

Calendar No. 362

103D CONGRESS
2D SESSION

S. 1535

[Report No. 103-223]

A BILL

To amend title 5, United States Code, to eliminate narrow restrictions on employee training, to provide a temporary voluntary separation incentive, and for other purposes.

FEBRUARY 4 (legislative day, JANUARY 25), 1994
Reported with amendments

Calendar No. 362

103^D CONGRESS
2^D SESSION

S. 1535

[Report No. 103–223]

To amend title 5, United States Code, to eliminate narrow restrictions on employee training, to provide a temporary voluntary separation incentive, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 27), 1993

Mr. GLENN (for himself, Mr. STEVENS, Mr. PRYOR, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

FEBRUARY 4 (legislative day, JANUARY 25), 1994

Reported by Mr. GLENN, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend title 5, United States Code, to eliminate narrow restrictions on employee training, to provide a temporary voluntary separation incentive, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Workforce Re-
3 structuring Act of 1993”.

4 **SEC. 2. EMPLOYEE TRAINING.**

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

7 (1) in section 4101(4) by striking out “fields”
8 and all that follows through the semicolon and in-
9 serting in lieu thereof “fields which will improve in-
10 dividual and organizational performance and assist
11 in achieving the agency’s mission and performance
12 goals;”;

13 (2) in section 4103—

14 (A) in subsection (a) by striking out “In”
15 and all that follows through “proficiency” and
16 inserting in lieu thereof “In order to assist in
17 achieving an agency’s mission and performance
18 goals by improving employee and organizational
19 performance”; and

20 (B) in subsection (b)—

21 (i) in paragraph (1) by striking out
22 “determines” and all that follows through
23 the period and inserting in lieu thereof
24 “determines that such training would be in
25 the interests of the Government.”;

1 (ii) by striking out paragraph (2) and
2 redesignating paragraph (3) as paragraph
3 (2); and

4 (iii) in subparagraph (C) of paragraph
5 (2) (as redesignated under clause (ii) of
6 this subparagraph) by striking out “retain-
7 ing” and all that follows through the pe-
8 riod and inserting in lieu thereof “such
9 training.”;

10 (3) in section 4105—

11 (A) in subsection (a) by striking out “(a)”;

12 and

13 (B) by striking out subsections (b) and (c);

14 (4) by repealing section 4106;

15 (5) in section 4107—

16 (A) by amending the section heading to
17 read as follows:

18 “§ 4107. **Restriction on degree training**”;

19 (B) by striking out subsections (a) and (b)
20 and redesignating subsections (c) and (d) as
21 subsections (a) and (b), respectively;

22 (C) by amending subsection (a) (as redesi-
23 gnated under subparagraph (B) of this para-
24 graph)—

1 (i) by striking out “subsection (d)”
2 and inserting in lieu thereof “subsection
3 (b)”; and

4 (ii) by striking out “by, in, or through
5 a non-Government facility”; and

6 (D) by amending paragraph (1) of sub-
7 section (b) (as redesignated under subpara-
8 graph (B) of this paragraph) by striking out
9 “subsection (c)” and inserting in lieu thereof
10 “subsection (a)”;

11 (6) in section 4108(a) by striking out “by, in,
12 or through a non-Government facility under this
13 chapter” and inserting in lieu thereof “for more
14 than a minimum period prescribed by the head of
15 the agency”;

16 (7) in section 4113(b) by striking out all that
17 follows the first sentence;

18 (8) by repealing section 4114; and

19 (9) in section 4118—

20 (A) in subsection (a)(7) by striking out
21 “by, in, and through non-Government facili-
22 ties”;

23 (B) by striking out subsection (b); and

24 (C) by redesignating subsections (c) and
25 (d) as subsections (b) and (c), respectively.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

2 The table of sections for chapter 41 of title 5, United
3 States Code, is amended—

4 (1) by striking out the items relating to sections
5 4106 and 4114; and

6 (2) by amending the item relating to section
7 4107 to read as follows:

“4107. Restriction on degree training.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date of enactment of
10 this Act.

11 **SEC. 3. VOLUNTARY SEPARATION INCENTIVES.**

12 (a) DEFINITIONS.—For purposes of this section, the
13 term—

14 (1) “agency” means an Executive agency, as
15 defined under section 105 of title 5, United States
16 Code, but does not include the Department of De-
17 fense, the Central Intelligence Agency, or the Gen-
18 eral Accounting Office; and

19 (2) “employee” means an employee, as defined
20 under section 2105 of title 5, United States Code,
21 of an agency, serving under an appointment without
22 time limitation, who has been currently employed for
23 a continuous period of at least 12 months, including
24 an individual employed by a county committee estab-
25 lished under section 8(b) of the Soil Conservation

1 and Domestic Allotment Act (16 U.S.C. 590h(b)),
2 but does not include—

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

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

12 (b) AUTHORITY TO MAKE PAYMENT.—(1) In order
13 to assist in the restructuring of the Federal workforce
14 while minimizing involuntary separations, the head of an
15 agency may pay, or authorize the payment of, a voluntary
16 separation incentive payment to employees—

17 (A) in any component of the agency;

18 (B) in any occupation;

19 (C) in any geographic location; or

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

23 (2) In order to receive an incentive payment under
24 paragraph (1), an employee shall separate from service

1 with the agency (whether by retirement or resignation)
2 during the 90-day period described under paragraph (3).

3 (3) The head of an agency shall designate a continu-
4 ous 90-day period for purposes of separation under this
5 subsection for such agency or any component thereof.
6 Such 90-day period shall begin no earlier than the date
7 of the enactment of this Act and shall end no later than
8 September 30, 1994.

9 (4) Notwithstanding the provisions of paragraphs (2)
10 and (3), an employee may receive an incentive payment
11 under this section and delay a separation from service if—

12 (A) the agency head determines that it is nec-
13 essary to delay such employee's separation from
14 service in order to ensure the performance of the
15 agency's mission; and

16 (B) no later than 2 years after the date of the
17 last day of the 90-day period designated under para-
18 graph (3), such employee separates from service in
19 the agency.

20 (c) VOLUNTARY SEPARATION INCENTIVE PAY-
21 MENT.—A voluntary separation incentive payment—

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

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

1 (A) an amount equal to the amount the
2 employee would be entitled to receive under sec-
3 tion 5595(c) of title 5, United States Code, if
4 the employee were entitled to payment under
5 such section; or

6 (B) \$25,000;

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

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

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

18 (d) SUBSEQUENT EMPLOYMENT AND REPAYMENT OF
19 INCENTIVE PAYMENT.—(1) An employee who has received
20 a voluntary separation incentive payment under this sec-
21 tion and accepts employment with the Government of the
22 United States within 5 years of the date of the separation
23 on which payment of the incentive is based shall be re-
24 quired to repay the entire amount of the incentive pay-
25 ment to the agency that paid the incentive payment.

1 (2) If the employment is with an Executive agency
2 (as defined under section 105 of title 5, United States
3 Code), the Director of the Office of Personnel Manage-
4 ment may, at the request of the head of the agency, waive
5 the repayment if the employment is in a position for which
6 there is exceptional difficulty in recruiting a qualified em-
7 ployee.

8 (3) If the employment is with an entity in the legisla-
9 tive branch, the head of the entity or the appointing offi-
10 cial may waive the repayment if the employment is in a
11 position for which there is exceptional difficulty in recruit-
12 ing a qualified employee.

13 (4) If the employment is with the judicial branch, the
14 Director of the Administrative Office of the United States
15 Courts may waive the repayment if the employment is in
16 a position for which there is exceptional difficulty in re-
17 cruiting a qualified employee.

18 (e) REGULATIONS.—The Director of the Office of
19 Personnel Management may prescribe any regulations
20 necessary for the administration of this section.

21 (f) JUDICIAL BRANCH PROGRAM.—The Director of
22 the Administrative Office of the United States Courts
23 may, by regulation, establish a program consistent with
24 the program established by subsections (a) through (d) of
25 this section for employees of the judicial branch.

1 (g) ~~REDUCTION GOALS.~~—It is the sense of Congress
2 that—

3 (1) ~~employment in the executive branch should~~
4 be reduced by not less than one full-time equivalent
5 position for each 2 employees who are paid voluntary
6 separation incentives under this Act; and

7 (2) ~~each agency should adjust its employment~~
8 levels to achieve such result.

9 (g) *REDUCTION OF FULL-TIME EQUIVALENT POSI-*
10 *TIONS.—(1) The President or his designee shall take such*
11 *action as he determines necessary to ensure that, no later*
12 *than September 30, 1995, employment in the executive*
13 *branch is reduced by at least 1 full-time equivalent position*
14 *for each voluntary separation incentive payment paid*
15 *under this section.*

16 (2) *No later than December 1, 1995, the President or*
17 *his designee shall report to the Congress on the implementa-*
18 *tion of this subsection.*

19 (h) *LIMITATION ON PROCUREMENT OF SERVICE CON-*
20 *TRACTS.—The President shall take appropriate action to*
21 *ensure that there is no increase in the procurement of serv-*
22 *ice contracts by reason of the enactment of this section ex-*
23 *cept in cases in which a cost comparison demonstrates such*
24 *contracts would be to the financial advantage of the Federal*
25 *Government.*

1 **SEC. 4. SUBSEQUENT EMPLOYMENT AND REPAYMENT OF**
2 **SEPARATION PAYMENT.**

3 (a) **DEFENSE AGENCY SEPARATION PAY.**—Section
4 5597 of title 5, United States Code, is amended by adding
5 at the end thereof the following new subsection:

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

15 “(2) If the employment is with an Executive agency
16 (as defined under section 105 of title 5, United States
17 Code), the Director of the Office of Personnel Manage-
18 ment may, at the request of the head of the agency, waive
19 the repayment if the employment is in a position for which
20 there is exceptional difficulty in recruiting a qualified em-
21 ployee.

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

1 “(4) If the employment is with the judicial branch,
2 the Director of the Administrative Office of the United
3 States Courts may waive the repayment if the employment
4 is in a position for which there is exceptional difficulty
5 in recruiting a qualified employee.”.

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

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

9 **SEC. 5. FUNDING OF EARLY RETIREMENTS IN CIVIL SERV-**
10 **ICE RETIREMENT SYSTEM.**

11 (a) IN GENERAL.—Section 8334 of title 5, United
12 States Code, is amended by adding at the end thereof the
13 following new subsection:

14 “(l) In addition to any other payments required by
15 this subchapter, an agency shall remit to the Office for
16 deposit in the Treasury of the United States to the credit
17 of the Fund an amount equal to 9 percent of the final
18 rate of basic pay of each employee of the agency who re-
19 tires under section 8336(d).”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply with respect to retirements occur-
22 ring on or after the date of the enactment of this Act.

1 **SEC. 6. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT**
2 **POSITIONS.**

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

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

- 12 (1) 2,095,182 during fiscal year 1994;
13 (2) 2,044,100 during fiscal year 1995;
14 (3) 2,003,846 during fiscal year 1996;
15 (4) 1,963,593 during fiscal year 1997;
16 (5) 1,923,339 during fiscal year 1998; and
17 (6) 1,883,086 during fiscal year 1999.

18 (c) *MONITORING AND NOTIFICATION.*—The Office of
19 Management and Budget, after consultation with the Office
20 of Personnel Management, shall—

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

1 year of any determination that any requirement of
2 subsection (b) is not met.

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

12 (e) *WAIVER.*—Any provision of this section may be
13 waived upon—

14 (1) a determination by the President of the exist-
15 ence of war or a national emergency; or

16 (2) the enactment of a joint resolution upon an
17 affirmative vote of three-fifths of the Members of each
18 House of the Congress duly chosen and sworn.

19 **SEC. 7. REDUCTION IN DISCRETIONARY SPENDING LIMITS.**

20 The Director of the Office of Management and Budget
21 shall, upon enactment of this Act, reduce the discretionary
22 spending limits set forth in section 601(a)(2) of the Con-
23 gressional Budget Act of 1974 for fiscal years 1994 through
24 1998 as follows:

1 (1) for fiscal year 1994, for the discretionary
2 category: \$329,000,000 in new budget authority and
3 \$314,000,000 in outlays;

4 (2) for fiscal year 1995, for the discretionary
5 category: \$2,423,000,000 in new budget authority and
6 \$2,330,000,000 in outlays;

7 (3) for fiscal year 1996, for the discretionary
8 category: \$4,267,000,000 in new budget authority and
9 \$4,184,000,000 in outlays;

10 (4) for fiscal year 1997, for the discretionary
11 category: \$6,313,000,000 in new budget authority and
12 \$6,221,000,000 in outlays; and

13 (5) for fiscal year 1998, for the discretionary
14 category: \$8,545,000,000 in new budget authority and
15 \$8,443,000,000 in outlays.

16 **SEC. 8. STANDARDIZATION OF WITHDRAWAL OPTIONS FOR**
17 **THRIFT SAVINGS PLAN PARTICIPANTS.**

18 (a) *PARTICIPATION IN THE THRIFT SAVINGS PLAN.*—
19 Section 8351(b) of title 5, United States Code, is amend-
20 ed—

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

23 “(4) Section 8433(b) of this title applies to any
24 employee or Member who elects to make contributions
25 to the Thrift Savings Fund under subsection (a) of

1 *this section and separates from Government employ-*
2 *ment.”;*

3 *(2) by striking out 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 redesignated under*
7 *paragraph (3) of this subsection) by striking out “or*
8 *former spouse” in both places it appears;*

9 *(5) by amending paragraph (6) (as redesignated*
10 *under paragraph (3) of this subsection) to read as fol-*
11 *lows:*

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

21 *(6) in paragraph (7) (as redesignated under*
22 *paragraph (3) of this subsection) by striking out*
23 *“nonforfeiture” and inserting in lieu thereof “non-*
24 *forfeitable”.*

1 (b) *BENEFITS AND ELECTION OF BENEFITS.*—Section
2 8433 of title 5, United States Code, is amended—

3 (1) in subsection (b) by striking out the matter
4 before paragraph (1) and inserting in lieu thereof
5 “Subject to section 8435 of this title, any employee or
6 Member who separates from Government employment
7 entitled to an annuity under subchapter II of this
8 chapter or any employee or Member who separates
9 from Government employment is entitled and may
10 elect—”;

11 (2) by striking out subsections (c) and (d) and
12 redesignating subsections (e), (f), (g), (h), and (i) as
13 subsections (c), (d), (e), (f), and (g), respectively;

14 (3) in subsection (c)(1) (as redesignated under
15 paragraph (2) of this subsection) by striking out “or
16 (c)(4) or required under subsection (d) directly to an
17 eligible retirement plan or plans) (as defined in sec-
18 tion 402(a)(5)(E) of the Internal Revenue Code of
19 1954)” and inserting in lieu thereof “directly to an
20 eligible retirement plan or plans (as defined in sec-
21 tion 402(c)(8) of the Internal Revenue Code of 1986)”;

22 (4) in subsection (d)(2) (as redesignated under
23 paragraph (2) of this subsection) by striking out “or
24 (c)(2)”;

1 (5) in subsection (f) (as redesignated under
2 paragraph (2) of this subsection)—

3 (A) by striking out paragraph (1) and re-
4 designating paragraphs (2) and (3) as para-
5 graphs (1) and (2), respectively; and

6 (B) in paragraph (1) (as redesignated
7 under subparagraph (A) of this paragraph)—

8 (i) by striking out “Notwithstanding
9 subsections (b) and (c), if an employee or
10 Member separates from Government employ-
11 ment under circumstances making such an
12 employee or Member eligible to make an
13 election under either of those subsections,
14 and such employee’s or Member’s” and in-
15 serting in lieu thereof “Notwithstanding
16 subsection (b), if an employee or Member
17 separates from Government employment,
18 and such employee’s or Member’s”; and

19 (ii) by striking out “or (c), as applica-
20 ble”; and

21 (C) in paragraph (2) (as redesignated
22 under subparagraph (A) of this paragraph) by
23 striking out “paragraphs (1) and (2)” and in-
24 serting in lieu thereof “paragraph (1)”.

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

4 “(c) Notwithstanding an elimination of a method of
 5 payment by the Board an employee, Member, former em-
 6 ployee, or former Member may elect the eliminated method
 7 if the elimination of such method became effective less than
 8 5 years before the date on which annuity commences.”.

9 (d) *PROTECTIONS FOR SPOUSES AND FORMER*
 10 *SPOUSES.*—Section 8435 of title 5, United States Code, is
 11 *amended—*

12 (1) in subsection (a)(1)(A) by striking out “sub-
 13 section (b)(3), (b)(4), (c)(3), or (c)(4) of section 8433
 14 of this title or change an election previously made
 15 under subsection (b)(1), (b)(2), (c)(1), or (c)(2)” and
 16 inserting in lieu thereof “subsection (b)(3) or (b)(4) of
 17 section 8433 of this title or change an election pre-
 18 viously made under subsection (b)(1) or (b)(2)”;

19 (2) by striking out subsection (b);

20 (3) by redesignating subsections (c), (d), (e), (f),
 21 (g), (h), and (i) as subsections (b), (c), (d), (e), (f),
 22 (g), and (h), respectively;

23 (4) in subsection (b) (as redesignated under
 24 paragraph (3) of this subsection) by amending para-
 25 graph (2) to read as follows:

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

2 “(A) a joint waiver of such method is made,
3 in writing, by the employee or Member and the
4 spouse; or

5 “(B) the employee or Member waives such
6 method, in writing, after establishing to the sat-
7 isfaction of the Executive Director that cir-
8 cumstances described under subsection (a)(2) (A)
9 or (B) make the requirement of a joint waiver
10 inappropriate.”; and

11 (5) in subsection (c)(1) (as redesignated under
12 paragraph (3) of this subsection) by striking out “and
13 a transfer may not be made under section 8433(d) of
14 this title”.

15 (e) *JUSTICES AND JUDGES*.—Section 8440a(b) of title
16 5, *United States Code*, is amended—

17 (1) in paragraph (5) by striking out “Section
18 8433(d)” and inserting in lieu thereof “Section
19 8433(b)”; and

20 (2) by striking out paragraphs (7) and (8) and
21 inserting in lieu thereof the following:

22 “(7) Notwithstanding paragraphs (4) and (5), if
23 any justice or judge retires under subsection (a) or (b)
24 of section 371 or section 372(a) of title 28, or resigns
25 without having met the age and service requirements

1 set forth under section 371(c) of title 28, and such jus-
 2 tice's or judge's nonforfeitable account balance is
 3 \$3,500 or less, the Executive Director shall pay the
 4 nonforfeitable account balance to the participant in a
 5 single payment unless the justice or judge elects, at
 6 such time and otherwise in such manner as the Exec-
 7 utive Director prescribes, one of the options available
 8 under section 8433(b).''.

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

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

13 “(B) Section 8433(b) of this title applies to
 14 any bankruptcy judge or magistrate who elects to
 15 make contributions to the Thrift Savings Fund
 16 under subsection (a) of this section and who re-
 17 tires before attaining age 65 but is entitled, upon
 18 attaining age 65, to an annuity under section
 19 377 of title 28 or section 2(c) of the Retirement
 20 and Survivors Annuities for Bankruptcy Judges
 21 and Magistrates Act of 1988.”;

22 (2) in subsection (b)(4)(C) by striking out “Sec-
 23 tion 8433(d)” and inserting in lieu thereof “Section
 24 8433(b)”;

1 (3) in subsection (b)(5) by striking out “retire-
 2 ment under section 377 of title 28 is” and inserting
 3 in lieu thereof “any of the actions described under
 4 paragraph (4) (A), (B), or (C) shall be considered”;

5 (4) in subsection (b) by striking out paragraph
 6 (8) and redesignating paragraph (9) as paragraph
 7 (8); and

8 (5) in paragraph (8) of subsection (b) (as redes-
 9 ignated under paragraph (4) of this subsection)—

10 (A) by striking out “Notwithstanding sub-
 11 paragraphs (A) and (B) of paragraph (4), if any
 12 bankruptcy judge or magistrate retires under cir-
 13 cumstances making such bankruptcy judge or
 14 magistrate eligible to make an election under
 15 subsection (b) or (c)” and inserting in lieu there-
 16 of “Notwithstanding paragraph (4), if any bank-
 17 ruptcy judge or magistrate retires under cir-
 18 cumstances making such bankruptcy judge or
 19 magistrate eligible to make an election under
 20 subsection (b)”;

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

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

1 (1) in subsection (b)(4)(B) by striking out “Sec-
2 tion 8433(d)” and inserting in lieu thereof “Section
3 8433(b)”;

4 (2) in subsection (b)(5) by striking out “retire-
5 ment under section 178 of title 28, is” and inserting
6 in lieu thereof “any of the actions described in para-
7 graph (4) (A) or (B) shall be considered”;

8 (3) in subsection (b) by striking out paragraph
9 (8) and redesignating paragraph (9) as paragraph
10 (8); and

11 (4) in paragraph (8) (as redesignated under
12 paragraph (3) of this subsection) by striking out
13 “Notwithstanding paragraph (4)(A)” and inserting
14 in lieu thereof “Notwithstanding paragraph (4)”.

15 (h) JUDGES OF THE UNITED STATES COURT OF VET-
16 ERANS APPEALS.—Section 8440d(b)(5) of title 5, United
17 States Code, is amended by striking out “A transfer shall
18 be made as provided under section 8433(d) of this title”
19 and inserting in lieu thereof “Section 8433(b) of this title
20 applies”.

21 (i) TECHNICAL AND CONFORMING AMENDMENTS.—
22 Chapters 83 and 84 of title 5, United States Code, are
23 amended—

24 (1) in section 8351(b)(5)(B) (as redesignated
25 under subsection (a)(3) of this section) by striking out

1 “section 8433(i)” and inserting in lieu thereof “sec-
2 tion 8433(g)”;

3 (2) in section 8351(b)(5)(D) (as redesignated
4 under subsection (a)(3) of this section) by striking out
5 “section 8433(i)” and inserting in lieu thereof “sec-
6 tion 8433(g)”;

7 (3) in section 8433(b)(4) by striking out “sub-
8 section (e)” and inserting in lieu thereof “subsection
9 (c)”;

10 (4) in section 8433(d)(1) (as redesignated under
11 subsection (b)(2) of this section) by striking out “(d)
12 of section 8435” and inserting in lieu thereof “(c) of
13 section 8435”;

14 (5) in section 8433(d)(2) (as redesignated under
15 subsection (b)(2) of this section) by striking out “sec-
16 tion 8435(d)” and inserting in lieu thereof “section
17 8435(c)”;

18 (6) in section 8433(e) (as redesignated under
19 subsection (b)(2) of this section) by striking out “sec-
20 tion 8435(d)(2)” and inserting in lieu thereof “section
21 8435(c)(2)”;

22 (7) in section 8433(g)(5) (as redesignated under
23 subsection (b)(2) of this section) by striking out “sec-
24 tion 8435(f)” and inserting in lieu thereof “section
25 8435(e)”;

1 (8) in section 8434(b) by striking out “section
2 8435(c)” and inserting in lieu thereof “section
3 8435(b)”;

4 (9) in section 8435(a)(1)(B) by striking out
5 “subsection (c)” and inserting in lieu thereof “sub-
6 section (b)”;

7 (10) in section 8435(d)(1)(B) (as redesignated
8 under subsection (d)(3) of this section) by striking out
9 “subsection (d)(2)” and inserting in lieu thereof “sub-
10 section (c)(2)”;

11 (11) in section 8435(d)(3)(A) (as redesignated
12 under subsection (d)(3) of this section) by striking out
13 “subsection (c)(1)” and inserting in lieu thereof “sub-
14 section (b)(1)”;

15 (12) in section 8435(d)(6) (as redesignated under
16 subsection (d)(3) of this section) by striking out “or
17 (c)(2)” and inserting in lieu thereof “or (b)(2)”;

18 (13) in section 8435(e)(1)(A) (as redesignated
19 under subsection (d)(3) of this section) by striking out
20 “section 8433(i)” and inserting in lieu thereof “sec-
21 tion 8433(g)”;

22 (14) in section 8435(e)(2) (as redesignated under
23 subsection (d)(3) of this section) by striking out “sec-
24 tion 8433(i) of this title shall not be approved if ap-
25 proval would have the result described in subsection

1 (d)(1)” and inserting in lieu thereof “section 8433(g)
 2 of this title shall not be approved if approval would
 3 have the result described under subsection (c)(1)”;

4 (15) in section 8435(g) (as redesignated under
 5 subsection (d)(3) of this section) by striking out “sec-
 6 tion 8433(i)” and inserting in lieu thereof “section
 7 8433(g)”;

8 (16) in section 8437(c)(5) by striking out “sec-
 9 tion 8433(i)” and inserting in lieu thereof “section
 10 8433(g)”;

11 (17) in section 8440a(b)(6) by striking out “sec-
 12 tion 8351(b)(7)” and inserting in lieu thereof “section
 13 8351(b)(5)”.

14 (j) *INTERIM PROVISION.*—Section 8433(d) of title 5,
 15 United States Code, is amended by striking out “shall
 16 transfer the amount of the balance” and inserting in lieu
 17 thereof “may transfer the amount of the balance”.

18 (k) *EFFECTIVE DATES.*—(1) Except as provided in
 19 paragraph (2), the provisions of this section shall take effect
 20 1 year after the date of enactment of this Act or upon such
 21 other date as the Executive Director of the Federal Retire-
 22 ment Thrift Investment Board shall provide in regulation.

23 (2) The provisions of subsection (j) of this section shall
 24 take effect upon the date of the enactment of this Act.

1 **SEC. 9. AMENDMENTS TO ALASKA RAILROAD TRANSFER**
2 **ACT OF 1982 REGARDING FORMER FEDERAL**
3 **EMPLOYEES.**

4 (a) *APPLICABILITY OF VOLUNTARY SEPARATION IN-*
5 *CENTIVES TO CERTAIN FORMER FEDERAL EMPLOYEES.—*
6 *Section 607(a) of the Alaska Railroad Transfer Act of 1982*
7 *(45 U.S.C. 1206(a)) is amended by adding at the end there-*
8 *of the following new paragraph:*

9 “(4)(A) *The State-owned railroad shall be in-*
10 *cluded in the definition of ‘agency’ for purposes of*
11 *section 3 (a), (b), (c), and (e) and section 5 of the*
12 *Federal Workforce Restructuring Act of 1993 and*
13 *may elect to participate in the voluntary separation*
14 *incentive program established under such Act. Any*
15 *employee of the State-owned railroad who meets the*
16 *qualifications as described under the first sentence of*
17 *paragraph (1) shall be deemed an employee under*
18 *such Act.*

19 “(B) *An employee who has received a voluntary*
20 *separation incentive payment under this paragraph*
21 *and accepts employment with the State-owned rail-*
22 *road within 5 years of the date of separation on*
23 *which payment of the incentive is based shall be re-*
24 *quired to repay the entire amount of the incentive*
25 *payment unless the head of the State-owned railroad*
26 *determines that the employment is in a position for*

1 *which there is exceptional difficulty in recruiting a*
 2 *qualified employee and waives the repayment.”.*

3 *(b) LIFE AND HEALTH INSURANCE BENEFITS.—Sec-*
 4 *tion 607 of the Alaska Railroad Transfer Act of 1982 (45*
 5 *U.S.C. 1206) is amended by striking out subsection (e) and*
 6 *inserting in lieu thereof the following:*

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

13 *“(2) The provisions of paragraph (1) shall apply to*
 14 *any person who—*

15 *“(A) on the date of the enactment of the Federal*
 16 *Workforce Restructuring Act of 1993, is an employee*
 17 *of the State-owned railroad;*

18 *“(B) has 20 years or more of service (in the civil*
 19 *service as a Federal employee or as an employee of*
 20 *the State-owned railroad, combined) on the date of re-*
 21 *irement from the State-owned railroad; and*

22 *“(C)(i) was covered under a life insurance policy*
 23 *pursuant to chapter 87 of title 5, United States Code,*
 24 *on January 4, 1985, for the purpose of electing life*

1 *insurance coverage under the provisions of paragraph*
2 *(1); or*

3 “(ii) *was enrolled in a health benefits plan pur-*
4 *suant to chapter 89 of title 5, United States Code, on*
5 *January 4, 1985, for the purpose of enrolling in a*
6 *health benefits plan under the provisions of para-*
7 *graph (1).*

8 “(3) *For purposes of this section, any person described*
9 *under the provisions of paragraph (2) shall be deemed to*
10 *have been covered under a life insurance policy under chap-*
11 *ter 87 of title 5, United States Code, and to have been en-*
12 *rolled in a health benefits plan under chapter 89 of title*
13 *5, United States Code, during the period beginning on Jan-*
14 *uary 5, 1985, through the date of retirement of any such*
15 *person.*

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

S 1535 RS—2

S 1535 RS—3