

**Union Calendar No. 211**

103D CONGRESS  
1ST SESSION

**H. R. 3345**

**[Report No. 103-3861]**

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**A BILL**

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

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NOVEMBER 19, 1993

Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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1<sup>ST</sup> SESSION**H. R. 3345****[Report No. 103-386]**

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**IN THE HOUSE OF REPRESENTATIVES**

OCTOBER 22, 1993

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

NOVEMBER 19, 1993

Additional sponsor: Mrs. UNSOELD

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**A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. TRAINING.**

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

9            (1) in section 4101(4) by striking “fields” and  
10        all that follows through the semicolon and inserting  
11        “fields which will improve individual and organiza-  
12        tional performance and assist in achieving the  
13        agency’s mission and performance goals;”;

14            (2) in section 4103—

15            (A) in subsection (a)—

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

24            (ii) by striking “and” at the end of  
25        paragraph (2);

1 (iii) by redesignating paragraph (3) as  
2 paragraph (4); and

3 (iv) by inserting after paragraph (2)  
4 the following:

5 “(3) provide that information concerning the  
6 selection and assignment of employees for training  
7 and the applicable training limitations and restric-  
8 tions be made available to employees of the agency;  
9 and”;

10 (B) in subsection (b)—

11 (i) in paragraph (1) by striking “de-  
12 termines” and all that follows through the  
13 period and inserting “determines that such  
14 training would be in the interests of the  
15 Government.”; and

16 (ii) by striking paragraph (2) and re-  
17 designating paragraph (3) as paragraph  
18 (2);

19 (3) in section 4105—

20 (A) in subsection (a) by striking “(a)”;  
21 and

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

23 (4) by repealing section 4106;

24 (5) in section 4107—

1 (A) by amending the catchline to read as  
2 follows:

3 **“§ 4107. Restriction on degree training”;**

4 (B) by striking subsections (a) and (b) and  
5 redesignating subsections (c) and (d) as sub-  
6 sections (a) and (b), respectively;

7 (C) by amending subsection (a) (as so re-  
8 designated)—

9 (i) by striking “subsection (d)” and  
10 inserting “subsection (b)”; and

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

13 (D) by amending paragraph (1) of sub-  
14 section (b) (as so redesignated) by striking  
15 “subsection (c)” and inserting “subsection (a)”;  
16

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

21 (7) in section 4113(b)—

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

1 (B) by striking the matter following the  
2 first sentence and inserting the following: “The  
3 report shall set forth—

4 “(1) information needed to determine that  
5 training is being provided in a manner which is in  
6 compliance with applicable laws intended to protect  
7 or promote equal employment opportunity; and

8 “(2) information concerning the expenditures of  
9 the agency in connection with training and such  
10 other information as the Office considers appro-  
11 priate.”;

12 (8) by repealing section 4114; and

13 (9) in section 4118—

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

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

17 (C) by redesignating subsections (c) and  
18 (d) as subsections (b) and (c), respectively.

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

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

23 (2) in the analysis for chapter 41—

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

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

“4107. Restriction on degree training.”.

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

6 **SEC. 3. VOLUNTARY SEPARATION INCENTIVES.**

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

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

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

23 (A) a reemployed annuitant under sub-  
24 chapter III of chapter 83 or chapter 84 of title

1           5, United States Code, or another retirement  
2           system for employees of the Government; or

3           (B) an employee having a disability on the  
4           basis of which such employee is or would be eli-  
5           gible for disability retirement under the applica-  
6           ble retirement system referred to in subpara-  
7           graph (A).

8           (b) AUTHORITY.—

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

16                 (A) in any component of the agency;

17                 (B) in any occupation;

18                 (C) in any geographic location; or

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

21          (2) REQUIREMENTS APPLICABLE TO EMPLOY-  
22          EES.—

23                 (A) IN GENERAL.—In order to receive an  
24          incentive payment, an employee must agree,  
25          during the applicable period under subpara-

1 graph (B), to separate from service with the  
2 agency (whether by retirement or resignation)  
3 before such period ends.

4 (B) DESIGNATION OF PERIOD.—The appli-  
5 cable period, for purposes of any agency compo-  
6 nent, occupation, geographic location, or com-  
7 bination thereof—

8 (i) shall be a continuous 90-day pe-  
9 riod;

10 (ii) shall be designated by the head of  
11 the agency involved; and

12 (iii) shall end not later than Decem-  
13 ber 31, 1994.

14 (C) EXCEPTION.—An employee who does  
15 not separate from service before the end of the  
16 applicable period under subparagraph (B) shall  
17 be ineligible for an incentive payment under  
18 this section unless—

19 (i) the agency head determines that,  
20 in order to ensure the performance of the  
21 agency's mission, it is necessary to delay  
22 such employee's separation; and

23 (ii) the employee completes any addi-  
24 tional period of service agreed to (ending  
25 not later than 2 years after the last day of

1           the period otherwise applicable under sub-  
2           paragraph (B)).

3           (3) REQUIREMENTS APPLICABLE TO AGEN-  
4           CIES.—Before offering any voluntary separation in-  
5           centive payments to employees within any agency  
6           component, occupation, geographic location, or com-  
7           bination thereof, the head of the agency involved  
8           shall make available to all employees of such agency,  
9           and to the exclusive representative of any such em-  
10          ployees, a written plan which—

11           (A) shall specify which agency components,  
12          occupations, geographic locations, or combina-  
13          tions thereof have been identified for incentives,  
14          and the percentage of employees within each  
15          who are supervisors or managers;

16           (B) shall indicate the beginning and end-  
17          ing dates of any periods under paragraph  
18          (2)(B), and the agency components, occupa-  
19          tions, geographic locations, or combinations  
20          thereof to which they apply;

21           (C) shall state whether any additional per-  
22          sonnel reductions are anticipated after any ex-  
23          ercise of authority under this section and, if so,  
24          what types of retraining, placement, or other

1 similar measures will be provided in order to  
2 avoid involuntary separations; and

3 (D) shall include any other information  
4 which may be necessary in order to permit em-  
5 ployees who are eligible for voluntary separation  
6 incentive payments to make an informed deci-  
7 sion.

8 (c) AMOUNT AND TREATMENT OF PAYMENTS.—A  
9 voluntary separation incentive payment—

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

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

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

18 (B) \$25,000;

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

22 (4) shall not be taken into account in determin-  
23 ing the amount of any severance pay to which an  
24 employee may be entitled under section 5595 of title

1 5, United States Code, based on any other separa-  
2 tion; and

3 (5) shall be paid from appropriations or funds  
4 available for the payment of the basic pay of the  
5 employee.

6 (d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH  
7 THE GOVERNMENT.—

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

16 (2) WAIVER AUTHORITY.—

17 (A) EXECUTIVE AGENCY.—If the employ-  
18 ment is with an Executive agency (as defined in  
19 section 105 of title 5, United States Code), the  
20 Director of the Office of Personnel Management  
21 may, at the request of the head of the agency,  
22 waive the repayment if the employment is in a  
23 position for which there is exceptional difficulty  
24 in recruiting a qualified employee.

1           (B) LEGISLATIVE BRANCH.—If the em-  
2           ployment is with an entity in the legislative  
3           branch, the head of the entity or the appointing  
4           official may waive the repayment if the employ-  
5           ment is in a position for which there is excep-  
6           tional difficulty in recruiting a qualified em-  
7           ployee.

8           (C) JUDICIAL BRANCH.—If the employ-  
9           ment is with the judicial branch, the Director of  
10          the Administrative Office of the United States  
11          Courts may waive the repayment if the employ-  
12          ment is in a position for which there is excep-  
13          tional difficulty in recruiting a qualified em-  
14          ployee.

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

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

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

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

5 “(g)(1) An employee who receives separation pay  
6 under this section on the basis of a separation occurring  
7 on or after the date of enactment of the Federal  
8 Workforce Restructuring Act of 1993, and accepts em-  
9 ployment with the Government of the United States within  
10 2 years after the date of the separation on which payment  
11 of the separation pay is based shall be required to repay  
12 the entire amount of the separation pay to the defense  
13 agency that paid the separation pay.

14 “(2)(A) If the employment is with an Executive agen-  
15 cy, the Director of the Office of Personnel Management  
16 may, at the request of the head of the agency, waive the  
17 repayment if the employment is in a position for which  
18 there is exceptional difficulty in recruiting a qualified em-  
19 ployee.

20 “(B) If the employment is with an entity in the legis-  
21 lative branch, the head of the entity or the appointing offi-  
22 cial may waive the repayment if the employment is in a  
23 position for which there is exceptional difficulty in recruit-  
24 ing a qualified employee.

25 “(C) If the employment is with the judicial branch,  
26 the Director of the Administrative Office of the United

1 States Courts may waive the repayment if the employment  
2 is in a position for which there is exceptional difficulty  
3 in recruiting a qualified employee.”.

4 (b) CENTRAL INTELLIGENCE AGENCY.—Section 2(b)  
5 of the Central Intelligence Agency Voluntary Separation  
6 Pay Act (Public Law 103–36; 107 Stat. 104) is amended  
7 by adding at the end the following: “An employee who re-  
8 ceives separation pay under this section on the basis of  
9 a separation occurring on or after the date of enactment  
10 of the Federal Workforce Restructuring Act of 1993 and  
11 accepts employment with the Government of the United  
12 States within 2 years after the date of the separation on  
13 which payment of the separation pay is based shall be re-  
14 quired to repay the entire amount of the separation pay  
15 to the Central Intelligence Agency. If the employment is  
16 with an Executive agency (as defined in section 105 of  
17 title 5, United States Code), the Director of the Office  
18 of Personnel Management may, at the request of the head  
19 of the agency, waive the repayment if the employment is  
20 in a position for which there is exceptional difficulty in  
21 recruiting a qualified employee. If the employment is with  
22 an entity in the legislative branch, the head of the entity  
23 or the appointing official may waive the repayment if the  
24 employment is in a position for which there is exceptional  
25 difficulty in recruiting a qualified employee. If the employ-

1 ment is with the judicial branch, the Director of the Ad-  
2 ministrative Office of the United States Courts may waive  
3 the repayment if the employment is in a position for which  
4 there is exceptional difficulty in recruiting a qualified em-  
5 ployee.”.

6 **SEC. 5. ADDITIONAL AGENCY CONTRIBUTIONS TO THE**  
7 **RETIREMENT FUND.**

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

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

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

1       (b) APPLICABILITY.—The amendment made by this  
2 section shall apply with respect to retirements occurring  
3 on or after the date of enactment of this Act.