

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. RES. 380

Providing for the concurrence by the House with an amendment to the amendment of the Senate to H.R. 3345.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1994

Mr. CLAY submitted the following resolution; which was considered under suspension of the rules and agreed to

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## RESOLUTION

Providing for the concurrence by the House with an amendment to the amendment of the Senate to H.R. 3345.

1       *Resolved*, That upon the adoption of this resolution,  
2 the bill (H.R. 3345) to provide temporary authority to  
3 Government agencies relating to voluntary separation in-  
4 centive payments, and for other purposes, with the Senate  
5 amendment thereto, shall be considered to have been taken  
6 from the Speaker's table to the end that the Senate  
7 amendment thereto be, and the same is hereby, agreed to  
8 with an amendment as follows:

1 In lieu of the matter proposed to be inserted by the  
2 amendment of the Senate to the text of the bill, insert  
3 the following:

4 **SECTION 1. SHORT TITLE.**

5 This Act may be cited as the “Federal Workforce  
6 Restructuring Act of 1994”.

7 **SEC. 2. TRAINING.**

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

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

15 (2) in section 4103—

16 (A) in subsection (a)—

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

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

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

5 (iv) by inserting after paragraph (2)  
6 the following:

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

12 (B) in subsection (b)—

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

18 (ii) by striking paragraph (2) and re-  
19 designating paragraph (3) as paragraph  
20 (2); and

21 (iii) in subparagraph (C) of paragraph  
22 (2) (as so redesignated) by striking “re-  
23 taining” and all that follows through the  
24 period and inserting “such training.”;

25 (3) in section 4105—

1 (A) in subsection (a) by striking “(a)”;

2 and

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

4 (4) by repealing section 4106;

5 (5) in section 4107—

6 (A) by amending the catchline to read as

7 follows:

8 **“§ 4107. Restriction on degree training”;**

9 (B) by striking subsections (a) and (b) and  
10 redesignating subsections (c) and (d) as sub-  
11 sections (a) and (b), respectively;

12 (C) by amending subsection (a) (as so re-  
13 designated)—

14 (i) by striking “subsection (d)” and  
15 inserting “subsection (b)”; and

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

18 (D) by amending paragraph (1) of sub-  
19 section (b) (as so redesignated) by striking  
20 “subsection (c)” and inserting “subsection (a)”;

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

25 (7) in section 4113(b)—

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

4 (B) by striking the matter following the  
5 first sentence and inserting the following: “The  
6 report shall set forth—

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

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

15 (8) by repealing section 4114; and

16 (9) in section 4118—

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

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

20 (C) by redesignating subsections (c) and  
21 (d) as subsections (b) and (c), respectively.

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

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

1 (2) in the analysis for chapter 41—

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

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

“4107. Restriction on degree training.”.

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

9 **SEC. 3. VOLUNTARY SEPARATION INCENTIVES.**

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

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

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

1 (A) a reemployed annuitant under sub-  
2 chapter III of chapter 83 or chapter 84 of title  
3 5, United States Code, or another retirement  
4 system for employees of the Government; or

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

10 (b) AUTHORITY.—

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

18 (A) in any component of the agency;

19 (B) in any occupation;

20 (C) in any geographic location; or

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

23 (2) CONDITION.—

24 (A) IN GENERAL.—In order to receive an  
25 incentive payment, an employee must separate

1 from service with the agency (whether by retire-  
2 ment or resignation) before April 1, 1995.

3 (B) EXCEPTION.—An employee who does  
4 not separate from service before the date speci-  
5 fied in subparagraph (A) shall be ineligible for  
6 an incentive payment under this section un-  
7 less—

8 (i) the agency head determines that,  
9 in order to ensure the performance of the  
10 agency's mission, it is necessary to delay  
11 such employee's separation; and

12 (ii) the employee separates after com-  
13 pleting any additional period of service re-  
14 quired (but not later than March 31,  
15 1997).

16 (c) AMOUNT AND TREATMENT OF PAYMENTS.—A  
17 voluntary separation incentive payment—

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

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

21 (A) an amount equal to the amount the  
22 employee would be entitled to receive under sec-  
23 tion 5595(c) of title 5, United States Code, if  
24 the employee were entitled to payment under  
25 such section; or

1 (B) \$25,000;

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

5 (4) shall not be taken into account in determin-  
6 ing the amount of any severance pay to which an  
7 employee may be entitled under section 5595 of title  
8 5, United States Code, based on any other separa-  
9 tion; and

10 (5) shall be paid from appropriations or funds  
11 available for the payment of the basic pay of the  
12 employee.

13 (d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH  
14 THE GOVERNMENT.—

15 (1) IN GENERAL.—An employee who has re-  
16 ceived a voluntary separation incentive payment  
17 under this section and accepts employment with the  
18 Government of the United States within 5 years  
19 after the date of the separation on which the pay-  
20 ment is based shall be required to repay the entire  
21 amount of the incentive payment to the agency that  
22 paid the incentive payment.

23 (2) WAIVER AUTHORITY.—

24 (A) EXECUTIVE AGENCY.—If the employ-  
25 ment is with an Executive agency (as defined

1 by section 105 of title 5, United States Code),  
2 the Director of the Office of Personnel Manage-  
3 ment may, at the request of the head of the  
4 agency, waive the repayment if the individual  
5 involved possesses unique abilities and is the  
6 only qualified applicant available for the posi-  
7 tion.

8 (B) LEGISLATIVE BRANCH.—If the em-  
9 ployment is with an entity in the legislative  
10 branch, the head of the entity or the appointing  
11 official may waive the repayment if the individ-  
12 ual involved possesses unique abilities and is  
13 the only qualified applicant available for the  
14 position.

15 (C) JUDICIAL BRANCH.—If the employ-  
16 ment is with the judicial branch, the Director of  
17 the Administrative Office of the United States  
18 Courts may waive the repayment if the individ-  
19 ual involved possesses unique abilities and is  
20 the only qualified applicant available for the  
21 position.

22 (3) DEFINITION.—For purposes of paragraph  
23 (1) (but not paragraph (2)), the term “employment”  
24 includes employment under a personal services con-  
25 tract with the United States.

1 (e) REGULATIONS.—The Director of the Office of  
2 Personnel Management may prescribe any regulations  
3 necessary for the administration of subsections (a)  
4 through (d).

5 (f) EMPLOYEES OF THE JUDICIAL BRANCH.—The  
6 Director of the Administrative Office of the United States  
7 Courts may, by regulation, establish a program consistent  
8 with the program established by subsections (a) through  
9 (d) for individuals serving in the judicial branch.

10 **SEC. 4. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RE-**  
11 **TIREMENT FUND.**

12 (a) RELATING TO FISCAL YEARS 1994 AND 1995.—

13 (1) IN GENERAL.—In addition to any other  
14 payments which it is required to make under sub-  
15 chapter III of chapter 83 of title 5, United States  
16 Code, an agency shall remit to the Office of Person-  
17 nel Management for deposit in the Treasury of the  
18 United States to the credit of the Civil Service Re-  
19 tirement and Disability Fund an amount equal to 9  
20 percent of the final basic pay of each employee of  
21 the agency—

22 (A) who, on or after the date of the enact-  
23 ment of this Act and before October 1, 1995,  
24 retires under section 8336(d)(2) of such title;  
25 and

1 (B) to whom a voluntary separation incen-  
2 tive payment has been or is to be paid by such  
3 agency based on that retirement.

4 (2) DEFINITIONS.—For the purpose of this  
5 subsection—

6 (A) the term “final basic pay”, with re-  
7 spect to an employee, means the total amount  
8 of basic pay which would be payable for a year  
9 of service by such employee, computed using  
10 the employee’s final rate of basic pay, and, if  
11 last serving on other than a full-time basis, with  
12 appropriate adjustment therefor; and

13 (B) the term “voluntary separation incen-  
14 tive payment” means—

15 (i) a voluntary separation incentive  
16 payment under section 3 (including under  
17 any program established under section  
18 3(f)); and

19 (ii) any separation pay under section  
20 5597 of title 5, United States Code, or sec-  
21 tion 2 of the Central Intelligence Agency  
22 Voluntary Separation Pay Act (Public Law  
23 103–36; 107 Stat. 104).

24 (b) RELATING TO FISCAL YEARS 1995 THROUGH  
25 1998.—

1           (1) IN GENERAL.—In addition to any other  
2           payments which it is required to make under sub-  
3           chapter III of chapter 83 or chapter 84 of title 5,  
4           United States Code, in fiscal years 1995, 1996,  
5           1997, and 1998 (and in addition to any amounts re-  
6           quired under subsection (a)), each agency shall, be-  
7           fore the end of each such fiscal year, remit to the  
8           Office of Personnel Management for deposit in the  
9           Treasury of the United States to the credit of the  
10          Civil Service Retirement and Disability Fund an  
11          amount equal to the product of—

12                   (A) the number of employees of such agen-  
13                   cy who, as of March 31st of such fiscal year,  
14                   are subject to subchapter III of chapter 83 or  
15                   chapter 84 of such title; multiplied by

16                   (B) \$80.

17          (2) DEFINITION.—For the purpose of this sub-  
18          section, the term “agency” means an Executive  
19          agency (as defined by section 105 of title 5, United  
20          States Code), but does not include the General  
21          Accounting Office.

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

1 **SEC. 5. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT**  
2 **POSITIONS.**

3 (a) DEFINITION.—For the purpose of this section,  
4 the term “agency” means an Executive agency (as defined  
5 by 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 3 (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  
2 authorized separation costs.

3 (g) LIMITATION ON PROCUREMENT OF SERVICE  
4 CONTRACTS.—The President shall take appropriate action  
5 to ensure that there is no increase in the procurement of  
6 service contracts by reason of the enactment of this Act,  
7 except in cases in which a cost comparison demonstrates  
8 such contracts would be to the financial advantage of the  
9 Federal Government.

10 **SEC. 6. SUBSEQUENT EMPLOYMENT AND REPAYMENT OF**  
11 **SEPARATION PAYMENT.**

12 (a) DEFENSE AGENCY SEPARATION PAY.—Section  
13 5597 of title 5, United States Code, is amended by adding  
14 at the end the following:

15 “(g)(1) An employee who receives separation pay  
16 under this section on the basis of a separation occurring  
17 on or after the date of the enactment of the Federal  
18 Workforce Restructuring Act of 1994 and accepts employ-  
19 ment with the Government of the United States within  
20 5 years after the date of the separation on which payment  
21 of the separation pay is based shall be required to repay  
22 the entire amount of the separation pay to the defense  
23 agency that paid the separation pay.

24 “(2) If the employment is with an Executive agency,  
25 the Director of the Office of Personnel Management may,

1 at the request of the head of the agency, waive the repay-  
2 ment if the individual involved possesses unique abilities  
3 and is the only qualified applicant available for the  
4 position.

5 “(3) If the employment is with an entity in the legis-  
6 lative branch, the head of the entity or the appointing offi-  
7 cial may waive the repayment if the individual involved  
8 possesses unique abilities and is the only qualified appli-  
9 cant available for the position.

10 “(4) If the employment is with the judicial branch,  
11 the Director of the Administrative Office of the United  
12 States Courts may waive the repayment if the individual  
13 involved possesses unique abilities and is the only qualified  
14 applicant available for the position.”.

15 (b) CENTRAL INTELLIGENCE AGENCY SEPARATION  
16 PAYMENT.—Section 2(b) of the Central Intelligence Agen-  
17 cy Voluntary Separation Pay Act (Public Law 103–36;  
18 107 Stat. 104) is amended by adding at the end the fol-  
19 lowing: “An employee who receives separation pay under  
20 this section on the basis of a separation occurring on or  
21 after the date of the enactment of the Federal Workforce  
22 Restructuring Act of 1994 and accepts employment with  
23 the Government of the United States within 5 years after  
24 the date of the separation on which payment of the separa-  
25 tion pay is based shall be required to repay the entire

1 amount of the separation pay to the Central Intelligence  
2 Agency. If the employment is with an Executive agency  
3 (as defined by section 105 of title 5, United States Code),  
4 the Director of the Office of Personnel Management may,  
5 at the request of the head of the agency, waive the repay-  
6 ment if the individual involved possesses unique abilities  
7 and is the only qualified applicant available for the posi-  
8 tion. If the employment is with an entity in the legislative  
9 branch, the head of the entity or the appointing official  
10 may waive the repayment if the individual involved pos-  
11 sesses unique abilities and is the only qualified applicant  
12 available for the position. If the employment is with the  
13 judicial branch, the Director of the Administrative Office  
14 of the United States Courts may waive the repayment if  
15 the individual involved possesses unique abilities and is the  
16 only qualified applicant available for the position.”.

17 **SEC. 7. STANDARDIZATION OF WITHDRAWAL OPTIONS FOR**  
18 **THRIFT SAVINGS PLAN PARTICIPANTS.**

19 (a) PARTICIPATION IN THE THRIFT SAVINGS  
20 PLAN.—Section 8351(b) of title 5, United States Code,  
21 is amended—

22 (1) by amending paragraph (4) to read as fol-  
23 lows:

24 “(4) Section 8433(b) of this title applies to any em-  
25 ployee or Member who elects to make contributions to the

1 Thrift Savings Fund under subsection (a) of this section  
2 and separates from Government employment.”;

3 (2) by striking paragraphs (5), (6), and (8);

4 (3) by redesignating paragraphs (7), (9), and  
5 (10) as paragraphs (5), (6), and (7), respectively;

6 (4) in paragraph (5)(C) (as so redesignated by  
7 paragraph (3) of this subsection) by striking “or  
8 former spouse” each place it appears;

9 (5) by amending paragraph (6) (as so redesign-  
10 nated by paragraph (3) of this subsection) to read  
11 as follows:

12 “(6) Notwithstanding paragraph (4), if an employee  
13 or Member separates from Government employment and  
14 such employee’s or Member’s nonforfeitable account bal-  
15 ance is \$3,500 or less, the Executive Director shall pay  
16 the nonforfeitable account balance to the participant in a  
17 single payment unless the employee or Member elects, at  
18 such time and otherwise in such manner as the Executive  
19 Director prescribes, one of the options available under  
20 subsection (b).”; and

21 (6) in paragraph (7) (as so redesignated by  
22 paragraph (3) of this subsection) by striking  
23 “nonforfeiture” and inserting “nonforfeitable”.

24 (b) BENEFITS AND ELECTION OF BENEFITS.—Sec-  
25 tion 8433 of title 5, United States Code, is amended—

1 (1) in subsection (b) by striking the matter be-  
2 fore paragraph (1) and inserting the following:

3 “(b) Subject to section 8435 of this title, any em-  
4 ployee or Member who separates from Government em-  
5 ployment is entitled and may elect—”;

6 (2) by striking subsections (c) and (d) and re-  
7 designating subsections (e) through (i) as sub-  
8 sections (c) through (g), respectively;

9 (3) in subsection (c)(1) (as so redesignated by  
10 paragraph (2) of this subsection) by striking “or  
11 (c)(4) or required under subsection (d) directly to an  
12 eligible retirement plan or plans (as defined in sec-  
13 tion 402(a)(5)(E) of the Internal Revenue Code of  
14 1954)” and inserting “directly to an eligible retire-  
15 ment plan or plans (as defined in section 402(c)(8)  
16 of the Internal Revenue Code of 1986)”;

17 (4) in subsection (d)(2) (as so redesignated by  
18 paragraph (2) of this subsection) by striking “or  
19 (c)(2)”;

20 (5) in subsection (f) (as so redesignated by  
21 paragraph (2) of this subsection)—

22 (A) by striking paragraph (1) and redesign-  
23 ating paragraphs (2) and (3) as paragraphs  
24 (1) and (2), respectively; and

1 (B) in paragraph (1) (as so redesignated  
2 by subparagraph (A) of this paragraph)—

3 (i) by striking “Notwithstanding sub-  
4 sections (b) and (c), if an employee or  
5 Member separates from Government em-  
6 ployment under circumstances making  
7 such employee or Member eligible to make  
8 an election under either of those sub-  
9 sections, and such employee’s or Mem-  
10 ber’s” and inserting “Notwithstanding  
11 subsection (b), if an employee or Member  
12 separates from Government employment,  
13 and such employee’s or Member’s”; and

14 (ii) by striking “or (c), as applicable”;  
15 and

16 (C) in paragraph (2) (as so redesignated  
17 by subparagraph (A) of this paragraph) by  
18 striking “paragraphs (1) and (2)” and inserting  
19 “paragraph (1)”.

20 (c) ANNUITIES: METHODS OF PAYMENT; ELECTION;  
21 PURCHASE.—Section 8434(c) of title 5, United States  
22 Code, is amended to read as follows:

23 “(c) Notwithstanding the elimination of a method of  
24 payment by the Board, an employee, Member, former em-  
25 ployee, or former Member may elect the eliminated method

1 if the elimination of such method becomes effective less  
2 than 5 years before the date on which that individual's  
3 annuity commences.”.

4 (d) PROTECTIONS FOR SPOUSES AND FORMER  
5 SPOUSES.—Section 8435 of title 5, United States Code,  
6 is amended—

7 (1) in subsection (a)(1)(A) by striking “sub-  
8 section (b)(3), (b)(4), (c)(3), or (c)(4) of section  
9 8433 of this title or change an election previously  
10 made under subsection (b)(1), (b)(2), (c)(1), or  
11 (c)(2)” and inserting “subsection (b)(3) or (b)(4) of  
12 section 8433 of this title or change an election pre-  
13 viously made under subsection (b)(1) or (b)(2)”;

14 (2) by striking subsection (b);

15 (3) by redesignating subsections (c) through (i)  
16 as subsections (b) through (h), respectively;

17 (4) in subsection (b) (as so redesignated by  
18 paragraph (3) of this subsection) by amending para-  
19 graph (2) to read as follows:

20 “(2) Paragraph (1) shall not apply if—

21 “(A) a joint waiver of such method is  
22 made, in writing, by the employee or Member  
23 and the spouse; or

24 “(B) the employee or Member waives such  
25 method, in writing, after establishing to the sat-

1           isfaction of the Executive Director that cir-  
2           cumstances described under subsection (a)(2)  
3           (A) or (B) make the requirement of a joint  
4           waiver inappropriate.”; and

5           (5) in subsection (c)(1) (as so redesignated by  
6           paragraph (3) of this subsection) by striking “and a  
7           transfer may not be made under section 8433(d) of  
8           this title”.

9           (e) JUSTICES AND JUDGES.—Section 8440a(b) of  
10          title 5, United States Code, is amended—

11           (1) in paragraph (5) by striking “Section  
12          8433(d)” and inserting “Section 8433(b)”; and

13           (2) by striking paragraphs (7) and (8) and in-  
14          serting the following:

15          “(7) Notwithstanding paragraphs (4) and (5), if any  
16          justice or judge retires under subsection (a) or (b) of sec-  
17          tion 371 or section 372(a) of title 28, or resigns without  
18          having met the age and service requirements set forth  
19          under section 371(c) of title 28, and such justice’s or  
20          judge’s nonforfeitable account balance is \$3,500 or less,  
21          the Executive Director shall pay the nonforfeitable ac-  
22          count balance to the participant in a single payment un-  
23          less the justice or judge elects, at such time and otherwise  
24          in such manner as the Executive Director prescribes, one  
25          of the options available under section 8433(b).”.

1 (f) BANKRUPTCY JUDGES AND MAGISTRATES.—Sec-  
2 tion 8440b of title 5, United States Code, is amended—

3 (1) in subsection (b)(4) by amending subpara-  
4 graph (B) to read as follows:

5 “(B) Section 8433(b) of this title applies to any  
6 bankruptcy judge or magistrate who elects to make con-  
7 tributions to the Thrift Savings Fund under subsection  
8 (a) of this section and who retires before attaining age  
9 65 but is entitled, upon attaining age 65, to an annuity  
10 under section 377 of title 28 or section 2(c) of the Retire-  
11 ment and Survivors Annuities for Bankruptcy Judges and  
12 Magistrates Act of 1988.”;

13 (2) in subsection (b)(4)(C) by striking “Section  
14 8433(d)” and inserting “Section 8433(b)”;

15 (3) in subsection (b)(5) by striking “retirement  
16 under section 377 of title 28 is” and inserting “any  
17 of the actions described under paragraph (4) (A),  
18 (B), or (C) shall be considered”;

19 (4) in subsection (b) by striking paragraph (8)  
20 and redesignating paragraph (9) as paragraph (8);  
21 and

22 (5) in paragraph (8) of subsection (b) (as so re-  
23 designated by paragraph (4) of this subsection)—

24 (A) by striking “Notwithstanding subpara-  
25 graphs (A) and (B) of paragraph (4), if any

1 bankruptcy judge or magistrate retires under  
2 circumstances making such bankruptcy judge or  
3 magistrate eligible to make an election under  
4 subsection (b) or (c)” and inserting “Notwith-  
5 standing paragraph (4), if any bankruptcy  
6 judge or magistrate retires under circumstances  
7 making such bankruptcy judge or magistrate el-  
8 ible to make an election under subsection  
9 (b)””; and

10 (B) by striking “and (c), as applicable”.

11 (g) CLAIMS COURT JUDGES.—Section 8440c of title  
12 5, United States Code, is amended—

13 (1) in subsection (b)(4)(B) by striking “Section  
14 8433(d)” and inserting “Section 8433(b)”;

15 (2) in subsection (b)(5) by striking “retirement  
16 under section 178 of title 28 is” and inserting “any  
17 of the actions described in paragraph (4) (A) or (B)  
18 shall be considered”;

19 (3) in subsection (b) by striking paragraph (8)  
20 and redesignating paragraph (9) as paragraph (8);  
21 and

22 (4) in paragraph (8) (as so redesignated by  
23 paragraph (3) of this subsection) by striking “Not-  
24 withstanding paragraph (4)(A)” and inserting “Not-  
25 withstanding paragraph (4)”.

1           (h) JUDGES OF THE UNITED STATES COURT OF  
2 VETERANS APPEALS.—Section 8440d(b)(5) of title 5,  
3 United States Code, is amended by striking “A transfer  
4 shall be made as provided in section 8433(d) of this title”  
5 and inserting “Section 8433(b) of this title applies”.

6           (i) TECHNICAL AND CONFORMING AMENDMENTS.—  
7 Title 5, United States Code, is amended—

8           (1) in section 8351(b)(5)(B) (as so redesignig-  
9 nated by subsection (a)(3) of this section) by strik-  
10 ing “section 8433(i)” and inserting “section  
11 8433(g)”;

12           (2) in section 8351(b)(5)(D) (as so redesignig-  
13 nated by subsection (a)(3) of this section) by strik-  
14 ing “section 8433(i)” and inserting “section  
15 8433(g)”;

16           (3) in section 8433(b)(4) by striking “sub-  
17 section (e)” and inserting “subsection (c)”;

18           (4) in section 8433(d)(1) (as so redesignated by  
19 subsection (b)(2) of this section) by striking “(d) of  
20 section 8435” and inserting “(c) of section 8435”;

21           (5) in section 8433(d)(2) (as so redesignated by  
22 subsection (b)(2) of this section) by striking “section  
23 8435(d)” and inserting “section 8435(c)”;

1 (6) in section 8433(e) (as so redesignated by  
2 subsection (b)(2) of this section) by striking “section  
3 8435(d)(2)” and inserting “section 8435(c)(2)”;

4 (7) in section 8433(g)(5) (as so redesignated by  
5 subsection (b)(2) of this section) by striking “section  
6 8435(f)” and inserting “section 8435(e)”;

7 (8) in section 8434(b) by striking “section  
8 8435(c)” and inserting “section 8435(b)”;

9 (9) in section 8435(a)(1)(B) by striking “sub-  
10 section (c)” and inserting “subsection (b)”;

11 (10) in section 8435(d)(1)(B) (as so redesign-  
12 ated by subsection (d)(3) of this section) by strik-  
13 ing “subsection (d)(2)” and inserting “subsection  
14 (c)(2)”;

15 (11) in section 8435(d)(3)(A) (as so redesign-  
16 ated by subsection (d)(3) of this section) by strik-  
17 ing “subsection (c)(1)” and inserting “subsection  
18 (b)(1)”;

19 (12) in section 8435(d)(6) (as so redesignated  
20 by subsection (d)(3) of this section) by striking “or  
21 (c)(2)” and inserting “or (b)(2)”;

22 (13) in section 8435(e)(1)(A) (as so redesign-  
23 ated by subsection (d)(3) of this section) by strik-  
24 ing “section 8433(i)” and inserting “section  
25 8433(g)”;

1 (14) in section 8435(e)(2) (as so redesignated  
2 by subsection (d)(3) of this section) by striking “sec-  
3 tion 8433(i) of this title shall not be approved if ap-  
4 proval would have the result described in subsection  
5 (d)(1)” and inserting “section 8433(g) of this title  
6 shall not be approved if approval would have the re-  
7 sult described under subsection (c)(1)”;

8 (15) in section 8435(g) (as so redesignated by  
9 subsection (d)(3) of this section) by striking “section  
10 8433(i)” and inserting “section 8433(g)”;

11 (16) in section 8437(c)(5) by striking “section  
12 8433(i)” and inserting “section 8433(g)”; and

13 (17) in section 8440a(b)(6) by striking “section  
14 8351(b)(7)” and inserting “section 8351(b)(5)”.

15 (j) EFFECTIVE DATE.—This section shall take effect  
16 1 year after the date of the enactment of this Act or on  
17 such earlier date as the Executive Director of the Federal  
18 Retirement Thrift Investment Board shall provide in  
19 regulation.

20 **SEC. 8. AMENDMENTS TO ALASKA RAILROAD TRANSFER**  
21 **ACT OF 1982 REGARDING FORMER FEDERAL**  
22 **EMPLOYEES.**

23 (a) APPLICABILITY OF VOLUNTARY SEPARATION IN-  
24 CENTIVES TO CERTAIN FORMER FEDERAL EMPLOY-  
25 EES.—Section 607(a) of the Alaska Railroad Transfer Act

1 of 1982 (45 U.S.C. 1206(a)) is amended by adding at the  
2 end the following:

3           “(4)(A) The State-owned railroad shall be in-  
4 cluded in the definition of ‘agency’ for purposes of  
5 section 3 (a), (b), (c), and (e) of the Federal  
6 Workforce Restructuring Act of 1994 and may elect  
7 to participate in the voluntary separation incentive  
8 program established under such Act. Any employee  
9 of the State-owned railroad who meets the qualifica-  
10 tions as described under the first sentence of para-  
11 graph (1) shall be deemed an employee under such  
12 Act.

13           “(B) An employee who has received a voluntary  
14 separation incentive payment under this paragraph  
15 and accepts employment with the State-owned rail-  
16 road within 5 years after the date of separation on  
17 which payment of the incentive is based shall be re-  
18 quired to repay the entire amount of the incentive  
19 payment unless the head of the State-owned railroad  
20 determines that the individual involved possesses  
21 unique abilities and is the only qualified applicant  
22 available for the position.”.

23           (b) LIFE AND HEALTH INSURANCE BENEFITS.—Sec-  
24 tion 607 of the Alaska Railroad Transfer Act of 1982 (45

1 U.S.C. 1206) is amended by striking subsection (e) and  
2 inserting the following:

3 “(e)(1) Any person described under the provisions of  
4 paragraph (2) may elect life insurance coverage under  
5 chapter 87 of title 5, United States Code, and enroll in  
6 a health benefits plan under chapter 89 of title 5, United  
7 States Code, in accordance with the provisions of this sub-  
8 section.

9 “(2) The provisions of paragraph (1) shall apply to  
10 any person who—

11 “(A) on the date of the enactment of the Fed-  
12 eral Workforce Restructuring Act of 1994, is an em-  
13 ployee of the State-owned railroad;

14 “(B) has 20 years or more of service (in the  
15 civil service as a Federal employee or as an employee  
16 of the State-owned railroad, combined) on the date  
17 of retirement from the State-owned railroad; and

18 “(C)(i) was covered under a life insurance pol-  
19 icy pursuant to chapter 87 of title 5, United States  
20 Code, on January 4, 1985, for the purpose of elect-  
21 ing life insurance coverage under the provisions of  
22 paragraph (1); or

23 “(ii) was enrolled in a health benefits plan pur-  
24 suant to chapter 89 of title 5, United States Code,  
25 on January 4, 1985, for the purpose of enrolling in

1 a health benefits plan under the provisions of para-  
2 graph (1).

3 “(3) For purposes of this section, any person de-  
4 scribed under the provisions of paragraph (2) shall be  
5 deemed to have been covered under a life insurance policy  
6 under chapter 87 of title 5, United States Code, and to  
7 have been enrolled in a health benefits plan under chapter  
8 89 of title 5, United States Code, during the period begin-  
9 ning on January 5, 1985, through the date of retirement  
10 of any such person.

11 “(4) The provisions of paragraph (1) shall not apply  
12 to any person described under paragraph (2) until the  
13 date such person retires from the State-owned railroad.”.

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