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2D SESSION

S. 1833

To provide a temporary authority for the use of voluntary separation incentives by Federal agencies that are reducing employment levels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 1996

Mr. GLENN (for himself and Mr. PRYOR) (by request) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide a temporary authority for the use of voluntary separation incentives by Federal agencies that are reducing employment levels, 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 That this Act may be cited as the “Federal Employment
4 Reduction Assistance Act of 1996”.

5 **SEC. 2. DEFINITIONS.**

6 For the purpose of this Act—

7 (1) the term “agency” means an Executive
8 agency (as defined by section 105 of title 5, United
9 States Code), but does not include the Department

1 of Defense, the Central Intelligence Agency, or the
2 General Accounting Office; and

3 (2) the term “employee” means an employee
4 (as defined by section 2105 of title 5, United States
5 Code) who—

6 (A) is employed by an agency;

7 (B) is serving under an appointment with-
8 out time limitation; and

9 (C) has been currently employed for a con-
10 tinuous period of at least 12 months;

11 but does not include—

12 (D) a reemployed annuitant under sub-
13 chapter III of chapter 83 or chapter 84 of title
14 5, United States Code, or another retirement
15 system for employees of the Government;

16 (E) an employee having a disability on the
17 basis of which such employee is or would be eli-
18 gible for disability retirement under the applica-
19 ble retirement system referred to in clause (D);

20 (F) an employee who is in receipt of a spe-
21 cific notice of involuntary separation for mis-
22 conduct or unacceptable performance;

23 (G) an employee who, upon completing an
24 additional period of service as referred to in
25 section 3(b)(2)(B)(ii) of the Federal Workforce

1 Restructuring Act of 1994 (Public Law 103–
2 226; 108 Stat. 111), would qualify for a vol-
3 untary separation incentive payment under sec-
4 tion 3 of such Act;

5 (H) an employee who has previously re-
6 ceived any voluntary separation incentive pay-
7 ment by the Federal Government under this
8 Act or any other authority and has not repaid
9 such payment; or

10 (I) an employee covered by statutory reem-
11 ployment rights who is on transfer to another
12 organization.

13 **SEC. 3. AGENCY PLANS; APPROVAL.**

14 (a) If the head of an agency determines that, in order
15 to improve the efficiency of operations or to meet antici-
16 pated levels of budgetary resources, the number of employ-
17 ees employed by the agency must be reduced, the head
18 of the agency may submit a plan to the Director of the
19 Office of Management and Budget to pay voluntary sepa-
20 ration incentives under this Act to employees of the agency
21 who agree to separate from the agency, by retirement or
22 resignation. The plan shall specify the planned employ-
23 ment reductions and the manner in which such reductions
24 will improve operating efficiency or meet anticipated budg-
25 et levels. The plan shall include a proposed period of time

1 for the payment of voluntary separation incentives by the
2 agency, and a proposed coverage for offers of incentives
3 to agency employees, which may be on the basis of—

4 (1) any component of the agency;

5 (2) any occupation or levels of an occupation;

6 (3) any geographic location; or

7 (4) any appropriate combination of the factors
8 in paragraphs (1)–(3).

9 (b) The Director of the Office of Management and
10 Budget shall review each plan submitted to the Director
11 under subsection (a) and approve or disapprove such plan,
12 and may make appropriate modifications in the plan with
13 respect to the time period in which voluntary separation
14 incentives may be paid or with respect to the coverage of
15 incentives on the basis of the factors in subsection (a)(1)–
16 (4).

17 **SEC. 4. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

18 (a) In order to receive a voluntary separation incen-
19 tive payment, an employee must separate from service
20 with the employee's agency voluntarily (whether by retire-
21 ment or resignation) during the period of time for which
22 the payment of incentives has been authorized for the em-
23 ployee under the agency plan under section 3. An employ-
24 ee's agreement to separate with an incentive payment is

1 binding upon the employee and the agency, unless the em-
2 ployee and the agency mutually agree otherwise.

3 (b) A voluntary separation incentive payment—

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

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

7 (A) an amount equal to the amount the
8 employee would be entitled to receive under sec-
9 tion 5595(c) of title 5, United States Code
10 (without adjustment for any previous payment
11 made under such section), if the employee were
12 entitled to payment under such section; or

13 (B) if the employee separates—

14 (i) during fiscal year 1996 or 1997,
15 \$25,000;

16 (ii) during fiscal year 1998, \$20,000;

17 (iii) during fiscal year 1999, \$15,000;

18 or

19 (iv) during fiscal year 2000, \$10,000;

20 (3) shall not be a basis for payment, and shall
21 not be included in the computation, of any other
22 type of Government benefit, except that this para-
23 graph shall not apply to unemployment compensa-
24 tion funded in whole or in part with Federal funds;

1 (4) shall not be taken into account in determin-
2 ing the amount of severance pay to which an em-
3 ployee may be entitled under section 5595 of title 5,
4 United States Code, based on any other separation;
5 and

6 (5) shall be paid from the appropriations or
7 funds available for payment of the basic pay of the
8 employee.

9 **SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE**
10 **GOVERNMENT.**

11 (a) An individual who has received a voluntary sepa-
12 ration incentive payment under this Act and accepts any
13 employment with the Government of the United States
14 within 5 years after the date of the separation on which
15 the payment is based shall be required to repay, prior to
16 the individual's first day of employment, the entire
17 amount of the incentive payment to the agency that paid
18 the incentive payment.

19 (b)(1) If the employment under subsection (a) is with
20 an executive agency (as defined by section 105 of title 5,
21 United States Code), the United States Postal Service, or
22 the Postal Rate Commission, the Director of the Office
23 of Personnel Management may, at the request of the head
24 of the agency, waive the repayment if the individual in-

1 involved possesses unique abilities and is the only qualified
2 applicant for the position.

3 (2) If the employment under subsection (a) is with
4 an entity in the legislative branch, the head of the entity
5 or the appointing official may waive the repayment if the
6 individual involved possesses unique abilities and is the
7 only qualified applicant available for the position.

8 (3) If the employment under subsection (a) is with
9 the judicial branch, the Director of the Administrative Of-
10 fice of the United States Courts may waive the repayment
11 if the individual involved possesses unique abilities and is
12 the only qualified applicant available for the position.

13 (c) For the purpose of this section, the term “employ-
14 ment”—

15 (1) includes employment of any length or under
16 any type of appointment, but does not include em-
17 ployment that is without compensation; and

18 (2) includes employment under a personal serv-
19 ices contract, as defined by the Director of the Of-
20 fice of Personnel Management.

21 **SEC. 6. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RE-**
22 **TIREMENT FUND.**

23 (a) In addition to any other payments which it is re-
24 quired to make under subchapter III of chapter 83 or
25 chapter 84 of title 5, United States Code, an agency shall

1 remit to the office of Personnel Management for deposit
2 in the Treasury of the United States to the credit of the
3 Civil Service Retirement and Disability Fund an amount
4 equal to 15 percent of the final basic pay of each employee
5 of the agency who is covered under subchapter III of chap-
6 ter 83 or chapter 84 of title 5 to whom a voluntary separa-
7 tion incentive has been paid under this Act.

8 (b) For the purpose of this section, the term “final
9 basic pay”, with respect to an employee, means the total
10 amount of basic pay which would be payable for a year
11 of service by such employee, computed using the employ-
12 ee’s final rate of basic pay, and, if last serving on other
13 than a full-time basis, with appropriate adjustment there-
14 for.

15 **SEC. 7. REDUCTION OF AGENCY EMPLOYMENT LEVELS.**

16 (a) Total full-time equivalent employment in each
17 agency shall be reduced by one for each separation of an
18 employee who receives a voluntary separation incentive
19 payment under this Act. The reduction shall be calculated
20 by comparing the agency’s full-time equivalent employ-
21 ment for the fiscal year in which the voluntary separation
22 payments are made with the actual full-time equivalent
23 employment for the prior fiscal year.

1 (b) The Office of Management and Budget shall mon-
2 itor all agencies and take any action necessary to ensure
3 that the requirements of this section are met.

4 (c) The President shall take appropriate action to en-
5 sure that functions involving more than 10 full-time equiv-
6 alent employees are not converted to contracts by reason
7 of the enactment of this Act, except in cases in which a
8 cost comparison demonstrates such contracts would be to
9 the advantage of the Government.

10 (d) The provisions of subsections (a) and (c) of this
11 section may be waived upon a determination by the Presi-
12 dent that—

13 (1) the existence of a state of war or other na-
14 tional emergency so requires; or

15 (2) the existence of an extraordinary emergency
16 which threatens life, health, safety, property, or the
17 environment so requires.

18 **SEC. 8. REPORTS.**

19 (a) Each agency which has received approval under
20 section 3 or this Act to pay voluntary separation incentives
21 shall, for each applicable quarter of each fiscal year and
22 not later than 30 days after the end of such quarter, sub-
23 mit to the Office of Personnel Management a report pro-
24 viding—

1 (1) the number of employees who received vol-
2 untary separation incentives for each type of separa-
3 tion involved;

4 (2) the average amount of the incentives paid;

5 (3) the average grade or pay level of the em-
6 ployees who received incentives; and

7 (4) such other information as the Office may
8 require.

9 (b) No later than March 31st of each fiscal year, the
10 Office of Personnel Management shall submit to the Com-
11 mittee on Governmental Affairs of the Senate and the
12 Committee on Government Reform and Oversight of the
13 House of Representatives a report which, with respect to
14 the preceding fiscal year, shall include—

15 (1) for each agency which had approval to pay
16 voluntary separation incentives during such preced-
17 ing fiscal year, and on a combined basis for all such
18 agencies—

19 (A) the number of employees who received
20 voluntary separation incentives;

21 (B) the average amount of such incentives;

22 and

23 (C) the average grade or pay level of the
24 employees who received incentives; and

1 (2) the number of waivers made under section
2 5 of this Act in the repayment of voluntary separa-
3 tion incentives, and for each such waiver—

4 (A) the reasons for the waiver; and

5 (B) the title and grade or pay level of the
6 position filled by each employee to whom the
7 waiver applied.

8 (c) Section 6 of the Federal Workforce Restructuring
9 Act of 1994 (Public Law 103–226; 108 Stat. 111) is
10 amended—

11 (1) by striking out “December 31st” and in-
12 serting “March 31st”; and

13 (2) by striking out paragraphs (1)–(4) and in-
14 serting in lieu thereof the following:

15 “(1) for each agency which paid voluntary sepa-
16 ration incentives under section 3 during such preced-
17 ing fiscal year, and on a combined basis for all such
18 agencies—

19 “(A) the number of employees who re-
20 ceived voluntary separation incentives;

21 “(B) the average amount of such incen-
22 tives; and

23 “(C) the average grade or pay level of the
24 employees who received incentives; and

1 “(2) the number of waivers made by each agen-
2 cy or other authority under section 3 or the amend-
3 ments made by section 8 in the repayment of vol-
4 untary separation incentives, and for each such
5 waiver—

6 “(A) the reasons for the waiver; and

7 “(B) the title and grade or pay level of the
8 position filled by each employee to whom the
9 waiver applied.”.

10 **SEC. 9. VOLUNTARY PARTICIPATION IN REDUCTIONS IN**
11 **FORCE**

12 Section 3502(f) of title 5, United States Code, is
13 amended—

14 (1) in paragraph (1) by striking out “The Sec-
15 retary of Defense or the Secretary of a military de-
16 partment” and inserting in lieu thereof “Under pro-
17 cedures prescribed by the Office of Personnel Man-
18 agement, the head of an agency”;

19 (2) by amending paragraph (3) to read as fol-
20 lows:

21 “(3) An employee with critical knowledge and
22 skills may not participate in a voluntary release
23 under paragraph (1) if the head of the agency deter-
24 mines that such participation would impair the per-
25 formance of the agency’s mission.”;

1 (3) by striking out paragraph (4); and

2 (4) by redesignating paragraph (5) as para-
3 graph (4), and by amending such paragraph by
4 striking out “September 30, 1996” and inserting
5 “September 30, 2000”.

6 **SEC. 10. CONTINUED HEALTH INSURANCE COVERAGE.**

7 Section 8905a(d)(4) of title 5, United States Code,
8 is amended—

9 (1) in subparagraph (A) by striking out “in or
10 under the Department of Defense”;

11 (2) in subparagraph (B)—

12 (A) immediately after “enactment” by in-
13 serting the following “(or, as applicable, amend-
14 ment)”;

15 (B) in clause (i) and (ii) each by striking
16 out “October 1, 1999” and inserting “October
17 1, 2000”; and

18 (C) in clause (ii) by striking out “February
19 1, 2000” and inserting “February 1, 2001”;
20 and

21 (3) in subparagraph (C) immediately after
22 “identified” by inserting “by the agency”.

1 **SEC. 11. REGULATIONS.**

2 The Director of the Office of Personnel Management
3 may prescribe any regulations necessary to administer the
4 provisions of this Act.

5 **SEC. 12. EFFECTIVE DATE.**

6 (a) The provisions of this Act shall take effect on the
7 date of enactment of this Act.

8 (b) No voluntary separation incentive under this Act
9 may be paid based on the separation of an employee after
10 September 30, 2000.

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