

103^D CONGRESS
2^D SESSION

H. R. 3345

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11 (legislative day, JANUARY 25), 1994

Received

AN ACT

To provide temporary authority to Government agencies relating to voluntary separation incentive payments, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Workforce Re-
5 structuring Act of 1994”.

6 **SEC. 2. VOLUNTARY SEPARATION INCENTIVES.**

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

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

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

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

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

25 (b) AUTHORITY.—

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

8 (A) in any component of the agency;

9 (B) in any occupation;

10 (C) in any geographic location; or

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

13 (2) CONDITION.—

14 (A) IN GENERAL.—In order to receive an
15 incentive payment, an employee must separate
16 from service with the agency (whether by retire-
17 ment or resignation) before January 1, 1995.

18 (B) EXCEPTION.—An employee who does
19 not separate from service before the date speci-
20 fied in subparagraph (A) shall be ineligible for
21 an incentive payment under this section un-
22 less—

23 (i) the agency head determines that,
24 in order to ensure the performance of the

1 agency's mission, it is necessary to delay
2 such employee's separation; and

3 (ii) the employee separates after com-
4 pleting any additional period of service re-
5 quired (but not later December 31, 1996).

6 (c) AMOUNT AND TREATMENT OF PAYMENTS.—A
7 voluntary separation incentive payment—

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

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

11 (A) an amount equal to the amount the
12 employee would be entitled to receive under sec-
13 tion 5595(c) of title 5, United States Code, if
14 the employee were entitled to payment under
15 such section; or

16 (B) \$25,000;

17 (3) shall not be a basis for payment, and shall
18 not be included in the computation, of any other
19 type of Government benefit;

20 (4) shall not be taken into account in determin-
21 ing the amount of any severance pay to which an
22 employee may be entitled under section 5595 of title
23 5, United States Code, based on any other separa-
24 tion; and

1 (5) shall be paid from appropriations or funds
2 available for the payment of the basic pay of the em-
3 ployee.

4 (d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH
5 THE GOVERNMENT.—

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

14 (2) WAIVER AUTHORITY.—

15 (A) EXECUTIVE AGENCY.—If the employ-
16 ment is with an Executive agency (as defined in
17 section 105 of title 5, United States Code), the
18 Director of the Office of Personnel Management
19 may, at the request of the head of the agency,
20 waive the repayment if the individual involved
21 possesses unique abilities and is the only quali-
22 fied applicant available for the position.

23 (B) LEGISLATIVE BRANCH.—If the em-
24 ployment is with an entity in the legislative
25 branch, the head of the entity or the appointing

1 official may waive the repayment if the individ-
2 ual involved possesses unique abilities and is
3 the only qualified applicant available for the po-
4 sition.

5 (C) JUDICIAL BRANCH.—If the employ-
6 ment is with the judicial branch, the Director of
7 the Administrative Office of the United States
8 Courts may waive the repayment if the individ-
9 ual involved possesses unique abilities and is
10 the only qualified applicant available for the po-
11 sition.

12 (3) DEFINITION.—For purposes of paragraph
13 (1) (but not paragraph (2)), the term “employment”
14 includes employment under a personal services con-
15 tract with the United States.

16 (e) REGULATIONS.—The Director of the Office of
17 Personnel Management may prescribe any regulations
18 necessary for the administration of subsections (a)
19 through (d).

20 (f) EMPLOYEES OF THE JUDICIAL BRANCH.—The
21 Director of the Administrative Office of the United States
22 Courts may, by regulation, establish a program consistent
23 with the program established by subsections (a) through
24 (d) for individuals serving in the judicial branch.

1 **SEC. 3. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RE-**
2 **TIREMENT FUND.**

3 (a) IN GENERAL.—In addition to any other payments
4 which it is required to make under subchapter III of chap-
5 ter 83 of title 5, United States Code, an agency shall remit
6 to the Office of Personnel Management for deposit in the
7 Treasury of the United States to the credit of the Civil
8 Service Retirement and Disability Fund an amount equal
9 to 9 percent of the final basic pay of each employee of
10 the agency—

11 (1) who retires under section 8336(d)(2) of
12 such title; and

13 (2) to whom a voluntary separation incentive
14 payment under section 2 (including under any pro-
15 gram established under section 2(f)) has been paid
16 by such agency based on that retirement.

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

24 (c) REGULATIONS.—The Director of the Office of
25 Personnel Management may prescribe any regulations
26 necessary to carry out this section.

1 **SEC. 4. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT**
2 **POSITIONS.**

3 (a) DEFINITION.—For purposes of this section, the
4 term “agency” means an Executive agency as defined
5 under section 105 of title 5, United States Code, but does
6 not include the General Accounting Office.

7 (b) LIMITATIONS ON FULL-TIME EQUIVALENT POSI-
8 TIONS.—The President, through the Office of Manage-
9 ment and Budget (in consultation with the Office of Per-
10 sonnel Management), shall ensure that the total number
11 of full-time equivalent positions in all agencies shall not
12 exceed—

- 13 (1) 2,084,600 during fiscal year 1994;
- 14 (2) 2,043,300 during fiscal year 1995;
- 15 (3) 2,003,300 during fiscal year 1996;
- 16 (4) 1,963,300 during fiscal year 1997;
- 17 (5) 1,922,300 during fiscal year 1998; and
- 18 (6) 1,882,300 during fiscal year 1999.

19 (c) MONITORING AND NOTIFICATION.—The Office of
20 Management and Budget, after consultation with the Of-
21 fice of Personnel Management, shall—

- 22 (1) continuously monitor all agencies and make
23 a determination on the first date of each quarter of
24 each applicable fiscal year of whether the require-
25 ments under subsection (b) are met; and

1 (2) notify the President and the Congress on
2 the first date of each quarter of each applicable fis-
3 cal year of any determination that any requirement
4 of subsection (b) is not met.

5 (d) COMPLIANCE.—If at any time during a fiscal
6 year, the Office of Management and Budget notifies the
7 President and the Congress that any requirement under
8 subsection (b) is not met, no agency may hire any em-
9 ployee for any position in such agency until the Office of
10 Management and Budget notifies the President and the
11 Congress that the total number of full-time equivalent po-
12 sitions for all agencies equals or is less than the applicable
13 number required under subsection (b).

14 (e) WAIVER.—

15 (1) EMERGENCIES.—Any provision of this sec-
16 tion may be waived upon a determination by the
17 President that—

18 (A) the existence of a state of war or other
19 national security concern so requires; or

20 (B) the existence of an extraordinary
21 emergency threatening life, health, safety, prop-
22 erty, or the environment so requires.

23 (2) AGENCY EFFICIENCY OR CRITICAL MIS-
24 SION.—

1 (A) Subsection (d) may be waived, in the
2 case of a particular position or category of posi-
3 tions in an agency, upon a determination of the
4 President that the efficiency of the agency or
5 the performance of a critical agency mission so
6 requires.

7 (B) Whenever the President grants a waiv-
8 er pursuant to subparagraph (A), the President
9 shall take all necessary actions to ensure that
10 the overall limitations set forth in subsection
11 (b) are not exceeded.

12 (f) EMPLOYMENT BACKFILL PREVENTION.—

13 (1) IN GENERAL.—The total number of funded
14 employee positions in all agencies (excluding the De-
15 partment of Defense and the Central Intelligence
16 Agency) shall be reduced by one position for each
17 vacancy created by the separation of any employee
18 who has received, or is due to receive, a voluntary
19 separation incentive payment under section 2 (a)–
20 (e). For purposes of this subsection, positions and
21 vacancies shall be counted on a full-time-equivalent
22 basis.

23 (2) RELATED RESTRICTION.—No funds budg-
24 eted for and appropriated by any Act for salaries or
25 expenses of positions eliminated under this sub-

1 section may be used for any purpose other than au-
2 thorized separation costs.

Passed the House of Representatives February 10,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.