

104TH CONGRESS
2^D SESSION

H. R. 3841

AN ACT

To amend the civil service laws of the United States, and for other purposes.

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To amend the civil service laws of the United States, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Omnibus Civil Service Reform Act of 1996”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEMONSTRATION PROJECTS

Sec. 101. Demonstration projects.

TITLE II—PERFORMANCE MANAGEMENT ENHANCEMENT

Sec. 201. No appeal of denial of periodic step-increases.

Sec. 202. Performance appraisals.

Sec. 203. Amendments to incentive awards authority.

Sec. 204. Due process rights of managers under negotiated grievance procedures.

Sec. 205. Collection and reporting of training information.

TITLE III—ENHANCEMENT OF THRIFT SAVINGS PLAN AND
 CERTAIN OTHER BENEFITS

Sec. 301. Loans under the Thrift Savings Plan for furloughed employees.

Sec. 302. Domestic relations orders.

Sec. 303. Unreduced additional optional life insurance.

TITLE IV—REORGANIZATION FLEXIBILITY

Sec. 401. Voluntary reductions in force.

Sec. 402. Nonreimbursable details to Federal agencies before a reduction in force.

TITLE V—SOFT-LANDING PROVISIONS

Sec. 501. Temporary continuation of Federal employees' life insurance.

Sec. 502. Continued eligibility for health insurance.

Sec. 503. Job placement and counseling services.

Sec. 504. Education and retraining incentives.

TITLE VI—MISCELLANEOUS

Sec. 601. Reimbursements relating to professional liability insurance.

Sec. 602. Employment rights following conversion to contract.

Sec. 603. Debarment of health care providers found to have engaged in fraudulent practices.

Sec. 604. Consistent coverage for individuals enrolled in a health plan administered by the Federal banking agencies.

Sec. 605. Amendment to Public Law 104–134.

Sec. 606. Miscellaneous amendments relating to the health benefits program for Federal employees.

Sec. 607. Pay for certain positions formerly classified at GS–18.

Sec. 608. Repeal of section 1307 of title 5 of the United States Code.

Sec. 609. Extension of certain procedural and appeal rights to certain personnel of the Federal Bureau of Investigation.

1 **TITLE I—DEMONSTRATION**
2 **PROJECTS**

3 **SEC. 101. DEMONSTRATION PROJECTS.**

4 (a) **DEFINITIONS.**—Paragraph (1) of section 4701(a)
5 of title 5, United States Code, is amended by striking sub-
6 paragraph (A) and by redesignating subparagraphs (B)
7 and (C) as subparagraphs (A) and (B), respectively.

8 (b) **PRE-IMPLEMENTATION PROCEDURES.**—Sub-
9 section (b) of section 4703 of title 5, United States Code,
10 is amended to read as follows:

11 “(b) Before an agency or the Office may conduct or
12 enter into any agreement or contract to conduct a dem-
13 onstration project, the Office—

14 “(1) shall develop or approve a plan for such
15 project which identifies—

16 “(A) the purposes of the project;

17 “(B) the methodology;

18 “(C) the duration; and

19 “(D) the methodology and criteria for eval-
20 uation;

21 “(2) shall publish the plan in the Federal Reg-
22 ister;

23 “(3) may solicit comments from the public and
24 interested parties in such manner as the Office con-
25 siders appropriate;

1 “(4) shall obtain approval from each agency in-
2 volved of the final version of the plan; and

3 “(5) shall provide notification of the proposed
4 project, at least 30 days in advance of the date any
5 project proposed under this section is to take ef-
6 fect—

7 “(A) to employees who are likely to be af-
8 fected by the project; and

9 “(B) to each House of the Congress.”.

10 (c) NONWAIVABLE PROVISIONS.—Section 4703(c) of
11 title 5, United States Code, is amended—

12 (1) by striking paragraph (1) and inserting the
13 following:

14 “(1) any provision of subchapter V of chapter
15 63 or subpart G of part III of this title;”; and

16 (2) by striking paragraph (3) and inserting the
17 following:

18 “(3) any provision of chapter 15 or subchapter
19 II or III of chapter 73 of this title;”.

20 (d) LIMITATIONS.—Subsection (d) of section 4703 of
21 title 5, United States Code, is amended to read as follows:

22 “(d)(1) Each demonstration project shall terminate
23 before the end of the 5-year period beginning on the date
24 on which the project takes effect, except that the project
25 may continue for a maximum of 2 years beyond the date

1 to the extent necessary to validate the results of the
2 project.

3 “(2)(A) Not more than 15 active demonstration
4 projects may be in effect at any time, and of the projects
5 in effect at any time, not more than 5 may involve 5,000
6 or more individuals each.

7 “(B) Individuals in a control group necessary to vali-
8 date the results of a project shall not, for purposes of any
9 determination under subparagraph (A), be considered to
10 be involved in such project.”.

11 (e) EVALUATIONS.—Subsection (h) of section 4703
12 of title 5, United States Code, is amended by adding at
13 the end the following: “The Office may, with respect to
14 a demonstration project conducted by another agency, re-
15 quire that the preceding sentence be carried out by such
16 other agency.”.

17 (f) PROVISIONS FOR TERMINATION OF PROJECT OR
18 MAKING IT PERMANENT.—Section 4703 of title 5, United
19 States Code, is amended—

20 (1) in subsection (i) by inserting “by the Of-
21 fice” after “undertaken”; and

22 (2) by adding at the end the following:

23 “(j)(1) If the Office determines that termination of
24 a demonstration project (whether under subsection (e) or
25 otherwise) would result in the inequitable treatment of em-

1 ployees who participated in the project, the Office shall
2 take such corrective action as is within its authority. If
3 the Office determines that legislation is necessary to cor-
4 rect an inequity, it shall submit an appropriate legislative
5 proposal to both Houses of Congress.

6 “(2) If the Office determines that a demonstration
7 project should be made permanent, it shall submit an ap-
8 propriate legislative proposal to both Houses of Con-
9 gress.”.

10 **TITLE II—PERFORMANCE** 11 **MANAGEMENT ENHANCEMENT**

12 **SEC. 201. NO APPEAL OF DENIAL OF PERIODIC STEP-IN-** 13 **CREASES.**

14 (a) IN GENERAL.—Section 5335(c) of title 5, United
15 States Code, is amended—

16 (1) by striking the second sentence;

17 (2) in the third sentence by striking “or ap-
18 peal”; and

19 (3) in the last sentence by striking “and the en-
20 titlement of the employee to appeal to the Board do
21 not apply” and inserting “does not apply”.

22 (b) PERFORMANCE RATINGS.—Section 5335 of title
23 5, United States Code, as amended by subsection (a), is
24 further amended—

1 (1) in subsection (a)(B) by striking “work of
2 the employee is of an acceptable level of com-
3 petence” and inserting “performance of the em-
4 ployee is at least fully successful”;

5 (2) in subsection (c)—

6 (A) in the first sentence by striking “work
7 of an employee is not of an acceptable level of
8 competence,” and inserting “performance of an
9 employee is not at least fully successful,”; and

10 (B) in the last sentence by striking “ac-
11 ceptable level of competence” and inserting
12 “fully successful work performance”; and

13 (3) by adding at the end the following:

14 “(g) For purposes of this section, the term ‘fully suc-
15 cessful’ denotes work performance that satisfies the re-
16 quirements of section 351.504(d)(3)(D) of title 5 of the
17 Code of Federal Regulations (as deemed to be amended
18 by section 3502(g)(2)(B)).”.

19 **SEC. 202. PERFORMANCE APPRAISALS.**

20 (a) **IN GENERAL.**—Section 4302 of title 5, United
21 States Code, is amended—

22 (1) in subsection (b) by striking paragraphs (5)
23 and (6) and inserting the following:

1 “(5) assisting employees in improving unaccept-
2 able performance, except in circumstances described
3 in subsection (c); and

4 “(6) reassigning, reducing in grade, removing,
5 or taking other appropriate action against employees
6 whose performance is unacceptable.”; and

7 (2) by adding at the end the following:

8 “(c) Upon notification of unacceptable performance,
9 an employee shall be afforded an opportunity to dem-
10 onstrate acceptable performance before a reduction in
11 grade or removal may be proposed under section 4303
12 based on such performance, except that an employee so
13 afforded such an opportunity shall not be afforded any
14 further opportunity to demonstrate acceptable perform-
15 ance if the employee’s performance again is determined
16 to be at an unacceptable level.”.

17 (b) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 this section and the amendments made by this sec-
20 tion shall take effect 180 days after the date of the
21 enactment of this Act.

22 (2) EXCEPTION.—The amendments made by
23 this section shall not apply in the case of any pro-
24 posed action as to which the employee receives ad-
25 vance written notice, in accordance with section

1 4303(b)(1)(A) of title 5, United States Code, before
2 the effective date of this section.

3 **SEC. 203. AMENDMENTS TO INCENTIVE AWARDS AUTHOR-**
4 **ITY.**

5 Chapter 45 of title 5, United States Code, is amend-
6 ed—

7 (1) by amending section 4501 to read as fol-
8 lows:

9 **“§ 4501. Definitions**

10 “For the purpose of this subchapter—

11 “(1) the term ‘agency’ means—

12 “(A) an Executive agency;

13 “(B) the Library of Congress;

14 “(C) the Office of the Architect of the
15 Capitol;

16 “(D) the Botanic Garden;

17 “(E) the Government Printing Office; and

18 “(F) the United States Sentencing Com-
19 mission;

20 but does not include—

21 “(i) the Tennessee Valley Authority; or

22 “(ii) the Central Bank for Cooperatives;

23 “(2) the term ‘employee’ means an employee as
24 defined by section 2105; and

1 “(3) the term ‘Government’ means the Govern-
2 ment of the United States.”;

3 (2) by amending section 4503 to read as fol-
4 lows:

5 **“§ 4503. Agency awards**

6 “(a) The head of an agency may pay a cash award
7 to, and incur necessary expense for the honorary recogni-
8 tion of, an employee who—

9 “(1) by his suggestion, invention, superior ac-
10 complishment, or other personal effort, contributes
11 to the efficiency, economy, or other improvement of
12 Government operations or achieves a significant re-
13 duction in paperwork; or

14 “(2) performs a special act or service in the
15 public interest in connection with or related to his
16 official employment.

17 “(b)(1) If the criteria under paragraph (1) or (2) of
18 subsection (a) are met on the basis of the suggestion, in-
19 vention, superior accomplishment, act, service, or other
20 meritorious effort of a group of employees collectively, and
21 if the circumstances so warrant (such as by reason of the
22 infeasibility of determining the relative role or contribution
23 assignable to each employee separately), authority under
24 subsection (a) may be exercised—

1 arbitrator to order a stay of any personnel action in a
2 manner similar to the manner described in section 1221(c)
3 with respect to the Merit Systems Protection Board.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a)—

6 (1) shall take effect on the date of the enact-
7 ment of this Act; and

8 (2) shall apply with respect to orders issued on
9 or after the date of the enactment of this Act, not-
10 withstanding the provisions of any collective bargain-
11 ing agreement.

12 **SEC. 205. COLLECTION AND REPORTING OF TRAINING IN-**
13 **FORMATION.**

14 (a) TRAINING WITHIN GOVERNMENT.—The Office of
15 Personnel Management shall collect information concern-
16 ing training programs, plans, and methods utilized by
17 agencies of the Government and submit a report to the
18 Congress on this activity on an annual basis.

19 (b) TRAINING OUTSIDE OF GOVERNMENT.—The Of-
20 fice of Personnel Management, to the extent it considers
21 appropriate in the public interest, may collect information
22 concerning training programs, plans, and methods utilized
23 outside the Government. The Office, on request, may
24 make such information available to an agency and to Con-
25 gress.

1 **TITLE III—ENHANCEMENT OF**
2 **THRIFT SAVINGS PLAN AND**
3 **CERTAIN OTHER BENEFITS**

4 **SEC. 301. LOANS UNDER THE THRIFT SAVINGS PLAN FOR**
5 **FURLOUGHED EMPLOYEES.**

6 Section 8433(g) of title 5, United States Code, is
7 amended by adding at the end the following:

8 “(6) An employee who has been furloughed due to
9 a lapse in appropriations may not be denied a loan under
10 this subsection solely because such employee is not in a
11 pay status.”.

12 **SEC. 302. DOMESTIC RELATIONS ORDERS.**

13 (a) IN GENERAL.—Section 8705 of title 5, United
14 States Code, is amended—

15 (1) in subsection (a) by striking “(a) The” and
16 inserting “(a) Except as provided in subsection (e),
17 the”; and

18 (2) by adding at the end the following:

19 “(e)(1) Any amount which would otherwise be paid
20 to a person determined under the order of precedence
21 named by subsection (a) shall be paid (in whole or in part)
22 by the Office to another person if and to the extent ex-
23 pressly provided for in the terms of any court decree of
24 divorce, annulment, or legal separation, or the terms of
25 any court order or court-approved property settlement

1 agreement incident to any court decree of divorce, annul-
2 ment, or legal separation.

3 “(2) For purposes of this subsection, a decree, order,
4 or agreement referred to in paragraph (1) shall not be
5 effective unless it is received, before the date of the cov-
6 ered employee’s death, by the employing agency or, if the
7 employee has separated from service, by the Office.

8 “(3) A designation under this subsection with respect
9 to any person may not be changed except—

10 “(A) with the written consent of such person, if
11 received as described in paragraph (2); or

12 “(B) by modification of the decree, order, or
13 agreement, as the case may be, if received as de-
14 scribed in paragraph (2).

15 “(4) The Office shall prescribe any regulations nec-
16 essary to carry out this subsection, including regulations
17 for the application of this subsection in the event that 2
18 or more decrees, orders, or agreements, are received with
19 respect to the same amount.”.

20 (b) DIRECTED ASSIGNMENT.—Section 8706(e) of
21 title 5, United States Code, is amended—

22 (1) by striking “(e)” and inserting “(e)(1)”;

23 and

24 (2) by adding at the end the following:

1 “(2) A court decree of divorce, annulment, or legal
2 separation, or the terms of a court-approved property set-
3 tlement agreement incidental to any court decree of di-
4 vorce, annulment, or legal separation, may direct that an
5 insured employee or former employee make an irrevocable
6 assignment of the employee’s or former employee’s inci-
7 dents of ownership in insurance under this chapter (if
8 there is no previous assignment) to the person specified
9 in the court order or court-approved property settlement
10 agreement.”.

11 **SEC. 303. UNREDUCED ADDITIONAL OPTIONAL LIFE INSUR-**
12 **ANCE.**

13 (a) IN GENERAL.—Section 8714b of title 5, United
14 States Code, is amended—

15 (1) in subsection (c)—

16 (A) by striking the last 2 sentences of
17 paragraph (2); and

18 (B) by adding at the end the following:

19 “(3) The amount of additional optional insurance
20 continued under paragraph (2) shall be continued, with
21 or without reduction, in accordance with the employee’s
22 written election at the time eligibility to continue insur-
23 ance during retirement or receipt of compensation arises,
24 as follows:

1 “(A) The employee may elect to have
2 withholdings cease in accordance with subsection
3 (d), in which case—

4 “(i) the amount of additional optional in-
5 surance continued under paragraph (2) shall be
6 reduced each month by 2 percent effective at
7 the beginning of the second calendar month
8 after the date the employee becomes 65 years of
9 age and is retired or is in receipt of compensa-
10 tion; and

11 “(ii) the reduction under clause (i) shall
12 continue for 50 months at which time the insur-
13 ance shall stop.

14 “(B) The employee may, instead of the option
15 under subparagraph (A), elect to have the full cost
16 of additional optional insurance continue to be with-
17 held from such employee’s annuity or compensation
18 on and after the date such withholdings would other-
19 wise cease pursuant to an election under subpara-
20 graph (A), in which case the amount of additional
21 optional insurance continued under paragraph (2)
22 shall not be reduced, subject to paragraph (4).

23 “(C) An employee who does not make any elec-
24 tion under the preceding provisions of this para-

1 graph shall be treated as if such employee had made
2 an election under subparagraph (A).

3 “(4) If an employee makes an election under para-
4 graph (3)(B), that individual may subsequently cancel
5 such election, in which case additional optional insurance
6 shall be determined as if the individual had originally
7 made an election under paragraph (3)(A).”; and

8 (2) in the second sentence of subsection (d)(1)
9 by inserting “if insurance is continued as provided
10 in subparagraph (A) of paragraph (3),” after “ex-
11 cept that,”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the 120th day after the
14 date of the enactment of this Act and shall apply to em-
15 ployees who become eligible, on or after such 120th day,
16 to continue additional optional insurance during retire-
17 ment or receipt of compensation.

18 **TITLE IV—REORGANIZATION**

19 **FLEXIBILITY**

20 **SEC. 401. VOLUNTARY REDUCTIONS IN FORCE.**

21 Section 3502(f) of title 5, United States Code, is
22 amended to read as follows:

23 “(f)(1) The head of an Executive agency or military
24 department may, in accordance with regulations pre-
25 scribed by the Office of Personnel Management—

1 “(A) separate from service any employee who
2 volunteers to be separated under this subparagraph
3 even though the employee is not otherwise subject to
4 separation due to a reduction in force; and

5 “(B) for each employee voluntarily separated
6 under subparagraph (A), retain an employee in a
7 similar position who would otherwise be separated
8 due to a reduction in force.

9 “(2) The separation of an employee under paragraph
10 (1)(A) shall be treated as an involuntary separation due
11 to a reduction in force, except for purposes of priority
12 placement programs and advance notice.

13 “(3) An employee with critical knowledge and skills
14 (as defined by the head of the Executive agency or military
15 department concerned) may not participate in a voluntary
16 separation under paragraph (1)(A) if the agency or de-
17 partment head concerned determines that such participa-
18 tion would impair the performance of the mission of the
19 agency or department (as applicable).

20 “(4) The regulations prescribed under this section
21 shall incorporate the authority provided in this subsection.

22 “(5) No authority under paragraph (1) may be exer-
23 cised after September 30, 2001.”.

1 **SEC. 402. NONREIMBURSABLE DETAILS TO FEDERAL AGEN-**
2 **CIES BEFORE A REDUCTION IN FORCE.**

3 (a) IN GENERAL.—Section 3341 of title 5, United
4 States Code, is amended to read as follows:

5 **“§ 3341. Details; within Executive agencies and mili-**
6 **tary departments; employees affected by**
7 **reduction in force**

8 “(a) The head of an Executive agency or military de-
9 partment may detail employees, except those required by
10 law to be engaged exclusively in some specific work, among
11 the bureaus and offices of the agency or department.

12 “(b) The head of an Executive agency or military de-
13 partment may detail to duties in the same or another
14 agency or department, on a nonreimbursable basis, an em-
15 ployee who has been identified by the employing agency
16 as likely to be separated from the Federal service by re-
17 duction in force or who has received a specific notice of
18 separation by reduction in force.

19 “(c)(1) Details under subsection (a)—

20 “(A) may not be for periods exceeding 120
21 days; and

22 “(B) may be renewed (1 or more times) by
23 written order of the head of the agency or depart-
24 ment, in each particular case, for periods not exceed-
25 ing 120 days each.

26 “(2) Details under subsection (b)—

1 “(A) may not be for periods exceeding 90 days;

2 and

3 “(B) may not be renewed.

4 “(d) The 120-day limitation under subsection (c)(1)
5 for details and renewals of details does not apply to the
6 Department of Defense in the case of a detail—

7 “(1) made in connection with the closure or re-
8 alignment of a military installation pursuant to a
9 base closure law or an organizational restructuring
10 of the Department as part of a reduction in the size
11 of the armed forces or the civilian workforce of the
12 Department; and

13 “(2) in which the position to which the em-
14 ployee is detailed is eliminated on or before the date
15 of the closure, realignment, or restructuring.

16 “(e) For purposes of this section—

17 “(1) the term ‘base closure law’ means—

18 “(A) section 2687 of title 10;

19 “(B) title II of the Defense Authorization
20 Amendments and Base Closure and Realign-
21 ment Act; and

22 “(C) the Defense Base Closure and Re-
23 alignment Act of 1990; and

24 “(2) the term ‘military installation’—

1 “(A) in the case of an installation covered
2 by section 2687 of title 10, has the meaning
3 given such term in subsection (e)(1) of such
4 section;

5 “(B) in the case of an installation covered
6 by the Act referred to in subparagraph (B) of
7 paragraph (1), has the meaning given such
8 term in section 209(6) of such Act; and

9 “(C) in the case of an installation covered
10 by the Act referred to in subparagraph (C) of
11 paragraph (1), has the meaning given such
12 term in section 2910(4) of such Act.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for chapter 33 of title 5, United States Code, is amended
15 by striking the item relating to section 3341 and inserting
16 the following:

 “3341. Details; within Executive agencies and military departments; employees
 affected by reduction in force.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect 30 days after the date of the
19 enactment of this Act.

1 **TITLE V—SOFT-LANDING**
2 **PROVISIONS**

3 **SEC. 501. TEMPORARY CONTINUATION OF FEDERAL EM-**
4 **PLOYEES' LIFE INSURANCE.**

5 Section 8706 of title 5, United States Code, is
6 amended by adding at the end the following:

7 “(g)(1) Notwithstanding subsections (a) and (b) of
8 this section, an employee whose coverage under this chap-
9 ter would otherwise terminate due to a separation de-
10 scribed in paragraph (3) shall be eligible to continue basic
11 insurance coverage described in section 8704 in accord-
12 ance with this subsection and regulations the Office may
13 prescribe, if the employee arranges to pay currently into
14 the Employees Life Insurance Fund, through the former
15 employing agency or, if an annuitant, through the respon-
16 sible retirement system, an amount equal to the sum of—

17 “(A) both employee and agency contributions
18 which would be payable if separation had not oc-
19 curred; plus

20 “(B) an amount, determined under regulations
21 prescribed by the Office, to cover necessary adminis-
22 trative expenses, but not to exceed 2 percent of the
23 total amount under subparagraph (A).

24 “(2) Continued coverage under this subsection may
25 not extend beyond the date which is 18 months after the

1 effective date of the separation which entitles a former em-
2 ployee to coverage under this subsection. Termination of
3 continued coverage under this subsection shall be subject
4 to provision for temporary extension of life insurance cov-
5 erage and for conversion to an individual policy of life in-
6 surance as provided by subsection (a). If an eligible em-
7 ployee does not make an election for purposes of this sub-
8 section, the employee's insurance will terminate as pro-
9 vided by subsection (a).

10 “(3)(A) This subsection shall apply to an employee
11 who, on or after the date of enactment of this subsection
12 and before the applicable date under subparagraph (B)—

13 “(i) is involuntarily separated from a position
14 due to a reduction in force, or separates voluntarily
15 from a position the employing agency determines is
16 a ‘surplus position’ as defined by section
17 8905(d)(4)(C); and

18 “(ii) is insured for basic insurance under this
19 chapter on the date of separation.

20 “(B) The applicable date under this subparagraph is
21 October 1, 2001, except that, for purposes of any involun-
22 tary separation referred to in subparagraph (A) with re-
23 spect to which appropriate specific notice is afforded to
24 the affected employee before October 1, 2001, the applica-
25 ble date under this subparagraph is February 1, 2002.”.

1 **SEC. 502. CONTINUED ELIGIBILITY FOR HEALTH INSUR-**
2 **ANCE.**

3 (a) CONTINUED ELIGIBILITY AFTER RETIRE-
4 MENT.—Section 8905 of title 5, United States Code, is
5 amended—

6 (1) in the first sentence of subsection (b) by
7 striking “An” and inserting “Subject to subsection
8 (g), an”; and

9 (2) by adding at the end the following:

10 “(g)(1) The Office shall waive the requirements for
11 continued enrollment under subsection (b) in the case of
12 any individual who, on or after the date of the enactment
13 of this subsection and before the applicable date under
14 paragraph (2)—

15 “(A) is involuntarily separated from a position,
16 or voluntarily separated from a surplus position, in
17 or under an Executive agency due to a reduction in
18 force,

19 “(B) based on the separation referred to in sub-
20 paragraph (A), retires on an immediate annuity
21 under subchapter III of chapter 83 or subchapter II
22 of chapter 84, and

23 “(C) is enrolled in a health benefits plan under
24 this chapter as an employee immediately before re-
25 tirement.

1 “(2) The applicable date under this paragraph is Oc-
2 tober 1, 2001, except that, for purposes of any involuntary
3 separation referred to in paragraph (1)(A) with respect
4 to which appropriate specific notice is afforded to the af-
5 fected employee before October 1, 2001, the applicable
6 date under this paragraph is February 1, 2002.

7 “(3) For purposes of this subsection, the term ‘sur-
8 plus position’, with respect to an agency, means any posi-
9 tion determined in accordance with regulations under sec-
10 tion 8905a(d)(4)(C) for such agency.”.

11 (b) TEMPORARY CONTINUED ELIGIBILITY AFTER
12 BEING INVOLUNTARILY SEPARATED.—Section
13 8905a(d)(4) of title 5, United States Code, is amended—

14 (1) in subparagraph (A) by striking “the De-
15 partment of Defense” and inserting “an Executive
16 agency”; and

17 (2) by amending subparagraph (C) to read as
18 follows:

19 “(C) For purposes of this paragraph, the term ‘sur-
20 plus position’ means a position that, as determined under
21 regulations prescribed by the head of the agency involved,
22 is identified during planning for a reduction in force as
23 being no longer required and is designated for elimination
24 during the reduction in force.”.

1 **SEC. 503. JOB PLACEMENT AND COUNSELING SERVICES.**

2 (a) **AUTHORITY FOR SERVICES.**—The head of each
3 Executive agency may establish a program to provide job
4 placement and counseling services to current and former
5 employees.

6 (b) **TYPES OF SERVICES AUTHORIZED.**—A program
7 established under this section may include such services
8 as—

9 (1) career and personal counseling;

10 (2) training in job search skills; and

11 (3) job placement assistance, including assist-
12 ance provided through cooperative arrangements
13 with State and local employment service offices.

14 (c) **ELIGIBILITY FOR SERVICES.**—Services authorized
15 by this section may be provided to—

16 (1) current employees of the agency or, with the
17 approval of such other agency, any other agency;
18 and

19 (2) employees of the agency or, with the ap-
20 proval of such other agency, any other agency who
21 have been separated for less than 1 year, if the sepa-
22 ration was not a removal for cause on charges of
23 misconduct or delinquency.

24 (d) **REIMBURSEMENT FOR COSTS.**—The costs of
25 services provided to current or former employees of an-
26 other agency shall be reimbursed by that agency.

1 **SEC. 504. EDUCATION AND RETRAINING INCENTIVES.**

2 (a) NON-FEDERAL EMPLOYMENT INCENTIVE PAY-
3 MENTS.—

4 (1) DEFINITIONS.—For purposes of this sub-
5 section—

6 (A) the term “eligible employee” means an
7 employee who is involuntarily separated from a
8 position, or voluntarily separated from a sur-
9 plus position, in or under an Executive agency
10 due to a reduction in force, except that such
11 term does not include an employee who, at the
12 time of separation, meets the age and service
13 requirements for an immediate annuity under
14 subchapter III of chapter 83 or chapter 84 of
15 title 5, United States Code, other than under
16 section 8336(d) or 8414(b) of such title;

17 (B) the term “non-Federal employer”
18 means an employer other than the Government
19 of the United States or any agency or other in-
20 strumentality thereof;

21 (C) the term “Executive agency” has the
22 meaning given such term by section 105 of title
23 5, United States Code; and

24 (D) the term “surplus position” has the
25 meaning given such term by section
26 8905(d)(4)(C) of title 5, United States Code.

1 (2) AUTHORITY.—The head of an Executive
2 agency may pay retraining and relocation incentive
3 payments, in accordance with this subsection, in
4 order to facilitate the reemployment of eligible em-
5 ployees who are separated from such agency.

6 (3) RETRAINING INCENTIVE PAYMENT.—

7 (A) AGREEMENT.—The head of an Execu-
8 tive agency may enter into an agreement with
9 a non-Federal employer under which the non-
10 Federal employer agrees—

11 (i) to employ an individual referred to
12 in paragraph (2) for at least 12 months
13 for a salary which is mutually agreeable to
14 the employer and such individual; and

15 (ii) to certify to the agency head any
16 costs incurred by the employer for any nec-
17 essary training provided to such individual
18 in connection with the employment by such
19 employer.

20 (B) PAYMENT OF RETRAINING INCENTIVE
21 PAYMENT.—The agency head shall pay a re-
22 training incentive payment to the non-Federal
23 employer upon the employee's completion of 12
24 months of continuous employment by that em-

1 employer. The agency head shall prescribe the
2 amount of the incentive payment.

3 (C) PRORATION RULE.—The agency head
4 shall pay a prorated amount of the full retrain-
5 ing incentive payment to the non-Federal em-
6 ployer for an employee who does not remain
7 employed by the non-Federal employer for at
8 least 12 months, but only if the employee re-
9 mains so employed for at least 6 months.

10 (D) LIMITATION.—In no event may the
11 amount of the retraining incentive payment
12 paid for the training of any individual exceed
13 the amount certified for such individual under
14 subparagraph (A), subject to subsection (e).

15 (4) RELOCATION INCENTIVE PAYMENT.—The
16 head of an agency may pay a relocation incentive
17 payment to an eligible employee if it is necessary for
18 the employee to relocate in order to commence em-
19 ployment with a non-Federal employer. Subject to
20 subsection (e), the amount of the incentive payment
21 shall not exceed the amount that would be payable
22 for travel, transportation, and subsistence expenses
23 under subchapter II of chapter 57 of title 5, United
24 States Code, including any reimbursement author-
25 ized under section 5724b of such title, to a Federal

1 employee who transfers between the same locations
2 as the individual to whom the incentive payment is
3 payable.

4 (5) DURATION.—No incentive payment may be
5 paid for training or relocation commencing after
6 June 30, 2002.

7 (6) SOURCE.—An incentive payment under this
8 subsection shall be payable from appropriations or
9 other funds available to the agency for purposes of
10 training (within the meaning of section 4101(4) of
11 title 5, United States Code).

12 (b) EDUCATIONAL ASSISTANCE.—

13 (1) DEFINITIONS.—For purposes of this sub-
14 section—

15 (A) the term “eligible employee” means an
16 eligible employee, within the meaning of sub-
17 section (a), who —

18 (i) is employed full-time on a perma-
19 nent basis;

20 (ii) has completed at least 3 years of
21 current continuous service in any Execu-
22 tive agency or agencies; and

23 (iii) is admitted to an institution of
24 higher education within 1 year after sepa-
25 ration;

1 (B) the term “Executive agency” has the
2 meaning given such term by section 105 of title
3 5, United States Code;

4 (C) the term “educational assistance”
5 means payments for educational assistance as
6 provided in section 127(c)(1) of the Internal
7 Revenue Code of 1986 (26 U.S.C. 127(c)(1));
8 and

9 (D) the term “institution of higher edu-
10 cation” has the meaning given such term by
11 section 1201(a) of the Higher Education Act of
12 1965 (20 U.S.C. 1141(a)).

13 (2) AUTHORITY.—Under regulations prescribed
14 by the Office of Personnel Management, and subject
15 to the limitations under subsection (c), the head of
16 an Executive agency may, in his or her discretion,
17 provide educational assistance under this subsection
18 to an eligible employee for a program of education
19 at an institution of higher education after the sepa-
20 ration of the employee.

21 (3) DURATION.—No educational assistance
22 under this subsection may be paid later than 10
23 years after the separation of the eligible employee.

24 (4) SOURCE.—Educational assistance payments
25 shall be payable from appropriations or other funds

1 which would have been used to pay the salary of the
2 eligible employee if the employee had not separated.

3 (5) REGULATIONS.—The Office of Personnel
4 Management shall prescribe regulations for the ad-
5 ministration of this subsection. Such regulations
6 shall provide that educational assistance payments
7 shall be limited to amounts necessary for current
8 tuition and fees only.

9 (c) LIMITATIONS.—

10 (1) AGGREGATE LIMITATION.—No incentive
11 payment or educational assistance payment may be
12 paid under this section to or on behalf of any indi-
13 vidual to the extent that such amount would cause
14 the aggregate amount otherwise paid or payable
15 under this section, to or on behalf of such individual,
16 to exceed \$10,000.

17 (2) LIMITATION RELATING TO EDUCATIONAL
18 ASSISTANCE.—The total amount paid under sub-
19 section (b) to any individual—

20 (A) may not exceed \$6,000 if the individ-
21 ual has at least 3 but less than 4 years of quali-
22 fying service; and

23 (B) may not exceed \$8,000 if the individ-
24 ual has at least 4 but less than 5 years of quali-
25 fying service.

1 (3) such other employee as the head of the
2 agency considers appropriate

3 (c) DEFINITIONS.—For purposes of this section—

4 (1) the term “agency” means an Executive
5 agency, as defined by section 105 of title 5, United
6 States Code;

7 (2) the term “law enforcement officer” means
8 an employee, the duties of whose position are pri-
9 marily the investigation, apprehension, prosecution,
10 or detention of individuals suspected or convicted of
11 offenses against the criminal laws of the United
12 States, including any law enforcement officer under
13 section 8331(20) or 8401(17) of such title 5;

14 (3) the terms “supervisor” and “management
15 official” have the respective meanings given them by
16 section 7103(a) of such title 5; and

17 (4) the term “professional liability insurance”
18 means insurance which provides coverage for—

19 (A) legal liability for damages due to inju-
20 rries to other persons, damage to their property,
21 or other damage or loss to such other persons
22 (including the expenses of litigation and settle-
23 ment) resulting from or arising out of any
24 tortious act, error, or omission of the covered
25 individual (whether common law, statutory, or

1 constitutional) while in the performance of such
2 individual's official duties as a qualified em-
3 ployee; and

4 (B) the cost of legal representation for the
5 covered individual in connection with any ad-
6 ministrative or judicial proceeding (including
7 any investigation or disciplinary proceeding) re-
8 lating to any act, error, or omission of the cov-
9 ered individual while in the performance of such
10 individual's official duties as a qualified em-
11 ployee, and other legal costs and fees relating
12 to any such administrative or judicial proceed-
13 ing.

14 (d) POLICY LIMITS.—

15 (1) IN GENERAL.—Reimbursement under this
16 section shall not be available except in the case of
17 any professional liability insurance policy providing
18 for—

19 (A) not to exceed \$1,000,000 of coverage
20 for legal liability (as described in subsection
21 (c)(4)(A)) per occurrence per year; and

22 (B) not to exceed \$100,000 of coverage for
23 the cost of legal representation (as described in
24 subsection (c)(4)(B)) per occurrence per year.

1 been the subject of an adverse personnel action related to
2 misconduct or has received a less than fully successful per-
3 formance rating.

4 (c) LIMITATION.—No employee shall have a right to
5 more than 1 offer under this section based on any particu-
6 lar separation due to the conversion of an activity to con-
7 tract.

8 (d) REGULATIONS.—Regulations to carry out this
9 section may be prescribed by the President.

10 **SEC. 603. DEPARTMENT OF HEALTH CARE PROVIDERS**
11 **FOUND TO HAVE ENGAGED IN FRAUDULENT**
12 **PRACTICES.**

13 (a) IN GENERAL.—Section 8902a of title 5, United
14 States Code, is amended—

15 (1) in subsection (a)(2)(A) by striking “sub-
16 section (b) or (c)” and inserting “subsection (b), (c),
17 or (d)”;

18 (2) in subsection (b)—

19 (A) by striking “may” and inserting
20 “shall” in the matter before paragraph (1); and

21 (B) by amending paragraph (5) to read as
22 follows:

23 “(5) Any provider that is currently suspended
24 or excluded from participation under any program of

1 the Federal Government involving procurement or
2 nonprocurement activities.”;

3 (3) by redesignating subsections (c) through (i)
4 as subsections (d) through (j), respectively, and by
5 inserting after subsection (b) the following:

6 “(c) The Office may bar the following providers of
7 health care services from participating in the program
8 under this chapter:

9 “(1) Any provider—

10 “(A) whose license to provide health care
11 services or supplies has been revoked, sus-
12 pended, restricted, or not renewed, by a State
13 licensing authority for reasons relating to the
14 provider’s professional competence, professional
15 performance, or financial integrity; or

16 “(B) that surrendered such a license while
17 a formal disciplinary proceeding was pending
18 before such an authority, if the proceeding con-
19 cerned the provider’s professional competence,
20 professional performance, or financial integrity.

21 “(2) Any provider that is an entity directly or
22 indirectly owned, or with a 5 percent or more con-
23 trolling interest, by an individual who is convicted of
24 any offense described in subsection (b), against
25 whom a civil monetary penalty has been assessed

1 under subsection (d), or who has been excluded from
2 participation under this chapter.

3 “(3) Any provider that the Office determines, in
4 connection with claims presented under this chapter,
5 has charged for health care services or supplies in
6 an amount substantially in excess of such provider’s
7 customary charges for such services or supplies (un-
8 less the Office finds there is good cause for such
9 charge), or charged for health care services or sup-
10 plies which are substantially in excess of the needs
11 of the covered individual or which are of a quality
12 that fails to meet professionally recognized stand-
13 ards for such services or supplies.

14 “(4) Any provider that the Office determines
15 has committed acts described in subsection (d).”;

16 (4) in subsection (d), as so redesignated by
17 paragraph (3), by amending paragraph (1) to read
18 as follows:

19 “(1) in connection with claims presented under
20 this chapter, that a provider has charged for a
21 health care service or supply which the provider
22 knows or should have known involves—

23 “(A) an item or service not provided as
24 claimed;

1 “(B) charges in violation of applicable
2 charge limitations under section 8904(b); or

3 “(C) an item or service furnished during a
4 period in which the provider was excluded from
5 participation under this chapter pursuant to a
6 determination by the Office under this section,
7 other than as permitted under subsection
8 (g)(2)(B);”;

9 (5) in subsection (f), as so redesignated by
10 paragraph (3), by inserting “(where such debarment
11 is not mandatory)” after “under this section” the
12 first place it appears;

13 (6) in subsection (g), as so redesignated by
14 paragraph (3)—

15 (A) by striking “(g)(1)” and all that fol-
16 lows through the end of paragraph (1) and in-
17 serting the following:

18 “(g)(1)(A) Except as provided in subparagraph (B),
19 debarment of a provider under subsection (b) or (c) shall
20 be effective at such time and upon such reasonable notice
21 to such provider, and to carriers and covered individuals,
22 as shall be specified in regulations prescribed by the Of-
23 fice. Any such provider that is excluded from participation
24 may request a hearing in accordance with subsection
25 (h)(1).

1 “(B) Unless the Office determines that the health or
2 safety of individuals receiving health care services war-
3 rants an earlier effective date, the Office shall not make
4 a determination adverse to a provider under subsection
5 (c)(4) or (d) until such provider has been given reasonable
6 notice and an opportunity for the determination to be
7 made after a hearing as provided in accordance with sub-
8 section (h)(1).”;

9 (B) in paragraph (3)—

10 (i) by inserting “of debarment” after
11 “notice”; and

12 (ii) by adding at the end the follow-
13 ing: “In the case of a debarment under
14 paragraphs (1) through (4) of subsection
15 (b), the minimum period of exclusion shall
16 not be less than 3 years, except as pro-
17 vided in paragraph (4)(B)(ii).”;

18 (C) in paragraph (4)(B)(i)(I) by striking
19 “subsection (b) or (c)” and inserting “sub-
20 section (b), (c), or (d)”;

21 (7) in subsection (h), as so redesignated by
22 paragraph (3), by striking “(h)(1)” and all that fol-
23 lows through the end of paragraph (2) and inserting
24 the following:

1 “(h)(1) Any provider of health care services or sup-
2 plies that is the subject of an adverse determination by
3 the Office under this section shall be entitled to reasonable
4 notice and an opportunity to request a hearing of record,
5 and to judicial review as provided in this subsection after
6 the Office renders a final decision. The Office shall grant
7 a request for a hearing upon a showing that due process
8 rights have not previously been afforded with respect to
9 any finding of fact which is relied upon as a cause for
10 an adverse determination under this section. Such hearing
11 shall be conducted without regard to subchapter II of
12 chapter 5 and chapter 7 of this title by a hearing officer
13 who shall be designated by the Director of the Office and
14 who shall not otherwise have been involved in the adverse
15 determination being appealed. A request for a hearing
16 under this subsection must be filed within such period and
17 in accordance with such procedures as the Office shall pre-
18 scribe by regulation.

19 “(2) Any provider adversely affected by a final deci-
20 sion under paragraph (1) made after a hearing to which
21 such provider was a party may seek review of such deci-
22 sion in the United States District Court for the District
23 of Columbia or for the district in which the plaintiff re-
24 sides or has his principal place of business by filing a no-
25 tice of appeal in such court within 60 days from the date

1 the decision is issued and simultaneously sending copies
2 of such notice by certified mail to the Director of the Of-
3 fice and to the Attorney General. In answer to the appeal,
4 the Director of the Office shall promptly file in such court
5 a certified copy of the transcript of the record, if the Office
6 conducted a hearing, and other evidence upon which the
7 findings and decision complained of are based. The court
8 shall have power to enter, upon the pleadings and evidence
9 of record, a judgment affirming, modifying, or setting
10 aside, in whole or in part, the decision of the Office, with
11 or without remanding the cause for a rehearing. The dis-
12 trict court shall not set aside or remand the decision of
13 the Office unless there is not substantial evidence on the
14 record, taken as a whole, to support the findings by the
15 Office of a cause for action under this section or unless
16 action taken by the Office constitutes an abuse of discre-
17 tion.”; and

18 (8) in subsection (i), as so redesignated by
19 paragraph (3)—

20 (A) by striking “subsection (c)” and in-
21 serting “subsection (d)”; and

22 (B) by adding at the end the following:

23 “The amount of a penalty or assessment as fi-
24 nally determined by the Office, or other amount
25 the Office may agree to in compromise, may be

1 deducted from any sum then or later owing by
2 the United States to the party against whom
3 the penalty or assessment has been levied.”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), this section shall take effect on the date
7 of the enactment of this Act.

8 (2) EXCEPTIONS.—(A) Paragraphs (2) and (4)
9 of section 8902a(c) of title 5, United States Code,
10 as amended by subsection (a), shall apply only to the
11 extent that the misconduct which is the basis for de-
12 barment thereunder occurs after the date of the en-
13 actment of this Act.

14 (B) Section 8902a(d)(1)(B) of title 5, United
15 States Code, as amended by subsection (a), shall
16 apply only with respect to charges which violate sec-
17 tion 8904(b) of such title 5 for items and services
18 furnished after the date of the enactment of this
19 Act.

20 (C) Section 8902a(g)(3) of title 5, United
21 States Code, as amended by subsection (a), shall
22 apply only with respect to debarments based on con-
23 victions occurring after the date of the enactment of
24 this Act.

1 **SEC. 604. CONSISTENT COVERAGE FOR INDIVIDUALS EN-**
2 **ROLLED IN A HEALTH PLAN ADMINISTERED**
3 **BY THE FEDERAL BANKING AGENCIES.**

4 Section 5 of the FEGLI Living Benefits Act (Public
5 Law 103–409; 108 Stat. 4232) is amended—

6 (1) by inserting “and the Board of Governors
7 of the Federal Reserve System” after “Office of the
8 Comptroller of the Currency and the Office of Thrift
9 Supervision” each place it appears;

10 (2) in subsection (a), by inserting “or under a
11 health benefits plan not governed by chapter 89 of
12 such title in which employees and retirees of the
13 Board of Governors of the Federal Reserve System
14 participated before January 4, 1997,” after “Janu-
15 ary 7, 1995,”;

16 (3) in subsection (b)—

17 (A) by inserting “(in the case of the Comp-
18 troller of the Currency and the Office of Thrift
19 Supervision) or on January 4, 1997 (in the case
20 of the Board of Governors of the Federal Re-
21 serve System)” after “on January 7, 1995”
22 each place it appears;

23 (B) by inserting “, or in which employees
24 and retirees of the Board of Governors of the
25 Federal Reserve System participate,” after “Of-
26 fice of the Comptroller of the Currency or the

1 Office of Thrift Supervision” each place it ap-
2 pears; and

3 (C) by inserting “(in the case of the Comp-
4 troller of the Currency and the Office of Thrift
5 Supervision) or after January 5, 1997 (in the
6 case of the Board of Governors of the Federal
7 Reserve System)” after “January 8, 1995”
8 each place it appears;

9 (4) in subsection (b)(1)(A), by striking “title;”
10 and inserting “title or a retiree (as defined in sub-
11 section (e));” and

12 (5) by adding at the end the following:

13 “(e) DEFINITION.—For purposes of this section, the
14 term ‘retiree’ shall mean an individual who is receiving
15 benefits under the Retirement Plan for Employees of the
16 Federal Reserve System.”.

17 **SEC. 605. AMENDMENT TO PUBLIC LAW 104-134.**

18 Paragraph (3) of section 3110(b) of the Omnibus
19 Consolidated Rescissions and Appropriations Act of 1996
20 (Public Law 104-134; 110 Stat. 1321-343) is amended
21 to read as follows:

22 “(3) The Corporation shall pay to the Thrift Savings
23 Fund such employee and agency contributions as are re-
24 quired by sections 8432 and 8351 of title 5, United States
25 Code, for those employees who elect to retain their cov-

1 erage under the Civil Service Retirement System or the
2 Federal Employees' Retirement System pursuant to para-
3 graph (1).”.

4 **SEC. 606. MISCELLANEOUS AMENDMENTS RELATING TO**
5 **THE HEALTH BENEFITS PROGRAM FOR FED-**
6 **ERAL EMPLOYEES.**

7 (a) DEFINITION OF A CARRIER.—Paragraph (7) of
8 section 8901 of title 5, United States Code, is amended
9 by striking “organization;” and inserting “organization
10 and the Government-wide service benefit plan sponsored
11 by an association of organizations described in this para-
12 graph;”.

13 (b) SERVICE BENEFIT PLAN.—Paragraph (1) of sec-
14 tion 8903 of title 5, United States Code, is amended by
15 striking “plan,” and inserting “plan, underwritten by par-
16 ticipating affiliates licensed in any number of States,”.

17 (c) PREEMPTION.—Section 8902(m) of title 5, Unit-
18 ed States Code, is amended by striking “(m)(1)” and all
19 that follows through the end of paragraph (1) and insert-
20 ing the following:

21 “(m)(1) The terms of any contract under this chapter
22 which relate to the nature, provision, or extent of coverage
23 or benefits (including payments with respect to benefits)
24 shall supersede and preempt any State or local law, or

1 any regulation issued thereunder, which relates to health
2 insurance or plans.”.

3 **SEC. 607. PAY FOR CERTAIN POSITIONS FORMERLY CLASSI-**
4 **FIED AT GS-18.**

5 Notwithstanding any other provision of law, the rate
6 of basic pay for positions that were classified at GS-18
7 of the General Schedule on the date of the enactment of
8 the Federal Employees Pay Comparability Act of 1990
9 shall be set and maintained at the rate equal to the high-
10 est rate of basic pay for the Senior Executive Service
11 under section 5382(b) of title 5, United States Code.

12 **SEC. 608. REPEAL OF SECTION 1307 OF TITLE 5 OF THE**
13 **UNITED STATES CODE.**

14 (a) IN GENERAL.—Section 1307 of title 5, United
15 States Code, is repealed.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 13 of title 5, United States Code, is amended
18 by repealing the item relating to section 1307.

19 **SEC. 609. EXTENSION OF CERTAIN PROCEDURAL AND AP-**
20 **PEAL RIGHTS TO CERTAIN PERSONNEL OF**
21 **THE FEDERAL BUREAU OF INVESTIGATION.**

22 (a) IN GENERAL.—Section 7511(b)(8) of title 5,
23 United States Code, is amended by striking “the Federal
24 Bureau of Investigation,”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply with respect to any personnel ac-
3 tion taking effect after the end of the 45-day period begin-
4 ning on the date of the enactment of this Act.

Passed the House of Representatives September 27,
1996.

Attest:

Clerk.