

104TH CONGRESS  
2D SESSION

# H. R. 3841

To amend the civil service laws of the United States, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 1996

Mr. MICA (for himself, Mr. MORAN, and Mrs. MORELLA) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

---

## A BILL

To amend the civil service laws of the United States, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Omnibus Civil Service Reform Act of 1996”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

### TITLE I—DEMONSTRATION PROJECTS

Sec. 101. Demonstration projects.

### TITLE II—SIMPLIFYING APPEALS

- Sec. 201. Elimination of mixed-case procedures.
- Sec. 202. Appeal to Merit Systems Protection Board as exclusive administrative remedy.
- Sec. 203. Agency flexibility and encouraging the use of alternative dispute resolution techniques.
- Sec. 204. Effective date.

#### TITLE III—PERFORMANCE MANAGEMENT ENHANCEMENT

- Sec. 301. Increased weight given to performance for order-of-retention purposes in a reduction in force.
- Sec. 302. No appeal of denial of periodic step-increases.
- Sec. 303. Performance appraisals.
- Sec. 304. Amendments to incentive awards authority.
- Sec. 305. Due process rights of managers under negotiated grievance procedures.
- Sec. 306. Collection and reporting of training information.

#### TITLE IV—ENHANCEMENT OF THRIFT SAVINGS PLAN AND CERTAIN OTHER BENEFITS

##### Subtitle A—Additional Investment Funds for the Thrift Savings Plan

- Sec. 401. Short title.
- Sec. 402. Additional investment funds for the Thrift Savings Plan.
- Sec. 403. Acknowledgement of investment risk.
- Sec. 404. Effective date.

##### Subtitle B—Thrift Savings Account Liquidity

- Sec. 411. Short title.
- Sec. 412. Notice to spouses for in-service withdrawals; de minimus accounts; Civil Service Retirement System participants.
- Sec. 413. In-service withdrawals; withdrawal elections, Federal Employees Retirement System participants.
- Sec. 414. Survivor annuities for former spouses; notice to Federal Employees Retirement System spouses for in-service withdrawals.
- Sec. 415. De minimus accounts relating to the judiciary.
- Sec. 416. Definition of basic pay.
- Sec. 417. Eligible rollover distributions.
- Sec. 418. Effective date.

##### Subtitle C—Other Provisions Relating to the Thrift Savings Plan

- Sec. 421. Percentage limitations on contributions.
- Sec. 422. Loans under the Thrift Savings Plan for furloughed employees.
- Sec. 423. Immediate participation in the Thrift Savings Plan.

##### Subtitle D—Resumption of Certain Survivor Annuities That Terminated by Reason of Marriage

- Sec. 431. Resumption of certain survivor annuities that terminated by reason of marriage.

##### Subtitle E—Life Insurance Benefits

- Sec. 441. Domestic relations orders.



1       “(b) Before an agency or the Office may conduct or  
2 enter into any agreement or contract to conduct a dem-  
3 onstration project, the Office—

4               “(1) shall develop or approve a plan for such  
5 project which identifies—

6                       “(A) the purposes of the project;

7                       “(B) the methodology;

8                       “(C) the duration; and

9                       “(D) the methodology and criteria for eval-  
10 uation;

11               “(2) shall publish the plan in the Federal Reg-  
12 ister;

13               “(3) may solicit comments from the public and  
14 interested parties in such manner as the Office con-  
15 siders appropriate;

16               “(4) shall obtain approval from each agency in-  
17 volved of the final version of the plan; and

18               “(5) shall provide notification of the proposed  
19 project, at least 30 days in advance of the date any  
20 project proposed under this section is to take ef-  
21 fect—

22                       “(A) to employees who are likely to be af-  
23 fected by the project; and

24                       “(B) to each House of the Congress.”.

1 (c) NONWAIVABLE PROVISIONS.—Section 4703(c) of  
2 title 5, United States Code, is amended—

3 (1) by striking paragraph (1) and inserting the  
4 following:

5 “(1) any provision of subchapter V of chapter  
6 63 or subpart G of this title;” and

7 (2) by striking paragraph (3) and inserting the  
8 following:

9 “(3) any provision of chapter 15 or subchapter  
10 II or III of chapter 73 of this title;”.

11 (d) LIMITATIONS.—Subsection (d) of section 4703 of  
12 title 5, United States Code, is amended to read as follows:

13 “(d)(1) Each demonstration project shall terminate  
14 before the end of the 5-year period beginning on the date  
15 on which the project takes effect, except that the project  
16 may continue for a maximum of 2 years beyond the date  
17 to the extent necessary to validate the results of the  
18 project.

19 “(2)(A) Not more than 15 active demonstration  
20 projects may be in effect at any time, and of the projects  
21 in effect at any time, not more than 5 may involve 5,000  
22 or more individuals each.

23 “(B) Individuals in a control group necessary to vali-  
24 date the results of a project shall not, for purposes of any

1 determination under subparagraph (A), be considered to  
2 be involved in such project.”.

3 (e) CONDITION RELATING TO BARGAINING AGREE-  
4 MENTS.—Paragraph (1) of section 4703(f) of title 5, Unit-  
5 ed States Code, is amended by striking “(as defined in  
6 section 7103(8) of this title)” and inserting “(as defined  
7 in section 7103(8), excluding any agreements entered into  
8 or renewed after the date of the enactment of the Omnibus  
9 Civil Service Reform Act of 1996)”.

10 (f) EVALUATIONS.—Subsection (h) of section 4703 of  
11 title 5, United States Code, is amended by adding at the  
12 end the following: “The Office may, with respect to a dem-  
13 onstration project conducted by another agency, require  
14 that the preceding sentence be carried out by such other  
15 agency.”.

16 (g) PROVISIONS FOR TERMINATION OF PROJECT OR  
17 MAKING IT PERMANENT.—Section 4703 of title 5, United  
18 States Code, is amended—

19 (1) in subsection (i) by inserting “by the Of-  
20 fice” after “undertaken”; and

21 (2) by adding at the end the following:

22 “(j)(1) If the Office determines that termination of  
23 a demonstration project (whether under subsection (e) or  
24 otherwise) would result in the inequitable treatment of em-  
25 ployees who participated in the project, the Office shall

1 take such corrective action as is within its authority. If  
2 the Office determines that legislation is necessary to cor-  
3 rect an inequity, it shall submit an appropriate legislative  
4 proposal to both Houses of Congress.

5 “(2) If the Office determines that a demonstration  
6 project should be made permanent, it shall submit an ap-  
7 propriate legislative proposal to both Houses of Con-  
8 gress.”.

## 9 **TITLE II—SIMPLIFYING** 10 **APPEALS**

### 11 **SEC. 201. ELIMINATION OF MIXED-CASE PROCEDURES.**

12 (a) IN GENERAL.—Section 7702, paragraph (2) of  
13 section 7703(b), and the last sentence of section 7121(d)  
14 of title 5, United States Code, are repealed.

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) The item relating to section 7702 in the table of sec-  
17 tions at the beginning of chapter 77 of title 5, United  
18 States Code, is repealed.

19 (2) Section 7701(e)(1) of title 5, United States Code,  
20 is amended—

21 (A) by striking “(e)(1) Except as provided in  
22 section 7702 of this title, any” and inserting “(e)  
23 Any”;

24 (B) by redesignating subparagraphs (A) and  
25 (B) as paragraphs (1) and (2), respectively; and

1 (C) by striking “subparagraph (A) of this para-  
2 graph.” and inserting “paragraph (1).”.

3 (3) Section 753(e)(1) of title 31, United States Code,  
4 is amended by striking “sections 7701 and 7702” and in-  
5 serting “section 7701”.

6 (4) Section 7703(c) of title 5, United States Code,  
7 is amended by striking the semicolon at the end of para-  
8 graph (3) and all that follows through “court.” and insert-  
9 ing a period.

10 **SEC. 202. APPEAL TO MERIT SYSTEMS PROTECTION BOARD**

11 **AS EXCLUSIVE ADMINISTRATIVE REMEDY.**

12 (a) IN GENERAL.—Section 7701(b)(1) of title 5,  
13 United States Code, is amended by striking “(b)(1)” and  
14 inserting “(b)(1)(A)” and by adding at the end the follow-  
15 ing:

16 “(B) Notwithstanding any other provision of law,  
17 rule, or regulation, an appeal under this section shall be  
18 the exclusive administrative remedy for any action by an  
19 employee or applicant who—

20 “(i) has been affected by an action which the  
21 employee or applicant may appeal to the Merit Sys-  
22 tems Protection Board; and

23 “(ii) alleges that a basis for the action was dis-  
24 crimination prohibited by—

1           “(I) section 717 of the Civil Rights Act of  
2           1964;

3           “(II) section 6(d) of the Fair Labor Stand-  
4           ards Act of 1938;

5           “(III) section 501 of the Rehabilitation Act  
6           of 1973;

7           “(IV) sections 12 and 15 of the Age Dis-  
8           crimination in Employment Act of 1967; or

9           “(V) any rule, regulation, or policy direc-  
10          tive prescribed under any provision of law de-  
11          scribed in subclauses (I) through (IV).

12          “(C) In lieu of filing an appeal under this section,  
13          an employee or applicant described in paragraph (B) may  
14          file a civil action under—

15               “(i) section 717(c) of the Civil Rights Act of  
16               1964 or section 15(c) of the Age Discrimination in  
17               Employment Act of 1967, as applicable, within 90  
18               days after receipt of notice of final action taken by  
19               the agency on a complaint of discrimination under a  
20               provision of law described in subclause (I), (III), or  
21               (IV) of subparagraph (B)(ii) or any rule, regulation,  
22               or policy directive prescribed under any such provi-  
23               sion of law; or

24               “(ii) section 16(b) of the Fair Labor Standards  
25               Act of 1938 within 2 years (or, if the violation is

1 willful, within 3 years) after the date of an alleged  
2 violation of section 6(d) of the Fair Labor Stand-  
3 ards Act of 1938 or any rule, regulation, or policy  
4 directive prescribed thereunder.”.

5 (b) PETITION FOR BOARD REVIEW.—(1) Section  
6 7701(e)(1)(A) of title 5, United States Code, is amended  
7 by striking “a party to the appeal or the Director” and  
8 inserting “a party to the appeal, the Director, or the  
9 Equal Employment Opportunity Commission”.

10 (2) Subsection (e) of section 7701 of title 5, United  
11 States Code, is amended by adding at the end the follow-  
12 ing:

13 “(3) The Equal Employment Opportunity Commis-  
14 sion may petition the Board for review under paragraph  
15 (1) only if the Commission is of the opinion that the deci-  
16 sion is erroneous and will have a substantial impact on  
17 any equal employment opportunity law, rule, or regulation  
18 under the jurisdiction of the Commission.”.

19 (3) Subsection (d) of section 7703 of title 5, United  
20 States Code, is amended to read as follows:

21 “(d)(1) The Director of the Office of Personnel Man-  
22 agement may obtain review of any final order or decision  
23 of the Board by filing a petition for judicial review in the  
24 United States Court of Appeals for the Federal Circuit  
25 if the Director determines, in his discretion, that the

1 Board erred in interpreting a civil service law, rule, or reg-  
2 ulation affecting personnel management and that the  
3 Board’s decision will have a substantial impact on a civil  
4 service law, rule, regulation, or policy directive.

5       “(2) The Equal Employment Opportunity Commis-  
6 sion may obtain review of any final order or decision of  
7 the Board by filing a petition for judicial review in the  
8 United States Court of Appeals for the Federal Circuit  
9 if the Commission determines, in its discretion, that the  
10 Board erred in interpreting an equal employment oppor-  
11 tunity law and that the Board’s decision will have a sub-  
12 stantial impact on an equal employment opportunity law,  
13 rule, regulation, or policy directive.

14       “(3) If the Director or the Commission did not inter-  
15 vene in a matter before the Board, the Director or the  
16 Commission may not petition for review of a Board deci-  
17 sion under this section unless the Director or the Commis-  
18 sion first petitions the Board for reconsideration of its de-  
19 cision, and such petition is denied.

20       “(4) In addition to the named respondent, the Board  
21 and all other parties to the proceedings before the Board  
22 shall have the right to appear in the proceeding before  
23 the Court of Appeals. The granting of the petition for re-  
24 view shall be at the discretion of the Court of Appeals,  
25 except that it may not deny a petition for review solely

1 because it disagrees with the determination of the Director  
2 or the Commission that the Board’s decision will have a  
3 substantial impact on a law, rule, regulation, or policy di-  
4 rective within their jurisdiction. The Court of Appeals  
5 shall require payment by the Director or the Commission,  
6 as appropriate, of reasonable attorney fees incurred by the  
7 other parties if, after rendering a decision on the merits  
8 of the petition, the court determines that the Board’s deci-  
9 sion would not have had a substantial impact on a law,  
10 rule, regulation, or policy directive within their jurisdic-  
11 tion.”.

12 **SEC. 203. AGENCY FLEXIBILITY AND ENCOURAGING THE**  
13 **USE OF ALTERNATIVE DISPUTE RESOLUTION**  
14 **TECHNIQUES.**

15 (a) IN GENERAL.—Chapter 77 of title 5, United  
16 States Code, is amended by adding at the end the follow-  
17 ing:

18 **“§ 7704. Alternative dispute resolution techniques**

19 “Notwithstanding any other provision of law, each  
20 agency (including the United States Postal Service, the  
21 Postal Rate Commission, and the Tennessee Valley Au-  
22 thority) shall have the authority to develop an internal  
23 procedure under which its employees may file with the  
24 agency a complaint of discrimination by the agency under  
25 the laws described in subclauses (I) through (V) of section

1 7701(b)(1)(B)(ii), or any other matter appealable to the  
2 Merit Systems Protection Board or the Federal Labor Re-  
3 lations Authority. Agencies are encouraged to use alter-  
4 native dispute resolution techniques in order to resolve  
5 such complaints. An agency may require its employees to  
6 exhaust such internal procedure for a period not to exceed  
7 90 days before seeking external administrative or judicial  
8 review under this chapter. To the extent that a private  
9 entity may do so, an agency may require employees to sub-  
10 mit to alternative dispute resolution techniques in lieu of  
11 other administrative or judicial review.”.

12 (b) TASK FORCE.—In order to encourage the use of  
13 alternative dispute resolution techniques in resolving per-  
14 sonnel-related disputes within the Federal Government,  
15 the Chairman of the Merit Systems Protection Board  
16 shall, in consultation with the Chairman of the Equal Em-  
17 ployment Opportunity Commission, the Chairman of the  
18 Federal Labor Relations Authority, the Director of the Of-  
19 fice of Personnel Management, the Special Counsel, and  
20 the Director of the Federal Mediation and Conciliation  
21 Service, organize and chair a task force—

22 (1) to study and evaluate the use of alternative  
23 dispute resolution techniques in resolving Federal  
24 personnel disputes;

1           (2) to facilitate the exchange of information be-  
2           tween agencies;

3           (3) to examine and evaluate alternative dispute  
4           resolution techniques used in the private sector for  
5           possible application to Federal personnel disputes;  
6           and

7           (4) to issue a report to Congress no later than  
8           18 months after the date of enactment of this Act  
9           on the use of alternative dispute resolution tech-  
10          niques in personnel disputes by Federal agencies, in-  
11          cluding Federal adjudicatory agencies.

12 The Merit Systems Protection Board shall provide admin-  
13 istrative support to the task force.

14 **SEC. 204. EFFECTIVE DATE.**

15       (a) IN GENERAL.—Except as otherwise provided in  
16 this section, this title and the amendments made by this  
17 title shall take effect 6 months after the date of the enact-  
18 ment of this Act.

19       (b) TASK FORCE.—Subsection (b) of section 203  
20 shall take effect on the date of the enactment of this Act.

21       (c) SAVINGS PROVISION.—Matters or proceedings  
22 pending as of, and continuing after, the effective date of  
23 this title shall continue as if this title had not been en-  
24 acted.

1           **TITLE III—PERFORMANCE**  
2           **MANAGEMENT ENHANCEMENT**

3   **SEC. 301. INCREASED WEIGHT GIVEN TO PERFORMANCE**  
4                   **FOR ORDER-OF-RETENTION PURPOSES IN A**  
5                   **REDUCTION IN FORCE.**

6           (a) IN GENERAL.—Section 3502 of title 5, United  
7 States Code, is amended—

8                   (1) in subsection (a)(4) by striking “ratings.”  
9                   and inserting “ratings, in conformance with the re-  
10                   quirements of subsection (g).”; and

11                   (2) by adding at the end the following:

12                   “(g)(1) The regulations prescribed to carry out sub-  
13                   section (a)(4) shall be the regulations in effect, as of Janu-  
14                   ary 1, 1996, under section 351.504 of title 5 of the Code  
15                   of Federal Regulations, except as otherwise provided in  
16                   this subsection.

17                   “(2) For purposes of this subsection—

18                           “(A) subsections (b)(4) and (e) of such section  
19                           351.504 shall be disregarded;

20                           “(B) subsection (d) of such section 351.504  
21                           shall be considered to read as follows:

22                           ““(d)(1) The additional service credit an employee re-  
23                           ceives for performance under this subpart shall be ex-  
24                           pressed in additional years of service and shall consist of  
25                           the sum of the employee’s 3 most recent (actual and/or

1 assumed) annual performance ratings received during the  
2 4-year period prior to the date of issuance of reduction-  
3 in-force notices or the 4-year period prior to the agency-  
4 established cutoff date (as appropriate), computed in ac-  
5 cordance with paragraph (2) or (3) (as appropriate).

6 ““(2) Except as provided in paragraph (3), an em-  
7 ployee shall receive—

8 ““(A) 5 additional years of service for each per-  
9 formance rating of fully successful (Level 3) or  
10 equivalent;

11 ““(B) 7 additional years of service for each per-  
12 formance rating of exceeds fully successful (Level 4)  
13 or equivalent; and

14 ““(C) 10 additional years of service for each  
15 performance rating of outstanding (Level 5) or  
16 equivalent.

17 ““(3)(A) If the employing agency uses a rating sys-  
18 tem having only 1 rating to denote performance which is  
19 fully successful or better, then an employee under such  
20 system shall receive 5 additional years of service for each  
21 such rating.

22 ““(B) If the employing agency uses a rating system  
23 having only 2 ratings to denote performance which is fully  
24 successful or better, then an employee under such system  
25 shall receive—

1           “(i) 5 additional years of service for each per-  
2           formance rating at the lower of those 2 ratings; and

3           “(ii) 7 additional years of service for each per-  
4           formance rating at the higher of those 2 ratings.

5           “(C) If the employing agency uses a rating system  
6           having 3 or more ratings to denote performance which is  
7           fully successful or better, then an employee under such  
8           system shall receive—

9           “(i) 5 additional years of service for each per-  
10          formance rating at the lowest of those 3 or more  
11          ratings;

12          “(ii) 7 additional years of service for each per-  
13          formance rating at the next rating above the rating  
14          referred to in clause (i); and

15          “(iii) 10 additional years of service for each  
16          performance rating above the rating referred to in  
17          clause (ii).

18          “(D) For purposes of this paragraph, a rating shall  
19          not be considered to denote performance which is fully  
20          successful or better unless, in order to receive such rating,  
21          such performance must satisfy all requirements for a fully  
22          successful rating (Level 3) or equivalent, as established  
23          under part 430 of this chapter (as in effect as of January  
24          1, 1996).’; and

1           “(C) subsection (c) of such section shall be con-  
2           sidered to read as follows:

3           ““(c)(1) Service credit for employees who do not have  
4           3 actual annual performance ratings of record received  
5           during the 4-year period prior to the date of issuance of  
6           reduction-in-force notices, or the 4-year period prior to the  
7           agency-established cutoff date for ratings permitted in  
8           subsection (b)(2) of this section, shall be determined in  
9           accordance with paragraph (2).

10          ““(2) An employee who has not received 1 or more  
11          of the 3 annual performance ratings of record required  
12          under this section shall—

13                 ““(A) receive credit for performance on the  
14                 basis of the rating or ratings actually received (if  
15                 any); and

16                 ““(B) for each performance rating not actually  
17                 received, be given credit for 5 additional years of  
18                 service.’”.

19          (b) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply with respect to reductions in force  
21          taking effect on or after October 1, 1999.

22          **SEC. 302. NO APPEAL OF DENIAL OF PERIODIC STEP-IN-**  
23                                 **CREASES.**

24          (a) IN GENERAL.—Section 5335(c) of title 5, United  
25          States Code, is amended—

1 (1) by striking the second sentence;

2 (2) in the third sentence by striking “or ap-  
3 peal”; and

4 (3) in the last sentence by striking “and the en-  
5 titlement of the employee to appeal to the Board do  
6 not apply” and inserting “does not apply”.

7 (b) PERFORMANCE RATINGS.—Section 5335 of title  
8 5, United States Code, as amended by subsection (a), is  
9 further amended—

10 (1) in subsections (a)(B) and (c) by striking “of  
11 an acceptable level of competence” and inserting “at  
12 least fully successful”;

13 (2) in the last sentence of subsection (c) by  
14 striking “acceptable level of competence” and insert-  
15 ing “fully successful work performance”; and

16 (3) by adding at the end the following:

17 “(g) For purposes of this section, the term ‘fully suc-  
18 cessful’ has a meaning similar to that given under section  
19 351.504(d)(3)(D) of title 5 of the Code of Federal Regula-  
20 tions (as deemed to be amended by section 301(a)(2) of  
21 the Omnibus Civil Service Reform Act of 1996).”.

22 **SEC. 303. PERFORMANCE APPRAISALS.**

23 (a) IN GENERAL.—Section 4302 of title 5, United  
24 States Code, is amended—

1           (1) in subsection (b) by striking paragraphs (5)  
2           and (6) and inserting the following:

3           “(5) assisting employees in improving unaccept-  
4           able performance, except in circumstances described  
5           in subsection (c); and

6           “(6) reassigning, reducing in grade, removing,  
7           or taking other appropriate action against employees  
8           whose performance is unacceptable.”; and

9           (2) by adding at the end the following:

10          “(c) Upon notification of unacceptable performance,  
11          an employee shall be afforded an opportunity to dem-  
12          onstrate acceptable performance before a reduction in  
13          grade or removal may be proposed under section 4303  
14          based on such performance, except that an employee so  
15          afforded such an opportunity shall not be afforded any  
16          further opportunity to demonstrate acceptable perform-  
17          ance if the employee’s performance again is determined  
18          to be at an unacceptable level.”.

19          (b) EFFECTIVE DATE.—

20               (1) IN GENERAL.—Subject to paragraph (2),  
21               this section and the amendments made by this sec-  
22               tion shall take effect 180 days after the date of the  
23               enactment of this Act.

24               (2) EXCEPTION.—The amendments made by  
25               this section shall not apply in the case of any pro-

1 posed action as to which the employee receives ad-  
2 vance written notice, in accordance with section  
3 4303(b)(1)(A) of title 5, United States Code, before  
4 the effective date of this section.

5 **SEC. 304. AMENDMENTS TO INCENTIVE AWARDS AUTHOR-**  
6 **ITY.**

7 Chapter 45 of title 5, United States Code, is amend-  
8 ed—

9 (1) by amending section 4501 to read as fol-  
10 lows:

11 **“§ 4501. Definitions**

12 “For the purpose of this subchapter—

13 “(1) the term ‘agency’ means—

14 “(A) an Executive agency;

15 “(B) the Library of Congress;

16 “(C) the Office of the Architect of the  
17 Capitol;

18 “(D) the Botanic Garden;

19 “(E) the Government Printing Office; and

20 “(F) the United States Sentencing Com-  
21 mission;

22 but does not include—

23 “(i) the Tennessee Valley Authority; or

24 “(ii) the Central Bank for Cooperatives;

1           “(2) the term ‘employee’ means an employee as  
2 defined by section 2105; and

3           “(3) the term ‘Government’ means the Govern-  
4 ment of the United States.”; and

5           (2) by amending section 4503 to read as fol-  
6 lows:

7 **“§ 4503. Agency awards**

8           “(a) The head of an agency may pay a cash award  
9 to, and incur necessary expense for the honorary recogni-  
10 tion of, an employee who—

11           “(1) by his suggestion, invention, superior ac-  
12 complishment, sustained superior performance, or  
13 other personal effort contributes to the efficiency,  
14 economy, or other improvement of Government oper-  
15 ations or achieves a significant reduction in paper-  
16 work; or

17           “(2) performs a special act or service in the  
18 public interest in connection with or related to his  
19 official employment.

20           “(b)(1) If the criteria under paragraph (1) or (2) of  
21 subsection (a) are met on the basis of the suggestion, in-  
22 vention, superior accomplishment, act, service, or other  
23 meritorious effort of a group of employees collectively, and  
24 if the circumstances so warrant (such as by reason of the  
25 infeasibility of determining the relative role or contribution

1 assignable to each employee separately), authority under  
2 subsection (a) may be exercised—

3 “(A) based on the collective efforts of the  
4 group; and

5 “(B) with respect to each member of such  
6 group.

7 “(2) The amount awarded to each member of a group  
8 under this subsection—

9 “(A) shall be the same for all members of such  
10 group; and

11 “(B) may not exceed the maximum cash award  
12 allowable under subsection (a) or (b) of section  
13 4502, as applicable.”.

14 **SEC. 305. DUE PROCESS RIGHTS OF MANAGERS UNDER NE-**  
15 **GIATED GRIEVANCE PROCEDURES.**

16 (a) IN GENERAL.—Paragraph (2) of section 7121(b)  
17 of title 5, United States Code, is amended to read as fol-  
18 lows:

19 “(2) The provisions of a negotiated grievance proce-  
20 dure providing for binding arbitration in accordance with  
21 paragraph (1)(C)(iii) shall, if or to the extent that an al-  
22 leged prohibited personnel practice is involved, allow the  
23 arbitrator to order a stay of any personnel action in a  
24 manner similar to the manner described in section 1221(c)  
25 with respect to the Merit Systems Protection Board.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a)—

3 (1) shall take effect on the date of the enact-  
4 ment of this Act; and

5 (2) shall apply with respect to orders issued on  
6 or after the date of the enactment of this Act, not-  
7 withstanding the provisions of any collective bargain-  
8 ing agreement.

9 **SEC. 306. COLLECTION AND REPORTING OF TRAINING IN-**  
10 **FORMATION.**

11 (a) TRAINING WITHIN GOVERNMENT.—The Office of  
12 Personnel Management shall collect information concern-  
13 ing training programs, plans, and methods utilized by  
14 agencies of the Government and submit a report to the  
15 Congress on this activity on an annual basis.

16 (b) TRAINING OUTSIDE OF GOVERNMENT.—The Of-  
17 fice of Personnel Management, to the extent it considers  
18 appropriate in the public interest, may collect information  
19 concerning training programs, plans, and methods utilized  
20 outside the Government. The Office, on request, may  
21 make such information available to an agency and to Con-  
22 gress.

1 **TITLE IV—ENHANCEMENT OF**  
2 **THRIFT SAVINGS PLAN AND**  
3 **CERTAIN OTHER BENEFITS**

4 **Subtitle A—Additional Investment**  
5 **Funds for the Thrift Savings Plan**

6 **SEC. 401. SHORT TITLE.**

7 This subtitle may be cited as the “Thrift Savings In-  
8 vestment Funds Act of 1996”.

9 **SEC. 402. ADDITIONAL INVESTMENT FUNDS FOR THE**  
10 **THRIFT SAVINGS PLAN.**

11 Section 8438 of title 5, United States Code, is  
12 amended—

13 (1) in subsection (a)—

14 (A) by redesignating paragraphs (5)  
15 through (8) as paragraphs (6) through (9), re-  
16 spectively;

17 (B) by inserting after paragraph (4) the  
18 following new paragraph:

19 “(5) the term ‘International Stock Index Invest-  
20 ment Fund’ means the International Stock Index In-  
21 vestment Fund established under subsection  
22 (b)(1)(E);”;

23 (C) in paragraph (8) (as redesignated by  
24 subparagraph (A) of this paragraph) by strik-  
25 ing out “and” at the end thereof;

1 (D) in paragraph (9) (as redesignated by  
2 subparagraph (A) of this paragraph)—

3 (i) by striking out “paragraph  
4 (7)(D)” in each place it appears and in-  
5 serting in each such place “paragraph  
6 (8)(D)”; and

7 (ii) by striking out the period and in-  
8 serting in lieu thereof a semicolon and  
9 “and”; and

10 (E) by adding at the end thereof the fol-  
11 lowing new paragraph:

12 “(10) the term ‘Small Capitalization Stock  
13 Index Investment Fund’ means the Small Capitaliza-  
14 tion Stock Index Investment Fund established under  
15 subsection (b)(1)(D).”; and

16 (2) in subsection (b)—

17 (A) in paragraph (1)—

18 (i) in subparagraph (B) by striking  
19 out “and” at the end thereof;

20 (ii) in subparagraph (C) by striking  
21 out the period and inserting in lieu thereof  
22 a semicolon; and

23 (iii) by adding at the end thereof the  
24 following new subparagraphs:

1                   “(D) a Small Capitalization Stock Index  
2                   Investment Fund as provided in paragraph (3);  
3                   and

4                   “(E) an International Stock Index Invest-  
5                   ment Fund as provided in paragraph (4).”; and

6                   (B) by adding at the end thereof the fol-  
7                   lowing new paragraphs:

8                   “(3)(A) The Board shall select an index which is a  
9                   commonly recognized index comprised of common stock  
10                  the aggregate market value of which represents the United  
11                  States equity markets excluding the common stocks in-  
12                  cluded in the Common Stock Index Investment Fund.

13                  “(B) The Small Capitalization Stock Index Invest-  
14                  ment Fund shall be invested in a portfolio designed to rep-  
15                  licate the performance of the index in subparagraph (A).  
16                  The portfolio shall be designed such that, to the extent  
17                  practicable, the percentage of the Small Capitalization  
18                  Stock Index Investment Fund that is invested in each  
19                  stock is the same as the percentage determined by dividing  
20                  the aggregate market value of all shares of that stock by  
21                  the aggregate market value of all shares of all stocks in-  
22                  cluded in such index.

23                  “(4)(A) The Board shall select an index which is a  
24                  commonly recognized index comprised of stock the aggre-  
25                  gate market value of which is a reasonably complete rep-

1 representation of the international equity markets excluding  
2 the United States equity markets.

3 “(B) The International Stock Index Investment Fund  
4 shall be invested in a portfolio designed to replicate the  
5 performance of the index in subparagraph (A). The port-  
6 folio shall be designed such that, to the extent practicable,  
7 the percentage of the International Stock Index Invest-  
8 ment Fund that is invested in each stock is the same as  
9 the percentage determined by dividing the aggregate mar-  
10 ket value of all shares of that stock by the aggregate mar-  
11 ket value of all shares of all stocks included in such  
12 index.”.

13 **SEC. 403. ACKNOWLEDGEMENT OF INVESTMENT RISK.**

14 Section 8439(d) of title 5, United States Code, is  
15 amended by striking out “Each employee, Member, former  
16 employee, or former Member who elects to invest in the  
17 Common Stock Index Investment Fund or the Fixed In-  
18 come Investment Fund described in paragraphs (1) and  
19 (3),” and inserting in lieu thereof “Each employee, Mem-  
20 ber, former employee, or former Member who elects to in-  
21 vest in the Common Stock Index Investment Fund, the  
22 Fixed Income Investment Fund, the International Stock  
23 Index Investment Fund, or the Small Capitalization Stock  
24 Index Investment Fund, defined in paragraphs (1), (3),  
25 (5), and (10),”.

1 **SEC. 404. EFFECTIVE DATE.**

2 This subtitle shall take effect on the date of enact-  
 3 ment of this Act, and the Funds established under this  
 4 subtitle shall be offered for investment at the earliest prac-  
 5 ticable election period (described in section 8432(b) of title  
 6 5, United States Code) as determined by the Executive  
 7 Director in regulations.

8 **Subtitle B—Thrift Savings Account**  
 9 **Liquidity**

10 **SEC. 411. SHORT TITLE.**

11 This subtitle may be cited as the “Thrift Savings  
 12 Plan Act of 1996”.

13 **SEC. 412. NOTICE TO SPOUSES FOR IN-SERVICE WITHDRAW-**  
 14 **ALS; DE MINIMUS ACCOUNTS; CIVIL SERVICE**  
 15 **RETIREMENT SYSTEM PARTICIPANTS.**

16 Section 8351(b) of title 5, United States Code, is  
 17 amended—

18 (1) in paragraph (5)—

19 (A) in subparagraph (B)—

20 (i) by striking out “An election,  
 21 change of election, or modification (relat-  
 22 ing to the commencement date of a de-  
 23 ferred annuity)” and inserting in lieu  
 24 thereof “An election or change of election”;

25 (ii) by inserting “or withdrawal” after  
 26 “and a loan”;

1 (iii) by inserting “and (h)” after  
2 “8433(g)”;

3 (iv) by striking out “the election,  
4 change of election, or modification” and in-  
5 sserting in lieu thereof “the election or  
6 change of election”; and

7 (v) by inserting “or withdrawal” after  
8 “for such loan”; and

9 (B) in subparagraph (D)—

10 (i) by inserting “or withdrawals” after  
11 “of loans”; and

12 (ii) by inserting “or (h)” after  
13 “8433(g)”;

14 (2) in paragraph (6)—

15 (A) by striking out “\$3,500 or less” and  
16 inserting in lieu thereof “less than an amount  
17 that the Executive Director prescribes by regu-  
18 lation”; and

19 (B) by striking out “unless the employee  
20 or Member elects, at such time and otherwise in  
21 such manner as the Executive Director pre-  
22 scribes, one of the options available under sub-  
23 section (b)”.

1 **SEC. 413. IN-SERVICE WITHDRAWALS; WITHDRAWAL ELEC-**  
2 **TIONS, FEDERAL EMPLOYEES RETIREMENT**  
3 **SYSTEM PARTICIPANTS.**

4 (a) IN GENERAL.—Section 8433 of title 5, United  
5 States Code, is amended—

6 (1) by striking out subsections (b) and (c) and  
7 inserting in lieu thereof the following:

8 “(b) Subject to section 8435 of this title, any em-  
9 ployee or Member who separates from Government em-  
10 ployment is entitled and may elect to withdraw from the  
11 Thrift Savings Fund the balance of the employee’s or  
12 Member’s account as—

13 “(1) an annuity;

14 “(2) a single payment;

15 “(3) 2 or more substantially equal payments to  
16 be made not less frequently than annually; or

17 “(4) any combination of payments as provided  
18 under paragraphs (1) through (3) as the Executive  
19 Director may prescribe by regulation.

20 “(c)(1) In addition to the right provided under sub-  
21 section (b) to withdraw the balance of the account, an em-  
22 ployee or Member who separates from Government service  
23 and who has not made a withdrawal under subsection  
24 (h)(1)(A) may make one withdrawal of any amount as a  
25 single payment in accordance with subsection (b)(2) from  
26 the employee’s or Member’s account.

1           “(2) An employee or Member may request that the  
2 amount withdrawn from the Thrift Savings Fund in ac-  
3 cordance with subsection (b)(2) be transferred to an eligi-  
4 ble retirement plan.

5           “(3) The Executive Director shall make each transfer  
6 elected under paragraph (2) directly to an eligible retire-  
7 ment plan or plans (as defined in section 402(c)(8) of the  
8 Internal Revenue Code of 1986) identified by the em-  
9 ployee, Member, former employee, or former Member for  
10 whom the transfer is made.

11           “(4) A transfer may not be made for an employee,  
12 Member, former employee, or former Member under para-  
13 graph (2) until the Executive Director receives from that  
14 individual the information required by the Executive Di-  
15 rector specifically to identify the eligible retirement plan  
16 or plans to which the transfer is to be made.”;

17           (2) in subsection (d)—

18                   (A) in paragraph (1) by striking out “Sub-  
19 ject to paragraph (3)(A)” and inserting in lieu  
20 thereof “Subject to paragraph (3)”;

21                   (B) by striking out paragraph (2) and re-  
22 designating paragraph (3) as paragraph (2);  
23 and

24                   (C) in paragraph (2) (as redesignated  
25 under subparagraph (B) of this paragraph)—

1 (i) in subparagraph (A) by striking  
2 out “(A)”; and

3 (ii) by striking out subparagraph (B);  
4 (3) in subsection (f)(1)—

5 (A) by striking out “\$3,500 or less” and  
6 inserting in lieu thereof “less than an amount  
7 that the Executive Director prescribes by regu-  
8 lation; and

9 (B) by striking out “unless the employee  
10 or Member elects, at such time and otherwise in  
11 such manner as the Executive Director pre-  
12 scribes, one of the options available under sub-  
13 section (b), or” and inserting a comma;

14 (4) in subsection (f)(2)—

15 (A) by striking out “February 1” and in-  
16 serting in lieu thereof “April 1”;

17 (B) in subparagraph (A)—

18 (i) by striking out “65” and inserting  
19 in lieu thereof “70½”; and

20 (ii) by inserting “or” after the semi-  
21 colon;

22 (C) by striking out subparagraph (B); and

23 (D) by redesignating subparagraph (C) as  
24 subparagraph (B);

25 (5) in subsection (g)—

1 (A) in paragraph (1) by striking out “after  
2 December 31, 1987, and”; and

3 (B) by striking out paragraph (2) and re-  
4 designating paragraphs (3) through (5) as  
5 paragraphs (2) through (4), respectively; and

6 (6) by adding after subsection (g) the following  
7 new subsection:

8 “(h)(1) An employee or Member may apply, before  
9 separation, to the Board for permission to withdraw an  
10 amount from the employee’s or Member’s account based  
11 upon—

12 “(A) the employee or Member having attained  
13 age 59½; or

14 “(B) financial hardship.

15 “(2) A withdrawal under paragraph (1)(A) shall be  
16 available to each eligible participant one time only.

17 “(3) A withdrawal under paragraph (1)(B) shall be  
18 available only for an amount not exceeding the value of  
19 that portion of such account which is attributable to con-  
20 tributions made by the employee or Member under section  
21 8432(a) of this title.

22 “(4) Withdrawals under paragraph (1) shall be sub-  
23 ject to such other conditions as the Executive Director  
24 may prescribe by regulation.

1 “(5) A withdrawal may not be made under this sub-  
2 section unless the requirements of section 8435(e) of this  
3 title are satisfied.”.

4 (b) INVALIDITY OF CERTAIN PRIOR ELECTIONS.—  
5 Any election made under section 8433(b)(2) of title 5,  
6 United States Code (as in effect before the effective date  
7 of this title), with respect to an annuity which has not  
8 commenced before the implementation date of this title as  
9 provided by regulation by the Executive Director in ac-  
10 cordance with section 407, shall be invalid.

11 **SEC. 414. SURVIVOR ANNUITIES FOR FORMER SPOUSES;**  
12 **NOTICE TO FEDERAL EMPLOYEES RETIRE-**  
13 **MENT SYSTEM SPOUSES FOR IN-SERVICE**  
14 **WITHDRAWALS.**

15 Section 8435 of title 5, United States Code, is  
16 amended—

17 (1) in subsection (a)(1)(A)—

18 (A) by striking out “may make an election  
19 under subsection (b)(3) or (b)(4) of section  
20 8433 of this title or change an election pre-  
21 viously made under subsection (b)(1) or (b)(2)  
22 of such section” and inserting in lieu thereof  
23 “may withdraw all or part of a Thrift Savings  
24 Fund account under subsection (b) (2), (3), or

1 (4) of section 8433 of this title or change a  
2 withdrawal election”; and

3 (B) by adding at the end thereof “A mar-  
4 ried employee or Member (or former employee  
5 or Member) may make a withdrawal from a  
6 Thrift Savings Fund account under subsection  
7 (c)(1) of section 8433 of this title only if the  
8 employee or Member (or former employee or  
9 Member) satisfies the requirements of subpara-  
10 graph (B).”;

11 (2) in subsection (c)—

12 (A) in paragraph (1)—

13 (i) by striking out “An election,  
14 change of election, or modification of the  
15 commencement date of a deferred annuity”  
16 and inserting in lieu thereof “An election  
17 or change of election”; and

18 (ii) by striking out “modification, or  
19 transfer” and inserting in lieu thereof “or  
20 transfer”; and

21 (B) in paragraph (2) in the matter follow-  
22 ing subparagraph (B)(ii) by striking out “modi-  
23 fication,”;

24 (3) in subsection (e)—

25 (A) in paragraph (1)—

- 1 (i) in subparagraph (A)—  
2 (I) by inserting “or withdrawal”  
3 after “A loan”;  
4 (II) by inserting “and (h)” after  
5 “8433(g)”; and  
6 (III) by inserting “or with-  
7 drawal” after “such loan”;  
8 (ii) in subparagraph (B) by inserting  
9 “or withdrawal” after “loan”; and  
10 (iii) in subparagraph (C)—  
11 (I) by inserting “or withdrawal”  
12 after “to a loan”; and  
13 (II) by inserting “or withdrawal”  
14 after “for such loan”; and  
15 (B) in paragraph (2)—  
16 (i) by inserting “or withdrawal” after  
17 “loan”; and  
18 (ii) by inserting “and (h)” after  
19 “8344(g)”; and  
20 (4) in subsection (g)—  
21 (A) by inserting “or withdrawals” after  
22 “loans”; and  
23 (B) by inserting “and (h)” after  
24 “8344(g)”.

1 **SEC. 415. DE MINIMUS ACCOUNTS RELATING TO THE JUDI-**  
2 **CIARY.**

3 (a) **JUSTICES AND JUDGES.**—Section 8440a(b)(7) of  
4 title 5, United States Code, is amended—

5 (1) by striking out “\$3,500 or less” and insert-  
6 ing in lieu thereof “less than an amount that the  
7 Executive Director prescribes by regulation”; and

8 (2) by striking out “unless the justice or judge  
9 elects, at such time and otherwise in such manner  
10 as the Executive Director prescribes, one of the op-  
11 tions available under section 8433(b)”.

12 (b) **BANKRUPTCY JUDGES AND MAGISTRATES.**—Sec-  
13 tion 8440b(b) of title 5, United States Code, is amended—

14 (1) in paragraph (7) in the first sentence by in-  
15 serting “of the distribution” after “equal to the  
16 amount”; and

17 (2) in paragraph (8)—

18 (A) by striking out “\$3,500 or less” and  
19 inserting in lieu thereof “less than an amount  
20 that the Executive Director prescribes by regu-  
21 lation”; and

22 (B) by striking out “unless the bankruptcy  
23 judge or magistrate elects, at such time and  
24 otherwise in such manner as the Executive Di-  
25 rector prescribes, one of the options available  
26 under subsection (b)”.

1 (c) FEDERAL CLAIMS JUDGES.—Section 8440c(b) of  
2 title 5, United States Code, is amended—

3 (1) in paragraph (7) in the first sentence by in-  
4 sserting “of the distribution” after “equal to the  
5 amount”; and

6 (2) in paragraph (8)—

7 (A) by striking out “\$3,500 or less” and  
8 inserting in lieu thereof “less than an amount  
9 that the Executive Director prescribes by regu-  
10 lation”; and

11 (B) by striking out “unless the judge  
12 elects, at such time and otherwise in such man-  
13 ner as the Executive Director prescribes, one of  
14 the options available under section 8433(b)”.

15 **SEC. 416. DEFINITION OF BASIC PAY.**

16 (a) IN GENERAL.—(1) Section 8401(4) of title 5,  
17 United States Code, is amended by striking out “except  
18 as provided in subchapter III of this chapter,”.

19 (2) Section 8431 of title 5, United States Code, is  
20 repealed.

21 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) The table of sections for chapter 84 of title 5, United  
23 States Code, is amended by striking out the item relating  
24 to section 8431.

1           (2) Section 5545a(h)(2)(A) of title 5, United States  
2 Code, is amended by striking out “8431,”.

3           (3) Section 615(f) of the Treasury, Postal Service,  
4 and General Government Appropriations Act, 1996 (Pub-  
5 lic Law 104–52; 109 Stat. 500; 5 U.S.C. 5343 note) is  
6 amended by striking out “section 8431 of title 5, United  
7 States Code,”.

8 **SEC. 417. ELIGIBLE ROLLOVER DISTRIBUTIONS.**

9           Section 8432 of title 5, United States Code, is  
10 amended by adding at the end the following:

11           “(j)(1) For the purpose of this subsection—

12                   “(A) the term ‘eligible rollover distribution’ has  
13 the meaning given such term by section 402(c)(4) of  
14 the Internal Revenue Code of 1986; and

15                   “(B) the term ‘qualified trust’ has the meaning  
16 given such term by section 402(c)(8) of the Internal  
17 Revenue Code of 1986.

18           “(2) An employee or Member may contribute to the  
19 Thrift Savings Fund an eligible rollover distribution from  
20 a qualified trust. A contribution made under this sub-  
21 section shall be made in the form described in section  
22 401(a)(31) of the Internal Revenue Code of 1986. In the  
23 case of an eligible rollover distribution, the maximum  
24 amount transferred to the Thrift Savings Fund shall not  
25 exceed the amount which would otherwise have been in-

1 cluded in the employee’s or Member’s gross income for  
 2 Federal income tax purposes.

3 “(3) The Executive Director shall prescribe regula-  
 4 tions to carry out this subsection.”.

5 **SEC. 418. EFFECTIVE DATE.**

6 This subtitle shall take effect on the date of the en-  
 7 actment of this Act and withdrawals and elections as pro-  
 8 vided under the amendments made by this subtitle shall  
 9 be made at the earliest practicable date as determined by  
 10 the Executive Director in regulations.

11 **Subtitle C—Other Provisions**  
 12 **Relating to the Thrift Savings Plan**

13 **SEC. 421. PERCENTAGE LIMITATIONS ON CONTRIBUTIONS.**

14 (a) AMENDMENTS RELATING TO FERS.—

15 (1) IN GENERAL.—Subsection (a) of section  
 16 8432 of title 5, United States Code, is amended by  
 17 striking “10 percent of”.

18 (2) JUSTICES AND JUDGES.—Subsection (b) of  
 19 section 8440a of title 5, United States Code, is  
 20 amended—

21 (A) by striking paragraph (2) and by re-  
 22 designating paragraphs (3) through (7) as  
 23 paragraphs (2) through (6), respectively; and

24 (B) in paragraph (6) (as so redesignated  
 25 by subparagraph (A)) by striking “paragraphs

1 (4) and (5)” and inserting “paragraphs (3) and  
2 (4)”.

3 (3) BANKRUPTCY JUDGES AND MAG-  
4 ISTRATES.—Subsection (b) of section 8440b of title  
5 5, United States Code, is amended—

6 (A) by striking paragraph (2) and by re-  
7 designating paragraphs (3) through (8) as  
8 paragraphs (2) through (7), respectively;

9 (B) in paragraph (4) (as so redesignated  
10 by subparagraph (A)) by striking “paragraph  
11 (4)(A), (B), or (C)” and inserting “paragraph  
12 (3)(A), (B), or (C)”; and

13 (C) in paragraph (7) (as so redesignated  
14 by subparagraph (A)) by striking “Notwith-  
15 standing paragraph (4),” and inserting “Not-  
16 withstanding paragraph (3),”.

17 (4) COURT OF FEDERAL CLAIMS JUDGES.—  
18 Subsection (b) of section 8440c of title 5, United  
19 States Code, is amended—

20 (A) by striking paragraph (2) and by re-  
21 designating paragraphs (3) through (8) as  
22 paragraphs (2) through (7), respectively;

23 (B) in paragraph (4) (as so redesignated  
24 by subparagraph (A)) by striking “paragraph

1 (4)(A) or (B)” and inserting “paragraph (3)(A)  
2 or (B)”;

3 (C) in paragraph (7) (as so redesignated  
4 by subparagraph (A)) by striking “Notwith-  
5 standing paragraph (4),” and inserting “Not-  
6 withstanding paragraph (3),”.

7 (5) JUDGES OF THE UNITED STATES COURT OF  
8 VETERANS APPEALS.—Paragraph (2) of section  
9 8440d(b) of title 5, United States Code, is amended  
10 to read as follows:

11 “(2) For purposes of contributions made to the Thrift  
12 Savings Fund, basic pay does not include any retired pay  
13 paid pursuant to section 7296 of title 38.”.

14 (b) AMENDMENTS RELATING TO CSRS.—Paragraph  
15 (2) of section 8351(b) of title 5, United States Code, is  
16 amended by striking “5 percent of”.

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by  
19 this section shall take effect 6 months after the date  
20 of the enactment of this Act or such earlier date as  
21 the Executive Director may by regulation prescribe.

22 (2) COORDINATION WITH ELECTION PERI-  
23 ODS.—The Executive Director shall by regulation  
24 determine the first election period in which elections

1       may be made consistent with the amendments made  
2       by this section.

3           (3) DEFINITIONS.—For purposes of this sub-  
4       section—

5           (A) the term “election period” means a pe-  
6       riod afforded under section 8432(b) of title 5,  
7       United States Code; and

8           (B) the term “Executive Director” has the  
9       meaning given such term by section 8401(13)  
10      of title 5, United States Code.

11 **SEC. 422. LOANS UNDER THE THRIFT SAVINGS PLAN FOR**  
12 **FURLOUGHED EMPLOYEES.**

13       Section 8433(g) of title 5, United States Code, is  
14 amended by adding at the end the following:

15       “(6) An employee who has been furloughed due to  
16 a lapse in appropriations may not be denied a loan under  
17 this subsection solely because such employee is not in a  
18 pay status.”.

19 **SEC. 423. IMMEDIATE PARTICIPATION IN THE THRIFT SAV-**  
20 **INGS PLAN.**

21       (a) ELIMINATION OF CERTAIN WAITING PERIODS  
22 FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Para-  
23 graph (4) of section 8432(b) of title 5, United States  
24 Code, is amended to read as follows:

1       “(4) The Executive Director shall prescribe such reg-  
2 ulations as may be necessary to carry out the following:

3           “(A) Notwithstanding subparagraph (A) of  
4 paragraph (2), an employee or Member described in  
5 such subparagraph shall be afforded a reasonable  
6 opportunity to first make an election under this sub-  
7 section beginning on the date of commencing service  
8 or, if that is not administratively feasible, beginning  
9 on the earliest date thereafter that such an election  
10 becomes administratively feasible, as determined by  
11 the Executive Director.

12           “(B) An employee or Member described in sub-  
13 paragraph (B) of paragraph (2) shall be afforded a  
14 reasonable opportunity to first make an election  
15 under this subsection (based on the appointment or  
16 election described in such subparagraph) beginning  
17 on the date of commencing service pursuant to such  
18 appointment or election or, if that is not administra-  
19 tively feasible, beginning on the earliest date there-  
20 after that such an election becomes administratively  
21 feasible, as determined by the Executive Director.

22           “(C) Notwithstanding the preceding provisions  
23 of this paragraph, contributions under paragraphs  
24 (1) and (2) of subsection (c) shall not be payable  
25 with respect to any pay period before the earliest

1 pay period for which such contributions would other-  
2 wise be allowable under this subsection if this para-  
3 graph had not been enacted.

4 “(D) Sections 8351(a)(2), 8440a(a)(2),  
5 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be  
6 applied in a manner consistent with the purposes of  
7 subparagraphs (A) and (B), to the extent those sub-  
8 paragraphs can be applied with respect thereto.

9 “(E) Nothing in this paragraph shall affect  
10 paragraph (3).”.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

12 (1) Section 8432(a) of title 5, United States Code, is  
13 amended—

14 (A) in the first sentence by striking “(b)(1)”  
15 and inserting “(b)”; and

16 (B) by amending the second sentence to read as  
17 follows: “Contributions under this subsection pursu-  
18 ant to such an election shall, with respect to each  
19 pay period for which such election remains in effect,  
20 be made in accordance with a program of regular  
21 contributions provided in regulations prescribed by  
22 the Executive Director.”.

23 (2) Section 8432(b)(1)(B) of such title is amended  
24 by inserting “(or any election allowable by virtue of para-  
25 graph (4))” after “subparagraph (A)”.

1           (3) Section 8432(b)(3) of such title is amended by  
2 striking “Notwithstanding paragraph (2)(A), an” and in-  
3 serting “An”.

4           (4) Section 8432(i)(1)(B)(ii) of such title is amended  
5 by striking “either elected to terminate individual con-  
6 tributions to the Thrift Savings Fund within 2 months  
7 before commencing military service or”.

8           (5) Section 8439(a)(1) of such title is amended by  
9 inserting “who makes contributions or” after “for each  
10 individual” and by striking “section 8432(c)(1)” and in-  
11 serting “section 8432”.

12          (6) Section 8439(e)(2) of such title is amended by  
13 adding at the end the following: “Nothing in this para-  
14 graph shall be considered to limit the dissemination of in-  
15 formation only to the times required under the preceding  
16 sentence.”.

17          (7) Sections 8440a(a)(2) and 8440d(a)(2) of such  
18 title are amended by striking all after “subject to” and  
19 inserting “subject to this chapter.”.

20          (c) EFFECTIVE DATE.—This section shall take effect  
21 6 months after the date of the enactment of this Act or  
22 such earlier date as the Executive Director (within the  
23 meaning of section 8401(13) of title 5, United States  
24 Code) may by regulation prescribe.

1 **Subtitle D—Resumption of Certain**  
2 **Survivor Annuities That Termi-**  
3 **nated by Reason of Marriage**

4 **SEC. 431. RESUMPTION OF CERTAIN SURVIVOR ANNUITIES**  
5 **THAT TERMINATED BY REASON OF MAR-**  
6 **RIAGE.**

7 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section  
8 8341(e) of title 5, United States Code, is amended by add-  
9 ing at the end the following:

10 “(4) If the annuity of a child under this subchapter  
11 terminates under paragraph (3)(E) because of marriage,  
12 then, if such marriage ends (whether by death of the  
13 spouse, divorce, or annulment), such annuity shall resume  
14 on the first day of the month in which the marriage ends,  
15 but only if—

16 “(A) any lump sum paid is returned to the  
17 Fund; and

18 “(B) that individual is not otherwise ineligible  
19 for such annuity.”.

20 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—  
21 Section 8443(b) of such title is amended by adding at the  
22 end the following: “If the annuity of a child under this  
23 subchapter terminates under subparagraph (E) because of  
24 marriage, then, if such marriage ends (whether by death  
25 of the spouse, divorce, or annulment), such annuity shall

1 resume on the first day of the month in which the mar-  
2 riage ends, but only if any lump sum paid is returned to  
3 the Fund, and that individual is not otherwise ineligible  
4 for such annuity.”.

5 (c) HEALTH BENEFITS PROGRAM.—Section 8908 of  
6 title 5, United States Code, is amended by adding at the  
7 end the following:

8 “(d) An individual—

9 “(1) whose survivor annuity under section  
10 8341(e) is terminated, and then later restored under  
11 paragraph (4) thereof, or

12 “(2) whose survivor annuity under section  
13 8443(b) is terminated, and then later restored under  
14 the last sentence thereof,

15 may, under regulations prescribed by the Office, enroll in  
16 a health benefits plan described by section 8903 or 8903a  
17 if such individual was covered by any such plan imme-  
18 diately before such annuity so terminated.”.

19 (d) APPLICABILITY.—The amendments made by this  
20 section shall apply with respect to any termination of mar-  
21 riage taking effect before, on, or after the date of the en-  
22 actment of this Act, except that no amount shall be pay-  
23 able by reason of the amendments made by subsections  
24 (a) and (b), respectively, except to the extent of any  
25 amounts accruing for periods beginning on or after the

1 first day of the first month beginning on or after the later  
2 of—

3 (1) the date of the enactment of this Act; or

4 (2) the date as of which termination of mar-  
5 riage takes effect.

## 6 **Subtitle E—Life Insurance Benefits**

### 7 **SEC. 441. DOMESTIC RELATIONS ORDERS.**

8 (a) IN GENERAL.—Section 8705 of title 5, United  
9 States Code, is amended—

10 (1) in subsection (a) by striking “(a) The” and  
11 inserting “(a) Except as provided in subsection (e),  
12 the”; and

13 (2) by adding at the end the following:

14 “(e)(1) Any amount which would otherwise be paid  
15 to a person determined under the order of precedence  
16 named by subsection (a) shall be paid (in whole or in part)  
17 by the Office to another person if and to the extent ex-  
18 pressly provided for in the terms of any court decree of  
19 divorce, annulment, or legal separation, or the terms of  
20 any court order or court-approved property settlement  
21 agreement incident to any court decree of divorce, annul-  
22 ment, or legal separation.

23 “(2) For purposes of this subsection, a decree, order,  
24 or agreement referred to in paragraph (1) shall not be  
25 effective unless it is received, before the date of the cov-

1 ered employee's death, by the employing agency or, if the  
2 employee has separated from service, by the Office.

3 “(3) A designation under this subsection with respect  
4 to any person may not be changed except—

5 “(A) with the written consent of such person, if  
6 received as described in paragraph (2); or

7 “(B) by modification of the decree, order, or  
8 agreement, as the case may be, if received as de-  
9 scribed in paragraph (2).

10 “(4) The Office shall prescribe any regulations nec-  
11 essary to carry out this subsection, including regulations  
12 for the application of this subsection in the event that 2  
13 or more decrees, orders, or agreements, are received with  
14 respect to the same amount.”.

15 (b) DIRECTED ASSIGNMENT.—Section 8706(e) of  
16 title 5, United States Code, is amended—

17 (1) by striking “(e)” and inserting “(e)(1)”;  
18 and

19 (2) by adding at the end the following:

20 “(2) A court decree of divorce, annulment, or legal  
21 separation, or the terms of a court-approved property set-  
22 tlement agreement incidental to any court decree of di-  
23 vorce, annulment, or legal separation, may direct that an  
24 insured employee or former employee make an irrevocable  
25 assignment of the employee's or former employee's inci-

1 dents of ownership in insurance under this chapter (if  
2 there is no previous assignment) to the person specified  
3 in the court order or court-approved property settlement  
4 agreement.”.

5 **SEC. 442. EXCEPTION FROM PROVISIONS REQUIRING RE-**  
6 **DUCTION IN ADDITIONAL OPTIONAL LIFE IN-**  
7 **SURANCE.**

8 (a) IN GENERAL.—Subsection (c) of section 8714b  
9 of title 5, United States Code, is amended by adding at  
10 the end the following:

11 “(3)(A) The amount of additional optional insurance  
12 continued under paragraph (2) shall be continued, without  
13 any reduction under the last two sentences thereof, if—

14 “(i) at the time of retirement, there is in effect  
15 a designation under section 8705 under which the  
16 entire amount of such insurance would be paid to an  
17 individual who is permanently disabled; and

18 “(ii) an election under subsection (d)(3) on be-  
19 half of such individual is made in timely fashion.

20 “(B) Notwithstanding subparagraph (A), any reduc-  
21 tion required under paragraph (2) shall be made if—

22 “(i) the additional optional insurance is not in  
23 fact paid in accordance with the designation under  
24 section 8705, as in effect at the time of retirement;

1           “(ii) the Office finds that adequate arrange-  
2           ments have not been made to ensure that the insur-  
3           ance provided under this section will be used only  
4           for the care and support of the individual so des-  
5           ignated; or

6           “(iii) the election referred to in subparagraph  
7           (A)(ii) terminates at any time before the death of  
8           the individual who made such election.

9           “(C) For purposes of this paragraph, the term ‘per-  
10          manently disabled’ shall have the meaning given such term  
11          under regulations which the Office shall prescribe based  
12          on subparagraphs (A) and (C) of section 1614(a)(3) of  
13          the Social Security Act, except that, in applying subpara-  
14          graph (A) of such section for purposes of this subpara-  
15          graph, ‘which can be expected to last permanently’ shall  
16          be substituted for ‘which has lasted or can be expected  
17          to last for a continuous period of not less than twelve  
18          months’.”.

19          (b) CONTINUED WITHHOLDINGS.—Subsection (d) of  
20          such section 8714b is amended by adding at the end the  
21          following:

22          “(3)(A) To be eligible for unreduced additional op-  
23          tional insurance under subsection (c)(3), the insured indi-  
24          vidual shall be required to elect, at such time and in such  
25          manner as the Office by regulation requires (including

1 procedures for demonstrating compliance with the require-  
2 ments of subsection (c)(3)), to have the full cost thereof  
3 continue to be withheld from the former employee's annu-  
4 ity or compensation, as the case may be, beginning as of  
5 when such withholdings would otherwise cease under the  
6 second sentence of paragraph (1).

7 “(B) An election made by an insured individual under  
8 subparagraph (A) (and withholdings pursuant thereto)  
9 shall terminate in the event that—

10 “(i) the insured individual—

11 “(I) revokes such election; or

12 “(II) makes any redesignation or other  
13 change in the designation under section 8705  
14 (as in effect at the time of retirement); or

15 “(ii) the Office finds, upon the application of  
16 the insured individual or on its own initiative, that  
17 any of the requirements or conditions for unreduced  
18 additional optional insurance under subsection (c)(3)  
19 are, at any time, no longer met.”.

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by  
22 this section shall take effect on the date of the en-  
23 actment of this Act.

24 (2) ELECTION FOR CERTAIN INDIVIDUALS NOT  
25 OTHERWISE ELIGIBLE.—The Office of Personnel

1 Management shall prescribe regulations under which  
2 an election under section 8714b(d)(3)(A) of title 5,  
3 United States Code (as amended by this section)  
4 may be made, within 1 year after the date of the en-  
5 actment of this Act, by any individual not otherwise  
6 eligible to make such an election, but only if such in-  
7 dividual—

8 (A) separated from service on or after the  
9 first day of the 50-month period ending on the  
10 date of enactment of this Act; and

11 (B) would have been so eligible had the  
12 amendments made by this section (and imple-  
13 menting regulations) been in effect as of the in-  
14 dividual's separation date (or, if earlier, the last  
15 day for making such an election based on that  
16 separation).

17 (3) WITHHOLDINGS.—

18 (A) PROSPECTIVE EFFECT.—If an individ-  
19 ual makes an election under paragraph (2),  
20 withholdings under section 8714b(d)(3)(A) of  
21 such title 5 shall thereafter be made from such  
22 individual's annuity or compensation, as the  
23 case may be.

24 (B) EARLIER AMOUNTS.—If, pursuant to  
25 such election, benefits are in fact paid in ac-

1 cordance with section 8714b(e)(3) of such title  
2 5 upon the death of the insured individual, an  
3 appropriate reduction (computed under regula-  
4 tions prescribed by the Office) shall be made in  
5 such benefits to reflect the withholdings that—

6 (i) were not made (before the com-  
7 mencement of withholdings under subpara-  
8 graph (A)) by reason of the cessation of  
9 withholdings under the second sentence of  
10 section 8714b(d)(1) of such title; but

11 (ii) would have been made had the  
12 amendments made by this section (and im-  
13 plementing regulations) been in effect as of  
14 the time described in paragraph (2)(B).

15 (4) NOTICE.—The Office shall, by publication  
16 in the Federal Register and such other methods as  
17 it considers appropriate, notify current and former  
18 Federal employees as to the enactment of this sec-  
19 tion and any benefits for which they might be eligi-  
20 ble pursuant thereto. Included as part of such notifi-  
21 cation shall be a brief description of the procedures  
22 for making an election under paragraph (2) and any  
23 other information that the Office considers appro-  
24 priate.

1 **SEC. 403. TEMPORARY CONTINUATION OF FEDERAL EM-**  
2 **PLoyEES' LIFE INSURANCE.**

3 Section 8706 of title 5, United States Code, is  
4 amended by adding at the end the following:

5 “(g)(1) Notwithstanding subsections (a) and (b) of  
6 this section, an employee whose coverage under this chap-  
7 ter would otherwise terminate due to a separation de-  
8 scribed in paragraph (3) shall be eligible to continue basic  
9 insurance coverage described in section 8704 in accord-  
10 ance with this subsection and regulations the Office may  
11 prescribe, if the employee arranges to pay currently into  
12 the Employees Life Insurance Fund, through the former  
13 employing agency or, if an annuitant, through the respon-  
14 sible retirement system, an amount equal to the sum of—

15 “(A) both employee and agency contributions  
16 which would be payable if separation had not oc-  
17 curred; plus

18 “(B) an amount, determined under regulations  
19 prescribed by the Office, to cover necessary adminis-  
20 trative expenses, but not to exceed 2 percent of the  
21 total amount under subparagraph (A).

22 “(2) Continued coverage under this subsection may  
23 not extend beyond the date which is 18 months after the  
24 effective date of the separation which entitles a former em-  
25 ployee to coverage under this subsection. Termination of  
26 continued coverage under this subsection shall be subject

1 to provision for temporary extension of life insurance cov-  
2 erage and for conversion to an individual policy of life in-  
3 surance as provided by subsection (a). If an eligible em-  
4 ployee does not make an election for purposes of this sub-  
5 section, the employee's insurance will terminate as pro-  
6 vided by subsection (a).

7       “(3)(A) This subsection shall apply to an employee  
8 who, on or after the date of enactment of this subsection  
9 and before the applicable date under subparagraph (B)—

10           “(i) is involuntarily separated from a position  
11 due to a reduction in force, or separates voluntarily  
12 from a position the employing agency determines is  
13 a ‘surplus position’ as defined by section  
14 8905(d)(4)(C); and

15           “(ii) is insured for basic insurance under this  
16 chapter on the date of separation.

17       “(B) The applicable date under this subparagraph is  
18 October 1, 1999, except that, for purposes of any involun-  
19 tary separation referred to in subparagraph (A) with re-  
20 spect to which appropriate specific notice is afforded to  
21 the affected employee before October 1, 1999, the applica-  
22 ble date under this subparagraph is February 1, 2000.”.

1           **TITLE V—REORGANIZATION**  
2                           **FLEXIBILITY**

3   **SEC. 501. VOLUNTARY REDUCTIONS IN FORCE.**

4           Section 3502(f) of title 5, United States Code, is  
5 amended to read as follows:

6           “(f)(1) The head of an Executive agency or military  
7 department may—

8                   “(A) separate from service any employee who  
9 volunteers to be separated under this subparagraph  
10 even though the employee is not otherwise subject to  
11 separation due to a reduction in force; and

12                   “(B) for each employee voluntarily separated  
13 under subparagraph (A), retain an employee in a  
14 similar position who would otherwise be separated  
15 due to a reduction in force.

16           “(2) The separation of an employee under paragraph  
17 (1)(A) shall be treated as an involuntary separation due  
18 to a reduction in force, except for purposes of priority  
19 placement programs and advance notice.

20           “(3) An employee with critical knowledge and skills  
21 (as defined by the head of the Executive agency or military  
22 department concerned) may not participate in a voluntary  
23 separation under paragraph (1)(A) if the agency or de-  
24 partment head concerned determines that such participa-

1 tion would impair the performance of the mission of the  
2 agency or department (as applicable).

3 “(4) The regulations prescribed under this section  
4 shall incorporate the authority provided in this subsection.

5 “(5) No authority under paragraph (1) may be exer-  
6 cised after September 30, 2001.”.

7 **SEC. 502. NONREIMBURSABLE DETAILS TO FEDERAL AGEN-**  
8 **CIES BEFORE A REDUCTION IN FORCE.**

9 (a) IN GENERAL.—Section 3341 of title 5, United  
10 States Code, is amended to read as follows:

11 **“§ 3341. Details; within Executive agencies and mili-**  
12 **tary departments; employees affected by**  
13 **reduction in force**

14 “(a) The head of an Executive agency or military de-  
15 partment may detail employees, except those required by  
16 law to be engaged exclusively in some specific work, among  
17 the bureaus and offices of the agency or department.

18 “(b) The head of an Executive agency or military de-  
19 partment may detail to duties in the same or another  
20 agency or department, on a nonreimbursable basis, an em-  
21 ployee who has been identified by the employing agency  
22 as likely to be separated from the Federal service by re-  
23 duction in force or who has received a specific notice of  
24 separation by reduction in force.

25 “(c)(1) Details under subsection (a)—

1           “(A) may not be for periods exceeding 120  
2 days; and

3           “(B) may be renewed (1 or more times) by  
4 written order of the head of the agency or depart-  
5 ment, in each particular case, for periods not exceed-  
6 ing 120 days each.

7           “(2) Details under subsection (b)—

8           “(A) may not be for periods exceeding 90 days;  
9 and

10           “(B) may not be renewed.

11           “(d) The 120-day limitation under subsection (c)(1)  
12 for details and renewals of details does not apply to the  
13 Department of Defense in the case of a detail—

14           “(1) made in connection with the closure or re-  
15 alignment of a military installation pursuant to a  
16 base closure law or an organizational restructuring  
17 of the Department as part of a reduction in the size  
18 of the armed forces or the civilian workforce of the  
19 Department; and

20           “(2) in which the position to which the em-  
21 ployee is detailed is eliminated on or before the date  
22 of the closure, realignment, or restructuring.

23           “(e) For purposes of this section—

24           “(1) the term ‘base closure law’ means—

25           “(A) section 2687 of title 10;

1           “(B) title II of the Defense Authorization  
2           Amendments and Base Closure and Realign-  
3           ment Act; and

4           “(C) the Defense Base Closure and Re-  
5           alignment Act of 1990; and

6           “(2) the term ‘military installation’—

7           “(A) in the case of an installation covered  
8           by section 2687 of title 10, has the meaning  
9           given such term in subsection (e)(1) of such  
10          section;

11          “(B) in the case of an installation covered  
12          by the Act referred to in subparagraph (B) of  
13          paragraph (1), has the meaning given such  
14          term in section 209(6) of such Act; and

15          “(C) in the case of an installation covered  
16          by the Act referred to in subparagraph (C) of  
17          paragraph (1), has the meaning given such  
18          term in section 2910(4) of such Act.”.

19          (b) CLERICAL AMENDMENT.—The table of sections  
20          for chapter 33 of title 5, United States Code, is amended  
21          by striking the item relating to section 3341 and inserting  
22          the following:

          “3341. Details; within Executive agencies and military departments; employees  
          affected by reduction in force.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect 30 days after the date of the  
3 enactment of this Act.

4 **TITLE VI—SOFT-LANDING**  
5 **PROVISIONS**

6 **SEC. 601. CONTINUED ELIGIBILITY FOR LIFE INSURANCE.**

7 (a) IN GENERAL.—Section 8706 of title 5, United  
8 States Code, is amended by redesignating subsections (d)  
9 through (f) as subsections (e) through (g), respectively,  
10 and by inserting after subsection (c) the following:

11 “(d)(1) Notwithstanding subsection (b), any em-  
12 ployee who, on or after the date of the enactment of this  
13 subsection and before the applicable date under paragraph  
14 (2)—

15 “(A) is involuntarily separated from a position,  
16 or voluntarily separated from a surplus position, in  
17 or under an Executive agency due to a reduction in  
18 force,

19 “(B) based on the separation referred to in sub-  
20 paragraph (A), retires on an immediate annuity  
21 under subchapter III of chapter 83 or subchapter II  
22 of chapter 84, but does not satisfy the requirements  
23 of subsection (b)(1), and

24 “(C) is insured on the date of separation,

1 may, within 60 days after the date of separation, elect to  
2 continue such employee's insurance and arrange to pay  
3 currently into the Employees' Life Insurance Fund both  
4 the employee and agency contributions therefor, in accord-  
5 ance with procedures prescribed by the Office. If the em-  
6 ployee does not so elect, such employee's insurance will  
7 terminate as provided by subsection (a).

8       “(2) The applicable date under this paragraph is Oc-  
9 tober 1, 1999, except that, for purposes of any involuntary  
10 separation referred to in paragraph (1)(A) with respect  
11 to which appropriate specific notice is afforded to the af-  
12 fected employee before October 1, 1999, the applicable  
13 date under this paragraph is February 1, 2000.

14       “(3) For purposes of this subsection, the term ‘sur-  
15 plus position’, with respect to an agency, means any posi-  
16 tion determined in accordance with regulations under sec-  
17 tion 8905a(d)(4)(C) for such agency.”.

18       (b) CONFORMING AMENDMENT.—Section 8706(g) of  
19 title 5, United States Code, as so redesignated by sub-  
20 section (a), is amended by striking “subsection (e)” and  
21 inserting “subsection (f)”.

1 **SEC. 602. CONTINUED ELIGIBILITY FOR HEALTH INSUR-**  
2 **ANCE.**

3 (a) CONTINUED ELIGIBILITY AFTER RETIRE-  
4 MENT.—Section 8905 of title 5, United States Code, is  
5 amended—

6 (1) in the first sentence of subsection (b) by  
7 striking “An” and inserting “Subject to subsection  
8 (g), an”; and

9 (2) by adding at the end the following:

10 “(g)(1) The Office shall waive the requirements for  
11 continued enrollment under subsection (b) in the case of  
12 any individual who, on or after the date of the enactment  
13 of this subsection and before the applicable date under  
14 paragraph (2)—

15 “(A) is involuntarily separated from a position,  
16 or voluntarily separated from a surplus position, in  
17 or under an Executive agency due to a reduction in  
18 force,

19 “(B) based on the separation referred to in sub-  
20 paragraph (A), retires on an immediate annuity  
21 under subchapter III of chapter 83 or subchapter II  
22 of chapter 84, and

23 “(C) is enrolled in a health benefits plan under  
24 this chapter as an employee immediately before re-  
25 tirement.

1       “(2) The applicable date under this paragraph is Oc-  
2 tober 1, 1999, except that, for purposes of any involuntary  
3 separation referred to in paragraph (1)(A) with respect  
4 to which appropriate specific notice is afforded to the af-  
5 fected employee before October 1, 1999, the applicable  
6 date under this paragraph is February 1, 2000.

7       “(3) For purposes of this subsection, the term ‘sur-  
8 plus position’, with respect to an agency, means any posi-  
9 tion determined in accordance with regulations under sec-  
10 tion 8905a(d)(4)(C) for such agency.”.

11       (b) TEMPORARY CONTINUED ELIGIBILITY AFTER  
12 BEING INVOLUNTARILY SEPARATED.—Section  
13 8905a(d)(4) of title 5, United States Code, is amended—

14           (1) in subparagraph (A) by striking “the De-  
15 partment of Defense” and inserting “an Executive  
16 agency”; and

17           (2) by amending subparagraph (C) to read as  
18 follows:

19       “(C) For purposes of this paragraph, the term ‘sur-  
20 plus position’ means a position that, as determined under  
21 regulations prescribed by the head of the agency involved,  
22 is identified during planning for a reduction in force as  
23 being no longer required and is designated for elimination  
24 during the reduction in force.”.

1 **SEC. 603. PRIORITY PLACEMENT PROGRAMS FOR FEDERAL**  
2 **EMPLOYEES AFFECTED BY A REDUCTION IN**  
3 **FORCE.**

4 (a) IN GENERAL.—Subchapter I of chapter 33 of title  
5 5, United States Code, is amended by adding at the end  
6 the following:

7 **“§ 3330a. Priority placement programs for employees**  
8 **affected by a reduction in force**

9 “(a) Not later than 3 months after the date of the  
10 enactment of this section, each Executive agency shall es-  
11 tablish an agencywide priority placement program, to fa-  
12 cilitate employment placement for employees who—

13 “(1) are scheduled to be separated from service  
14 due to a reduction in force under—

15 “(A) regulations prescribed under section  
16 3502; or

17 “(B) procedures established under section  
18 3595;

19 “(2) are separated from service due to such a  
20 reduction in force; or

21 “(3) have received a rating of at least fully suc-  
22 cessful (or the equivalent) as the last performance  
23 rating of record used for retention purposes (except  
24 for employees in positions excluded from a perform-  
25 ance appraisal system by law, regulation, or admin-

1        istrative action taken by the Office of Personnel  
2        Management).

3        “(b)(1) Each agencywide priority placement program  
4        under this section shall include provisions under which a  
5        vacant position shall not (except as provided in this sub-  
6        section) be filled by the appointment or transfer of any  
7        individual from outside of that agency (other than an indi-  
8        vidual described in paragraph (2)) if—

9                “(A) there is then available any individual de-  
10              scribed in paragraph (2) who is qualified for the po-  
11              sition; and

12              “(B) the position—

13                      “(i) is at the same grade or pay level (or  
14                      the equivalent) or not more than 3 grades (or  
15                      grade intervals) below that of the position last  
16                      held by such individual before placement in the  
17                      new position;

18                      “(ii) is within the same commuting area as  
19                      the individual’s last-held position (as referred to  
20                      in clause (i)) or residence; and

21                      “(iii) has the same type of work schedule  
22                      (whether full-time, part-time, or intermittent)  
23                      as the position last held by the individual.

1       “(2) For purposes of an agencywide priority place-  
2 ment program, an individual shall be considered to be de-  
3 scribed in this paragraph if such individual is—

4               “(A) an employee of such agency who is sched-  
5 uled to be separated, as described in subsection  
6 (a)(1); or

7               “(B) an individual who became a former em-  
8 ployee of such agency as a result of a separation, as  
9 described in subsection (a)(2).

10       “(c)(1) If after a reduction in force the agency has  
11 no positions of any type within the local commuting areas  
12 specified in this section, the individual may designate a  
13 different local commuting area where the agency has con-  
14 tinuing positions in order to exercise reemployment rights  
15 under this section. An agency may determine that such  
16 designations are not in the interest of the Government for  
17 the purpose of paying relocation expenses under sub-  
18 chapter II of chapter 57.

19       “(2) At its option, an agency may administratively  
20 extend reemployment rights under this section to include  
21 other local commuting areas.

22       “(d)(1) In selecting employees for positions under  
23 this section, the agency shall place qualified present and  
24 former employees in retention order by veterans’ pref-  
25 erence subgroup and tenure group.

1       “(2) An agency may not pass over a qualified present  
2 or former employee to select an individual in a lower veter-  
3 ans’ preference subgroup within the tenure group, or in  
4 a lower tenure group.

5       “(3) Within a subgroup, the agency may select a  
6 qualified present or former employee without regard to the  
7 individual’s total creditable service.

8       “(e) An individual is eligible for reemployment prior-  
9 ity under this section for 2 years from the effective date  
10 of the reduction in force from which the individual will  
11 be, or has been, separated under section 3502.

12       “(f) An individual qualified present or former em-  
13 ployee loses eligibility for reemployment priority under this  
14 section when the individual—

15               “(1) requests removal in writing;

16               “(2) accepts or declines a bona fide offer under  
17 this section or fails to accept such an offer within  
18 the period of time allowed for such acceptance, or

19               “(3) separates from the agency before being  
20 separated under section 3502.

21 A present or former employee who declines a position with  
22 a representative rate (or equivalent) that is less than the  
23 rate of the position from which the individual was sepa-  
24 rated under section 3502 retains eligibility for positions

1 with a higher representative rate up to the rate of the indi-  
2 vidual's last position.

3 “(g) Whenever more than one individual is qualified  
4 for a position under this section, the agency shall select  
5 the most highly qualified individual, subject to subsection  
6 (d).

7 “(h) The Office of Personnel Management shall issue  
8 regulations to implement this section.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
10 for chapter 33 of title 5, United States Code, is amended  
11 by adding after the item relating to the section 3330 the  
12 following:

“3330a. Priority placement programs for employees affected by a reduction  
in force.”.

13 **SEC. 604. JOB PLACEMENT AND COUNSELING SERVICES.**

14 (a) AUTHORITY FOR SERVICES.—The head of each  
15 Executive agency may establish a program to provide job  
16 placement and counseling services to current and former  
17 employees.

18 (b) TYPES OF SERVICES AUTHORIZED.—A program  
19 established under this section may include such services  
20 as—

- 21 (1) career and personal counseling;  
22 (2) training in job search skills; and

1           (3) job placement assistance, including assist-  
2           ance provided through cooperative arrangements  
3           with State and local employment service offices.

4           (c) **ELIGIBILITY FOR SERVICES.**—Services authorized  
5 by this section may be provided to—

6           (1) current employees of the agency or, with the  
7           approval of such other agency, any other agency;  
8           and

9           (2) employees of the agency or, with the ap-  
10          proval of such other agency, any other agency who  
11          have been separated for less than 1 year, if the sepa-  
12          ration was not a removal for cause on charges of  
13          misconduct or delinquency.

14          (d) **REIMBURSEMENT FOR COSTS.**—The costs of  
15 services provided to current or former employees of an-  
16 other agency shall be reimbursed by that agency.

17 **SEC. 605. EDUCATION AND RETRAINING INCENTIVES.**

18          (a) **NON-FEDERAL EMPLOYMENT INCENTIVE PAY-**  
19 **MENTS.**—

20           (1) **DEFINITIONS.**—For purposes of this sub-  
21 section—

22           (A) the term “eligible employee” means an  
23 employee who is involuntarily separated from a  
24 position, or voluntarily separated from a sur-  
25 plus position, in or under an Executive agency

1 due to a reduction in force, except that such  
2 term does not include an employee who, at the  
3 time of separation, meets the age and service  
4 requirements for an immediate annuity under  
5 subchapter III of chapter 83 or chapter 84 of  
6 title 5, United States Code, other than under  
7 section 8336(d) or 8414(b) of such title;

8 (B) the term “non-Federal employer”  
9 means an employer other than the Government  
10 of the United States or any agency or other in-  
11 strumentality thereof;

12 (C) the term “Executive agency” has the  
13 meaning given such term by section 105 of title  
14 5, United States Code; and

15 (D) the term “surplus position” has the  
16 meaning given such term by section  
17 8905(d)(4)(C) of title 5, United States Code.

18 (2) **AUTHORITY.**—The head of an Executive  
19 agency may pay retraining and relocation incentive  
20 payments, in accordance with this subsection, in  
21 order to facilitate the reemployment of eligible em-  
22 ployees who are separated from such agency.

23 (3) **RETRAINING INCENTIVE PAYMENT.**—

24 (A) **AGREEMENT.**—The head of an Execu-  
25 tive agency may enter into an agreement with

1 a non-Federal employer under which the non-  
2 Federal employer agrees—

3 (i) to employ an individual referred to  
4 in paragraph (2) for at least 12 months  
5 for a salary which is mutually agreeable to  
6 the employer and such individual; and

7 (ii) to certify to the agency head any  
8 costs incurred by the employer for any nec-  
9 essary training provided to such individual  
10 in connection with the employment by such  
11 employer.

12 (B) PAYMENT OF RETRAINING INCENTIVE  
13 PAYMENT.—The agency head shall pay a re-  
14 training incentive payment to the non-Federal  
15 employer upon the employee's completion of 12  
16 months of continuous employment by that em-  
17 ployer. The agency head shall prescribe the  
18 amount of the incentive payment.

19 (C) PRORATION RULE.—The agency head  
20 shall pay a prorated amount of the full retrain-  
21 ing incentive payment to the non-Federal em-  
22 ployer for an employee who does not remain  
23 employed by the non-Federal employer for at  
24 least 12 months, but only if the employee re-  
25 mains so employed for at least 6 months.

1           (D) LIMITATION.—In no event may the  
2           amount of the retraining incentive payment  
3           paid for the training of any individual exceed  
4           the amount certified for such individual under  
5           subparagraph (A), subject to subsection (c).

6           (4) RELOCATION INCENTIVE PAYMENT.—The  
7           head of an agency may pay a relocation incentive  
8           payment to an eligible employee if it is necessary for  
9           the employee to relocate in order to commence em-  
10          ployment with a non-Federal employer. Subject to  
11          subsection (e), the amount of the incentive payment  
12          shall not exceed the amount that would be payable  
13          for travel, transportation, and subsistence expenses  
14          under subchapter II of chapter 57 of title 5, United  
15          States Code, including any reimbursement author-  
16          ized under section 5724b of such title, to a Federal  
17          employee who transfers between the same locations  
18          as the individual to whom the incentive payment is  
19          payable.

20          (5) DURATION.—No incentive payment may be  
21          paid for training or relocation commencing after  
22          June 30, 2000.

23          (6) SOURCE.—An incentive payment under this  
24          subsection shall be payable from appropriations or  
25          other funds available to the agency for purposes of

1 training (within the meaning of section 4101(4) of  
2 title 5, United States Code).

3 (b) EDUCATIONAL ASSISTANCE.—

4 (1) IN GENERAL.—Under regulations prescribed  
5 by the Office of Personnel Management, all or any  
6 part of the amount described in subsection (c) may  
7 be afforded to any employee described in paragraph  
8 (2) in the form of educational assistance.

9 (2) ELIGIBLE EMPLOYEE.—An individual shall  
10 not be eligible for educational assistance under this  
11 subsection unless such individual—

12 (A) is an eligible employee, within the  
13 meaning of subsection (a); and

14 (B) has completed at least 3 years of cur-  
15 rent continuous service in any Executive agency  
16 or agencies.

17 (c) AGGREGATE LIMITATION.—No incentive payment  
18 or other amount may be paid under this section to or on  
19 behalf of any individual to the extent that such amount  
20 would cause the aggregate amount otherwise paid or pay-  
21 able under this section, to or on behalf of such individual,  
22 to exceed \$10,000.

# 1       **TITLE VII—MISCELLANEOUS**

## 2       **SEC. 701. REIMBURSEMENTS RELATING TO PROFESSIONAL** 3               **LIABILITY INSURANCE.**

4           (a) **AUTHORITY.**—Notwithstanding any other provi-  
5 sion of law, any amounts appropriated, for fiscal year  
6 1997 or any fiscal year thereafter, for salaries and ex-  
7 penses of Government employees may be used to reim-  
8 burse any qualified employee for not to exceed one-half  
9 the costs incurred by such employee for professional liabil-  
10 ity insurance. A payment under this section shall be con-  
11 tingent upon the submission of such information or docu-  
12 mentation as the employing agency may require.

13          (b) **QUALIFIED EMPLOYEE.**—For purposes of this  
14 section, the term “qualified employee” means—

15               (1) an agency employee whose position is that  
16 of a law enforcement officer;

17               (2) an agency employee whose position is that  
18 of a supervisor or management official; or

19               (3) such other employee as the head of the  
20 agency considers appropriate

21          (c) **DEFINITIONS.**—For purposes of this section—

22               (1) the term “agency” means an Executive  
23 agency, as defined by section 105 of title 5, United  
24 States Code;

1           (2) the term “law enforcement officer” means  
2           an employee, the duties of whose position are pri-  
3           marily the investigation, apprehension, prosecution,  
4           or detention of individuals suspected or convicted of  
5           offenses against the criminal laws of the United  
6           States, including any law enforcement officer under  
7           section 8331(20) or 8401(17) of such title 5;

8           (3) the terms “supervisor” and “management  
9           official” have the respective meanings given them by  
10          section 7103(a) of such title 5; and

11          (4) the term “professional liability insurance”  
12          means insurance which provides coverage for—

13                (A) legal liability for damages due to inju-  
14                ries to other persons, damage to their property,  
15                or other damage or loss to such other persons  
16                (including the expenses of litigation and settle-  
17                ment) resulting from or arising out of any  
18                tortious act, error, or omission of the covered  
19                individual (whether common law, statutory, or  
20                constitutional) while in the performance of such  
21                individual’s official duties as a qualified em-  
22                ployee; and

23                (B) the cost of legal representation for the  
24                covered individual in connection with any ad-  
25                ministrative or judicial proceeding (including

1 any investigation or disciplinary proceeding) re-  
2 lating to any act, error, or omission of the cov-  
3 ered individual while in the performance of such  
4 individual's official duties as a qualified em-  
5 ployee, and other legal costs and fees relating  
6 to any such administrative or judicial proceed-  
7 ing.

8 **SEC. 702. EMPLOYMENT RIGHTS FOLLOWING CONVERSION**  
9 **TO CONTRACT.**

10 (a) **IN GENERAL.**—An employee whose position is  
11 abolished because an activity performed by an Executive  
12 agency (within the meaning of section 105 of title 5, Unit-  
13 ed States Code, is converted to contract shall receive from  
14 the contractor an offer in good faith of a right of first  
15 refusal of employment under the contract for a position  
16 for which the employee is deemed qualified based upon  
17 previous knowledge, skills, abilities, and experience. The  
18 contractor shall not offer employment under the contract  
19 to any person prior to having complied fully with this obli-  
20 gation, except as provided in subsection (b), or unless no  
21 employee whose position is abolished because such activity  
22 has been converted to contract can demonstrate appro-  
23 priate qualifications for the position.

24 (b) **EXCEPTION.**—Notwithstanding the contractor's  
25 obligation under subsection (a), the contractor is not re-

1 quired to offer a right of first refusal to any employee who,  
2 in the 12 months preceding conversion to contract, has  
3 been the subject of an adverse personnel action related to  
4 misconduct or has received a less than fully successful per-  
5 formance rating.

6 (c) LIMITATION.—No employee shall have a right to  
7 more than 1 offer under this section based on any particu-  
8 lar separation due to the conversion of an activity to con-  
9 tract.

10 (d) REGULATIONS.—Regulations to carry out this  
11 section may be prescribed by the President.

12 **SEC. 703. DEBARMENT OF HEALTH CARE PROVIDERS**  
13 **FOUND TO HAVE ENGAGED IN FRAUDULENT**  
14 **PRACTICES.**

15 (a) IN GENERAL.—Section 8902a of title 5, United  
16 States Code, is amended—

17 (1) in subsection (a)(2)(A) by striking “sub-  
18 section (b) or (c)” and inserting “subsection (b), (c),  
19 or (d)”;

20 (2) in subsection (b)—

21 (A) by striking “may” and inserting  
22 “shall” in the matter before paragraph (1); and

23 (B) by amending paragraph (5) to read as  
24 follows:

1           “(5) Any provider that is currently suspended  
2 or excluded from participation under any program of  
3 the Federal Government involving procurement or  
4 nonprocurement activities.”;

5           (3) by redesignating subsections (c) through (i)  
6 as subsections (d) through (j), respectively, and by  
7 inserting after subsection (b) the following:

8           “(c) The Office may bar the following providers of  
9 health care services from participating in the program  
10 under this chapter:

11           “(1) Any provider—

12           “(A) whose license to provide health care  
13 services or supplies has been revoked, sus-  
14 pended, restricted, or not renewed, by a State  
15 licensing authority for reasons relating to the  
16 provider’s professional competence, professional  
17 performance, or financial integrity; or

18           “(B) that surrendered such a license while  
19 a formal disciplinary proceeding was pending  
20 before such an authority, if the proceeding con-  
21 cerned the provider’s professional competence,  
22 professional performance, or financial integrity.

23           “(2) Any provider that is an entity directly or  
24 indirectly owned, or with a 5 percent or more con-  
25 trolling interest, by an individual who is convicted of

1 any offense described in subsection (b), against  
2 whom a civil monetary penalty has been assessed  
3 under subsection (d), or who has been excluded from  
4 participation under this chapter.

5 “(3) Any provider that the Office determines, in  
6 connection with claims presented under this chapter,  
7 has charged for health care services or supplies in  
8 an amount substantially in excess of such provider’s  
9 customary charges for such services or supplies (un-  
10 less the Office finds there is good cause for such  
11 charge), or charged for health care services or sup-  
12 plies which are substantially in excess of the needs  
13 of the covered individual or which are of a quality  
14 that fails to meet professionally recognized stand-  
15 ards for such services or supplies.

16 “(4) Any provider that the Office determines  
17 has committed acts described in subsection (d).”;

18 (4) in subsection (d), as so redesignated by  
19 paragraph (3), by amending paragraph (1) to read  
20 as follows:

21 “(1) in connection with claims presented under  
22 this chapter, that a provider has charged for a  
23 health care service or supply which the provider  
24 knows or should have known involves—

1           “(A) an item or service not provided as  
2           claimed;

3           “(B) charges in violation of applicable  
4           charge limitations under section 8904(b); or

5           “(C) an item or service furnished during a  
6           period in which the provider was excluded from  
7           participation under this chapter pursuant to a  
8           determination by the Office under this section,  
9           other than as permitted under subsection  
10          (g)(2)(B);”;

11          (5) in subsection (f), as so redesignated by  
12          paragraph (3), by inserting “(where such debarment  
13          is not mandatory),” after “under this section” the  
14          first place it appears;

15          (6) in subsection (g), as so redesignated by  
16          paragraph (3)—

17                  (A) by striking “(g)(1)” and all that fol-  
18                  lows through the end of paragraph (1) and in-  
19                  serting the following:

20          “(g)(1)(A) Except as provided in subparagraph (B),  
21          debarment of a provider under subsection (b) or (c) shall  
22          be effective at such time and upon such reasonable notice  
23          to such provider, and to carriers and covered individuals,  
24          as shall be specified in regulations prescribed by the Of-  
25          fice. Any such provider that is excluded from participation

1 may request a hearing in accordance with subsection  
2 (h)(1).

3 “(B) Unless the Office determines that the health or  
4 safety of individuals receiving health care services war-  
5 rants an earlier effective date, the Office shall not make  
6 a determination adverse to a provider under subsection  
7 (c)(4) or (d) until such provider has been given reasonable  
8 notice and an opportunity for the determination to be  
9 made after a hearing as provided in accordance with sub-  
10 section (h)(1).”;

11 (B) in paragraph (3)—

12 (i) by inserting “of debarment” after  
13 “notice”; and

14 (ii) by adding at the end the follow-  
15 ing: “In the case of a debarment under  
16 paragraphs (1) through (4) of subsection  
17 (b), the minimum period of exclusion shall  
18 not be less than 3 years, except as pro-  
19 vided in paragraph (4)(B)(ii).”;

20 (C) in paragraph (4)(B)(i)(I) by striking  
21 “subsection (b) or (c)” and inserting “sub-  
22 section (b), (c), or (d)”;

23 (7) in subsection (h)—

1 (A) by striking “(h)(1)” and all that fol-  
2 lows through the end of paragraph (2) and in-  
3 serting the following:

4 “(h)(1) Any provider of health care services or sup-  
5 plies that is the subject of an adverse determination by  
6 the Office under this section shall be entitled to reasonable  
7 notice and an opportunity to request a hearing of record,  
8 and to judicial review as provided in this subsection after  
9 the Office renders a final decision. The Office shall grant  
10 a request for a hearing upon a showing that due process  
11 rights have not previously been afforded with respect to  
12 any finding of fact which is relied upon as a cause for  
13 an adverse determination under this section. Such hearing  
14 shall be conducted without regard to subchapter II of  
15 chapter 5 and chapter 7 of this title by a hearing officer  
16 who shall be designated by the Director of the Office and  
17 who shall not otherwise have been involved in the adverse  
18 determination being appealed. A request for a hearing  
19 under this subsection must be filed within such period and  
20 in accordance with such procedures as the Office shall pre-  
21 scribe by regulation.

22 “(2) Any provider adversely affected by a final deci-  
23 sion under paragraph (1) made after a hearing to which  
24 such provider was a party may seek review of such deci-  
25 sion in the United States District Court for the District

1 of Columbia or for the district in which the plaintiff re-  
2 sides or has his principal place of business by filing a no-  
3 tice of appeal in such court within 60 days from the date  
4 the decision is issued and simultaneously sending copies  
5 of such notice by certified mail to the Director of the Of-  
6 fice and to the Attorney General. In answer to the appeal,  
7 the Director of the Office shall promptly file in such court  
8 a certified copy of the transcript of the record, if the Office  
9 conducted a hearing, and other evidence upon which the  
10 findings and decision complained of are based. The court  
11 shall have power to enter, upon the pleadings and evidence  
12 of record, a judgment affirming, modifying, or setting  
13 aside, in whole or in part, the decision of the Office, with  
14 or without remanding the cause for a rehearing. The dis-  
15 trict court shall not set aside or remand the decision of  
16 the Office unless there is not substantial evidence on the  
17 record, taken as a whole, to support the findings by the  
18 Office of a cause for action under this section or unless  
19 action taken by the Office constitutes an abuse of discre-  
20 tion.”; and

21 (8) in subsection (i), as so redesignated by  
22 paragraph (3)—

23 (A) by striking “subsection (c)” and in-  
24 serting “subsection (d)”;

1           (B) by adding at the end the following:  
2           “The amount of a penalty or assessment as fi-  
3           nally determined by the Office, or other amount  
4           the Office may agree to in compromise, may be  
5           deducted from any sum then or later owing by  
6           the United States to the party against whom  
7           the penalty or assessment has been levied.”.

8           (b) EFFECTIVE DATE.—

9           (1) IN GENERAL.—Except as provided in para-  
10          graph (2), this section shall take effect on the date  
11          of the enactment of this Act.

12          (2) EXCEPTIONS.—(A) Paragraphs (2) and (4)  
13          of section 8902a(c) of title 5, United States Code,  
14          as amended by subsection (a), shall apply only to the  
15          extent that the misconduct which is the basis for de-  
16          barment thereunder occurs after the date of the en-  
17          actment of this Act.

18          (B) Section 8902a(d)(1)(B) of title 5, United  
19          States Code, as amended by subsection (a), shall  
20          apply only with respect to charges which violate sec-  
21          tion 8904(b) of such title 5 for items and services  
22          furnished after the date of the enactment of this  
23          Act.

24          (C) Section 8902a(g)(3) of title 5, United  
25          States Code, as amended by subsection (a), shall

1 apply only with respect to debarments based on con-  
2 victions occurring after the date of the enactment of  
3 this Act.

4 **SEC. 704. EXTENSION OF CERTAIN PROCEDURAL AND AP-  
5 PEAL RIGHTS TO CERTAIN PERSONNEL OF  
6 THE FEDERAL BUREAU OF INVESTIGATION.**

7 (a) IN GENERAL.—Section 7511(b)(8) of title 5,  
8 United States Code, is amended by striking “the Federal  
9 Bureau of Investigation,”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply with respect to any personnel ac-  
12 tion taking effect after the end of the 45-day period begin-  
13 ning on the date of the enactment of this Act.

14 **SEC. 705. CONVERSION OF CERTAIN EXCEPTED SERVICE  
15 POSITIONS IN THE UNITED STATES FIRE AD-  
16 MINISTRATION TO COMPETITIVE SERVICE  
17 POSITIONS.**

18 (a) IN GENERAL.—No later than the date described  
19 under subsection (d)(1), the Director of the Federal  
20 Emergency Management Agency and the Director of the  
21 Office of Personnel Management shall take such actions  
22 as necessary to convert each excepted service position es-  
23 tablished before the date of the enactment of this Act  
24 under section 7(c)(4) of the Federal Fire Prevention and

1 Control Act of 1974 (15 U.S.C. 2206(c)(4)) to a competi-  
2 tive service position.

3 (b) EFFECT ON EMPLOYEES.—Any employee em-  
4 ployed on the date of the enactment of this Act in an ex-  
5 cepted service position converted under subsection (a)—

6 (1) shall remain employed in the competitive  
7 service position so converted without a break in serv-  
8 ice;

9 (2) by reason of such conversion, shall have  
10 no—

11 (A) diminution of seniority;

12 (B) reduction of cumulative years of serv-  
13 ice; and

14 (C) requirement to serve an additional pro-  
15 bationary period applied; and

16 (3) shall retain their standing and participation  
17 with respect to chapter 83 or 84 of title 5, United  
18 States Code, relating to Federal retirement.

19 (c) PROSPECTIVE COMPETITIVE SERVICE POSI-  
20 TIONS.—Section 7(c)(4) of the Federal Fire Prevention  
21 and Control Act of 1974 (15 U.S.C. 2206(c)(4)) is amend-  
22 ed to read as follows:

23 “(4) appoint faculty members to competitive  
24 service positions and with respect to temporary and  
25 intermittent services, to make appointments of con-



1           (3) the former spouse has not received Social  
2           Security benefits based on eligibility as the spouse of  
3           the annuitant;

4           (4) such application was filed on or after Janu-  
5           ary 1, 1989;

6           (5) the annuitant rendered at least 25 years of  
7           creditable service to the Federal Government;

8           (6) at the time of the annuitant's retirement,  
9           the annuitant and the former spouse had been mar-  
10          ried at least 25 years;

11          (7) at the time of the annuitant's retirement,  
12          the annuitant designated the former spouse to re-  
13          ceive survivor annuity benefits;

14          (8) the annuitant and the former spouse were  
15          divorced prior to September 14, 1978, and after the  
16          annuitant retired;

17          (9) neither at the time of the divorce nor at any  
18          time thereafter was a joint waiver of survivor annu-  
19          ity benefits executed between the annuitant and the  
20          former spouse;

21          (10) the divorce decree was silent as to survivor  
22          annuity benefits or designated the former spouse to  
23          receive survivor annuity benefits;

1           (11) subsequent to the divorce of the annuitant  
2           and the former spouse, the annuitant advised the  
3           Office of Personnel Management of the divorce;

4           (12) neither the annuitant nor the former  
5           spouse married any other individual after their di-  
6           vorce from each other;

7           (13) no direct notice outlining or defining the  
8           former spouse's survivor annuity benefits election  
9           rights was delivered to the former spouse by the Of-  
10          fice of Personnel Management; and

11          (14) the former spouse has exhausted all judi-  
12          cial remedies up to and including remedies available  
13          through the United States Court of Appeals.

○