including changes to hiring, firing, discipline, and especially pay. The new program became known as known as the National Security Personnel System (NSPS). An analysis by the Institute for Defense Analyses argued that the plan had a positive effect on "new talent hiring" and "appears to have outperformed the old General Schedule (GS) when it came to addressing poor performers and motivating top performers." It recommended that the Defense Department be allowed to override the GS classification system and establish special classifications for special positions, but the NSPS was dismantled after a change in administration in 2009.[110]

As in the states, there is some possibility for direct incentive or pay-for-performance programs in the federal government, and there is precedent as well. In earlier American history, many if not most government jobs had some sort of dependence on fees or gratuities for services granted, from the number of cases decided for judges to the number of public land certificates granted or the number of immigrant naturalizations provided. It was only in the early 20th century that a concern about civil servants balancing competing demands (e.g., granting an excessive number of naturalization documents) led to a universal salary standard.[111] More recently, the 1978 CSRA attempted to create incentive pay systems. Career SES employees could earn up to 20% of their base salary in performance bonuses each year, and presidentially designated "distinguished" executives could earn bonuses of up to $20,000, while middle-level managers could also get substantial bonuses based on a merit pay system.[112] Yet as early as 1982, two surveys of employees showed that bonuses tended to be spread out among large numbers of individuals and that the rewards tended to be small for mid-level managers.[113] By 1984, Congress had replaced the merit pay system with a Performance Management and Recognition System that was even more closely based on the General Schedule, but this more limited program effectively ended in 1993.[114] Although China Lake, Acquisition Demo, and the NSPS all had aspects of pay-for-performance, and although both the GAO and National Academy of Public Administration have recommended more pay-for-performance in the federal system, broad-based bonus systems have not flourished at the federal level.[115]

One reason for failures in pay-for-performance systems is the widespread tendency across government for salary compression.[116] Since politically it is easier to attack "overpaid" high-skilled employees who make more than the salary of the median voter and difficult to attack overpaid manual workers, governments tend to have a much narrower salary range than the private sector. While the lowest-skilled federal employees are significantly overpaid relative to the private sector, the highest-skilled are underpaid, with the underpayment beginning with those with a master's degree and increasing for those with a professional degree or doctorate.[117] Even pay-for-performance models have not changed this tendency. After the supposed merit-pay reforms of the 1978 CSRA, the GAO noted that pay compression had worsened at the top ranks of the government.[118] This wage compression effect was also demonstrated after the passage of the 1989 Financial Institutions Reform, Recovery, and Enforcement Act, which aimed to provide federal bank regulatory agencies with more discretion to raise salaries in order to compete with well-paying private-sector finance jobs. In reality, the reform led to broad boosts in salary for federal regulators, especially for lower-skilled positions. By 2012, although the average employee in the banking industry earned just under $50,000, the average compensation for employees in the Office of the Comptroller of the

Currency, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau exceeded $190,000, with secretaries, for instance, making almost $80,000.[119] The highest-paid and most skilled individuals still received higher income in finance.

The lesson from past pay-for-performance programs is that they should be used most extensively in select agencies where it is possible to clearly judge output or outcomes and where political demand for wage compression is less pressing. The success of China Lake and some other demonstrations among research facilities proves that, among scientists and highly skilled individuals with divergent productivity, pay-for-performance can work well. States and the federal government have shown that in the right circumstances both general broadbanding and individual pay-for-performance programs can improve efficiency.

Reforms to Public Unionization

Like restraints on discipline and removal, collective bargaining with public-sector unions is a relatively recent addition to the civil service. It was not until the "Little Wagner Act" of 1958 that New York City adopted the earliest comprehensive public-sector collective bargaining law in the country. In 1959 and 1962, Wisconsin passed laws that made it the first state to conduct collective bargaining with its employees. Soon public collective bargaining was adopted in some form in most of the states.[120] In 1962 the federal government issued an executive order encouraging negotiations with unions, but this was not put into statute until the 1978 CSRA.[121]

Since the mid-20th century's public unionization movement, states have maintained an immense range of different approaches on every aspect of union policy. States have mandated or banned collective bargaining entirely or in part, sometimes limiting bargaining to either just wages and benefits or conditions of employment. They have required or banned automatic union-dues checkoffs by agencies. They have expanded or restricted the ability of unions to involve themselves in employee grievances. They have banned or allowed the use of government pay for "union time" or "official time" activities that support the union. They have expanded or restricted the proportion of bargaining-unit votes needed to certify a union. They have expanded or limited the need for unions to "recertify" in new votes to show that they are still representing their members.

Right now, only three states have complete bans on public-sector employees' collective bargaining at both the state and local level: Utah, North Carolina and South Carolina.[122] But many other states have sharply limited collective bargaining to specific areas or subjects. Texas, for instance, forbids collective bargaining except for firefighters and police officers.[123] States such as Indiana, Oklahoma, and Kentucky allow bargaining only for firefighters, police, and teachers.[124] Many other states, such as Mississippi, Utah, and Arkansas, have no public-sector union law, meaning that although individual local governments sometimes negotiate with unions and enter into agreements, the state as an employer generally doesn't.[125]

Changes to public union rules were not as prominent in the civil service reform movement of the 1990s and onward as other reforms, for the simple reason that states with more powerful public unions were less likely to engage in civil service reform.[126] Although Florida did not abandon collective bargaining with its employees, as part of the Service First reform, the governor was allowed to bypass mediation after contract disagreements and ask the legislature for a final resolution of disputes.[127] In 2023 Florida required public labor unions to have at least 60% of members paying dues in order for a union to be recognized by state law and banned government employers from deducting union dues from paychecks (with a typical exemption for police and firefighter unions). Many state unions were decertified when the law went into effect.[128]

In 2017, Iowa made comprehensive reforms to several aspects of public-sector bargaining. The state increased the percentage of employees who had to give written consent for union representation. Bargaining units were required to have a vote on retaining a union before the end of every contract, and the "yes" vote now required a majority of the whole unit, not just a majority of those voting. Many subjects were removed from the realm of collective bargaining, including seniority, transfers, job classifications, and staff reductions. The state prohibited dues checkoffs collected automatically by the public employer.[129] In 2018, Missouri forbade collective bargaining over wages, benefits, conditions of employment, and union time and required recertification votes every three years.[130]

The most prominent public-sector union reform by far was Wisconsin's Act 10 in 2011. After the passage of the hotly contested act, the state allowed collective bargaining only over wages, and even those wage negotiations were limited to no more than the rate of inflation. The law also allowed state workers to opt out of paying union dues and required unions to face regular recertification votes. The law has been a prominent source of debate in the state for more than a decade. In recent years, both Wisconsin's and Missouri's laws have been overturned at least in part by their state supreme courts.[131]

General studies of public-sector unionization and collective bargaining across states and cities have had clear results: Unions increase costs and reduce efficiency. One early research paper found that the existence of union bargaining boosted pay significantly and increased the number of employees in unionized agencies.[132] A 2008 paper found significant wage premiums for public-sector union workers.[133] A 2015 paper found that public-sector unions tended to increase wages and, most especially, benefits.[134]

Wisconsin's Act 10 provided an important source of evidence for the effects of changing public-sector union laws.[135] Some of the biggest effects of the law were found in the state's schools. One study found "an increase in the quality of the prospective teacher pool in Wisconsin" as a result of the reform, since school compensation schemes could afterward be based on performance rather than collective bargaining agreements (CBAs) and seniority.[136] Another found that school districts where unions were decertified had better test scores and attendance, especially for low-income and nonwhite students.[137] The new Wisconsin pension and health care standards for employees that replaced previous CBAs under the act saved the government billions of dollars in a few years, according to state estimates.[138] The evidence that reducing union power in the government workforce will improve efficiency is strong.

Federal Options for Union Reform

Although collective bargaining was not made official in the federal workforce until recently, federal unions have been among the premier agents in shaping the nature of the civil service system. From securing limited protections against removal in 1912 to creating one of the earliest pension systems in the country in 1920 to standardizing pay classification in 1923 and to extending all of these changes afterward, research shows unions to be one of the most important forces in shaping the nature of the civil service system, typically in ways that counteract productivity.[139]

It was Title VII of the 1978 CSRA, also known as the Federal Service Labor-Management Relations Statute (FSLMRS), that enshrined organizing and collective bargaining rights of federal workers into law. The statute allows federal workers to organize, bargain collectively, and participate in labor organizations related to their line of work.[140] Although federal unions under the act cannot negotiate directly over most pay and benefits, they can negotiate over conditions of employment. The FSLMRS also created the Federal Labor Relations Authority, an independent agency in the

executive branch that protects federal employees' collective bargaining rights, resolves disputes, provides guidance to agencies on union rights, conducts union elections, and investigates unfair labor practices within the federal government.

A core tenet of the FSLMRS is the belief that public unionization "safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment."[141] The statute thereby requires agencies and collective bargaining representatives to secure CBAs that promote an efficient and effective government.[142] In practice, there has been no attempt to ensure CBAs are promoting more efficient government.

One complaint about existing CBAs is that if an agency changes a "condition of employment," the FSLMRS requires the agency to engage in negotiations and bargaining with its union. According to the federal government, "conditions of employment" in practical terms refers to the "physical, environmental and operational features affecting employees' daily work lives. Conditions of employment encompass 'working conditions' which can range from the size of an employee's work cubicle to the system for calculating employee incentive awards." The government notes that even a long-standing "past practice," such as the provision of free bottled water or the prices in cafeterias, can become a condition of employment and therefore subject to bargaining if changed.[143] Current CBAs also include provisions for taxpayer-funded "union time": time that federal employees use to represent labor organizations and participate in other non-agency matters during work hours.

The FSLMRS does not require regular union recertification elections. Once a public union has been certified through a secret ballot election as an employee representative, the union does not have to hold another vote.[144] A 2024 report from the Foundation for Government Accountability found that only 6% of unionized employees voted to certify the unions that represent them.[145]

There have been some attempts at reforms to federal collective bargaining. In 2018, President Trump signed EOs that limited the extent of CBAs. EO 13836 called on agencies to secure CBAs that allow for greater flexibility in handling operational needs, in addition to rewarding high performers and holding low performers accountable. Meanwhile, EO 13837 encouraged greater transparency, accountability, and efficiency in taxpayer-funded union time. President Biden rescinded both EOs in 2021.

Ideally, the federal government could institute a complete ban on collective bargaining in the federal government. But if lawmakers were not willing to go that far, there are several reforms that can be made. The president should issue EOs to limit, to the maximum extent possible, union time and CBAs that give unions expansive say over conditions of employment. Congress can pass the Paycheck Protection Program, which would ban public unions from automatically deducting dues from federal employees' paychecks. It could pass the No Union Time on the Taxpayer's Dime Act, which would ban taxpayer-funded union time, such as barring unions from using such time to represent employees in grievance procedures within agencies. Finally, Congress could amend the FSLMRS to limit what constitutes "conditions of employment" and require unions to be recertified annually.

Conclusion

Since one of the most prominent goals of past civil service reform efforts has been to give the executive more direct control over the workforce, and since congressional reform of the civil service process has been rare, presidents have taken the lead in trying to reform the workforce at the federal level. In many cases, these presidential efforts have proven futile. As Richard Nathan, a former Nixon Office of Management and Budget official, described in *The Plot That Failed: Nixon and the Administrative Presidency,* Nixon's work to form a "counter-bureaucracy" in the White House to monitor the civil service ended up causing departments to push decision-making down to a lower level, outside of the purview of White House officials. The "Malek Manual" to insert more loyalists into the lower levels of the departments ended up with many former loyalists losing direct contact with the White House.[146]

There have been concrete examples of presidents successfully exerting more influence over the bureaucracy. The best example of comprehensive reform was President Dwight Eisenhower's creation of Schedule C in 1953, which allowed for hiring outside of the typical civil service for policymaking positions. Eisenhower also created a "two-hat" arrangement for the chair of the then–Civil Service Commission to serve as a staff adviser to the president on personnel matters, an arrangement that had been recommended by the Hoover Commission on government reform in 1949. Although later abandoned, this combined role did give the executive more say over personnel issues.[147]

Presidents in the past have also worked to establish new agencies with more freedom from traditional civil service rules. As David Lewis shows in *Presidents and the Politics of Agency Design*, from 1946 until 1997, the executive branch created 248 new agencies under its own initiative using repurposed funds. One of the main reasons was to allow executive control of new appointments. Although the so-called Russell Amendment technically prevents funds from going to new agencies for more than a year without congressional authorization, it has been read in a very limited fashion.[148]

The transformation of the Civil Service Commission to OPM as part of the 1978 CSRA was one salutary effect of that act since it gave the president more control over workforce policies. Before the act, the only presidential appointees in the Civil Service Commission were the three commissioners. By the end of President Carter's administration, and despite the reduction of the three commissioners to one presidentially appointed director, there were 12 presidential appointees at OPM, including 9 Schedule Cs. Donald Devine, Reagan's first OPM head, increased the number of appointees to 37 by 1984. Devine's reorganization led to OPM giving individual departments increased control over their personnel, and it helped decrease federal personnel costs—by $6.4 billion, according to one estimate—even while decreasing the number of personnel at OPM itself by almost 30% in the first six years.[149]

There are more possibilities for executive reform of the civil service system under the CSRA that have seen little use. Under Title VI, OPM is allowed to create a "demonstration project" to see "whether a specified change in personnel management policies or procedures would result in improved Federal personnel management." This authority would allow OPM to work with agencies to change "the methods of classifying positions and compensating employees," "the methods of disciplining employees," and "the methods of involving employees, labor organizations, and employee organizations in personnel decisions," among other reforms. By this method, OPM could create substantial changes in up to 10 demonstration projects with up to 5,000 employees in each project.[150]

Although it is too early to know if President Trump's executive civil service reforms will bring results, Congress can still act on the lessons of the radical civil reform states to bring more extensive reforms to the federal system. States have attempted several variations of removal processes, hiring systems, payment schedules, and union bargaining. For more radical civil service reform efforts, states have provided Congress with many models that they can adopt in part or in full. States have attempted several variations of removal, hiring, payment schedules, and union relations systems and have shown which have worked. The states demonstrate that increased discretion to managers has created more effective working environments without politicizing the system, as many anti-reform groups had feared.[151]

Those who counsel against civil service reform due to concerns about politics should be aware that even today there are no hard-and-fast rules separating the civil service from more political positions. Political scientists have long noted that appointments and patronage extend down into the civil service due to favoritism and to selective promotion and hiring, and the civil service extends up into appointment and patronage positions depending on the need for certain skills.[152] The attempt to firmly delineate the two spheres has increased the "thickening" of government noted by political scientist Paul Light, meaning the increased layers of hierarchy from the top to the bottom of a department, including more "deputy chiefs of staff" and "associate assistant deputy secretary" positions.[153] One reason that political scientists have found for thickening or layering is the effort by managers to create new positions to get around existing civil service hiring procedures.[154] Extensive civil service reform would limit this tendency.

The federal civil service encompasses a highly educated and skilled workforce that has shown itself capable of astounding accomplishments, from executing wars to pioneering new vaccines. But the current civil service system does not reward the best employees, does not allow managers to hire in accordance with their designated goals, and does not control employees who are burdening their colleagues.

The states show that the current state of the federal civil service is not inevitable and that broad-based reforms can be accomplished if there is political will. Reforms to discipline, hiring, compensation, and union relations can all improve performance with little likelihood of reawakening older problems such as mass patronage. For decades, the states have been laboratories of democracy in the civil service. Those laboratories have produced concrete results. The experiments in reform are no longer experimental. What was once known as "radical civil service reform" is now commonplace and is generally successful. The most extensive state reform efforts should be adopted at the federal level.

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Mukherjee has been published in the *Wall Street Journal*, *New York Times*, *New York Post*, and *The Hill*.

Endnotes

1 Jonathan Swan, "A Radical Plan for Trump's Second Term," Axios, July 22, 2022; "Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce," White House, Jan. 20, 2025. Today, the president has direct appointment and removal powers over less than a quarter of 1% of the federal civilian workforce; David E. Lewis, "Political Appointees to the Federal Bureaucracy," Center for Effective Government, Feb. 20, 2024; David E. Lewis, *The Politics of Presidential Appointments: Political Control and Bureaucratic Performance* (Princeton: Princeton University Press, 2008), 56.

2 Robert J. McGrath, "The Rise and Fall of Radical Civil Service Reform in the U.S. States," *Public Administration Review* 73, no. 4 (2013): 638–49, and working paper. This study said that by 2005, 15 states had significantly decentralized their civil service system, which the author argued was the defining attribute of radical civil service reform, and 28 had extensive at-will employment. Since then, other states such as Arizona, Utah, and Indiana have conducted their own civil service reform efforts, while Texas already had a decentralized civil service system. Depending on the exact definition, the number of states with extensive civil service reform could be above or below 20.

3 Ronald N. Johnson and Gary D. Libecap, *The Federal Civil Service System and the Problem of Bureaucracy: The Economics and Politics of Institutional Change* (University of Chicago Press, 1994), 33–36.

4 Gergely Ujhelyi, "Civil Service Rules and Policy Choices: Evidence from US State Governments," *American Economic Journal: Economic Policy* 6, no. 2 (May 1, 2014): 338–80.

5 Johnson and Libecap, *The Federal Civil Service System and the Problem of Bureaucracy*, 34.

6 Abhay Aneja and Guo Xu, "Strengthening State Capacity: Civil Service Reform and Public Sector Performance during the Gilded Age," *American Economic Review* 114, no. 8 (March 6, 2024): 2352–87. One study found that states that enacted civil service reform in this period tended to move expenditures away from state-level systems that had limited patronage and to local levels where patronage was more extensive; Ujhelyi, "Civil Service Rules and Policy Choices."

7 Johnson and Libecap, *The Federal Civil Service System and the Problem of Bureaucracy*.

8 Ujhelyi, "Civil Service Rules and Policy Choices."

9 Jimmy Carter, "Federal Civil Service Reform Message to the Congress," American Presidency Project, March 2, 1978.

10 One article on the act noted that the rhetoric and reality of the reform bill were very distinct and that the bill embodied an uncertain compromise between those who wanted more protection and those who wanted more flexibility. One expert who consulted on the bill at the time said that although the public discussion focused on making it easier to fire civil servants, that was "crap," and the actual law did very little in that regard. See Donald P. Moynihan, "Protection Versus Flexibility: The Civil Service Reform Act, Competing Administrative Doctrines, and the Roots of Contemporary Public Management Debate," *Journal of Policy History* 16, no. 1 (2004): 1–33.

11 McGrath, "The Rise and Fall of Radical Civil Service Reform in the U.S. States."

12 Elizabeth Kellar, Robert Lavigna, and John Palguta, "A Comparative Analysis of States' Civil Service Reforms," National Academy of Public Administration, January 2020.

13 Johnson and Libecap, *The Federal Civil Service System and the Problem of Bureaucracy*, 68. The Lloyd-La Follette Act—section 6 of the Treasury, Postal Service and General Government Appropriations Act in 1994—said that the records concerning a removal and a dispute over removal "shall be furnished to the person affected upon request, and the Civil Service Commission also shall, upon request, be furnished copies of the same." But there was an explicit statement that "no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal." There did not seem to be any indication that the Civil Service Commission would conduct formal reviews of removals; 37 Stat. 555, Sixty-Second Congress, session II, chapters 388 and 389, 1912; for background of formation of the service, see Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (Cambridge, UK: Cambridge University Press, 1982).

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26 Jonna Lorenz, "State Workers Now Mainly Unclassified," *Topeka Capital-Journal*, Jan. 31, 2019.

27 Texas State Auditor, "Texas Human Resources Management Statutes Inventory, 2018–2019 Biennium," SAO No. 18-303.

28 Walters, "Life After Civil Service Reform."

29 Jungin Kim and J. Edward Kellough, "At-Will Employment in the States: Examining the Perceptions of Agency Personnel Directors," *Review of Public Personnel Administration* 34, no. 3 (April 11, 2013): 218–36.

30 Harney, "Civil Service Tsunami." The complaints about Service First from personnel managers focused on the continued micromanagement of central regulations. One survey of 457 Florida employees directly affected by Service First one year after reform found that majorities thought that it did not cause state employees to be more responsive or have improved performance, but that was understandable in that the reform took away job security from precisely this group and the survey took place immediately after it. At the same time, 65% of those surveyed still thought, "My agency is a good place to work" and 75% thought, "Performance standards for my job are related to what I do." Also, previous reforms, such as the China Lake experiment discussed below, often took time to achieve employee buy-in. In that case, employee approval of the system went from 29% at the beginning of the reform to 70% by year 14; James S. Bowman et al., "Civil Service Reform in Florida State Government," *Review of Public Personnel Administration* 23, no. 4 (December 2003): 286–304; Peter Levine, "Civilian Personnel Reform at the Department of Defense," Institute for Defense Analyses, October 2017.

31 Caroline Cournoyer, "Civil Service Reform: Lessons from Georgia and Indiana," *Governing*, June 8, 2012.

32 Angela Lauria-Gunnink, "Civil Service Merit and Employment at Will Personnel Systems: The Role of Transformational Change Leadership in Public Sector Recruitment, Hiring, Promotion, Retention, and Succession Planning," *Dissertations* 587 (April 2024). A study, detailed in this dissertation, surveyed managers on hiring, recruitment, promotion, and retention. It noted that hiring was the only area where at-will states had a statistically significant higher survey rating than traditional civil service states. The dissertation argues that the lack of more statistically significant findings "nearly entirely debunks the new public management … framework," another name for nontraditional civil service reform. One can take account of the survey results without giving credence to this insinuation.

33 Bureau of Labor Statistics, "Job Opening and Labor Turnover: May 2009," U.S. Department of Labor, July 7, 2009.

34 Office of the Legislative Auditor General, "A Limited Review of the State's Career Service System."

35 Walters, "Life After Civil Service Reform."

36 J. Edward Kellough and Lloyd G. Nigro, "Pay for Performance in Georgia State Government: Employee Perspectives on GeorgiaGain after 5 Years," *Review of Public Personnel Administration* 22, no. 2 (2002): 146–66. For somewhat similar but more restrained findings, see R. Paul

Battaglio Jr. and Stephen E. Condrey, "Reforming Public Management: Analyzing the Impact of Public Service Reform on Organizational and Managerial Trust," *Journal of Public Administration Research and Theory* 19, no. 4 (Jan. 15, 2009): 689–707; Cournoyer, "Civil Service Reform: Lessons from Georgia and Indiana."

37 Walters, "Life After Civil Service Reform." One metastudy from 2013 found "a lack of empirical evidence linking personnel reforms with results." But part of the issue with such a finding is that results are often hard to measure in a government agency context, which is why some of the evidence adduced above, including from surveys, is helpful; Todd Jordan and R. Paul Battaglio Jr., "Are We There Yet? The State of Public Human Resource Management Research," *Public Personnel Management* 43, no. 1 (Dec. 26, 2013): 25–57.

38 "Employee Rights & Appeals: Adverse Actions," U.S. Office of Personnel Management; Stephanie West, "Re-Balancing the Pendulum: A Recommendation for Civil Service Reform," *Administrative Law Review* 68, no. 2 (2016).

39 "Employee Rights & Appeals: Adverse Actions."

40 West, "Re-Balancing the Pendulum."

41 Ibid.

42 Ibid.

43 Ibid. The VA removal process was reformed through the Veterans Access, Choice, and Accountability Act of 2014, H.R. 3230, 113th Congress (2013–2014).

44 "Employee Rights & Appeals: Appeals," U.S. Office of Personnel Management.

45 James Sherk, "Reform the Civil Service to Create Accountability in the Bureaucracy," America First Agenda.

46 Eric Katz, "Firing Line," *Government Executive*.

47 "Upholding Civil Service Protections and Merit System Principles," *Federal Register*, April 9, 2024; Carten Cordell, "OPM Issues Its Final Rule for Schedule F Protections," *Government Executive*, April 4, 2024; "Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce," White House, Jan. 20, 2025.

48 "Reductions in Force: Overview," U.S. Office of Personnel Management.

49 *Elrod v. Burns*, 427 U.S. 347 (1976). As recently as 2016, the Supreme Court affirmed that the First Amendment could be violated if a public employer infringed on a public employee's right to make protected speech or engage in political associations; *Heffernan v. City of Paterson*, 578 U.S. 266.

50 "About OSC," U.S. Office of Special Counsel.

51 Some would argue that President Trump's removal of officials at the beginning of his term demonstrates the increased need for civil service protections. Whatever the merits of these particular cases, this report argues that the removal of individuals for clear political or patronage motives should continue to be prevented, while the removal of officials for disagreements about policy or efficacy should be allowed. Also, broad RIFs, as long as they are in line with appropriations and non-personnel congressional laws, should be allowed.

The current report would also note that although a less rigid system would doubtless allow occasional removals that were not justified, it would also allow more innovative management. The trade-off should be acknowledged, but so should the potential gains from such a trade-off.

52 The American civil service movement drew on earlier civil service reforms in China, Great Britain, and Germany. For background on implementation, see Skowronek, *Building a New American State*.

53 "Civil Service, Department of," New York State Archives.

54 Ujhelyi, "Civil Service Rules and Policy Choices."

55 Walters, "Life After Civil Service Reform."

56 "Review of Florida's Career Services System Reform," Office of Program Policy Analysis and Government Accountability, Dec. 19, 1995; *Rutan v. Republican Party*, 497 U.S. 62 (1990).

57 "Job Candidate Program Manual: Division of State Human Resource Management," Department of Management Services, May 10, 2022.

58 "TEAM Act," Tennessee Deptartment of Financial Institutions.

59 Kellar, Lavigna, and Palguta, "A Comparative Analysis of States' Civil Service Reforms."

60 Wu, "Kansas Legislator 2020 Briefing Book: State and Local Government."

61 Jerrell D. Coggburn, "The Decentralized and Deregulated Approach to State Human Resources Management in Texas," in *Civil Service Reform in the States* (New York: SUNY Press, 2012); Jerrell D. Coggburn, "The Benefits of Human Resource Centralization: Insights from a Survey of Human Resource Directors in a Decentralized State," *Public Administration Review* 65, no. 4 (July 2005): 424–35.

62 Some states, such as Wisconsin and Utah, have moved to a more centralized HR hiring system since 2000, due partially to the perception that some agencies had insufficient expertise. Other states have managed the problem of insufficient internal agency expertise by having more interagency groups share personnel practices or by having the central HR agency provide more assistance; Kellar, Lavigna, and Palguta, "A Comparative Analysis of States' Civil Service Reforms."

63 Walters, "Life After Civil Service Reform."

64 Coggburn, "The Decentralized and Deregulated Approach to State Human Resources Management in Texas." Some have expressed concerns that beyond politicization, decentralized hiring could inhibit certain state preferences, especially for veterans. Yet an informal system of veteran preference, when backed by management, as is implemented in Indiana, can be as effective as a formal system with points.

65 Lauria-Gunnink, "Civil Service Merit and Employment at Will Personnel Systems."

66 For President Carter's complaints about the slowness in hiring and the need to decentralize, which resulted in real changes in the CSRA of 1978, see Carter, "Federal Civil Service Reform Message to the Congress."

67 *Inspired to Serve: The Final Report of the National Commission on Military, National, and Public Service*, National Commission on Military, National, and Public Service, March 2020.

68 David Shulkin, *It Shouldn't Be This Hard to Serve Your Country: Our Broken Government and the Plight of Veterans* (New York: PublicAffairs, 2019), 54–55.

69 "Delegated Examining Operations Handbook: A Guide for Federal Agency Examining Offices," U.S. Office of Personnel Management, June 2019. The Competitive Service Act of 2015 did allow managers to share job applications with a different agency as long as the position for which the receiving agency was hiring was in the same occupational series, grade level, performance level, and location. But as that list indicates, this is a limited number of positions; "Competitive Service Act—Shared Certificates Questions & Answers," Chief Human Capital Officers Council.

70 The 1978 CSRA did somewhat limit veterans' preferences by confining them to those who retired below the rank of Major or Lieutenant Commander; Moynihan, "Protection Versus Flexibility."

71 "Evaluate Applications—Hiring Process Analysis Tool, Step 8: Evaluate Applications," U.S. Office of Personnel Management.

72 *Inspired to Serve: The Final Report of the National Commission on Military, National, and Public Service*. OPM has tried to get around self-assessment through the creation of USA Hire, a psychologist-backed assessment that federal job applicants can complete during the hiring process. According to OPM, USA Hire tests measure "general competencies and soft skills critical to the job, providing a 'whole person' assessment," so they "are better predictors of job performance than assessments that allow applicants to self-report on their level of expertise." Today, more than 40 federal agencies use USA Hire.

73 The act also instructs OPM and agencies to move away from self-assessment toward "a preference for technical assessment" that would allow for the demonstration of job-related skills; "S.59 - 118th Congress (2023–2024): Chance to Compete Act of 2024"; "Reforming the Federal Hiring Process and Restoring Merit to Government Service," White House, Jan. 20, 2025.

74 *Inspired to Serve: The Final Report of the National Commission on Military, National, and Public Service*.

75 Ibid.

76 "S.59 - 118th Congress (2023–2024): Chance to Compete Act of 2024."

77 Some academic literature claims that more direct executive hiring limits agency competence. Political scientist David Lewis argues that those agencies that have more presidential appointments have lower ratings on a performance ranking scale and lower rankings on employee satisfaction. But it is impossible to know if the number of appointees is also correlated with agencies that are more politically contentious and with fewer clear outputs. See Lewis, *The Politics of Presidential Appointments*.

78 See the debates on the extent of congressional control over hiring and pay in Leonard D. White, *The Federalists: A Study in Administrative History* (New York: Macmillan, 1948).

79 Johnson and Libecap, *The Federal Civil Service System and the Problem of Bureaucracy*, 84–86.

80 "Review of Florida's Career Services System Reform." Before the act, agencies were only allowed to increase base pay through "merit salary advances" and "special pay increases."

81 Walters, "Life After Civil Service Reform."

82 "Progress Report," Office of Program Policy Analysis and Government Accountability, July 2001; "Broadband Pay Experience in the Public Sector," National Academy of Public Administration, August 2003.

83 Kellar, Lavigna, and Palguta, "A Comparative Analysis of States' Civil Service Reforms."

84 Kim, "Civil Service Reform in Six States."

85 Although generally decentralized, since 1961, Texas has had a State Classification Team to which state agencies have to request classifications or reclassifications. The general tendency, however, seems to be to give agencies discretion; Kellar, Lavigna, and Palguta, "A Comparative Analysis of States' Civil Service Reforms."

86 Cortney Whalen and Mary E. Guy, "Broadbanding Trends in the States," *Review of Public Personnel Administration* 28, no. 4 (April 14, 2008): 349–66.

87 "Broadband Pay Experience in the Public Sector."

88 "Urgent Business for America: Revitalizing the Federal Government for the 21st Century," Partnership for Public Service, Jan. 4, 2003.

89 Kim, "Civil Service Reform in Six States." This survey did find some dissatisfaction with general civil service reforms, but the "dissatisfaction" was not compared to alternatives, so it was not obvious if this dissatisfaction was relative to a formal civil service system or an even more reformed standard.

90 The concepts of broadbanding and pay-for-performance are related and are sometimes used interchangeably, but will be treated as somewhat distinct here. A broadbanding system provides general discretion in position salaries, while a pay-for-performance system more directly specifies bonuses and additional pay as a reward for actions.

91 Robert M. Sanders, "GeorgiaGain or GeorgiaLoss? The Great Experiment in State Civil Service Reform," *Public Personnel Management* 33, no. 2 (June 2004): 151–64; Kellough and Nigro, "Pay for Performance in Georgia State Government: Employee Perspectives on GeorgiaGain after 5 Years."

92 Sanders, "GeorgiaGain or GeorgiaLoss? The Great Experiment in State Civil Service Reform."

93 Ibid.

94 Coggburn, "The Decentralized and Deregulated Approach to State Human Resources Management in Texas."

95 Kim, "Civil Service Reform in Six States."

96 See the amusing anecdote about an attempt at classification of inventors in James Q. Wilson, *Bureaucracy: What Government Agencies Do and Why They Do It* (New York: Basic Books, 1989), 137.

97 As OPM says, "All position classification standards are formally issued by OPM." See "Introduction to the Position Classification Standards," U.S. Office of Personnel Management, August 2009.

98 "Position Classification Standard for Computer Operation Series, GS-0332," U.S. Office of Personnel Management, January 1984. Federal IT work today is more typically included under "GS-2210: Information Technology Management Series," which has a 207-page classification document attached. The document discusses how to distinguish a 2210 position from a 0332 position; "Job Family Standard for Administrative Work in the Information Technology Group, 2200," U.S. Office of Personnel Management, October 2018.

99 "Introduction to the Position Classification Standards."

100 "Pay and the General Schedule," Go Government.

101 "Compensation: Overview," U.S. Office of Personnel Management.

102 "Introduction to the Position Classification Standards." Agency heads remain responsible for ensuring compliance with OPM classification standards and Chapter 51, but they typically delegate this duty to managers and personnel specialists.

103 "General Schedule: General Schedule Overview," U.S. Office of Personnel Management.

104 "Understanding GS Pay," U.S. Marine Corps.

105 "General Schedule: General Schedule Overview"; "Fact Sheet: Quality Step Increase," U.S. Office of Personnel Management. QSIs also affect the timing of an employee's regularly scheduled WGIs if the employee is at step 4 or 7. In these cases, employees must wait the full waiting period before advancing to the next step (104 weeks for steps 4–6 or 156 weeks for steps 7–9).

106 Most GS employees also receive locality pay, which is a geographic-based percentage rate that reflects pay levels for non-federal workers in 47 locality pay areas. Locality pay was authorized by the Federal Employees Pay Comparability Act of 1990; Drew Friedman, "How Does Locality Pay Actually Work, and Where Did It Come From?," Federal News Network, Jan. 5, 2023.

107 Wilson, *Bureaucracy*, 146–47.

108 "Alternative Pay Progression Strategies: Broadbanding Applications," U.S. Office of Personnel Management, April 1996.

109 Levine, "Civilian Personnel Reform at the Department of Defense."

110 Ibid. The report noted that the NSPS tried to address too many issues, such as discipline, labor relations, and pay, at the same time, which allowed opponents of the system to "focus on short-comings while ignoring successes."

111 Nicholas R. Parrillo, *Against the Profit Motive: The Salary Revolution in American Government, 1780–1940* (New Haven: Yale University Press, 2013).

112 Kay Coles James, *Biography of an Ideal: A History of the Federal Civil Service*, U.S. Office of Personnel Management, 2003.

113 Wilson, *Bureaucracy*, 143–44.

114 James, *Biography of an Ideal*.

115 Government Accountability Office, "Human Capital: Implementing Pay for Performance at Selected Personnel Demonstration Projects," Jan. 23, 2004; National Academy of Public Administration, "Recommending Performance-Based Federal Pay," May 2004.

116 Alexandre Mas, "Does Transparency Lead to Pay Compression?," NBER Working Paper 20558, October 2014.

117 "Comparing the Compensation of Federal and Private-Sector Employees in 2022," Congressional Budget Office, April 2024. Near the conclusion of the Biden administration, OPM finalized a rule that offered expansive increases in pay for manual workers, further increasing the gap; "Prevailing Rate Systems; Change in Criteria for Defining Appropriated Fund," 5 CFR Part 532.

118 Comptroller General, "Report to the Congress of the United States: Federal Executive Pay Compression Worsens," July 31, 1980.

119 Paul Kupiec, "Guess Who Makes More than Bankers: Their Regulators," *Wall Street Journal*, April 21, 2014.

120 Joseph E. Slater, "State Legislation as a Fulcrum for Change: Wisconsin's Public Sector Labor Law, and the Revolution in Politics and Worker Rights," March 2005.

121 "50th Anniversary: Executive Order 10988," U.S. Federal Labor Relations Authority. For federal collective bargaining background, see Joseph A. McCartin, *Collision Course: Ronald Reagan, the Air Traffic Controllers, and the Strike That Changed America* (New York: Oxford University Press, 2011). The Lloyd-La Follette Act of 1912 did say that the government could not fire postal workers based on their membership in a union or employee association, but it said nothing about collective bargaining; 37 Stat. 555, Sixty-Second Congress, session II, chapters 388 and 389, 1912.

122 Virginia repealed a 1993 ban on such bargaining in 2021. Utah banned collective bargaining in February of 2025. Orlando Mayorquin, "Utah Bans Collective Bargaining for Public Workers," *New York Times*, February 15, 2025

123 "Government Code Title 6: Public Officers and Employees," 1993; "Local Government Code Title 5: Matters Affecting Public Officers and Employees," 1993.

124 "Public Sector Collective Bargaining by State," Public Employee Labor Relations Board.

125 Ibid.

126 McGrath, "The Rise and Fall of Radical Civil Service Reform in the U.S. States."

127 Harney, "Civil Service Tsunami."

128 Daniel Rivero, "More than 63,000 Florida Workers Have Lost Union Representation Due to New Law," WLRN, Aug. 30, 2024.

129 Althea Cole, "Sky Didn't Fall with Iowa's Collective Bargaining Reform," *The Gazette*, Jan. 30, 2022.

130 "Title VIII: Public Officers and Employees, Bonds and Records," Missouri Revisor of Statutes, Aug. 28, 2018; Tessa Weinberg, "Republican-Backed Law Targeting Public Unions Rejected by Missouri Supreme Court," *Missouri Independent*, June 1, 2021.

131 Weinberg, "Republican-Backed Law Targeting Public Unions Rejected by Missouri Supreme Court."

132 Jeffrey Zax and Casey Ichniowski, "The Effects of Public Sector Unionism on Pay, Employment, Department Budgets, and Municipal Expenditures," in *When Public Sector Workers Unionize*, Richard B. Freeman and Casey Ichniowski, eds. (University of Chicago Press, 1988).

133 Bahman Bahrami, John D. Bitzan, and Jay A. Leitch, "Union Worker Wage Effect in the Public Sector," *Journal of Labor Research* 30, no. 1 (March 8, 2008): 35–51.

134 Sarah F. Anzia and Terry M. Moe, "Public Sector Unions and the Costs of Government," *Journal of Politics* 77, no. 1 (January 2015): 114–27.

135 E. Jason Baron, "Union Reform, Performance Pay, and New Teacher Supply: Evidence from Wisconsin's Act 10," *SSRN Electronic Journal*, Jan. 29, 2019.

136 Ibid.

137 Morgan Foy, "Selection and Performance in Teachers' Unions," November 2024.

138 Tom Kertscher, "Scott Walker Says Union Reform Law That Brought Massive Protests Has Saved Taxpayers $3 Billion," *PolitiFact*, Aug. 20, 2014.

139 Johnson and Libecap, *The Federal Civil Service System and the Problem of Bureaucracy*.

140 Postal employees were given the right to fully unionize and collectively bargain in 1970 as part of the Postal Reorganization Act.

141 Federal Labor Relations Authority, *Petitioner-cross-respondent v. United States Department of Defense*, et al., 975 F.2d 1105 (5th Cir. 1992).

142 "Federal Labor Relations Statutes: An Overview," Congressional Research Service, Sept. 5, 2014.

143 "Condition of Employment: Change in Working Conditions Handout," Interior Business Center.

144 "Federal Labor Relations Statutes: An Overview."

145 Leisel Crocker, "Why States Should Require Annual Union Recertification," Foundation for Government Accountability, June 5, 2024.

146 Richard P. Nathan, *The Plot That Failed: Nixon and the Administrative Presidency* (New York: John Wiley & Sons, 1975).

147 Hugh Heclo, *A Government of Strangers: Executive Politics in Washington* (Washington, D.C.: Brookings Institution, 1977). This two-hat arrangement was stymied by the nature of the three-member commission and was ended in 1957; Nathan, *The Plot That Failed*, 25–26.

148 David E. Lewis, *Presidents and the Politics of Agency Design: Political Insulation in the United States Government Bureaucracy, 1946–1997* (Stanford University Press, 2003), 82.

149 Lewis, *The Politics of Presidential Appointments*, 45–48.

150 "Civil Service Reform Act of 1978," U.S. Equal Employment Opportunity Commission, Oct. 13, 1978. The likely reason for the lack of use of this provision is that it forbids taking such action if it would violate a collective bargaining agreement. This provision was the basis for the China Lake demonstration project.

151 Opponents of reform would note that the U.S. is already anomalous in the extent of its political control over the civil service and that the U.S. civil service is not particularly known for its efficiency. But as the examples in the states show, any putative difference in administrative capacity in the U.S. is not due to the extent of politicization or the relative lack of civil service protection. Rather, a more plausible answer is that the American history of "adversarial legalism," emerging out of the extent of U.S. separation of powers, constrains the U.S. bureaucracy more than in other parts of the developed world. One could argue that the extent and detailed nature of current civil service laws, the attempt to sharply delineate a sphere of civil service from political appointments, and the bureaucracies' and courts' attempts to enforce these lines through legal mechanisms are actually another example of American adversarial legalism. See Mark Eisen, "Who's Running This Place? A Comparative Look at the Political Appointment System in the United States and Britain, and What the United States Can Learn," *Boston University International Law Journal* 30, no. 295, April 2, 2012; Robert A. Kagan, *Adversarial Legalism: The American Way of Law, Second Edition* (Cambridge, MA: Harvard University Press, 2019); Wilson, *Bureaucracy*, 295–312; for background on American and European differences in bureaucracy, see R. Daniel Kelemen, *Eurolegalism: The Transformation of Law and Regulation in the European Union* (Cambridge, MA: Harvard University Press, 2011).

152 Heclo, *A Government of Strangers: Executive Politics in Washington*.

153 Paul C. Light, "People on People on People: The Continued Thickening of Government," Volcker Alliance, October 2017.

154 Lewis, *The Politics of Presidential Appointments*, 34–37.