

106TH CONGRESS
1ST SESSION

S. 940

To provide a temporary authority for the use of voluntary separation incentives by the Department of Veterans Affairs to reduce employment levels, restructure staff, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 1999

Mr. SPECTER (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To provide a temporary authority for the use of voluntary separation incentives by the Department of Veterans Affairs to reduce employment levels, restructure staff, 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 that except as otherwise expressly provided, whenever in
4 this Act an amendment is expressed in terms of an amend-
5 ment to a section or other provision, the reference shall
6 be considered to be made to a section or other provision
7 of title 38, United States Code.

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Vet-
3 erans Affairs Employment Reduction Assistance Act of
4 1999”.

5 **SEC. 2. DEFINITIONS.**

6 For the purpose of this Act:

7 (1) “Department” means the Department of
8 Veterans Affairs.

9 (2) “Employee” means an employee (as defined
10 by section 2105 of title 5, United States Code) of
11 the Department of Veterans Affairs, who is serving
12 under an appointment without time limitation, and
13 has been currently employed by such Department for
14 a continuous period of at least 3 years, but does not
15 include—

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

21 (B) an employee having a disability on the
22 basis of which such employee is eligible for dis-
23 ability retirement under subchapter III of chap-
24 ter 83 or chapter 84 of title 5, United States
25 Code, or another retirement system for employ-
26 ees of the Federal Government;

1 (C) an employee who is in receipt of a spe-
2 cific notice of involuntary separation for mis-
3 conduct or unacceptable performance;

4 (D) an employee who previously has re-
5 ceived any voluntary separation incentive pay-
6 ment by the Federal Government under this
7 Act or any other authority;

8 (E) an employee covered by statutory re-
9 employment rights who is on transfer to an-
10 other organization; or

11 (F) any employee who, during the twenty-
12 four month period preceding the date of separa-
13 tion, has received a recruitment or relocation
14 bonus under section 5753 of title 5, United
15 States Code, or a recruitment bonus under sec-
16 tion 7458 of title 38, United States Code;

17 (G) any employee who, during the twelve-
18 month period preceding the date of separation,
19 received a retention allowance under section
20 5754 of title 5, United States Code, or a reten-
21 tion bonus under section 7458 of title 38,
22 United States Code.

23 (3) “Secretary” means the Secretary of Vet-
24 erans Affairs.

1 **SEC. 3. DEPARTMENT PLANS; APPROVAL.**

2 (a) IN GENERAL.—The Secretary, before obligating
3 any resources for voluntary separation incentive payments,
4 shall submit to the Director of the Office of Management
5 and Budget a strategic plan outlining the use of such in-
6 centive payments and a proposed organizational chart for
7 the Department once such incentive payments have been
8 completed.

9 (b) CONTENTS.—The plan shall specify—

10 (1) the positions and functions to be reduced or
11 eliminated, identified by organizational unit, geo-
12 graphic location, occupational category and grade
13 level; the proposed coverage may be based on—

14 (A) any component of the Department;

15 (B) any occupation, level or type of posi-
16 tion;

17 (C) any geographic location;

18 (D) other nonpersonal factors; or

19 (E) any appropriate combination of the
20 factors in paragraphs (A), (B), (C), and (D);

21 (2) the manner in which such reductions will
22 improve operating efficiency or meet actual or antici-
23 pated levels of budget or staffing resources;

24 (3) the period of time during which incentives
25 may be paid; and

1 (4) a description of how the affected compo-
2 nent(s) of the Department will operate without the
3 eliminated functions and positions.

4 (c) APPROVAL.—The Director of the Office of Man-
5 agement and Budget shall approve or disapprove each
6 plan submitted under subsection (a), and may make ap-
7 propriate modifications to the plan with respect to the
8 time period in which voluntary separation incentives may
9 be paid, with respect to the number and amounts of incen-
10 tive payments, or with respect to the coverage of incentives
11 on the basis of the factors in subsection (b)(1).

12 **SEC. 4. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

13 (a) AUTHORITY TO PROVIDE VOLUNTARY SEPARA-
14 TION INCENTIVE PAYMENTS.—

15 (1) IN GENERAL.—The Secretary may pay a
16 voluntary separation incentive payment to an em-
17 ployee only to the extent necessary to reduce or
18 eliminate the positions and functions identified by
19 the strategic plan;

20 (2) EMPLOYEES WHO MAY RECEIVE INCEN-
21 TIVES.—In order to receive a voluntary separation
22 incentive payment, an employee must separate from
23 service with the Department voluntarily (whether by
24 retirement or resignation) under the provisions of
25 this Act;

1 (b) AMOUNT AND TREATMENT OF PAYMENTS.—A
2 voluntary separation incentive payment—

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

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

6 (A) an amount equal to the amount the
7 employee would be entitled to receive under sec-
8 tion 5595(c) of title 5, United States Code, if
9 the employee were entitled to payment under
10 such section (without adjustment for any pre-
11 vious payment made under that section); or

12 (B) an amount determined by the Sec-
13 retary, not to exceed \$25,000;

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

17 (4) shall not be taken into account in deter-
18 mining the amount of severance pay to which an em-
19 ployee may be entitled under section 5595 of title 5,
20 United States Code, based on any other separation;
21 and

22 (5) shall be paid from the appropriations or
23 funds available for payment of the basic pay of the
24 employee.

1 **SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE**
2 **GOVERNMENT.**

3 (a) An individual who has received a voluntary sepa-
4 ration incentive payment under this Act and accepts any
5 employment with the Government of the United States,
6 or who works for any agency of the United States Govern-
7 ment through a personal services contract, within 5 years
8 after the date of the separation on which the payment is
9 based shall be required to repay, prior to the individual's
10 first day of employment, the entire amount of the incen-
11 tive payment to the Department.

12 (b)(1) If the employment under subsection (a) is with
13 an Executive agency (as defined by section 105 of title
14 5, United States Code), the United States Postal Service,
15 or the Postal Rate Commission, the Director of the Office
16 of Personnel Management may, at the request of the head
17 of the agency, waive the repayment if the individual in-
18 volved possesses unique abilities and is the only qualified
19 applicant available for the position.

20 (2) If the employment under subsection (a) is with
21 an entity in the legislative branch, the head of the entity
22 or the appointing official may waive the repayment if the
23 individual involved possesses unique abilities and is the
24 only qualified applicant available for the position.

25 (3) If the employment under subsection (a) is with
26 the judicial branch, the Director of the Administrative Of-

1 fice of the United States Courts may waive the repayment
 2 if the individual involved possesses unique abilities and is
 3 the only qualified applicant available for the position.

4 (c) For the purpose of this section, the term “employ-
 5 ment” includes—

6 (1) for the purposes of subsections (a) and (b),
 7 employment of any length or under any type of ap-
 8 pointment, but does not include employment that is
 9 without compensation; and

10 (2) for the purposes of subsection (a), employ-
 11 ment with any agency of the United States Govern-
 12 ment through a personal services contract.

13 **SEC. 6. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RE-**
 14 **TIREMENT FUND.**

15 (a) In addition to any other payments which it is re-
 16 quired to make under subchapter III of chapter 983 or
 17 chapter 84 of title 5, United States Code, the Department
 18 shall remit to the Office of Personnel Management for de-
 19 posit in the Treasury of the United States to the credit
 20 of the Civil Service Retirement and Disability Fund an
 21 amount equal to 15 percent of the final basic pay of each
 22 employee of the Department who is covered under sub-
 23 chapter III of chapter 83 or chapter 84 of title 5 to whom
 24 a voluntary separation incentive has been paid under this
 25 Act.

1 (b) For the purpose of this section, the term “final
2 basic pay”, with respect to an employee, means the total
3 amount of basic pay that would be payable for a year of
4 service by that employee, computed using the employee’s
5 final rate of basic pay, and, if last serving on other than
6 a full-time basis, with appropriate adjustment therefor.

7 **SEC. 7. REDUCTION OF AGENCY EMPLOYMENT LEVELS.**

8 (a) IN GENERAL.—The total full-time equivalent em-
9 ployment in the Department shall be reduced by one for
10 each separation of an employee who receives a voluntary
11 separation incentive payment under this Act. the reduction
12 will be calculated by comparing the Department’s full-time
13 equivalent employment for the fiscal; year in which the
14 voluntary separation payments are made with the actual
15 full-time equivalent employment for the prior fiscal year.

16 (b) ENFORCEMENT.—The President, through the
17 Office of Management and Budget, shall monitor the
18 Department and take any action necessary to ensure that
19 the requirements of this section are met.

20 (c) Subsection (a) of this section may be waived upon
21 a determination by the President that—

22 (1) the existence of a state of war or other na-
23 tional emergency so requires; or

1 (2) the existence of an extraordinary emergency
2 which threatens life, health, safety, property, or the
3 environment, so requires.

4 **SEC. 8. CONTINUED HEALTH INSURANCE COVERAGE.**

5 Section 8905a(d)(4) of title 5, United States Code,
6 is amended—

7 (1) in subparagraph (A) by inserting after force
8 “, or an involuntary separation from a position in or
9 under the Department of Veterans Affairs due to a
10 reduction in force or a title 38 staffing adjustment”;

11 (2) in subparagraph (B) by inserting at the be-
12 ginning thereof “With respect to the Department of
13 Defense,”;

14 (3) by redesignating subparagraph (C) as sub-
15 paragraph (D);

16 (4) by adding a new subparagraph (C) as fol-
17 lows:

18 (C) With respect to the Department of
19 Veterans Affairs, this paragraph shall apply
20 with respect to any individual whose continued
21 coverage is based on a separation occurring on
22 or after the date of enactment of this para-
23 graph and before—

24 (i) October 1, 2004; or

1 (ii) February 1, 2005, if specific no-
2 tice of such separation was given to such
3 individual before October 1, 2004.

4 **SEC. 9. REGULATIONS.**

5 The Director of the Office of Personnel Management
6 may prescribe any regulations necessary to administer the
7 provisions of this Act.

8 **SEC. 10. LIMITATION; SAVINGS CLAUSE.**

9 (a) No voluntary separation incentive under this Act
10 may be paid based on the separation of an employee after
11 September 30, 2004.;

12 (b) This Act supplements and does not supersede
13 other authority of the Secretary.

14 **SEC. 11. EFFECTIVE DATE.**

15 (a) This Act shall take effect on the date of enact-
16 ment.

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