

104TH CONGRESS
2D SESSION

S. 2151

To provide a temporary authority for the use of voluntary separation incentives by Department of Veterans Affairs offices that are reducing employment levels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 1996

Mr. SIMPSON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To provide a temporary authority for the use of voluntary separation incentives by Department of Veterans Affairs offices 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 except as otherwise expressly provided, whenever in
4 this Act an amendment is expressed in terms of an amend-
5 ment to a section or other provision, the reference shall
6 be considered to be made to a section or other provision
7 of title 38, United States Code.

1 SECTION 1. SHORT TITLE.—This Act may be cited
2 as the “Department Of Veterans Affairs Employment Re-
3 duction Assistance Act of 1996.”

4 SEC. 2. DEFINITIONS.—For the purpose of this
5 Act—

6 (1) “Department” means the Department of
7 Veterans Affairs.

8 (2) “employee” means an employee (as defined
9 by section 2105 of title 5, United States Code)
10 who—

11 (A) is employed by the Department of Vet-
12 erans Affairs; (B) is serving under an appoint-
13 ment without time limitation; and

14 (C) has been currently employed for a con-
15 tinuous period of at least 12 months; but does
16 not include—

17 (i) a reemployed annuitant under sub-
18 chapter III of chapter 83 or chapter 84 of
19 title 5, United States Code, or another re-
20 tirement system for employees of the Fed-
21 eral Government;

22 (ii) an employee having a disability on
23 the basis of which such employee is eligible
24 for disability retirement under the applica-

1 ble retirement system referred to in clause
2 (i);

3 (iii) an employee who is in receipt of
4 a specific notice of involuntary separation
5 for misconduct or performance;

6 (iv) an employee who has accepted a
7 final offer of a voluntary separation incen-
8 tive payment, payable upon completion of
9 an additional period of service as referred
10 to in section 3(b)(2)(B)(ii) of the Federal
11 Workforce Restructuring Act of 1994
12 (Public Law 103–226; 108 Stat. 111);

13 (v) an employee who previously has
14 received any voluntary separation incentive
15 payment by the Federal Government under
16 this Act or any other authority and has
17 not repaid such payment; or

18 (vi) an employee covered by statutory
19 reemployment rights who is on transfer to
20 another organization.

21 (3) “Secretary” means the Secretary
22 of Veterans Affairs.

23 SEC. 3. DEPARTMENT PLANS; APPROVAL.—(a) If the
24 Secretary determines that, in order to improve the effi-
25 ciency of operations or to meet actual or anticipated levels

1 of budgetary or staffing resources, the number of employ-
2 ees employed by the Department must be reduced, the
3 Secretary may submit a plan to the Director of the Office
4 of Management and Budget to pay voluntary separation
5 incentives under this Act to employees of the Department
6 who agree to separate from the Department by retirement
7 or resignation. The plan shall specify the planned employ-
8 ment reductions and the manner in which such reductions
9 will improve operating efficiency or meet actual or antici-
10 pated levels of budget or staffing resources. The plan shall
11 include a proposed period of time for the payment of vol-
12 untary separation incentives by the Department and a
13 proposed coverage for offers of incentives to Department
14 employees, targeting positions in accordance with the De-
15 partment's strategic alignment plan and downsizing initia-
16 tives. The proposed coverage may be based on—

- 17 (1) any component of the Department;
18 (2) any occupation, level or type of position;
19 (3) any geographic location; or
20 (4) any appropriate combination of the factors
21 in paragraphs (1), (2), and (3).

22 (b) The Director of the Office of Management and
23 Budget shall approve or disapprove each plan submitted
24 under subsection (a), and may make appropriate modifica-
25 tions to the plan with respect to the time period in which

1 voluntary separation incentives may be paid on with re-
2 spect to the coverage of incentives on the basis of the fac-
3 tors in subsection (a) (1) through (4).

4 SEC. 4. VOLUNTARY SEPARATION INCENTIVE PAY-
5 MENTS.—(a) In order to receive a voluntary separation in-
6 centive payment, an employee must separate from service
7 with the Department voluntarily (whether by retirement
8 of resignation) during the period of time for which the
9 payment of incentives has been authorized for the em-
10 ployee under the Department plan under section 3.

11 (b) A voluntary separation incentive payment—

12 (1) shall be paid in a lump sum at the time of
13 the employee's separation:

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

15 (A) an amount equal to the amount the
16 employee would be entitled to receive under sec-
17 tion 5595(c) of title 5, United States Code
18 (without adjustment for any previous payment
19 made under that section), if the employee were
20 entitled to payment under that section; if the
21 employee were entitled to payment under that
22 action; or

23 (B) if the employee separates—

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

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

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

3 or

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

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

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

15 (5) shall be paid from the appropriations or
16 funds available for payment of the basic pay of the
17 employee.

18 SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT

19 WITH THE GOVERNMENT.—(a) An individual who has re-
20 ceived a voluntary separation incentive payment under this
21 Act and accepts any employment with the Government of
22 the United States within 5 years after the date of the sep-
23 aration on which the payment is based shall be required
24 to repay, prior to the individual's first day of employment,

1 the entire amount of the incentive payment to the Depart-
2 ment.

3 (b)(1) If the employment under subsection (a) is with
4 an Executive agency (as defined by section 105 of title
5 5, United States Code), the United States Postal Service,
6 or the Postal Rate Commission, the Director of the Office
7 of Personnel Management may, at the request of the head
8 of the agency, waive the repayment if the individual in-
9 volved possesses unique abilities and is the only qualified
10 applicant available for the position.

11 (2) If the employment under subsection (a) is with
12 an entity in the legislative branch, the head of the entity
13 or the appointing official may waive the repayment if the
14 individual involved possesses unique abilities and is the
15 only qualified applicant available for the position.

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

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

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

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

4 SEC. 6. ADDITIONAL AGENCY CONTRIBUTIONS TO
5 THE RETIREMENT FUND.—(a) In addition to any other
6 payments which it is required to make under subchapter
7 III of chapter 83 or chapter 84 of title 5, United States
8 Code, the Department shall remit to the Office of Person-
9 nel Management for deposit in the Treasury of the United
10 States to the credit of the civil service retirement and dis-
11 ability fund an amount equal to 15 percent of the final
12 basic pay of each employee of the Department who is cov-
13 ered under subchapter III of chapter 83 or chapter 84
14 of title 5 to whom a voluntary separation incentive has
15 been paid under this Act.

16 (b) For the purpose of this section, the term “final
17 basic pay”, with respect to an employee, means the total
18 amount of basic pay that would be payable for a year of
19 service by that employee, computed using the employee’s
20 final rate of basic pay, and, if last serving on other than
21 a full-time basis, with appropriate adjustment therefor.

22 SEC. 7. REDUCTION OF AGENCY EMPLOYMENT LEV-
23 ELS.— (a) Total full-time equivalent employment in the
24 Department shall be reduced by one for each separation
25 of an employee who receives a voluntary separation incen-

1 tive payment under this Act. The reduction will be cal-
2 culated by comparing the Department's full-time equiva-
3 lent employment for the fiscal year in which the voluntary
4 separation payments are made with the actual full-time
5 equivalent employment for the prior fiscal year.

6 (b) The Office of Management and Budget shall mon-
7 itor the Department and take any action necessary to en-
8 sure that the requirements of this section are met.

9 (c) Subsection (a) of this section may be waived upon
10 a determination by the President that—

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

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

16 SEC. 8. REPORTS.—(a) The Department, for each
17 applicable quarter of each fiscal year and not later than
18 30 days after the date of such quarter, shall submit to
19 the Office of Personnel Management a reporting stating—

20 (1) the number of employees who receive vol-
21 untary separation incentives for each type of separa-
22 tion involved;

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

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

1 (4) such other information as the Office may
2 require.

3 (b) No later than March 31st of each fiscal year, the
4 Office of Personnel Management shall submit to the Com-
5 mittee on Governmental Affairs of the Senate and the
6 Committee on Government Reform and Oversight of the
7 House of Representatives a report which, with respect to
8 the preceding fiscal year, shall include—

9 (1) the number of employees who received vol-
10 untary separation incentives;

11 (2) the average amount of such incentives;

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

14 (4) the number of waivers made under section
15 5 of this Act in the repayment of voluntary separa-
16 tion incentives, and for each such waiver—

17 (A) the reasons for the waiver; and

18 (B) the title and grade or pay level of the
19 position filled by each employee to whom the
20 waiver applied.

21 SEC. 9. VOLUNTARY PARTICIPATION IN REDUCTIONS
22 IN FORCE.—Section 3502(f) of title 5, United States
23 Code, is amended—

24 (1) in paragraph (1), by inserting “,the Sec-
25 retary of Veterans Affairs,” after “Defense”;

1 (2) in paragraph (3), by inserting “,the Depart-
2 ment of Veterans Affairs,” after “Defense”;

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

4 (4) by redesignating paragraph (5) as para-
5 graph (4); and

6 (5) by amending such paragraph (4), as so re-
7 designated, by striking “1996” and inserting
8 “2000” in lieu thereof.

9 SEC. 10. CONTINUED HEALTH INSURANCE COV-
10 ERAGE.—Section 8905a(d)(4) of title 5, United States
11 Code, is amended—

12 (1) in subparagraph (A) by striking “in or
13 under the Department of Defense”;

14 (2) in subparagraph (B)—

15 (A) by striking “1999” in clause (i) and
16 (ii) and inserting “2000”; and

17 (B) by striking “2000” in clause (ii) and
18 inserting “2001”; and

19 (3) in subparagraph (C) by inserting “by the
20 agency” after “identified”.

21 SEC. 11. REGULATIONS.—The Director of the Office
22 of Personnel Management may prescribe any regulations
23 necessary to administer the provisions of this Act.

24 SEC. 12. LIMITATION; SAVINGS CLAUSE.—(a) No
25 voluntary separation incentive under this Act may be paid

1 based on the separation of an employee after September
2 30, 2000;

3 (b) This Act supplements and does not supersede
4 other authority of the Secretary of Veterans Affairs.

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