

this section] shall take effect on the date of the enactment of this Act [Dec. 22, 1987], and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

“(2) EXCEPTION.—

“(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) [amending this section] shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act [Dec. 22, 1987], if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

“(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

“(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

“(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act [Dec. 22, 1987].

“(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with [section] 5596(b)(2)(B) of title 5, United States Code.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-172, §1(b), Dec. 23, 1975, 89 Stat. 1025, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any employee found, on or after March 30, 1966, to have undergone an unjustified or unwarranted personnel action the correction of which entitles such employee to the benefits provided under section 5596 of title 5, United States Code.”

LUMP-SUM PAYMENTS FOR FORMER EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Pub. L. 94-172, §2, Dec. 23, 1975, 89 Stat. 1025, provided that: “With respect to former employee (except a former employee referred to in section 3 of this Act) [set out as a note below] who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave, which was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave

authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of the enactment of this Act with the agency by which the employee was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to such employee. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable.”

LUMP-SUM PAYMENTS FOR POSTAL EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Pub. L. 94-172, §3, Dec. 23, 1975, 89 Stat. 1025, provided that:

“(a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to his credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of enactment of this Act with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service, as appropriate, last became applicable to the former employee.

“(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed with the Postal Service within three years immediately following the date of the enactment of this Act [Dec. 23, 1975]. Payment shall be by the Postal Service at the salary rate in effect on the date of the enactment of this Act.”

§ 5597. Separation pay

(a) For the purpose of this section—

(1) the term “Secretary” means the Secretary of Defense;

(2) the term “defense agency” means an agency of the Department of Defense, as further defined under regulations prescribed by the Secretary; and

(3) the term “employee” means an employee of a defense agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83, chapter 84, or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(b) In order to avoid or minimize the need for involuntary separations due to a reduction in

force, base closure, reorganization, transfer of function, workforce restructuring (to meet mission needs, achieve one or more strength reductions, correct skill imbalances, or reduce the number of high-grade, managerial, or supervisory positions), or other similar action affecting 1 or more defense agencies, the Secretary shall establish a program under which separation pay may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation).

(c) Under the program, separation pay may be offered by a defense agency only—

(1) with the prior consent, or on the authority, of the Secretary; and

(2) to employees within such occupational groups or geographic locations, or subject to such other similar objective and nonpersonal limitations or conditions, as the Secretary may require.

A determination of which employees are within the scope of an offer of separation pay shall be made only on the basis of consistent and well-documented application of the relevant criteria.

(d) Such separation pay—

(1) shall be paid in a lump-sum or in installments;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section; or

(B) \$25,000;

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

(4) shall not be taken into account for purposes of determining the amount of any severance pay to which an individual may be entitled under section 5595 based on any other separation; and

(5) if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract, as described in subsection (g)(1).

(e) No amount shall be payable under this section based on any separation occurring after September 30, 2003.

(f) The Secretary shall prescribe such regulations as may be necessary to carry out this section.

(g)(1) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 and accepts employment with the Government of the United States, or who commences work for an agency of the United States through a personal services contract with the United States, within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the defense agency that paid the separation pay.

(2) If the employment is with an Executive agency, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the

only qualified applicant available for the position.

(3) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

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

(5) If the employment is without compensation, the appointing official may waive the repayment.

(h)(1)(A) In addition to any other payment that it is required to make under subchapter III of chapter 83 or chapter 84, the Department of Defense shall remit to the Office of Personnel Management an amount equal to 15 percent of the final basic pay of each covered employee.

(B) If the employee is one with respect to whom a remittance would otherwise be required under section 4(a) of the Federal Workforce Restructuring Act of 1994 based on the separation involved, the remittance under this subsection shall be instead of the remittance otherwise required under such section 4(a).

(2) Amounts remitted under paragraph (1) shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

(3) For the purposes of this subsection—

(A) the term "covered employee" means an employee who is subject to subchapter III of chapter 83 or chapter 84 and to whom a voluntary separation incentive has been paid under this section on the basis of a separation occurring on or after October 1, 1997; and

(B) the term "final basic pay" has the meaning given such term in section 4(a)(2) of the Federal Workforce Restructuring Act of 1994.

(i)(1) Notwithstanding any other provision of this section, during fiscal year 2001, separation pay may be offered under the program carried out under this section with respect to workforce restructuring only to persons who, upon separation, are entitled to an immediate annuity under section 8336, 8412, or 8414 of this title and are otherwise eligible for the separation pay under this section.

(2) In the administration of the program under this section during fiscal year 2001, the Secretary shall ensure that not more than 1,000 employees are, as a result of workforce restructuring, separated from service in that fiscal year entitled to separation pay under this section.

(3) Separation pay may not be offered as a result of workforce restructuring under the program carried out under this section after fiscal year 2003.

(Added Pub. L. 102-484, div. D, title XLIV, § 4436(a)(1), Oct. 23, 1992, 106 Stat. 2723; amended Pub. L. 103-226, § 8(a), Mar. 30, 1994, 108 Stat. 118; Pub. L. 103-337, div. A, title III, § 341(b)(1), Oct. 5, 1994, 108 Stat. 2720; Pub. L. 104-201, div. A, title XVI, § 1612(a), Sept. 23, 1996, 110 Stat. 2739; Pub. L. 105-85, div. A, title XI, § 1106(a), (b)(1), Nov. 18,

1997, 111 Stat. 1923, 1924; Pub. L. 106-65, div. A, title XI, §1104(b), Oct. 5, 1999, 113 Stat. 777; Pub. L. 106-398, §1 [[div. A], title XI, §§1151, 1153(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-319, 1654A-323.)

REFERENCES IN TEXT

The date of the enactment of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 103-226, which was approved Mar. 30, 1994.

Section 4(a) of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (h)(1)(B), (3)(B), is section 4(a) of Pub. L. 103-226, as amended, which is set out as a note under section 8331 of this title.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-398, §1 [[div. A], title XI, §1151(a)], inserted “workforce restructuring (to meet mission needs, achieve one or more strength reductions, correct skill imbalances, or reduce the number of high-grade, managerial, or supervisory positions),” after “transfer of function.”

Subsec. (c). Pub. L. 106-398, §1 [[div. A], title XI, §1151(b)(2)], inserted concluding provisions.

Subsec. (c)(2). Pub. L. 106-398, §1 [[div. A], title XI, §1151(b)(1)], inserted “objective and nonpersonal” after “similar”.

Subsec. (d)(1). Pub. L. 106-398, §1 [[div. A], title XI, §1151(c)(1)], added par. (1) and struck out former par. (1) which read as follows: “shall be paid in a lump sum;”.

Subsec. (d)(5). Pub. L. 106-398, §1 [[div. A], title XI, §1151(c)(2)-(4)], added par. (5).

Subsec. (g)(1). Pub. L. 106-398, §1 [[div. A], title XI, §1151(d)], inserted “, or who commences work for an agency of the United States through a personal services contract with the United States,” after “employment with the Government of the United States”.

Subsec. (i). Pub. L. 106-398, §1 [[div. A], title XI, §1153(a)], added subsec. (i).

1999—Subsec. (e). Pub. L. 106-65 substituted “September 30, 2003” for “September 30, 2001”.

1997—Subsec. (e). Pub. L. 105-85, §1106(b)(1), substituted “September 30, 2001” for “September 30, 1999”.

Subsec. (h). Pub. L. 105-85, §1106(a), added subsec. (h).

1996—Subsec. (g)(5). Pub. L. 104-201 added par. (5).

1994—Subsec. (e). Pub. L. 103-337 substituted “September 30, 1999” for “September 30, 1997”.

Subsec. (g). Pub. L. 103-226 added subsec. (g).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title XVI, §1612(b), Sept. 23, 1996, 110 Stat. 2739, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to employment accepted on or after the date of the enactment of this Act [Sept. 23, 1996].”

LIMITATIONS FOR FISCAL YEARS 2002 AND 2003 ON VSIP AND VERA

Pub. L. 106-398, §1 [[div. A], title XI, §1153(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-323, as amended by Pub. L. 107-107, div. A, title XI, §1133(a), Dec. 28, 2001, 115 Stat. 1244, provided that:

“The Secretary of Defense shall ensure that, in fiscal year 2002 not more than 2000 employees of the Department of Defense are, and in fiscal year 2003 not more than 6000 employees of the Department of Defense are, as a result of workforce restructuring, separated from service entitled to one or more of the following benefits:

“(1) Voluntary separation incentive pay under section 5597 of title 5, United States Code.

“(2) Immediate annuity under section 8336(o) or 8414(d) of such title.”

[Pub. L. 107-107, div. A, title XI, §1133(b), Dec. 28, 2001, 115 Stat. 1244, provided that: “The amendments made by subsection (a) [amending Pub. L. 106-398, §1 [[div. A], title XI, §1153(b)], set out above] may be superceded by another provision of law that takes effect after the

date of the enactment of this Act [Dec. 28, 2001], and before October 1, 2003, establishing a uniform system of providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.”]

VOLUNTARY SEPARATION INCENTIVES

Pub. L. 106-303, §2, Oct. 13, 2000, 114 Stat. 1064, as amended by Pub. L. 108-271, §§2(a), (b)(2), (c), 8(b), July 7, 2004, 118 Stat. 811, 814, provided that:

“(a) IN GENERAL.—Effective October 13, 2000, the authority to provide voluntary separation incentive payments shall be available to the Comptroller General with respect to employees of the Government Accountability Office.

“(b) TERMS AND CONDITIONS.—The authority to provide voluntary separation incentive payments under this section shall be available in accordance with the provisions of subsections (a)(2)-(e) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104-208 (5 U.S.C. 5597 note), except that—

“(1) subsection (a)(2)(D) of such section shall be disregarded;

“(2) subsection (a)(2)(G) of such section shall be applied—

“(A) by construing the citations therein to be references to the appropriate authorities in connection with employees of the Government Accountability Office; and

“(B) by deeming such subsection to be amended by striking ‘Code.’ and inserting ‘Code, or who, during the thirty-six month period preceding the date of separation, performed service for which a student loan repayment benefit was or is to be paid under section 5379 of title 5, United States Code.’

“(3) subsection (b)(1) of such section shall be applied by substituting ‘Committee on Government Reform’ [now Committee on Oversight and Government Reform] for ‘Committee on Government Reform and Oversight’;

“(4)(A) subsection (b)(2)(A) of such section shall be applied by substituting ‘eliminated (if any)’ for ‘eliminated’;

“(B) subsection (b)(2)(C) of such section shall be applied by substituting ‘such positions or functions as are to be eliminated and such employees as are to be separated’ for ‘the eliminated positions and functions’; and

“(C) the agency strategic plan referred to in subsection (b) of such section shall, in addition to the information described in paragraph (2) thereof, contain the following: the steps to be taken to realign the Government Accountability Office’s workforce in order to meet budgetary constraints or mission needs, correct skill imbalances, or reduce high-grade, managerial, or supervisory positions;

“(5) subsection (c)(1) of such section shall be applied by substituting ‘to the extent necessary (A) to realign the Government Accountability Office’s workforce in order to meet budgetary constraints or mission needs, (B) to correct skill imbalances, or (C) to reduce high-grade, managerial, or supervisory positions, in conformance with that agency’s strategic plan (as referred to in subsection (b)).’ for the matter following ‘only’;

“(6) subsection (c)(2)(D) of such section shall be applied by substituting ‘December 31, 2003, or the end of the 3-month period beginning on the date on which such payment is offered to such employee, whichever is earlier’ for ‘December 31, 1997’; and

“(7) instead of the amount described in paragraph (1) of subsection (d) of such section, the amount required under such paragraph shall be determined in accordance with subsection (c)(1) of this section.

“(c) ADDITIONAL CONTRIBUTION TO RETIREMENT FUND.—

“(1) Determination of amount required.—The amount required under this paragraph shall be the

amount determined under subparagraph (A) or (B), whichever is greater, for the fiscal year involved.

“(A) FIRST METHOD.—The amount required under this subparagraph shall be determined as follows:

“(i) First, determine the sum of the following:

“(I) The amount equal to 19 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8336(d) of title 5, United States Code.

“(II) The amount equal to 58 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8336 of such title 5 (not including any employee covered by subclause (I)).

“(ii) Second, reduce the sum of the amounts determined under clause (i) by the sum of the following (but not below zero):

“(I) The amount equal to 419 percent of the final basic pay of each employee described in paragraph (2), who is covered by subchapter III of chapter 83 of title 5, United States Code, and who resigns.

“(II) The amount equal to 17 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8414(b) of such title 5.

“(III) The amount equal to 8 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8412 of such title 5.

“(IV) The amount equal to 211 percent of the final basic pay of each employee described in paragraph (2), who is covered by chapter 84 of such title 5, and who resigns.

“(B) SECOND METHOD.—The amount required under this subparagraph shall be equal to 45 percent of the final basic pay of each employee described in paragraph (2).

“(2) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year involved.

“(3) REGULATIONS.—

“(A) IN GENERAL.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection, including provisions under which any additional contribution determined under this subsection shall, at the election of the Government Accountability Office, be payable either in a lump sum or through installment payments made over a period of not to exceed 3 years.

“(B) INTEREST.—The regulations shall include provisions under which, if the installment method is chosen, interest shall be payable at the same rate as provided for under section 8348(f) of title 5, United States Code.

“(4) RULE OF CONSTRUCTION.—As used in this subsection, the term ‘resign’ shall not be considered to include early retirement or a separation giving rise to an immediate annuity.

“(d) DEFINITIONS.—

“(1) FINAL BASIC PAY.—As used in this section, the term ‘final basic pay’ has the same meaning as under section 663(d)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104-208 (5 U.S.C. 5597 note).

“(2) EMPLOYEE.—As used in this section and, for purposes of this section, the provisions of law cited in subsection (b), the term ‘employee’ shall be considered to refer to an officer or employee of the Government Accountability Office.

“(e) NUMERICAL LIMITATION.—Not to exceed 5 percent of the Government Accountability Office’s workforce (as of the start of a fiscal year) shall be permitted to receive a voluntary separation incentive payment under this section based on their separating from service in such fiscal year.

“(f) REGULATIONS.—The Comptroller General shall prescribe any regulations necessary to carry out this

section, excluding subsection (c). Such regulations shall include provisions under which a voluntary separation incentive payment may be offered to any employee or group of employees based on—

“(1) geographic area, organizational unit, or occupational series or level;

“(2) skills, knowledge, or performance; or

“(3) such other similar factors (or combination of factors described in this or any other paragraph of this subsection) as the Comptroller General considers necessary and appropriate in order to achieve the purpose involved.

“(g) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Government Accountability Office workforce and not downsize the Government Accountability Office workforce.”

Pub. L. 106-117, title XI, Nov. 30, 1999, 113 Stat. 1595, as amended by Pub. L. 106-419, title II, §207, Nov. 1, 2000, 114 Stat. 1842, known as the “Department of Veterans Affairs Employment Reduction Assistance Act of 1999”, authorized the Secretary of Veterans Affairs to submit a plan to the Director of the Office of Management and Budget for the payment of voluntary separation incentive payments, and upon approval thereof to pay voluntary separation incentive payments to eligible employees of the Department of Veterans Affairs only to the extent necessary to reduce or restructure the positions and functions identified by the plan, provided that the employees separate from service with the Department through Dec. 31, 2002, whether by retirement or resignation, defined “employee” for separation incentive purposes, and provided for additional contributions to the Retirement Fund, effect of subsequent employment with the Federal Government, and effect on agency employment levels.

Pub. L. 106-113, div. B, §1000(a)(2) [title V, §579], Nov. 29, 1999, 113 Stat. 1535, 1501A-113, as amended by Pub. L. 106-429, §101(a) [title V, §584], Nov. 6, 2000, 114 Stat. 1900, 1900A-56; Pub. L. 107-115, title V, §575, Jan. 10, 2002, 115 Stat. 2168; Pub. L. 108-7, div. E, title V, §571, Feb. 20, 2003, 117 Stat. 208, authorized voluntary separation incentives for employees of the United States Agency for International Development who voluntarily separated (whether by retirement or resignation) on or before Jan. 1, 2003, and defined pertinent terms, provided for the development of an agency strategic plan and the approval of such plan by the Director of the Office of Management and Budget, required additional agency contributions to the Retirement Fund, specified the effect of subsequent employment with the Federal Government, mandated a reduction of agency employment levels, and authorized the Office of Personnel Management to prescribe regulations to implement these provisions.

Pub. L. 106-65, div. C, title XXXI, §3161, Oct. 5, 1999, 113 Stat. 942, as amended by Pub. L. 107-107, div. C, title XXXI, §3153(a), Dec. 28, 2001, 115 Stat. 1377, provided that notwithstanding section 101(f) [title VI, §663(c)(2)(D)] of Public Law 104-208, set out below, Department of Energy could pay voluntary separation incentive payments under such section 663 to qualifying employees who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2004, and that not later than Mar. 15, 2000, Secretary of Energy was to submit to Director of Office of Personnel Management and Congress a report describing how the Department has paid voluntary separation payments under such section 663.

[Pub. L. 107-107, div. C, title XXXI, §3153(b), Dec. 28, 2001, 115 Stat. 1377, provided that: “The amendment made by subsection (a) [amending section 3161 of Pub. L. 106-65, set out above] may be superseded by another provision of law that takes effect after the date of the enactment of this Act [Dec. 28, 2001], and before January 1, 2004, establishing a uniform system for providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.”]

Pub. L. 106-58, title I, §116, Sept. 29, 1999, 113 Stat. 439, authorized the Treasury Inspector General for Tax Administration, during the period from Oct. 1, 1999 through Jan. 1, 2003, to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the plan to establish and reorganize the Office of the Treasury Inspector General for Tax Administration, defined “employee” for separation incentive purposes, and provided for authority to provide separation incentive payments, additional contributions to the Retirement Fund, effect of subsequent employment with the Federal Government, and effect on agency employment levels.

Pub. L. 106-58, title I, §119, Sept. 29, 1999, 113 Stat. 441, authorized the Commissioner of the Financial Management Services of the Department of the Treasury, during the period from Oct. 1, 1999 through Jan. 31, 2000, to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the closure of the Chicago Financial Center (CFC) in a manner which the Commissioner deemed most efficient, equitable to employees, and cost effective to the Government, defined “employee” for separation incentive purposes, and provided for an agency plan, authority to provide separation incentive payments, eligibility requirements, effect on subsequent employment with the Federal Government, contributions to the Retirement Fund, and reduction of agency employment levels.

Pub. L. 106-58, title IV, §411, Sept. 29, 1999, 113 Stat. 456, as amended by Pub. L. 106-554, §1(a)(3) [title IV, §408], Dec. 21, 2000, 114 Stat. 2763, 2763A-146, authorized the Administrator of General Services, during the period Oct. 1, 1999 through Apr. 30, 2002, to offer a voluntary separation incentive in order to provide the necessary flexibility to carry out the closing of the Federal Supply Service distribution centers, forward supply points, and associated programs in a manner which the Administrator deemed most efficient, equitable to all employees, and cost effective for the Government, defined “employee” for separation incentive purposes, and provided for agency strategic plan, authority to provide incentive payments, eligibility requirements, effect of subsequent employment with the Federal Government, contributions to the Retirement Fund, and reduction of agency employment levels.

Pub. L. 105-261, div. C, title XXXI, §3156, Oct. 17, 1998, 112 Stat. 2257, provided that notwithstanding section 101(f) [title VI, §663(c)(2)(D)] of Public Law 104-208, set out below, Department of Energy could pay voluntary separation incentive payments to qualifying employees who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2001.

Pub. L. 105-206, title I, §1202, July 22, 1998, 112 Stat. 719, authorized Commissioner of Internal Revenue to pay voluntary separation incentive payments to any qualifying employee of the Internal Revenue Service who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2003, provided for pertinent definitions, additional Internal Revenue Service contributions to the Retirement Fund, effect of subsequent employment with the Government, and effect on Internal Revenue Service employment levels.

Pub. L. 104-208, div. A, title I, §101(e) [title V, §520], Sept. 30, 1996, 110 Stat. 3009-233, 3009-272, as amended by Pub. L. 105-78, title V, §517, Nov. 13, 1997, 111 Stat. 1519; Pub. L. 106-113, div. B, §1000(a)(4) [title V, §515], Nov. 29, 1999, 113 Stat. 1535, 1501A-276, authorized Railroad Retirement Board and Office of Inspector General of Railroad Retirement Board to provide voluntary separation incentive payments to any qualifying employee who voluntarily separated (whether by retirement or resignation) before Mar. 31, 2000, directed the Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, to submit to Congress a strategic plan outlining intended use of such incentive payments and a proposed organizational chart for agency once such incentive payments have been completed, and further provided for pertinent definitions, additional contributions to the Retirement Fund, effect of subsequent employment with the Gov-

ernment, reduction of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 104-208, div. A, title I, §101(f) [title VI, §663], Sept. 30, 1996, 110 Stat. 3009-314, 3009-383, provided that:

“(a) DEFINITIONS.—For the purposes of this section—

“(1) the term ‘agency’ means any Executive agency (as defined in section 105 of title 5, United States Code), other than an Executive agency (except an agency receiving such authority in the Department of Transportation Appropriations Act, 1997 [probably means the Department of Transportation and Related Agencies Appropriations Act, 1997, Pub. L. 104-205, see Tables for classification]) that is authorized by any other provision of this Act or any other Act to provide voluntary separation incentive payments during all, or any part of, fiscal year 1997; and

“(2) the term ‘employee’ means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

“(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

“(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

“(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

“(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 ([Pub. L. 103-226] 5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

“(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

“(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

“(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

“(b) AGENCY STRATEGIC PLAN.—

“(1) IN GENERAL.—The head of each agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Government Reform and Oversight [now Committee on Oversight and Government Reform] of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

“(2) CONTENTS.—The agency’s plan shall include—

“(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

“(B) the number and amounts of voluntary separation incentive payments to be offered; and

“(C) a description of how the agency will operate without the eliminated positions and functions.

“(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

“(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

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

“(A) shall be paid in a lump sum after the employee’s separation;

“(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

“(C) shall be equal to the lesser of—

“(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

“(ii) an amount determined by the agency head not to exceed \$25,000;

“(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before December 31, 1997;

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

“(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

“(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

“(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

“(2) DEFINITION.—For the purpose of paragraph (1), the term ‘final basic pay’, with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee’s final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

“(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual’s first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

“(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

“(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

“(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

“(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.”

Pub. L. 104-205, title III, §349, Sept. 30, 1996, 110 Stat. 2976, authorized certain agencies of Department of Transportation to provide voluntary separation incen-

tive payments to any qualifying employee, provided that no amount would be payable based on any separation occurring before Sept. 30, 1996, or after Sept. 30, 1997, directed agencies to submit to Congress a strategic plan outlining intended use of such incentive payments and proposed organization chart for agency once such incentive payments have been completed, and further provided for definitions, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, reductions of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 104-204, title IV, §432, Sept. 26, 1996, 110 Stat. 2931, as amended by Pub. L. 106-377, §1(a)(1) [title IV, §428], Oct. 27, 2000, 114 Stat. 1441, 1441A-56, known as the ‘National Aeronautics and Space Administration Federal Employment Reduction Assistance Act of 1996’, authorized the Administrator of the National Aeronautics and Space Administration (NASA), in order to avoid or minimize the need for involuntary separations due to a reduction in force, installation closure, reorganization, transfer of function, or other similar action affecting NASA, to establish a program under which voluntary separation pay, subject to the availability of appropriated funds, be offered to encourage eligible employees to separate from service by retirement or resignation up to Sept. 30, 2002, defined terms, provided for effect of subsequent employment with the Federal Government, required additional agency contributions to the Retirement Fund, reduced agency employment levels, and required an annual report on the program to be submitted to the Office of Personnel Management.

Pub. L. 104-190, §1, Aug. 20, 1996, 110 Stat. 1932, authorized Agency for International Development to provide voluntary separation incentive payments to not more than 100 qualified employees of such agency who voluntarily separated (whether by retirement or resignation) before Feb. 1, 1997, and only to extent necessary to eliminate positions and functions identified by strategic plan to be submitted to Congress outlining intended use of such incentive payments and proposed organizational chart for agency once such incentive payments have been completed, and further provided for definitions, amount and treatment of payments, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, and reduction of agency employment levels.

Pub. L. 104-180, title VII, §735, Aug. 6, 1996, 110 Stat. 1604, authorized Department of Agriculture to provide voluntary separation incentive payments to qualified employees to extent necessary to eliminate positions and functions identified by strategic plan to be submitted to Congress outlining intended use of such incentive payments and proposed organizational chart for agency once such incentive payments have been completed, provided that no amount would be payable based on any separation occurring before Aug. 6, 1996, or after Sept. 30, 2000, and further provided for definitions, amount and treatment of payments, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, reduction of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 104-134, title I, §101(c) [title III, §339], Apr. 26, 1996, 110 Stat. 1321-156, 1321-210; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided that, in order to avoid or minimize need for involuntary separations due to reduction in force, reorganization, transfer of function, or other similar action, Secretary of the Smithsonian Institution could pay, or authorize payment of, voluntary separation incentive payments to Smithsonian Institution employees who separated from Federal service voluntarily through Oct. 1, 1996 (whether by retirement or resignation).

Pub. L. 104-19, title I, §702, July 27, 1995, 109 Stat. 221, provided that General Accounting Office could for such employees as it deemed appropriate authorize payment to employees who voluntarily separated before Oct. 1, 1995, whether by retirement or resignation, which payment would be paid in accordance with provisions of subsection (d) of this section.

Pub. L. 103-226, §3, Mar. 30, 1994, 108 Stat. 112, authorized Executive agencies (other than Department of Defense, Central Intelligence Agency, or General Accounting Office) to provide voluntary separation incentive payments to qualified employees of such agencies in order to avoid or minimize need for involuntary separations due to reduction in force, reorganization, transfer of function, or other similar action, provided that in order to receive incentive payment, employee must have separated from service with agency (whether by retirement or resignation) before Apr. 1, 1995, or, under certain circumstances, not later than Mar. 31, 1997, and further provided for definitions, amount and treatment of payments, effect of subsequent employment with the Government, regulations, and authority for Director of Administrative Office of the United States Courts to establish similar program for individuals serving in the judicial branch.

MONITORING AND REPORT RELATING TO VOLUNTARY SEPARATION INCENTIVE PAYMENTS

Pub. L. 103-226, §6, Mar. 30, 1994, 108 Stat. 117, provided that: "No later than December 31st of each fiscal year, the Office of Personnel Management shall submit to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Post Office and Civil Service of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

"(1) the number of employees who received a voluntary separation incentive payment under section 3 [set out above] during such preceding fiscal year;

"(2) the agency from which each such employee separated;

"(3) at the time of separation from service by each such employee—

"(A) such employee's grade or pay level; and

"(B) the geographic location of such employee's official duty station, by region, State, and city (or foreign nation, if applicable); and

"(4)(A) the number of waivers made (in the repayment upon subsequent employment) by each agency or other authority under section 3 [set out above] or the amendments made by section 8 [amending this section and section 3519a of Title 50, War and National Defense]; and

"(B) the title and the grade or pay level of the position filled by the employee to whom such waiver applied."

[Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight, see section 1(b) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.]

SOURCE OF PAYMENTS

Pub. L. 102-484, div. D, title XLIV, §4436(b)(1), Oct. 23, 1992, 106 Stat. 2724, provided that: "For fiscal years after fiscal year 1993, separation pay shall be paid by an agency out of any funds or appropriations available for salaries and expenses of such agency."

REPORT

Pub. L. 102-484, div. D, title XLIV, §4436(c), Oct. 23, 1992, 106 Stat. 2724, provided that: "At the end of each of fiscal years 1993 through 1998, the Secretary of Defense shall submit to the President, the Congress, and

the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section [enacting this section]."

CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

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- 5733. Expeditious travel.
- 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.
- 5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.
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