

103^D CONGRESS
1ST SESSION

H. R. 3345

To amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 1993

Mr. CLAY (for himself, Mrs. SCHROEDER, Mr. McCLOSKEY, Mr. ACKERMAN, Mr. SAWYER, Mr. KANJORSKI, Ms. NORTON, Miss COLLINS of Michigan, Ms. BYRNE, Mr. WATT, Mr. WYNN, Mr. LAUGHLIN, Mr. BISHOP, Mr. BROWN of Ohio, Mr. HASTINGS, Mr. YOUNG of Alaska, Mrs. MORELLA, and Mr. BOEHLERT) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Workforce Re-
5 structuring Act of 1993”.

1 **SEC. 2. TRAINING.**

2 (a) IN GENERAL.—Chapter 41 of title 5, United
3 States Code, is amended—

4 (1) in section 4101(4) by striking “fields” and
5 all that follows through the semicolon and inserting
6 “fields which will improve individual and organiza-
7 tional performance and assist in achieving the agen-
8 cy’s mission and performance goals;”;

9 (2) in section 4103—

10 (A) in subsection (a)—

11 (i) by striking “In” and all that fol-
12 lows through “maintain” and inserting “In
13 order to assist in achieving an agency’s
14 mission and performance goals by improv-
15 ing employee and organizational perform-
16 ance, the head of each agency, in conform-
17 ity with this chapter, shall establish, oper-
18 ate, maintain, and evaluate”;

19 (ii) by striking “and” at the end of
20 paragraph (2);

21 (iii) by redesignating paragraph (3) as
22 paragraph (4); and

23 (iv) by inserting after paragraph (2)
24 the following:

25 “(3) provide that information concerning the
26 selection and assignment of employees for training

1 and the applicable training limitations and restric-
2 tions be made available to employees of the agency;
3 and”; and

4 (B) in subsection (b)—

5 (i) in paragraph (1) by striking “de-
6 termines” and all that follows through the
7 period and inserting “determines that such
8 training would be in the interests of the
9 Government.”; and

10 (ii) by striking paragraph (2) and re-
11 designating paragraph (3) as paragraph
12 (2);

13 (3) in section 4105—

14 (A) in subsection (a) by striking “(a)”;

15 and

16 (B) by striking subsections (b) and (c);

17 (4) by repealing section 4106;

18 (5) in section 4107—

19 (A) by amending the catchline to read as

20 follows:

21 **“§ 4107. Restriction on degree training”;**

22 (B) by striking subsections (a) and (b) and
23 redesignating subsections (c) and (d) as sub-
24 sections (a) and (b), respectively;

1 (C) by amending subsection (a) (as so re-
2 designated)—

3 (i) by striking “subsection (d)” and
4 inserting “subsection (b)”; and

5 (ii) by striking “by, in, or through a
6 non-Government facility”; and

7 (D) by amending paragraph (1) of sub-
8 section (b) (as so redesignated) by striking
9 “subsection (c)” and inserting “subsection (a)”;

10 (6) in section 4108(a) by striking “by, in, or
11 through a non-Government facility under this chap-
12 ter” and inserting “for more than a minimum period
13 prescribed by the head of the agency”;

14 (7) in section 4113(b)—

15 (A) in the first sentence by striking “annu-
16 ally to the Office,” and inserting “to the Office,
17 at least once every 3 years, and”;

18 (B) by striking the matter following the
19 first sentence and inserting the following: “The
20 report shall set forth—

21 “(1) information needed to determine that
22 training is being provided in a manner which is in
23 compliance with applicable laws intended to protect
24 or promote equal employment opportunity; and

1 “(2) information concerning the expenditures of
2 the agency in connection with training and such
3 other information as the Office considers appro-
4 priate.”;

5 (8) by repealing section 4114; and

6 (9) in section 4118—

7 (A) in subsection (a)(7) by striking “by,
8 in, and through non-Government facilities”;

9 (B) by striking subsection (b); and

10 (C) by redesignating subsections (c) and
11 (d) as subsections (b) and (c), respectively.

12 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
13 Title 5, United States Code, is amended—

14 (1) in section 3381(e) by striking “4105(a),”
15 and inserting “4105,”; and

16 (2) in the analysis for chapter 41—

17 (A) by repealing the items relating to sec-
18 tions 4106 and 4114; and

19 (B) by amending the item relating to sec-
20 tion 4107 to read as follows:

“4107. Restriction on degree training.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall become effective on the date of enact-
23 ment of this Act.

24 **SEC. 3. VOLUNTARY SEPARATION INCENTIVES.**

25 (a) DEFINITIONS.—For the purpose of this section—

1 (1) the term “agency” means an Executive
2 agency (as defined by section 105 of title 5, United
3 States Code), but does not include the Department
4 of Defense, the Central Intelligence Agency, or the
5 General Accounting Office; and

6 (2) the term “employee” means an employee
7 (as defined by section 2105 of title 5, United States
8 Code) who is employed by an agency, is serving
9 under an appointment without time limitation, and
10 has been currently employed for a continuous period
11 of at least 12 months; such term includes an individ-
12 ual employed by a county committee established
13 under section 8(b) of the Soil Conservation and Do-
14 mestic Allotment Act (16 U.S.C. 590h(b)), but does
15 not include—

16 (A) a reemployed annuitant under sub-
17 chapter III of chapter 83 or chapter 84 of title
18 5, United States Code, or another retirement
19 system for employees of the Government; or

20 (B) an employee having a disability on the
21 basis of which such employee is or would be eli-
22 gible for disability retirement under the applica-
23 ble retirement system referred to in subpara-
24 graph (A).

25 (b) AUTHORITY.—

1 (1) IN GENERAL.—In order to avoid or mini-
2 mize the need for involuntary separations due to a
3 reduction in force, reorganization, transfer of func-
4 tion, or other similar action, and subject to para-
5 graphs (2) and (3), the head of an agency may pay,
6 or authorize the payment of, voluntary separation
7 incentive payments to agency employees—

8 (A) in any component of the agency;

9 (B) in any occupation;

10 (C) in any geographic location; or

11 (D) on the basis of any combination of fac-
12 tors under subparagraphs (A) through (C).

13 (2) REQUIREMENTS APPLICABLE TO EMPLOY-
14 EES.—

15 (A) IN GENERAL.—In order to receive an
16 incentive payment, an employee must agree,
17 during the applicable period under subpara-
18 graph (B), to separate from service with the
19 agency (whether by retirement or resignation)
20 before such period ends.

21 (B) DESIGNATION OF PERIOD.—The appli-
22 cable period, for purposes of any agency compo-
23 nent, occupation, geographic location, or com-
24 bination thereof—

1 (i) shall be a continuous 90-day pe-
2 riod;

3 (ii) shall be designated by the head of
4 the agency involved; and

5 (iii) shall end not later than Decem-
6 ber 31, 1994.

7 (C) EXCEPTION.—An employee who does
8 not separate from service before the end of the
9 applicable period under subparagraph (B) shall
10 be ineligible for an incentive payment under
11 this section unless—

12 (i) the agency head determines that,
13 in order to ensure the performance of the
14 agency's mission, it is necessary to delay
15 such employee's separation; and

16 (ii) the employee completes any addi-
17 tional period of service agreed to (ending
18 not later than 2 years after the last day of
19 the period otherwise applicable under sub-
20 paragraph (B)).

21 (3) REQUIREMENTS APPLICABLE TO AGEN-
22 CIES.—Before offering any voluntary separation in-
23 centive payments to employees within any agency
24 component, occupation, geographic location, or com-
25 bination thereof, the head of the agency involved

1 shall make available to all employees of such agency,
2 and to the exclusive representative of any such em-
3 ployees, a written plan which—

4 (A) shall specify which agency components,
5 occupations, geographic locations, or combina-
6 tions thereof have been identified for incentives,
7 and the percentage of employees within each
8 who are supervisors or managers;

9 (B) shall indicate the beginning and end-
10 ing dates of any periods under paragraph
11 (2)(B), and the agency components, occupa-
12 tions, geographic locations, or combinations
13 thereof to which they apply;

14 (C) shall state whether any additional per-
15 sonnel reductions are anticipated after any ex-
16 ercise of authority under this section and, if so,
17 what types of retraining, placement, or other
18 similar measures will be provided in order to
19 avoid involuntary separations; and

20 (D) shall include any other information
21 which may be necessary in order to permit em-
22 ployees who are eligible for voluntary separation
23 incentive payments to make an informed deci-
24 sion.

1 (c) AMOUNT AND TREATMENT OF PAYMENTS.—A
2 voluntary separation incentive payment—

3 (1) shall be paid in a lump sum after the em-
4 ployee's separation;

5 (2) shall be equal to the lesser of—

6 (A) an amount equal to the amount the
7 employee would be entitled to receive under sec-
8 tion 5595(c) of title 5, United States Code, if
9 the employee were entitled to payment under
10 such section; or

11 (B) \$25,000;

12 (3) shall not be a basis for payment, and shall
13 not be included in the computation, of any other
14 type of Government benefit;

15 (4) shall not be taken into account in determin-
16 ing the amount of any severance pay to which an
17 employee may be entitled under section 5595 of title
18 5, United States Code, based on any other separa-
19 tion; and

20 (5) shall be paid from appropriations or funds
21 available for the payment of the basic pay of the em-
22 ployee.

23 (d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH
24 THE GOVERNMENT.—

1 (1) IN GENERAL.—An employee who has re-
2 ceived a voluntary separation incentive payment
3 under this section and accepts employment with the
4 Government of the United States within 2 years
5 after the date of the separation on which the pay-
6 ment is based shall be required to repay the entire
7 amount of the incentive payment to the agency that
8 paid the incentive payment.

9 (2) WAIVER AUTHORITY.—

10 (A) EXECUTIVE AGENCY.—If the employ-
11 ment is with an Executive agency (as defined in
12 section 105 of title 5, United States Code), the
13 Director of the Office of Personnel Management
14 may, at the request of the head of the agency,
15 waive the repayment if the employment is in a
16 position for which there is exceptional difficulty
17 in recruiting a qualified employee.

18 (B) LEGISLATIVE BRANCH.—If the em-
19 ployment is with an entity in the legislative
20 branch, the head of the entity or the appointing
21 official may waive the repayment if the employ-
22 ment is in a position for which there is excep-
23 tional difficulty in recruiting a qualified em-
24 ployee.

1 (C) JUDICIAL BRANCH.—If the employ-
2 ment is with the judicial branch, the Director of
3 the Administrative Office of the United States
4 Courts may waive the repayment if the employ-
5 ment is in a position for which there is excep-
6 tional difficulty in recruiting a qualified em-
7 ployee.

8 (e) REGULATIONS.—The Director of the Office of
9 Personnel Management may prescribe any regulations
10 necessary for the administration of subsections (a)
11 through (d).

12 (f) EMPLOYEES OF THE JUDICIAL BRANCH.—The
13 Director of the Administrative Office of the United States
14 Courts may, by regulation, establish a program consistent
15 with the program established by subsections (a) through
16 (d) for individuals serving in the judicial branch.

17 **SEC. 4. COORDINATION WITH OTHER PROVISIONS OF LAW.**

18 (a) DEFENSE AGENCIES.—Section 5597 of title 5,
19 United States Code, is amended by adding at the end the
20 following:

21 “(g)(1) An employee who receives separation pay
22 under this section on the basis of a separation occurring
23 on or after the date of enactment of the Federal
24 Workforce Restructuring Act of 1993, and accepts em-
25 ployment with the Government of the United States within

1 2 years after the date of the separation on which payment
2 of the separation pay is based shall be required to repay
3 the entire amount of the separation pay to the defense
4 agency that paid the separation pay.

5 “(2)(A) If the employment is with an Executive agen-
6 cy, the Director of the Office of Personnel Management
7 may, at the request of the head of the agency, waive the
8 repayment if the employment is in a position for which
9 there is exceptional difficulty in recruiting a qualified em-
10 ployee.

11 “(B) If the employment is with an entity in the legis-
12 lative branch, the head of the entity or the appointing offi-
13 cial may waive the repayment if the employment is in a
14 position for which there is exceptional difficulty in recruit-
15 ing a qualified employee.

16 “(C) If the employment is with the judicial branch,
17 the Director of the Administrative Office of the United
18 States Courts may waive the repayment if the employment
19 is in a position for which there is exceptional difficulty
20 in recruiting a qualified employee.”.

21 (b) CENTRAL INTELLIGENCE AGENCY.—Section 2(b)
22 of the Central Intelligence Agency Voluntary Separation
23 Pay Act (Public Law 103–36; 107 Stat. 104) is amended
24 by adding at the end the following: “An employee who re-
25 ceives separation pay under this section on the basis of

1 a separation occurring on or after the date of enactment
2 of the Federal Workforce Restructuring Act of 1993 and
3 accepts employment with the Government of the United
4 States within 2 years after the date of the separation on
5 which payment of the separation pay is based shall be re-
6 quired to repay the entire amount of the separation pay
7 to the Central Intelligence Agency. If the employment is
8 with an Executive agency (as defined in section 105 of
9 title 5, United States Code), the Director of the Office
10 of Personnel Management may, at the request of the head
11 of the agency, waive the repayment if the employment is
12 in a position for which there is exceptional difficulty in
13 recruiting a qualified employee. If the employment is with
14 an entity in the legislative branch, the head of the entity
15 or the appointing official may waive the repayment if the
16 employment is in a position for which there is exceptional
17 difficulty in recruiting a qualified employee. If the employ-
18 ment is with the judicial branch, the Director of the Ad-
19 ministrative Office of the United States Courts may waive
20 the repayment if the employment is in a position for which
21 there is exceptional difficulty in recruiting a qualified em-
22 ployee.”.

1 **SEC. 5. ADDITIONAL AGENCY CONTRIBUTIONS TO THE**
2 **RETIREMENT FUND.**

3 (a) **IN GENERAL.**—Section 8334 of title 5, United
4 States Code, is amended by adding at the end the follow-
5 ing new subsection:

6 “(m)(1) In addition to any other payments required
7 by this subchapter, an agency shall remit to the Office
8 for deposit in the Treasury of the United States to the
9 credit of the Fund an amount equal to 9 percent of the
10 final basic pay of each employee of the agency who retires
11 under section 8336(d).

12 “(2) For the purpose of this subsection, the term
13 ‘final basic pay’, with respect to an employee, means the
14 total amount of basic pay which would be payable for a
15 year of service by such employee, computed using the em-
16 ployee’s final rate of basic pay, and, if last serving on
17 other than a full-time basis, with appropriate adjustment
18 therefor.”.

19 (b) **APPLICABILITY.**—The amendment made by this
20 section shall apply with respect to retirements occurring
21 on or after the date of enactment of this Act.

○