

Public Law 103-94  
103d Congress

An Act

To amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

Oct. 6, 1993  
(H.R. 20)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hatch Act Reform Amendments of 1993".*

Hatch Act  
Reform  
Amendments of  
1993.  
5 USC 7301 note

SEC. 2. POLITICAL ACTIVITIES.

(a) Subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"§ 7321. Political participation

"It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

"§ 7322. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, other than the President and the Vice President, employed or holding office in—

"(A) an Executive agency other than the General Accounting Office;

"(B) a position within the competitive service which is not in an Executive agency; or

"(C) the government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds;

but does not include a member of the uniformed services;

"(2) 'partisan political office' means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization; and

"(3) 'political contribution'—

"(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

"(C) includes any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose.

#### § 7323. Political activity authorized; prohibitions

"(a) Subject to the provisions of subsection (b), an employee may take an active part in political management or in political campaigns, except an employee may not—

"(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

"(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is—

"(A) a member of the same Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)));

"(B) not a subordinate employee; and

"(C) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))) of such Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of the enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))); or

"(3) run for the nomination or as a candidate for election to a partisan political office; or

"(4) knowingly solicit or discourage the participation in any political activity of any person who—

"(A) has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before the employing office of such employee; or

"(B) is the subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the employing office of such employee.

"(b)(1) An employee of the Federal Election Commission (except one appointed by the President, by and with the advice and consent of the Senate), may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a political contribution.

"(2)(A) No employee described under subparagraph (B) (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

"(B) The provisions of subparagraph (A) shall apply to—

"(i) an employee of—

"(I) the Federal Election Commission;

"(II) the Federal Bureau of Investigation;

"(III) the Secret Service;

"(IV) the Central Intelligence Agency;

"(V) the National Security Council;

"(VI) the National Security Agency;

"(VII) the Defense Intelligence Agency;

"(VIII) the Merit Systems Protection Board;

"(IX) the Office of Special Counsel;

"(X) the Office of Criminal Investigation of the Internal Revenue Service;

"(XI) the Office of Investigative Programs of the United States Customs Service; or

"(XII) the Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms; or

"(ii) a person employed in a position described under section 3132(a)(4), 5372, or 5372a of title 5, United States Code.

"(3) No employee of the Criminal Division of the Department of Justice (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

"(4) For purposes of this subsection, the term 'active part in political management or in a political campaign' means those acts of political management or political campaigning which were prohibited for employees of the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

"(c) An employee retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

#### § 7324. Political activities on duty; prohibition

"(a) An employee may not engage in political activity—

"(1) while the employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof;

"(3) while wearing a uniform or official insignia identifying the office or position of the employee; or

"(4) using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

"(b)(1) An employee described in paragraph (2) of this subsection may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

"(2) Paragraph (1) applies to an employee—

"(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

"(B) who is—

"(i) an employee paid from an appropriation for the Executive Office of the President; or

"(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies

to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.

**“§ 7325. Political activity permitted; employees residing in certain municipalities**

“The Office of Personnel Management may prescribe regulations permitting employees, without regard to the prohibitions in paragraphs (2) and (3) of section 7323(a) of this title, to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Office considers it to be in their domestic interest, when—

“(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

“(2) the Office determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

**“§ 7326. Penalties**

“An employee or individual who violates section 7323 or 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Merit System Protection Board finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Board.”

(b)(1) Section 3302(2) of title 5, United States Code, is amended by striking out “7203, 7321, and 7322” and inserting in lieu thereof “and 7203”.

(2) The table of sections for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

**“SUBCHAPTER III—POLITICAL ACTIVITIES**

“7321. Political participation.

“7322. Definitions.

“7323. Political activity authorized; prohibitions.

“7324. Political activities on duty; prohibition.

“7325. Political activity permitted; employees residing in certain municipalities.

“7326. Penalties.”

**SEC. 3. AMENDMENT TO CHAPTER 13 OF TITLE 5, UNITED STATES CODE.**

Section 1216(c) of title 5, United States Code, is amended to read as follows:

“(c) If the Special Counsel receives an allegation concerning any matter under paragraph (1), (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 and disciplinary action under section 1215 in the same way as if a prohibited personnel practice were involved.”

**SEC. 4. AMENDMENTS TO TITLE 18, UNITED STATES CODE.**

(a) Section 602 of title 18, United States Code, relating to solicitation of political contributions, is amended—

(1) by inserting “(a)” before “It”;

(2) in paragraph (4) by striking out all that follows “Treasurer of the United States” and inserting in lieu thereof a semi-

colon and “to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both.”; and

(3) by adding at the end thereof the following new subsection:

“(b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.”

(b) Section 603 of title 18, United States Code, relating to making political contributions, is amended by adding at the end thereof the following new subsection:

“(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.”

(c)(1) Chapter 29 of title 18, United States Code, relating to elections and political activities is amended by adding at the end thereof the following new section:

**“§ 610. Coercion of political activity**

“It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.”

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following:

“610. Coercion of political activity.”

**SEC. 5. AMENDMENTS TO THE VOTING RIGHTS ACT OF 1965.**

Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out “the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity” and by inserting in lieu thereof “the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities”.

**SEC. 6. AMENDMENTS RELATING TO APPLICATION OF CHAPTER 13 OF TITLE 5, UNITED STATES CODE.**

Section 675(e) of the Community Services Block Grant Act (42 U.S.C. 9904(e)) is repealed.

**SEC. 7. APPLICABILITY TO POSTAL EMPLOYEES.**

The amendments made by this Act (except for the amendments made by section 8), and any regulations thereunder, shall apply with respect to employees of the United States Postal Service and the Postal Rate Commission, pursuant to sections 410(b) and 3604(e) of title 39, United States Code.

**SEC. 8. POLITICAL RECOMMENDATIONS.**

(a) Section 3303 of title 5, United States Code, is amended to read as follows:

**“§ 3303. Political recommendations**

“(a) For the purposes of this section—

“(1) ‘agency’ means—

“(A) an Executive agency; and

“(B) an agency in the legislative branch with positions in the competitive service;

“(2) ‘applicant’ means an individual who has applied for appointment to be an employee;

“(3) ‘employee’ means an employee of an agency who is—

“(A) in the competitive service;

“(B) a career appointee in the Senior Executive Service or an employee under a similar appointment in a similar executive service; or

“(C) in the excepted service other than—

“(i) an employee who is appointed by the President;

or

“(ii) an employee whose position has been determined to be of a confidential, policy-determining, policy-making, or policy-advocating character; and

“(4) ‘personnel action’ means any action described under clauses (i) through (x) of section 2302(a)(2)(A).

“(b) Except as provided under subsection (f), each personnel action with respect to an employee or applicant shall be taken without regard to any recommendation or statement, oral or written, with respect to any employee or applicant who requests or is under consideration for such personnel action, made by—

“(1) any Member of Congress or congressional employee;

“(2) any elected official of the government of any State (including the District of Columbia and the Commonwealth of Puerto Rico), county, city, or other subdivision thereof;

“(3) any official of a political party; or

“(4) any other individual or organization making such recommendation or statement on the basis of the party affiliation of the employee or applicant.

“(c) Except as provided under subsection (f), a person or organization referred to under subsection (b) (1) through (4) is prohibited from making or transmitting to any officer or employee of an agency, any recommendation or statement, oral or written, with respect to any employee or applicant who requests or is under consideration for any personnel action in such agency. Except as provided under subsection (f), the agency, or any officer or employee of the agency—

“(1) shall not solicit, request, consider, or accept any such recommendation or statement; and

“(2) shall return any such written recommendation or statement, appropriately marked as in violation of this section, to the person or organization transmitting the same.

“(d) Except as provided under subsection (f), an employee or applicant who requests or is under consideration for a personnel action in an agency is prohibited from requesting or soliciting from a person or organization referred to under subsection (b) (1) through (4) a recommendation or statement.

“(e) Under regulations prescribed by the Office of Personnel Management, the head of each agency shall ensure that employees and applicants are given notice of the provisions of this section.

“(f) An agency, or any authorized officer or employee of an agency, may solicit, accept, and consider, and any other individual or organization may furnish or transmit to the agency or such authorized officer or employee, any statement with respect to an employee or applicant who requests or is under consideration for a personnel action, if—

“(1) the statement is furnished pursuant to a request or requirement of the agency and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of the employee or applicant;

“(2) the statement relates solely to the character and residence of the employee or applicant;

“(3) the statement is furnished pursuant to a request made by an authorized representative of the Government of the United States solely in order to determine whether the employee or applicant meets suitability or security standards;

“(4) the statement is furnished by a former employer of the employee or applicant pursuant to a request of an agency, and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of such employee or applicant during employment with such former employer; or

“(5) the statement is furnished pursuant to a provision of law or regulation authorizing consideration of such statement with respect to a specific position or category of positions.

“(g) An agency shall take any action it determines necessary and proper under subchapter I or II of chapter 75 to enforce the provisions of this section.

“(h) The provisions of this section shall not affect the right of any employee to petition Congress as authorized by section 7211.”

(b) The table of sections for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3303 to read as follows:

“3303. Political recommendations.”

(c) Section 2302(b)(2) of title 5, United States Code, is amended to read as follows:

“(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action except as provided under section 3303(f).”

**SEC. 9. GARNISHMENT OF FEDERAL EMPLOYEES' PAY.**

(a) Subchapter II of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

**“§ 5520a. Garnishment of pay**

“(a) For purposes of this section—

“(1) ‘agency’ means each agency of the Federal Government, including—

“(A) an executive agency, except for the General Accounting Office;

“(B) the United States Postal Service and the Postal Rate Commission;

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"(C) any agency of the judicial branch of the Government; and

"(D) any agency of the legislative branch of the Government, including the General Accounting Office, each office of a Member of Congress, a committee of the Congress, or other office of the Congress;

"(2) 'employee' means an employee of an agency (including a Member of Congress as defined under section 2106);

"(3) 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment, that—

"(A) is issued by a court of competent jurisdiction within any State, territory, or possession of the United States, or an authorized official pursuant to an order of such a court or pursuant to State or local law; and

"(B) orders the employing agency of such employee to withhold an amount from the pay of such employee, and make a payment of such withholding to another person, for a specifically described satisfaction of a legal debt of the employee, or recovery of attorney's fees, interest, or court costs; and

"(4) 'pay' means—

"(A) basic pay, premium pay paid under subchapter V, any payment received under subchapter VI, VII, or VIII, severance and back pay paid under subchapter IX, sick pay, incentive pay, and any other compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus pay or otherwise; and

"(B) does not include awards for making suggestions.

"(b) Subject to the provisions of this section and the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were a private person.

"(c)(1) Service of legal process to which an agency is subject under this section may be accomplished by certified or registered mail, return receipt requested, or by personal service, upon—

"(A) the appropriate agent designated for receipt of such service of process pursuant to the regulations issued under this section; or

"(B) the head of such agency, if no agent has been so designated.

"(2) Such legal process shall be accompanied by sufficient information to permit prompt identification of the employee and the payments involved.

"(d) Whenever any person, who is designated by law or regulation to accept service of process to which an agency is subject under this section, is effectively served with any such process or with interrogatories, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is made, send written notice that such process has been so served (together with a copy thereof) to the affected employee at his or her duty station or last-known home address.

"(e) No employee whose duties include responding to interrogatories pursuant to requirements imposed by this section shall be subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the carrying out of any of such employee's duties which pertain directly or indirectly to the answering of any such interrogatory.

"(f) Agencies affected by legal process under this section shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

"(g) Neither the United States, an agency, nor any disbursing officer shall be liable with respect to any payment made from payments due or payable to an employee pursuant to legal process regular on its face, provided such payment is made in accordance with this section and the regulations issued to carry out this section. In determining the amount of any payment due from, or payable by, an agency to an employee, there shall be excluded those amounts which would be excluded under section 462(g) of the Social Security Act (42 U.S.C. 662(g)).

"(h)(1) Subject to the provisions of paragraph (2), if an agency is served under this section with more than one legal process with respect to the same payments due or payable to an employee, then such payments shall be available, subject to section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673), to satisfy such processes in priority based on the time of service, with any such process being satisfied out of such amounts as remain after satisfaction of all such processes which have been previously served.

"(2) A legal process to which an agency is subject under sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662) for the enforcement of the employee's legal obligation to provide child support or make alimony payments, shall have priority over any legal process to which an agency is subject under this section.

"(i) The provisions of this section shall not modify or supersede the provisions of sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662) concerning legal process brought for the enforcement of an individual's legal obligations to provide child support or make alimony payments.

"(j)(1) Regulations implementing the provisions of this section shall be promulgated—

"(A) by the President or his designee for each executive agency, except with regard to employees of the United States Postal Service, the President or, at his discretion, the Postmaster General shall promulgate such regulations;

"(B) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, for the legislative branch of the Government; and

"(C) by the Chief Justice of the United States or his designee for the judicial branch of the Government.

"(2) Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.

"(k)(1) No later than 180 days after the date of the enactment of this Act, the Secretaries of the Executive departments concerned shall promulgate regulations to carry out the purposes of this section with regard to members of the uniformed services.

Regulations.

President.

Regulations.

"(2) Such regulations shall include provisions for—

"(A) the involuntary allotment of the pay of a member of the uniformed services for indebtedness owed a third party as determined by the final judgment of a court of competent jurisdiction, and as further determined by competent military or executive authority, as appropriate, to be in compliance with the procedural requirements of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.); and

"(B) consideration for the absence of a member of the uniformed service from an appearance in a judicial proceeding resulting from the exigencies of military duty.

"(3) The Secretaries of the Executive departments concerned shall promulgate regulations under this subsection that are, as far as practicable, uniform for all of the uniformed services. The Secretary of Defense shall consult with the Secretary of Transportation with regard to the promulgation of such regulations that might affect members of the Coast Guard when the Coast Guard is operating as a service in the Navy."

(b)(1) The table of chapters for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5520 the following:

"5520a. Garnishment of pay."

(2) Section 410(b) of title 39, United States Code, is amended—

(A) by redesignating the second paragraph (9) (relating to the Inspector General Act of 1978) as paragraph (10); and

(B) by adding at the end thereof the following new paragraph:

"(11) section 5520a of title 5."

#### SEC. 10. SENSE OF THE SENATE RELATING TO FEDERAL EMPLOYEE SOLICITATION OF FUNDS AND CANDIDACIES.

It is the sense of the Senate that Federal employees should not be authorized to—

(1) solicit political contributions from the general public;

or

(2) run for the nomination or as a candidate for a local partisan political office, except as expressly provided under current law.

#### SEC. 11. SENSE OF THE SENATE RELATING TO ASSISTANCE TO NICARAGUA.

(a) FINDINGS.—The Senate finds the following:

(1) On May 23, 1993, an explosion in Managua, Nicaragua exposed a cache of weapons, including 19 surface-to-air missiles, hundreds of AK-47 assault rifles, machine guns, rocket propelled grenades, tons of ammunition and explosives.

(2) Investigations of the explosions have uncovered 310 passports from 21 different countries, including seven United States passports.

(3) Documents in the possession of those apprehended in connection with the February 26, 1993, bombing of the World Trade Center have been traced to Nicaragua.

(4) The acquisition and storage of these weapons and documents could not have been accomplished without the knowledge and cooperation of the Sandinista National Liberation Front and ministries of the Government of Nicaragua under its control.

(5) The Sandinista National Liberation Front has a history of subversion and links to international terrorism.

(6) The recent discovery demonstrates the inability of the legitimate Government of Nicaragua to control all of its ministries.

(7) This lack of authority makes uncertain the ability of the Government of Nicaragua to prevent the export of terrorism by the Sandinista National Liberation Front.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) no further United States foreign assistance to Nicaragua should be obligated pending investigation by an appropriate international body, with the participation of United States Federal agencies, of the Sandinista National Liberation Front; and

(2) such investigation should focus on the relationship of the Sandinista National Liberation Front to acts of terrorism which threaten to undermine the security of the United States and the political stability and economic prosperity of the Western Hemisphere.

#### SEC. 12. EFFECTIVE DATE.

5 USC 1216 note.

(a) The amendments made by this Act shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 7325 of title 5, United States Code (as added by section 2 of this Act), shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this Act of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under that provision, and that provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of that penalty, forfeiture, or liability.

(c) No provision of this Act shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this Act. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

Approved October 6, 1993.

#### LEGISLATIVE HISTORY—H.R. 20 (S. 185):

HOUSE REPORTS: No. 103-16 (Comm. on Post Office and Civil Service).

SENATE REPORTS: No. 103-57 accompanying S. 185 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 139 (1993):

Feb. 23, 24, considered and rejected in House.

Mar. 3, considered and passed House.

July 13-15, 20, S. 185 considered in Senate; H.R. 20, amended, passed in lieu.

Sept. 21, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 29 (1993):

Oct. 6, Presidential remarks and statement.

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PUBLIC LAW 104-208—SEPT. 30, 1996

FILE COPY

113 Stat. 009

\*Public Law 104-208  
104th Congress

An Act

Making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Sept. 30, 1996

[H.R. 3010]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus  
Consolidated  
Appropriations  
Act, 1997.

DIVISION A

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1997, and for other purposes, namely:

TITLE I—OMNIBUS APPROPRIATIONS

Sec. 101. (a) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

Departments of  
Commerce,  
Justice, and  
State, the  
Judiciary, and  
Related Agencies  
Appropriations  
Act, 1997.  
Department of  
Justice  
Appropriations  
Act, 1997.

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, \$75,773,000 of which not to exceed \$3,317,000 is for the Facilities Program 2000, to remain available until expended; *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and \$7,477,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 1996; *Provided further*, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and \$4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs:

\*Note: This is a typeset print of the original hand enrollment as signed by the President on September 30, 1996. The text is printed without corrections. Missing text in the original is indicated by a footnote.

COMMUNICATIONS ACT OF 1934.—Paragraph (4) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) striking "library not eligible for participation for funds under title III of the Library Construction Act (20 U.S.C. 335c et seq.)" for a library consortium not eligible for assistance from a library administrative agency under the "Library and Technology Act".

INSTITUTE OF MUSEUM SERVICES.—UNITED STATES CODE.—Section 5315 of the United States Code, is amended by striking the following: "the Institute of Museum Services." and inserting:

"the Institute of Museum and Library Services"

DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 3001 of the Department of Education Organization Act, as amended—

Section (a)—

Striking paragraph (5); and redesignating paragraphs (6) and (7) as (5) and (6), respectively; and section (b)—

Striking paragraph (4); and redesignating paragraphs (5) through (7) as (4) through (6), respectively.

PRIMARY AND SECONDARY EDUCATION ACT OF 1965.—Section 2101(b), 2205(c)(1)(D), 2208(d)(1)(H)(v), (C)(iv), and subsection (d)(6) and (e)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6621(b), 6645(c)(1)(D), 6649(b)(1)(C)(vi), and 6091 (d)(6) amended by striking "the Institute of Museum and Library Services" and inserting "the Institute of Museum and Library Services".

Section 10412(b) of such Act (20 U.S.C. 8102(b))

Paragraph (2), by striking "the Director of the Institute of Museum and Library Services"

Paragraph (7), by striking "the Director of the Institute of Museum and Library Services"

Section 10414(a)(2)(B) of such Act (20 U.S.C. 8114(a)(2)(B)) amended by striking clause (iii) and inserting the following new clause:

"the Institute of Museum and Library Services"

OFFICE OF LIBRARIES AND LEARNING.—Section 3(b)(1) of the Department of Education Act (20 U.S.C. 3473(b)(1)) is amended—

Paragraph (H); and inserting subparagraphs (I) through (M) as subparagraphs (L), respectively.

(d) REFERENCE TO STATE POSTSECONDARY REVIEW ENTITY PROGRAMS.—Section 356(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 10696(b)) is amended by striking "II".

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997".

(f) For programs, projects or activities in the Treasury, Postal Service, and General Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes.

Treasury, Postal Service, and General Appropriations Act, 1997. Treasury Department Appropriations Act, 1997.

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed \$2,900,000 for official travel expenses; not to exceed \$150,000 for official reception and representation expenses; not to exceed \$258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; \$111,760,000.

AUTOMATION ENHANCEMENT

INCLUDING TRANSFER OF FUNDS

For the development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, \$27,100,000, of which \$15,000,000 shall be available to the United States Customs Service for the Automated Commercial Environment project, and of which \$5,600,000 shall be available to the United States Customs Service for the International Trade Data System: *Provided*, That these funds shall remain available until September 30, 1999: *Provided further*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds shall be used to support or supplement Internal Revenue Service appropriations for Information Systems and Tax Systems Modernization: *Provided further*, That of the funds appropriated for the Automated Commercial Environment, \$3,475,000 may not be obligated until the Commissioner of Customs consults with the Committees on Appropriations regarding deficiencies identified by the General Accounting Office.

of, the Postmaster General. The Postmaster General shall promptly notify the Governors and both Houses of Congress in writing if he or she removes the Chief Postal Inspector or transfers the Chief Postal Inspector to another position or location within the Postal Service, and shall include in any such notification the reasons for the removal or transfer."

(B) The table of sections for chapter 2 of such title 39 is amended by striking the item relating to section 204 and inserting the following:

"204. General Counsel; Judicial Officer; Chief Postal Inspector."

5 USC 5597 note.

SEC. 663. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(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) 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 (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 of Representatives and the Committee on Appropriations and the Committee on the Senate and the Committee on the House of Representatives the intended use of such incentive payments, and the organizational chart for the positions that have been completed.

(2) CONTENTS.—The report shall include—

(A) the positions and positions eliminated, identified by organization, occupational category,

(B) the number and amount of incentive payments to be made,

(C) a description of how the eliminated positions are being filled,

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

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid only to the extent necessary to provide for the positions identified by the strategy.

(2) AMOUNT AND TREATMENT.—

(A) shall be paid in a lump sum at the time of separation;

(B) shall be paid from the account established for the payment of the basic pay of the employee;

(C) shall be equal to the amount of the basic pay of the employee at the time of separation;

(i) an amount equal to the amount of the basic pay of the employee at the time of separation would be entitled to receive under section 5753 of title 5, United States Code;

(ii) an amount that does not exceed \$25,000;

(D) may not be made to an employee who voluntarily separates from the Federal Government or resignation) before the date of separation;

(E) shall not be included in the computation of the employee's retirement benefit; and

(F) shall not be taken into account in the computation of the amount of any severance pay to which the employee may be entitled under section 5753 of title 5, United States Code, based on any other separation incentive payment.

(d) ADDITIONAL AGENCY CONTRIBUTION.—

(1) IN GENERAL.—In addition to the amount of the basic pay of the employee at the time of separation, it is required to make under this section an amount equal to the amount of the basic pay of the employee at the time of separation, to be paid from the account established for the payment of the basic pay of the employee.

(2) DEFINITION.—For the purposes of this section, the term "final basic pay", with respect to an employee, means the amount of the basic pay of the employee at the time of separation.

The Postmaster General shall promptly both Houses of Congress in writing if Chief Postal Inspector or transfers the another position or location within the include in any such notification the reasons

sections for chapter 2 of such title 39 the item relating to section 204 and

Chief Postal Inspector."

SEPARATION INCENTIVES FOR EMPLOYEES AGENCIES.—(a) DEFINITIONS.—For the pur-

“agency” means any Executive agency (as 5 of title 5, United States Code), other agency (except an agency receiving such rtment of Transportation Appropriations thORIZED by any other provision of this to provide voluntary separation incentive or any part of, fiscal year 1997; and “employee” means an employee (as defined 5, United States Code) who is employed ing under an appointment without time een currently employed for a continuous rs, but does not include—

oyed annuitant under subchapter III of apter 84 of title 5, United States Code, nent system for employees of the agency, yee having a disability on the basis of yee is or would be eligible for disability subchapter III of chapter 83 or chapter ited States Code, or another retirement ees of the agency;

ee who is in receipt of a specific notice aration for misconduct or unacceptable

ee who, upon completing an additional as referred to in section 3(b)(2)(B)(ii) of force Restructuring Act of 1994 (5 U.S.C. l qualify for a voluntary separation incen- er section 3 of such Act;

ee who has previously received any vol- on incentive payment by the Federal er this section or any other authority and ch payment;

ee covered by statutory reemployment, ransfer to another organization; or

oyee who, during the twenty four month the date of separation, has received a location bonus under section 5753 of title Code, or who, within the twelve month the date of separation, received a retention section 5754 of title 5, United States Code

PLAN.—

—The head of each agency, prior to obligat- voluntary separation incentive payments,

shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight 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 PAYMENT.—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.

SECTION 664. ELECTRONIC BENEFIT TRANSFER PILOT.

Title 31, United States Code, is amended by inserting after section 3335 the following new section:

"SEC. 3336. Electronic benefit transfer pilot

"(a) The Congress finds that:

"(1) Electronic benefit transfer (EBT) is a safe, reliable, and economical way to provide benefit payments to individuals who do not have an account at a financial institution.

"(2) The designation of financial institutions as financial agents of the Federal Government for EBT is an appropriate and reasonable use of the Secretary's authority to designate financial agents.

"(3) A joint federal-state EBT system offers convenience and economies of scale for those states (and their citizens) that wish to deliver state-administered benefits on a single card by entering into a partnership with the federal government.

"(4) The Secretary's designation of a financial agent to deliver EBT is a specialized service not available through ordinary business channels and may be offered to the states pursuant to section 6501 *et seq.* of this title.

"(b) The Secretary shall continue to carry out the existing EBT pilot to disburse benefit payments electronically to recipients who do not have an account at a financial institution, which shall include the designation of one or more financial institution as a financial agent of the Government, and the offering to the participating states of the opportunity to contract with the financial agent

selected by the Secretary, as described in sections of Interest to Acquire EBT Services of States dated March 9, 1995, as amended July 7, 1995, and August 1, 1995.

"(c) The selection and designation of financial agents in connection with the design of the pilot program, and any other matter related to the EBT pilot described in this section shall be subject to judicial review."

SECTION 2. DESIGNATION OF FINANCIAL AGENTS.

12 U.S.C. 90 is amended by inserting the following:

"Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended, the Secretary may designate financial agents in accordance with such terms as the Secretary deems appropriate and their reasonable provision of electronic benefit transfer and other administered benefits with the consent of the Secretary."

2. Make conforming amendments to sections 1752(d), 1767, 1789a, 2013, 2122 and to

TITLE VII—COUNTER-TERRORISM AND ENFORCEMENT

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICERS AND EMPLOYEES

SALARIES AND EXPENSES

For an additional amount for the Office of Foreign Assets Control, \$266,000, of which \$258,000 is designated as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for the Office of Inspector General, \$34,000, to remain available until expended: *Provided*, That of the amount designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget Act of 1985, as amended.

COUNTERTERRORISM

For necessary expenses, as determined by the Secretary, not to exceed \$1,000,000, to remain available until expended for the Department of the Treasury organization to support counterterrorism, investigate, or prosecute terrorism, or for the payment of rewards in connection with counterterrorism, the entire amount of this appropriation shall be available to the extent that an official budgetary account is available for that dollar amount, that includes designation

\*Public Law 105-33  
105th Congress

An Act

To provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

Aug. 5, 1997  
[H. R. 2015]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Balanced Budget  
Act of 1997.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1997".

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Food Stamp Provisions  
Title II—Housing and Related Provisions  
Title III—Communications and Spectrum Allocation Provisions  
Title IV—Medicare, Medicaid, and Children's Health Provisions  
Title V—Welfare and Related Provisions  
Title VI—Education and Related Provisions  
Title VII—Civil Service Retirement and Related Provisions  
Title VIII—Veterans and Related Provisions  
Title IX—Asset Sales, User Fees, and Miscellaneous Provisions  
Title X—Budget Enforcement and Process Provisions  
Title XI—District of Columbia Revitalization

## TITLE I—FOOD STAMP PROVISIONS

SEC. 1001. EXEMPTION.

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)(D), by striking "or (5)" and inserting "(5), or (6)";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) 15-PERCENT EXEMPTION.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CASELOAD.—The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

"(ii) COVERED INDIVIDUAL.—The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

"(I) is not eligible for an exception under paragraph (3);

"(II) does not reside in an area covered by a waiver granted under paragraph (4);

\*Note: This is a hard enrollment pursuant to Public Law 105-33.

NDMENT.—Section 428(c)(9)(A) of the  
 35 (20 U.S.C. 1078(c)(9)(A)) is amended—  
 ntnce, by striking “for the fiscal year  
 s in 1993”; and  
 hird sentence.

TT LOAN ORIGINATION FEES TO INSTITU-  
 ER EDUCATION.

gher Education Act of 1965 (20 U.S.C.

ection (b); and  
 g subsections (c) and (d) as subsections

ISTRATIVE EXPENSES.

on 458 of the Higher Education Act of  
 amended to read as follows:

ENSES.—

Each fiscal year, there shall be available  
 unds not otherwise appropriated, funds

ative costs under this part and part B,  
 s of the direct student loan programs

ative cost allowances payable to guar-  
 r part B and calculated in accordance

ch funds not otherwise appropriated)  
 year 1998, \$610,000,000 in fiscal year

fiscal year 2000, \$750,000,000 in fiscal  
 0,000 in fiscal year 2002. Administrative

ubparagraph (B) of this paragraph shall  
 used in accordance with section 428(f).

ASIS.—Administrative cost allowances  
 encies under paragraph (1)(B) shall be

of 0.85 percent of the total principal  
 which insurance was issued in excess

al year 1997 and upon which insurance  
 otober 1, 1997, except that such allow-

00 for each of the fiscal years 1998  
 00 for each of the fiscal years 2000.

MENT AID PROGRAMS.

ducation Act of 1965 (20 U.S.C. 1070

, by striking “1998.” and “2002.” and  
 06.”, respectively;

(5), by striking “1998.” and “2002.”  
 “2006.”, respectively; and  
 e), by striking “1998.” and inserting

## Subtitle B—Repeal of Smith-Hughes Vocational Education Act

### SEC. 6201. REPEAL OF SMITH-HUGHES VOCATIONAL EDUCATION ACT.

The Act of February 23, 1917 (39 Stat. 929, chapter 114; 20 U.S.C. 11 et seq.) (commonly known as the “Smith-Hughes Vocational Education Act”), is repealed.

## TITLE VII—CIVIL SERVICE RETIRE- MENT AND RELATED PROVISIONS

### SEC. 7001. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

#### (a) CIVIL SERVICE RETIREMENT SYSTEM.—

##### (1) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—Notwithstanding section 8334 (a)(1) or (k)(1) of title 5, United States Code, during the period beginning on October 1, 1997, through September 30, 2002, each employing agency (other than the United States Postal Service or the Metropolitan Washington Airports Authority) shall contribute—

(i) 8.51 percent of the basic pay of an employee;

(ii) 9.01 percent of the basic pay of a congressional employee, a law enforcement officer, a member of the Capitol police, or a firefighter; and

(iii) 9.51 percent of the basic pay of a Member of Congress, a Court of Federal Claims judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Forces, or a bankruptcy judge;

in lieu of the agency contributions otherwise required under section 8334(a)(1) of title 5, United States Code.

(B) APPLICATION.—For purposes of subparagraph (A) and notwithstanding the amendments made by paragraph (3), during the period beginning on January 1, 1999 through December 31, 2002, with respect to the United States Postal Service and the Metropolitan Washington Airports Authority, the agency contribution shall be determined as though those amendments had not been made.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Contributions by the Treasury of the United States or the United States Postal Service under section 8348 (g), (h), or (m) of title 5, United States Code—

(A) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(B) shall be computed as though such amendments had not been enacted.

#### (3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

(A) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: “The employing agency shall deduct and withhold from the basic pay of an employee, Member,

5 USC 8334 note.

5 USC 8334 note.

Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, Court of Federal Claims judge, or member of the Capitol Police, as the case may be, the percentage of basic pay applicable under subsection (c)."

(B) DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(i) in the matter relating to an employee by striking:

"7 ..... After December 31, 1969.;"

and inserting the following:

- "7 ..... January 1, 1970, to December 31, 1998.
7.25 ..... January 1, 1999, to December 31, 1999.
7.4 ..... January 1, 2000, to December 31, 2000.
7.5 ..... January 1, 2001, to December 31, 2002.
7 ..... After December 31, 2002.;"

(ii) in the matter relating to a Member or employee for congressional employee service by striking:

"7 1/2 ..... After December 31, 1969.;"

and inserting the following:

- "7.5 ..... January 1, 1970, to December 31, 1998.
7.75 ..... January 1, 1999, to December 31, 1999.
7.9 ..... January 1, 2000, to December 31, 2000.
8 ..... January 1, 2001, to December 31, 2002.
7.5 ..... After December 31, 2002.;"

(iii) in the matter relating to a Member for Member service by striking:

"8 ..... After December 31, 1969.;"

and inserting the following:

- "8 ..... January 1, 1970, to December 31, 1998.
8.25 ..... January 1, 1999, to December 31, 1999.
8.4 ..... January 1, 2000, to December 31, 2000.;"

8.5 ..... Janua
200:
8 ..... After

(iv) in the matter r
officer for law enforceme
firefighter service by stri

"7 1/2 ..... After
and inserting the followi

"7.5 ..... Janu
19:
7.75 ..... Janu
19
7.9 ..... Janu
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8 ..... Janu
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7.5 ..... Afte

(v) in the matter )
by striking:

"8 ..... Afta
and inserting the follow"

"8 ..... Jar
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8.25 ..... Jar
J
8.4 ..... Jar
:
8.5 ..... Ja
:
8 ..... Af

(vi) in the matter
States Court of Appee
ice as a judge of that c

"8 ..... O

and inserting the folk

"8 ..... T
8.25 ..... J
8.4 ..... J

8.5 ..... January 1, 2001, to December 31, 2002.

8 ..... After December 31, 2002.”;

(iv) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking:

“7½ ..... After December 31, 1974.”;

and inserting the following:

“7.5 ..... January 1, 1975, to December 31, 1998.

7.75 ..... January 1, 1999, to December 31, 1999.

7.9 ..... January 1, 2000, to December 31, 2000.

8 ..... January 1, 2001, to December 31, 2002.

7.5 ..... After December 31, 2002.”;

(v) in the matter relating to a bankruptcy judge by striking:

“8 ..... After December 31, 1983.”;

and inserting the following:

“8 ..... January 1, 1984, to December 31, 1998.

8.25 ..... January 1, 1999, to December 31, 1999.

8.4 ..... January 1, 2000, to December 31, 2000.

8.5 ..... January 1, 2001, to December 31, 2002.

8 ..... After December 31, 2002.”;

(vi) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking:

“8 ..... On and after the date of the enactment of the Department of Defense Authorization Act, 1984.”;

and inserting the following:

“8 ..... The date of enactment of the Department of Defense Authorization Act, 1984, to December 31, 1998.

8.25 ..... January 1, 1999, to December 31, 1999.

8.4 ..... January 1, 2000, to December 31, 2000.

8.5 ..... January 1, 2001, to December 31, 2002.  
8 ..... After December 31, 2002.”;

(vii) in the matter relating to a United States magistrate by striking:

“8 ..... After September 30, 1987.”;

and inserting the following:

“8 ..... October 1, 1987, to December 31, 1998.  
8.25 ..... January 1, 1999, to December 31, 1999.  
8.4 ..... January 1, 2000, to December 31, 2000.  
8.5 ..... January 1, 2001, to December 31, 2002.  
8 ..... After December 31, 2002.”;

(viii) in the matter relating to a Court of Federal Claims judge by striking:

“8 ..... After September 30, 1988.”;

and insert the following:

“8 ..... October 1, 1988, to December 31, 1998.  
8.25 ..... January 1, 1999, to December 31, 1999.  
8.4 ..... January 1, 2000, to December 31, 2000.  
8.5 ..... January 1, 2001, to December 31, 2002.  
8 ..... After December 31, 2002.”;

and

(ix) by inserting after the matter relating to a Court of Federal Claims judge the following:

“Member of the Capitol Police .....	2.5 .....	August 1, 1920, to June 30, 1928.
	3.5 .....	July 1, 1928, to June 30, 1942.
	5 .....	July 1, 1942, to June 30, 1948.
	6 .....	July 1, 1948, to October 31, 1958.
	6.5 .....	November 1, 1958, to December 31, 1969.
	7.5 .....	January 1, 1970, to December 31, 1998.
	7.75 .....	January 1, 1999, to December 31, 1999.
	7.9 .....	January 1, 2000, to December 31, 2000.
	8 .....	January 1, 2001, to December 31, 2002.

(4) OTHER SERVICE.—  
(A) MILITARY SERVICE.—  
United States Code, is amended—  
(i) in paragraph (5),” a  
graph (B).”; and  
(ii) by adding  
graph:

“(5) Effective with respect  
for December 31, 1998, the per-  
centage of title 37 payable under  
this section for that same  
subject to paragraph (1)(B).”

(B) VOLUNTEER SERVICE.—  
United States Code, is  
(i) in paragraph  
following: “This p  
graph (4).”; and  
(ii) by adding  
graph:

“(4) Effective with respect  
for 31, 1998, the percentage  
of pay (as the case may be)  
shall be equal to the same per-  
centage as in subsection (c) of this section  
for an employee.”

(b) FEDERAL EMPLOYEES' PAY.—  
(1) INDIVIDUAL DEDUCTIONS.—  
(A) IN GENERAL.—

United States Code, is amended  
inserting the following:  
“(2) The percentage to be  
paid for any pay period shall be  
“(A) the applicable percentage  
“(B) the percentage

of the Internal Revenue Code  
for old-age, survivors, and  
“(3) The applicable percentage  
of service shall be as follows:

“Employee .....	.....
“Congressional employee .....	.....

LAW 105-33—AUG. 5, 1997

3.5 ..... January 1, 2001, to December 31, 2002.

3 ..... After December 31, 2002.”;

1 the matter relating to a United States by striking:

3 ..... After September 30, 1987.”;  
the following:

3 ..... October 1, 1987, to December 31, 1998.

8.25 ..... January 1, 1999, to December 31, 1999.

8.4 ..... January 1, 2000, to December 31, 2000.

8.5 ..... January 1, 2001, to December 31, 2002.

8 ..... After December 31, 2002.”;

n the matter relating to a Court of Federal lge by striking:

8 ..... After September 30, 1988.”;  
the following:

8 ..... October 1, 1988, to December 31, 1998.

8.25 ..... January 1, 1999, to December 31, 1999.

8.4 ..... January 1, 2000, to December 31, 2000.

8.5 ..... January 1, 2001, to December 31, 2002.

8 ..... After December 31, 2002.”;

y inserting after the matter relating to a federal Claims judge the following:

ce ..... 2.5 ..... August 1, 1920, to June 30, 1926.

3.5 ..... July 1, 1926, to June 30, 1942.

5 ..... July 1, 1942, to June 30, 1948.

8 ..... July 1, 1948, to October 31, 1956.

6.5 ..... November 1, 1956, to December 31, 1969.

7.5 ..... January 1, 1970, to December 31, 1988.

7.75 ..... January 1, 1989, to December 31, 1999.

7.9 ..... January 1, 2000, to December 31, 2000.

8 ..... January 1, 2001, to December 31, 2002.

PUBLIC LAW 105-33—AUG. 5, 1997

111 STAT. 657

7.5 ..... After December 31, 2002.”.

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting “and subject to paragraph (5),” after “Except as provided in subparagraph (B),”;

(ii) by adding at the end the following new paragraph:

“(5) Effective with respect to any period of military service after December 31, 1998, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for that same period for service as an employee, subject to paragraph (1)(B).”

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: “This paragraph shall be subject to paragraph (4).”; and

(ii) by adding at the end the following new paragraph:

“(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for the same period for service as an employee.”

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

“(A) the applicable percentage under paragraph (3), minus

“(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

“(3) The applicable percentage under this paragraph for civilian service shall be as follows:

“Employee .....	7 .....	January 1, 1987, to December 31, 1988.
	7.25 .....	January 1, 1989, to December 31, 1999.
	7.4 .....	January 1, 2000, to December 31, 2000.
	7.5 .....	January 1, 2001, to December 31, 2002.
	7 .....	After December 31, 2002.
Congressional employee .....	7.5 .....	January 1, 1987, to December 31, 1988.
	7.75 .....	January 1, 1989, to December 31, 1999.
	7.9 .....	January 1, 2000, to December 31, 2000.
	8 .....	January 1, 2001, to December 31, 2002.

Effective date.

Effective date.

Member .....	7.5 .....	After December 31, 2002.
	7.5 .....	January 1, 1987, to December 31, 1998.
	7.75 .....	January 1, 1999, to December 31, 1999.
	7.9 .....	January 1, 2000, to December 31, 2000.
	8 .....	January 1, 2001, to December 31, 2002.
Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.	7.5 .....	After December 31, 2002.
	7.5 .....	January 1, 1987, to December 31, 1998.
	7.75 .....	January 1, 1999, to December 31, 1999.
	7.9 .....	January 1, 2000, to December 31, 2000.
	8 .....	January 1, 2001, to December 31, 2002.
	7.5 .....	After December 31, 2002.

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting “and subject to paragraph (6),” after “Except as provided in subparagraph (B),”; and

(ii) by adding at the end the following:

“(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

“(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

“(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

“(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.”

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: “This paragraph shall be subject to paragraph (4).”; and

(ii) by adding at the end the following:

“(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

“(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

“(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

“(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.”

5 USC 8422 note.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—

60 USC 2021 note.

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 211(a)(2) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(2)), during the period beginning on October 1, 1997, through September 30, 2002, the Central Intelligence Agency shall contribute 8.51 percent of the basic pay of an

employee participating in the Central Intelligence Agency Retirement and Disability System in lieu of the agency contribution otherwise required under section 211(a)(2) of such Act.

(2) **INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.**—Notwithstanding section 211(a)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(1)) beginning on January 1, 1999, through December 31, 2002, the percentage deducted and withheld from the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System shall be as follows:

7.25	.....	January 1, 1999, to December 31, 1999.
7.4	.....	January 1, 2000, to December 31, 2000.
7.5	.....	January 1, 2001, to December 31, 2002.

(3) **MILITARY SERVICE.**—Section 252(h)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2082(h)(1)), is amended to read as follows:

“(h)(1)(A) Each participant who has performed military service before the date of separation on which entitlement to an annuity under this title is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37, United States Code, to the participant for each period of military service after December 1956; except, the amount to be paid for military service performed beginning on January 1, 1999, through December 31, 2002, shall be as follows:

“7.25 percent	January 1, 1999, to December 31,
of basic pay.	1999.
7.4 percent of	January 1, 2000, to December 31,
basic pay.	2000.
7.5 percent of	January 1, 2001, to December 31,
basic pay.	2002.

“(B) The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).”

(d) **FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.**—

(1) **AGENCY CONTRIBUTIONS.**—Notwithstanding section 805(a)(1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1) and (2)), during the period beginning on October 1, 1997, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

22 USC 4045  
note.

(A) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

(B) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System; in lieu of the agency contribution otherwise required under section 805(a)(1) and (2) of such Act.

(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

22 USC 4045  
note.

(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

7.25	.....	January 1, 1999, to December 31, 1999.
7.4	.....	January 1, 2000, to December 31, 2000.
7.5	.....	January 1, 2001, to December 31, 2002.

22 USC 4045  
note.

(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

7.75	.....	January 1, 1999, to December 31, 1999.
7.9	.....	January 1, 2000, to December 31, 2000.
8	.....	January 1, 2001, to December 31, 2002.

(C) CONFORMING AMENDMENT.—Section 805(d)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(d)(1)) is amended in the table in the matter following subparagraph (B) by striking:

"On and after January 1, 1970 ..... 7";

and inserting the following:

"January 1, 1970, through December 31, 1998, inclusive.	7
January 1, 1999, through December 31, 1999, inclusive.	7.25
January 1, 2000, through December 31, 2000, inclusive.	7.4

January 1, 2001, through December 31, 2002, inclu- 7.5  
sive.  
After December 31, 2002 ..... 7".

(D) **MILITARY SERVICE.**—Section 805(e) of the Foreign Service Act of 1980 (22 U.S.C. 4045(e)) is amended—

- (i) in subsection (e)(1) by striking "Each" and inserting "Subject to paragraph (5), each"; and
- (ii) by adding after paragraph (4) the following new paragraph:

"(5) Effective with respect to any period of military or naval service after December 31, 1998, the percentage of basic pay under section 204 of title 37, United States Code, payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) of title 5, United States Code, for that same period for service as an employee."

Effective date.

(e) **FOREIGN SERVICE PENSION SYSTEM.**—

(1) **INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS FROM PAY.**—

(A) **IN GENERAL.**—Section 856(a) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)) is amended to read as follows:

"(a)(1) The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3101(a)) (relating to the rate of tax for old age, survivors, and disability insurance).

"(2) The applicable percentage under this subsection shall be as follows:

7.5	.....	Before January 1, 1999.
7.75	.....	January 1, 1999, to December 31, 1999.
7.9	.....	January 1, 2000, to December 31, 2000.
8	.....	January 1, 2001, to December 31, 2002.
7.5	.....	After December 31, 2002."

(B) **VOLUNTEER SERVICE.**—Subsection 854(c) of the Foreign Service Act of 1980 (22 U.S.C. 4071c(c)) is amended to read as follows:

"(c)(1) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

"(A) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

"(B) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

"(C) a full-time volunteer for a period of service of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service; except, the amount to be paid for volunteer service beginning on January 1, 1999, through December 31, 2002, shall be as follows:

3.25	.....	January 1, 1999, to December 31, 1999.
3.4	.....	January 1, 2000, to December 31, 2000.
3.5	.....	January 1, 2001, to December 31, 2002.

## Regulations.

"(2) The amount of such payments shall be determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code, together with interest determined under regulations issued by the Secretary of State."

## 22 USC 4071c.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

## 5 USC 8334 note.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on—

(A) October 1, 1997; or

(B) if later, the date of enactment of this Act.

(2) SPECIAL RULE.—If the date of enactment of this Act is later than October 1, 1997, then any reference to October 1, 1997, in subsection (a)(1), (c)(1), or (d)(1) shall be treated as a reference to the date of enactment of this Act.

**SEC. 7002. GOVERNMENT CONTRIBUTIONS UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.**

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by striking subsection (a) and all that follows through the end of paragraph (1) of subsection (b) and inserting the following:

"(a)(1) Not later than October 1 of each year, the Office of Personnel Management shall determine the weighted average of the subscription charges that will be in effect during the following contract year with respect to—

"(A) enrollments under this chapter for self alone; and

"(B) enrollments under this chapter for self and family.

"(2) In determining each weighted average under paragraph (1), the weight to be given to a particular subscription charge shall, with respect to each plan (and option) to which it is to apply, be commensurate with the number of enrollees enrolled in such plan (and option) as of March 31 of the year in which the determination is being made.

"(3) For purposes of paragraph (2), the term 'enrollee' means any individual who, during the contract year for which the weighted average is to be used under this section, will be eligible for a Government contribution for health benefits.

"(b)(1) Except as provided in paragraphs (2) and (3), the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 72 percent of the weighted average under subsection (a)(1) (A) or (B), as applicable. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made."

## 5 USC 8906 note.

(b) EFFECTIVE DATE.—This section shall take effect on the first day of the contract year that begins in 1999. Nothing in this subsection shall prevent the Office of Personnel Management

from taking any action, before such first day, which it considers necessary in order to ensure the timely implementation of this section.

**SEC. 7003. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.**

**(a) REPEAL.—**

(1) **IN GENERAL.**—Section 2004 of title 39, United States Code, is repealed.

**(2) TECHNICAL AND CONFORMING AMENDMENTS.—**

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

**(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.**—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(b) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund."

**(c) EFFECTIVE DATE.—**

(1) **IN GENERAL.**—This section and the amendments made by this section shall take effect on the date of the enactment of this Act or October 1, 1997, whichever is later.

39 USC 2003 note.

**(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1998.—**

(A) **AMOUNTS NOT YET PAID.**—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1998 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) **AMOUNTS PAID.**—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1998 authorized by such section 2004, then, an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts before October 1, 1998.

**TITLE VIII—VETERANS AND RELATED MATTERS**

Veterans Reconciliation Act of 1997.

**SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This title may be cited as the "Veterans Reconciliation Act of 1997".

38 USC 101 note.

(b) **TABLE OF CONTENTS.**—The table of contents for this title is as follows:

Sec. 8001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 8011. Enhanced loan asset sale authority.

Sec. 8012. Home loan fees.

PUBLIC LAW 105-174—MAY 1, 1998

1998 SUPPLEMENTAL APPROPRIATIONS AND  
RESCISSIONS ACT

ADMINISTRATION

GENERAL PROVISIONS—THIS CHAPTER

MS  
Transportation activi-  
ded: *Provided*, That  
for costs associated  
agency transportation  
shall be available  
establishment of a  
nistered jointly by  
the Alabama Emer-  
l be for Research  
rative costs associ-

SEC. 7001. Federal Employee Voluntary Early Retirement. (a) CIVIL SERVICE RETIREMENT SYSTEM.—Effective for purposes of the period beginning on the date of enactment of this Act and ending on September 30, 1999, paragraph (2) of section 8336(d) of title 5, United States Code, shall be applied as if it had been amended to read as follows:

Effective date.  
Termination  
date.  
Applicability.  
5 USC 8336 note.

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

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"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

"(ii) a significant percentage of the employees serving in such agency (or component) will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) one or more organizational units;

"(ii) one or more occupational series or levels;

"(iii) one or more geographical locations;

"(iv) other similar nonpersonal factors the Office determines appropriate; or

"(v) any appropriate combination of such factors."

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(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Effective for purposes of the period beginning on the date of enactment of this Act and ending on September 30, 1999, subparagraph (B) of section 8414(b)(1) of title 5, United States Code, shall be applied as if it had been amended to read as follows:

Effective date.  
Termination  
date.  
Applicability.  
5 USC 8414 note.

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

RY

ERSION

of the Treasury  
in requirements,  
0, 2000.

Regulations.

d Expenses", for  
t requirements,  
, 2000.

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

"(II) a significant percentage of the employees serving in such agency (or component) will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of--

"(I) one or more organizational units;

"(II) one or more occupational series or levels;

"(III) one or more geographical locations;

"(IV) other similar nonpersonal factors the Office determines appropriate; or

"(V) any appropriate combination of such factors;"

Manuel Zurita.

SEC. 7002. Notwithstanding section 2164 of title 10, United States Code, the Department of Defense shall permit the two dependent children of deceased United States Customs Senior Special Agent Manuel Zurita attending the Antilles Consolidated School System at Fort Buchanan, Puerto Rico, to complete their primary and secondary education at this school system without cost to such children or any parent, relative, or guardian of such children. The United States Customs Service shall reimburse the Department of Defense for reasonable educational expenses to cover these costs.

## CHAPTER 8

### DEPARTMENT OF VETERANS AFFAIRS

#### VETERANS BENEFITS ADMINISTRATION

##### COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", \$550,000,000, to remain available until expended.

##### INDEPENDENT AGENCIES

#### ENVIRONMENTAL PROTECTION AGENCY

##### STATE AND TRIBAL ASSISTANCE GRANTS

Notwithstanding any other provision of law, eligible recipients of the funds appropriated to the Environmental Protection Agency in the State and Tribal Assistance Grants account since fiscal year 1997 and hereafter for multi-media or single media grants, other than Performance Partnership Grants authorized pursuant to Public Law 104-134 and Public Law 105-65, for pollution prevention, control, and abatement and related activities have been and shall be those entities eligible for grants under the Agency's organic statutes.

##### ADMINISTRATIVE PROVISION

No requirements set forth in any carbon monoxide Federal implementation plan (FIP) that are based on the Clean Air Act

as in effect prior to the imposed in the State of A

#### NATIONAL AERON

The Administrator Administration shall tr NASA in Public Law 10: \$53,000,000 to "Human to be merged with an of such account: Provi. Space Station activiti: \$2,441,300,000.

#### GENERAL 1

SEC. 8001. Section 1 and Housing and Urban Appropriations Act, 19: is amended by insertin and for loans and grant 18th and Vine".

SEC. 8002. HOUSING (a) Notwithstanding ar the amount allocated fo would otherwise be all Philadelphia, Pennsylv: Primary Metropolitan S as the "metropolitan ar ing Opportunity Act (4: and Urban Development to the State of New : area's amount that is ba in the portion of the Jersey.

(b) The State of N the State under this s section 855 of the AIDS in the portion of the Jersey.

SEC. 8003. RATIFI STRUCTURE FEE. (a) T by Network Solutions, I 31, 1998 for registrati domain name, which p tion and enhancement c net under a cooperat: Foundation, and which without authority in W Inc. and National Scie: legalized and ratified purposes as if the same cally authorized and dir

33 USC 1281  
note.

*J. L. G. 10*

# FILE COPY

PUBLIC LAW 105-266—OCT. 19, 1998

112 STAT. 2363

## Public Law 105-266 105th Congress

### An Act

To amend chapter 89 of title 5, United States Code, to improve administration of sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes.

Oct. 19, 1998  
[H.R. 1836]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal  
Employees  
Health Care  
Protection Act of  
1998.  
5 USC 8901 note.

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Health Care Protection Act of 1998".

#### SEC. 2. DEBARMENT AND OTHER SANCTIONS.

(a) AMENDMENTS.—Section 8902a of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph

(B);

(ii) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(iii) by adding at the end the following:

"(D) the term 'should know' means that a person, with respect to information, acts in deliberate ignorance of, or in reckless disregard of, the truth or falsity of the information, and no proof of specific intent to defraud is required;"; and

(B) in paragraph (2)(A), by striking "subsection (b) or (c)" and inserting "subsection (b), (c), or (d)";

(2) in subsection (b)—

(A) by striking "The Office of Personnel Management may bar" and inserting "The Office of Personnel Management shall bar"; and

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

"(5) Any provider that is currently debarred, suspended, or otherwise excluded from any procurement or nonprocurement activity (within the meaning of section 2455 of the Federal Acquisition Streamlining Act of 1994).";

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

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

"(1) Any provider—

"(A) whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating

to the provider's professional competence, professional performance, or financial integrity; or

"(B) that surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional competence, professional performance, or financial integrity.

"(2) Any provider that is an entity directly or indirectly owned, or with a control interest of 5 percent or more held, by an individual who has been convicted of any offense described in subsection (b), against whom a civil monetary penalty has been assessed under subsection (d), or who has been debarred from participation under this chapter.

"(3) Any individual who directly or indirectly owns or has a control interest in a sanctioned entity and who knows or should know of the action constituting the basis for the entity's conviction of any offense described in subsection (b), assessment with a civil monetary penalty under subsection (d), or debarment from participation under this chapter.

"(4) Any provider that the Office determines, in connection with claims presented under this chapter, has charged for health care services or supplies in an amount substantially in excess of such provider's customary charge for such services or supplies (unless the Office finds there is good cause for such charge), or charged for health care services or supplies which are substantially in excess of the needs of the covered individual or which are of a quality that fails to meet professionally recognized standards for such services or supplies.

"(5) Any provider that the Office determines has committed acts described in subsection (d).

Any determination under paragraph (4) relating to whether a charge for health care services or supplies is substantially in excess of the needs of the covered individual shall be made by trained reviewers based on written medical protocols developed by physicians. In the event such a determination cannot be made based on such protocols, a physician in an appropriate specialty shall be consulted."

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

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

"(A) an item or service not provided as claimed;

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

"(C) an item or service furnished during a period in which the provider was debarred from participation under this chapter pursuant to a determination by the Office under this section, other than as permitted under subsection (g)(2)(B);"

(5) in subsection (f) (as so redesignated by paragraph (3)) by inserting after "under this section" the first place it appears the following: "(where such debarment is not mandatory)";

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

(A) by striking "(g)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(g)(1)(A) Except as provided in subparagraph (B), debarment of a provider under subsection (b) or (c) shall be effective at such time and upon such reasonable notice to such provider, and to carriers and covered individuals, as shall be specified in regulations prescribed by the Office. Any such provider that is debarred from participation may request a hearing in accordance with subsection (h)(1).

Regulations.

"(B) Unless the Office determines that the health or safety of individuals receiving health care services warrants an earlier effective date, the Office shall not make a determination adverse to a provider under subsection (c)(5) or (d) until such provider has been given reasonable notice and an opportunity for the determination to be made after a hearing as provided in accordance with subsection (h)(1)."

(B) in paragraph (3)—

(i) by inserting "of debarment" after "notice"; and

(ii) by adding at the end the following: "In the case of a debarment under paragraph (1), (2), (3), or (4) of subsection (b), the minimum period of debarment shall not be less than 3 years, except as provided in paragraph (4)(B)(ii)."

(C) in paragraph (4)(B)(i)(I) by striking "subsection (b) or (c)" and inserting "subsection (b), (c), or (d)"; and

(D) by striking paragraph (6);

(7) in subsection (h) (as so redesignated by paragraph (3)) by striking "(h)(1)" and all that follows through the end of paragraph (2) and inserting the following:

"(h)(1) Any provider of health care services or supplies that is the subject of an adverse determination by the Office under this section shall be entitled to reasonable notice and an opportunity to request a hearing of record, and to judicial review as provided in this subsection after the Office renders a final decision. The Office shall grant a request for a hearing upon a showing that due process rights have not previously been afforded with respect to any finding of fact which is relied upon as a cause for an adverse determination under this section. Such hearing shall be conducted without regard to subchapter II of chapter 5 and chapter 7 of this title by a hearing officer who shall be designated by the Director of the Office and who shall not otherwise have been involved in the adverse determination being appealed. A request for a hearing under this subsection shall be filed within such period and in accordance with such procedures as the Office shall prescribe by regulation.

Regulation.

"(2) Any provider adversely affected by a final decision under paragraph (1) made after a hearing to which such provider was a party may seek review of such decision in the United States District Court for the District of Columbia or for the district in which the plaintiff resides or has his or her principal place of business by filing a notice of appeal in such court within 60 days after the date the decision is issued, and by simultaneously sending copies of such notice by certified mail to the Director of the Office and to the Attorney General. In answer to the appeal, the Director of the Office shall promptly file in such court a certified copy of the transcript of the record, if the Office conducted a hearing, and other evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and evidence of record, a judgment affirming, modifying, or

Records.

Courts.

setting aside, in whole or in part, the decision of the Office, with or without remanding the case for a rehearing. The district court shall not set aside or remand the decision of the Office unless there is not substantial evidence on the record, taken as whole, to support the findings by the Office of a cause for action under this section or unless action taken by the Office constitutes an abuse of discretion.”; and

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

(A) by striking “subsection (c)” and inserting “subsection (d)”;

(B) by adding at the end the following: “The amount of a penalty or assessment as finally determined by the Office, or other amount the Office may agree to in compromise, may be deducted from any sum then or later owing by the United States to the party against whom the penalty or assessment has been levied.”

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) **EXCEPTIONS.**—(A) Paragraphs (2), (3), and (5) of section 8902a(c) of title 5, United States Code, as amended by subsection (a)(3), shall apply only to the extent that the misconduct which is the basis for debarment under paragraph (2), (3), or (5), as applicable, occurs after the date of the enactment of this Act.

(B) Paragraph (1)(B) of section 8902a(d) of title 5, United States Code, as amended by subsection (a)(4), shall apply only with respect to charges which violate section 8904(b) of such title for items or services furnished after the date of the enactment of this Act.

(C) Paragraph (3) of section 8902a(g) of title 5, United States Code, as amended by subsection (a)(6)(B), shall apply only with respect to debarments based on convictions occurring after the date of the enactment of this Act.

**SEC. 3. MISCELLANEOUS AMENDMENTS RELATING TO THE HEALTH BENEFITS PROGRAM FOR FEDERAL EMPLOYEES.**

(a) **DEFINITION OF A CARRIER.**—Paragraph (7) of section 8901 of title 5, United States Code, is amended by striking “organization,” and inserting “organization and an association of organizations or other entities described in this paragraph sponsoring a health benefits plan.”

(b) **SERVICE BENEFIT PLAN.**—Paragraph (1) of section 8903 of title 5, United States Code, is amended by striking “plan,” and inserting “plan, which may be underwritten by participating affiliates licensed in any number of States.”

(c) **PREEMPTION.**—Section 8902(m) of title 5, United States Code, is amended by striking “(m)(1)” and all that follows through the end of paragraph (1) and inserting the following:

“(m)(1) The terms of any contract under this chapter which relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to health insurance or plans.”

5 USC 8902a  
note.

Applicability.

SEC. 4. CONTINUED HEALTH INSURANCE COVERAGE FOR CERTAIN INDIVIDUALS. 5 USC 8901 note.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of chapter 89 of title 5, United States Code, any period of enrollment—

(1) in a health benefits plan administered by the Federal Deposit Insurance Corporation before the termination of such plan on or before January 2, 1999; or

(2) subject to subsection (c), in a health benefits plan (not under chapter 89 of such title) with respect to which the eligibility of any employees or retired employees of the Board of Governors of the Federal Reserve System terminates on or before January 2, 1999,

shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—(1) Subject to subsection (c), any individual who, on or before January 2, 1999, is enrolled in a health benefits plan described in subsection (a)(1) or (2) may enroll in an approved health benefits plan under chapter 89 of title 5, United States Code, either as an individual or for self and family, if, after taking into account the provisions of subsection (a), such individual—

(A) meets the requirements of such chapter for eligibility to become so enrolled as an employee, annuitant, or former spouse (within the meaning of such chapter); or

(B) would meet those requirements if, to the extent such requirements involve either retirement system under such title 5, such individual satisfies similar requirements or provisions of the Retirement Plan for Employees of the Federal Reserve System.

Any determination under subparagraph (B) shall be made under guidelines which the Office of Personnel Management shall establish in consultation with the Board of Governors of the Federal Reserve System. *Guidelines.*

(2) Subject to subsection (c), any individual who, on or before January 2, 1999, is entitled to continued coverage under a health benefits plan described in subsection (a)(1) or (2) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, but only for the same remaining period as would have been allowable under the health benefits plan in which such individual was enrolled on or before January 2, 1999, if—

(A) such individual had remained enrolled in such plan; and

(B) such plan did not terminate, or the eligibility of such individual with respect to such plan did not terminate, as described in subsection (a).

(3) Subject to subsection (c), any individual (other than an individual under paragraph (2)) who, on or before January 2, 1999, is covered under a health benefits plan described in subsection (a)(1) or (2) as an unmarried dependent child, but who does not then qualify for coverage under chapter 89 of title 5, United States Code, as a family member (within the meaning of such chapter) shall be deemed to be entitled to continued coverage under section 8905a of such title, to the same extent and in the same manner as if such individual had, on or before January 2, 1999, ceased to meet the requirements for being considered an unmarried dependent child of an enrollee under such chapter.

(4) Coverage under chapter 89 of title 5, United States Code, pursuant to an enrollment under this section shall become effective on January 3, 1999 or such earlier date as established by the Office of Personnel Management after consultation with the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System, as appropriate.

(c) **ELIGIBILITY FOR FEHBP LIMITED TO INDIVIDUALS LOSING ELIGIBILITY UNDER FORMER HEALTH PLAN.**—Nothing in subsection (a)(2) or any paragraph of subsection (b) (to the extent such paragraph relates to the plan described in subsection (a)(2)) shall be considered to apply with respect to any individual whose eligibility for coverage under such plan does not involuntarily terminate on or before January 2, 1999.

(d) **TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.**—The Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System shall transfer to the Employees Health Benefits Fund under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office of Personnel Management in addition to amounts available under section 8906(g)(1) of such title.

(e) **ADMINISTRATION AND REGULATIONS.**—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

5 USC 8902 note.

**SEC. 5. FULL DISCLOSURE IN HEALTH PLAN CONTRACTS.**

The Office of Personnel Management shall encourage carriers offering health benefits plans described by section 8903 or section 8903a of title 5, United States Code, with respect to contractual arrangements made by such carriers with any person for purposes of obtaining discounts from providers for health care services or supplies furnished to individuals enrolled in such plan, to seek assurance that the conditions for such discounts are fully disclosed to the providers who grant them.

**SEC. 6. PROVISIONS RELATING TO CERTAIN PLANS THAT HAVE DISCONTINUED THEIR PARTICIPATION IN FEHBP.**

(a) **AUTHORITY TO READMIT.**—

(1) **IN GENERAL.**—Chapter 89 of title 5, United States Code, is amended by inserting after section 8903a the following:

**“§ 8903b. Authority to readmit an employee organization plan**

“(a) In the event that a plan described by section 8903(3) or 8903a is discontinued under this chapter (other than in the circumstance described in section 8909(d)), that discontinuation

shall be disregarded, for purposes of any determination as to that plan's eligibility to be considered an approved plan under this chapter, but only for purposes of any contract year later than the third contract year beginning after such plan is so discontinued.

"(b) A contract for a plan approved under this section shall require the carrier—

"(1) to demonstrate experience in service delivery within a managed care system (including provider networks) throughout the United States; and

"(2) if the carrier involved would not otherwise be subject to the requirement set forth in section 8903a(c)(1), to satisfy such requirement."

(2) CONFORMING AMENDMENT.—The analysis for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8903a the following:

"8903b. Authority to readmit an employee organization plan."

(3) APPLICABILITY.—

(A) IN GENERAL.—The amendments made by this subsection shall apply as of the date of the enactment of this Act, including with respect to any plan which has been discontinued as of such date.

(B) TRANSITION RULE.—For purposes of applying section 8903b(a) of title 5, United States Code (as amended by this subsection) with respect to any plan seeking to be readmitted for purposes of any contract year beginning before January 1, 2000, such section shall be applied by substituting "second contract year" for "third contract year".

(b) TREATMENT OF THE CONTINGENCY RESERVE OF A DISCONTINUED PLAN.—

(1) IN GENERAL.—Subsection (e) of section 8909 of title 5, United States Code, is amended by striking "(e)" and inserting "(e)(1)" and by adding at the end the following:

"(2) Any crediting required under paragraph (1) pursuant to the discontinuation of any plan under this chapter shall be completed by the end of the second contract year beginning after such plan is so discontinued.

"(3) The Office shall prescribe regulations in accordance with which this subsection shall be applied in the case of any plan which is discontinued before being credited with the full amount to which it would otherwise be entitled based on the discontinuation of any other plan."

(2) TRANSITION RULE.—In the case of any amounts remaining as of the date of the enactment of this Act in the contingency reserve of a discontinued plan, such amounts shall be disposed of in accordance with section 8909(e) of title 5, United States Code, as amended by this subsection, by—

(A) the deadline set forth in section 8909(e) of such title (as so amended); or

(B) if later, the end of the 6-month period beginning on such date of enactment.

SEC. 7. MAXIMUM PHYSICIANS COMPARABILITY ALLOWANCE PAYABLE.

(a) IN GENERAL.—Paragraph (2) of section 5948(a) of title 5, United States Code, is amended by striking "\$20,000" and inserting "\$30,000".

(b) AUTHORITY TO MODIFY EXISTING AGREEMENTS.—

5 USC 8903b note.

Regulations. Applicability.

5 USC 8909 note.

5 USC 5948 note.

(1) **IN GENERAL.**—Any service agreement under section 5948 of title 5, United States Code, which is in effect on the date of the enactment of this Act may, with respect to any period of service remaining in such agreement, be modified based on the amendment made by subsection (a).

(2) **LIMITATION.**—A modification taking effect under this subsection in any year shall not cause an allowance to be increased to a rate which, if applied throughout such year, would cause the limitation under section 5948(a)(2) of such title (as amended by this section), or any other applicable limitation, to be exceeded.

5 USC 5948 note.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be considered to authorize additional or supplemental appropriations for the fiscal year in which occurs the date of the enactment of this Act.

**SEC. 8. CLARIFICATION RELATING TO SECTION 8902(k).**

Section 8902(k) of title 5, United States Code, is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and  
 (2) by inserting after paragraph (1) the following:

“(2) Nothing in this subsection shall be considered to preclude a health benefits plan from providing direct access or direct payment or reimbursement to a provider in a health care practice or profession other than a practice or profession listed in paragraph (1) if such provider is licensed or certified as such under Federal or State law.”.

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—H.R. 1836:**

**HOUSE REPORTS:** No. 105-374 (Comm. on Government Reform and Oversight).

**SENATE REPORTS:** No. 105-257 (Comm. on Governmental Affairs).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Nov. 4, considered and passed House.

Vol. 144 (1998): Sept. 30, considered and passed Senate, amended.

Oct. 5, House concurred in Senate amendments.

○

**FILE COPY**

PUBLIC LAW 105-277—OCT. 21, 1998

112 STAT. 2681

**\*Public Law 105-277**  
**105th Congress**

**An Act**

Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Oct. 21, 1998  
[H.R. 4328]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS**

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1999, and for other purposes, namely:

SEC. 101. (a) For programs, projects or activities in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

Omnibus  
Consolidated and  
Emergency  
Supplemental  
Appropriations  
Act, 1999.

Agriculture,  
Rural  
Development,  
Food and Drug  
Administration,  
and Related  
Agencies  
Appropriations  
Act, 1999.

**TITLE I**

**AGRICULTURAL PROGRAMS**

**PRODUCTION, PROCESSING, AND MARKETING**

**OFFICE OF THE SECRETARY**

**(INCLUDING TRANSFERS OF FUNDS)**

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed \$75,000 for employment under 5 U.S.C. 3109, \$2,836,000: *Provided*, That not to exceed \$11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service, shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104-127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104-127.

\*Note: This is a typeset print of the original hand enrollment as signed by the President on October 21, 1998. The text is printed without corrections.

or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 626. Section 626(b) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in section 101(f) of Public Law 104-208 (110 Stat. 3009-360), the Omnibus Consolidated Appropriations Act, 1997, is amended to read as follows: "(b) Until September 30, 1999, or until the end of the current FTS 2000 contracts, whichever is earlier, subsection (a) shall continue to apply to the use of the funds appropriated by this or any other Act."

SEC. 627. (a) DEFINITIONS.—In this section—

(1) the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

SEC. 628. FEDERAL FIREFIGHTERS OVERTIME PAY REFORM ACT OF 1998. (a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended—

(1) in section 5542 by adding at the end the following new subsection:

"(D) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

"(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

"(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b (b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate provided in paragraph (2) of such subsection (a)."; and

(2) by inserting after section 5545a the following new section:

**§ 5545b. Pay for firefighters**

"(a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS-081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year,

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"(b)(1) If the reg  
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consists of regular tours of duty which average at least 106 hours per biweekly pay period.

"(b)(1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and

"(B) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);

"(2) For the purpose of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(A)) for all hours in such firefighter's regular tour of duty (including overtime hours).

"(c)(1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;

"(B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and

"(C) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.

"(2) For purposes of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—

"(A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and

"(B) an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter's regular tour of duty (including overtime hours).

"(d)(1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.

"(2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in such section 7(k) shall be deemed to have occurred if the requirements of section 5542(a) are met, applying section 5542(a) as provided in subsection (f) of that section: *Provided*, That the overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter's hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters' biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5545a the following:

"5545b. Pay for firefighters."

(c) TRAINING.—Section 4109 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (a)(1), a firefighter who is subject to section 5545b of this title shall be paid basic pay and overtime pay for the firefighter's regular tour of duty while attending agency sanctioned training."

(d) INCLUSION IN BASIC PAY FOR FEDERAL RETIREMENT.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking "and" after subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph

(G);

(3) by inserting the following:

"(E) with respect to a criminal investigator, availability pay under section 5545a of this title;

"(F) pay as provided in section 5545b(b)(2) and (c)(2); and "

(4) by striking "subparagraphs (B), (C), (D), and (E)" and inserting "subparagraphs (B) through (G)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1998.

(f) REGULATIONS.—Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter's next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicable grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.

(g) NO REDUCTION IN REGULAR PAY.—Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.

SEC. 629. (1) Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Enterprise Policy, the Secretary of the Treasury, shall conduct a joint review of Federal agencies with responsibility to prevent drug trafficking. The review shall also include the activities of the following:

- (A) Department of the Treasury;
- (B) Department of Justice;
- (C) United States Coast Guard;
- (D) Department of Defense;
- (E) Department of Transportation;
- (F) Department of State; and
- (G) Department of Interior.

(2) The purpose of the plan under paragraph (1) is to improve the effectiveness of the border control activities of the national drug control strategy. In addition to the goal of facilitating the effectiveness, the plan shall:

- (A) specify the methods used to improve coordination and accountability among the agencies with responsibilities along the border;
- (B) specify mechanisms to ensure coordination among State and local agencies along the Southwest border;
- (C) identify new technologies that can be used to improve the effectiveness of the border control activities including conclusions regarding the use of technology;
- (D) identify new initiatives for improving the effectiveness of the border control activities;

(E) recommend reinforcements in technology and personnel necessary to ensure the effectiveness of the border control activities;

(F) integrate findings of the Architecture Review into the plan; and

(G) make recommendations for a program along the Southwest border.

SEC. 630. (a) FLEXIPLACE WORK TELEPHONE.—For fiscal year 1999 and each fiscal year thereafter, a minimum of \$50,000 shall be available to each Executive agency to cover the expenses of the Executive agency to carry out a telecommuting program.

(b) DEFINITIONS.—For purposes of this section:

(1) EXECUTIVE AGENCY.—The term "Executive agency" means the following list of departments and agencies: Department of State, Treasury, Defense, Health and Human Services, Agriculture, and Urban Development, Transport and Infrastructure, Veterans' Affairs, General Services Administration, Personnel Management, Small Business Administration, Security Administration, Environmental Protection Agency, and U.S. Postal Service.

5 USC 4109 note.

5 USC 5545b note.

5 USC 5545b note.



UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT

WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

OCT 22 1997

Honorable Albert Gore, Jr.  
President of the Senate  
Washington, DC 20510

Dear Mr. President:

The Office of Personnel Management (OPM) submits the enclosed legislative proposal entitled the "Federal Employees' Group Life Insurance Improvement Act of 1997." This proposal would amend the Federal Employees' Group Life Insurance (FEGLI) law with respect to (1) enforcement of domestic relations court orders regarding payment of life insurance proceeds, (2) increased levels of optional life insurance available to Federal employees and retirees on a self-paid basis, (3) group life insurance portability when employees leave Federal service before retirement, and (4) improved program administration.

#### Domestic Relations Court Orders

Various Members of Congress have expressed concern about the difficulty of enforcing a court decree of divorce, annulment, or legal separation, or a court-approved property settlement agreement in such domestic relations proceedings, which directs payment of FEGLI benefits. Domestic relations court orders and property settlement agreements often provide that FEGLI benefits should go to a specified individual, but these provisions can be defeated by an insured individual who, contrary to the terms of the order, files a designation of beneficiary that is inconsistent with the court's order, cancels insurance coverage, or irrevocably assigns insurance ownership to someone else.

Accordingly, OPM proposes to amend the FEGLI law so that the statutory Order of Precedence governing payment of FEGLI proceeds shall be disregarded when it is inconsistent with a domestic relations court order that is received by the appropriate agency before an insured individual dies or makes an irrevocable assignment of all incidents of ownership for FEGLI purposes. An insurance beneficiary named in a qualifying court order could be changed only with that beneficiary's written consent or by a modification of the court order received by the responsible agency before the insured dies. The proposal would further amend current law, which allows all insured individuals to irrevocably assign all incidents of FEGLI ownership to another person, by expressly providing that a domestic relations court order may direct an individual who has not previously made an irrevocable assignment to do so with respect to such person(s) named by the court. An assignee assumes the insured individual's rights to control payment of insurance proceeds and to cancel insurance.

### Increased Levels of Optional Life Insurance

The bill would also change optional FEGLI insurance to allow retired employees to retain more lifetime coverage and to increase benefits upon death of a FEGLI participant's family members. Employees who have Basic life insurance may elect optional insurance and must pay the full cost. Additional Optional insurance on an employee's life is available in multiples of 1 to 5 times basic salary and may continue after the insured is retired (or receiving workers' compensation) under certain conditions. By law, premium contributions for Additional Optional coverage cease at age 65 or retirement, whichever is later, and insurance begins reducing by 2 percent of face value per month until it ends 50 months later.

In contrast, Basic FEGLI coverage allows employees, when they become eligible to continue Basic insurance while retired (or receiving workers' compensation), to elect to pay additional contributions to avoid the usual post-age-65 reduction. At the time of retirement, Basic insurance coverage generally approximates the employee's annual base pay, and some have suggested that, even with no reduction, this may not afford adequate post-retirement protection for every retiree's needs. Therefore, the bill would amend the law to permit retiring employees to elect to pay the full cost beyond the date premiums would otherwise cease, in order to continue Additional Optional insurance with no reduction. Also, employees who are retired or in receipt of workers' compensation and have Additional Optional insurance still in force on the effective date of these provisions would receive an opportunity to elect to pay the associated cost to continue such coverage without further reduction.

Since 1981, the FEGLI Program has offered employees who have Basic insurance the option of purchasing group life insurance on eligible family members, which pays the individual who elects such coverage \$5,000 upon the death of a spouse and \$2,500 upon the death of an unmarried dependent child. Today, 16 years later, these benefit amounts are increasingly falling behind basic funeral expenses, particularly with respect to a covered child, and enrollees have begun to suggest increased coverage is needed. Comparable programs offered by other large employers commonly offer, at a minimum, twice the benefits available under FEGLI, as well as a choice of coverage on a spouse to recognize differing personal circumstances.

Under this proposal, employees would have the option of electing among three levels of coverage for a spouse--\$10,000, \$20,000, or \$30,000--with each level also providing a \$10,000 benefit on the death of an eligible dependent child. The new \$10,000 minimum benefit would cause self-paid, age-adjusted premiums for optional insurance for family members to approximately double. Premiums for family benefits currently range from \$0.30 biweekly for individuals under age 35 to \$2.60 biweekly for those 60 and over. The amendment would further authorize OPM to increase the amount of Family Optional insurance by regulation in the future whenever the maximum spouse benefit is less than 50 percent of the average basic insurance amount for insured employees. These changes are consistent with practices of other large employers' life insurance programs.

### Portability

The bill also would introduce on a temporary basis (not to exceed 3 years) a new concept of group life insurance portability to benefit employees who exhaust 12 months of leave without pay or separate from Federal service without entitlement to receive an immediate annuity or workers' compensation. Under current law, such individuals lose eligibility for group insurance, subject to the right to convert coverage to an individual policy without evidence of insurability at substantially higher cost. The draft bill would permit continuation of all or a portion of the Additional Optional life insurance coverage which has been in force on the employee for 5 years of service immediately before the event which would otherwise cause insurance to stop or, if less, during all service during which insurance was available. Such continuation would be at the same group rates as for other program participants. To keep premiums reasonable, additional insurance continued under this provision would be subject to a 50 percent reduction in face value at age 70 and termination at age 80, with a right to convert insurance reductions to an individual life insurance policy without evidence of insurability. Portability of optional group life insurance, to assist employees with career transitions, is an emerging trend among large employers in this age of corporate reconfiguration.

### Administrative Improvements

Finally, we are proposing several changes in FEGLI law so that administration of the program will be more efficient and equitable. The bill would repeal the maximum limitation on employee annual base pay included for purposes of determining Basic life insurance coverage and Additional Optional life insurance based on 1 to 5 times annual salary. These benefits will no longer be limited by the rate payable for positions at level II of the Executive Schedule, currently \$133,600. The limitation affects about 200 positions, including the President, Congressional leadership positions, Supreme Court and Federal Appeals Court justices, and 18 executive branch positions at level I of the Executive Schedule. Medium to large employers today typically offer group life insurance reflecting an earnings multiple of at least one time base salary. This change will make FEGLI benefits more comparable with accepted employer practice and more equitable to all FEGLI participants. This will involve only a negligible cost to the Government for contributions of \$0.0825 biweekly to pay one-third of the cost of each \$1,000 of new coverage in excess of the present maximum basic insurance amount of \$136,000 (level II base pay, rounded to the next \$1,000, plus \$2,000). Employees eligible for Basic insurance pay two-thirds of the cost.

The definition of "family member" in the FEGLI law for purposes of Family Optional insurance would be expanded to include a foster child who lives with an employee or annuitant in a regular parent-child relationship. Such foster children have long been covered for purposes of the Federal Employees Health Benefits Program, and their inclusion under FEGLI law would be consistent with accepted group insurance practice for dependent life insurance policies.

Honorable Albert Gore, Jr.

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Any employee whose pay, annuity, or compensation for job-related injury or illness is insufficient to cover required enrollee contributions would nevertheless be able to continue insurance by electing to make direct payment through the agency or retirement system which administers pay or a benefit entitlement. Another amendment would specify that if administrative error allows an ineligible employee or retiree to be insured, erroneous coverage shall not be invalidated when the error is discovered after erroneous insurance and applicable withholdings have been in force for 2 years or more. Contractual incontestability clauses are standard practice in the insurance industry, but currently are not uniformly effective for FEGLI purposes if a conflict with statutory requirements arises.

#### Conclusion

This draft bill would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go (paygo) requirements of the Omnibus Budget Reconciliation Act of 1990 (OBRA). Current estimates indicate that the bill could have a minimal paygo cost.

We urge the Congress to give this proposal early consideration. These changes would make the FEGLI Program significantly more responsive to the needs of Federal employees, retirees, and their families and would result in negligible cost to the Government.

The Office of Management and Budget advises that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,



Janice R. Lachance  
Acting Director

Enclosure

## SECTION-BY-SECTION ANALYSIS

To accompany a draft bill

"To amend chapter 87 of title 5, United States Code, to enforce domestic relations court orders concerning payment of insurance proceeds, to make Additional Optional life insurance portable upon separation from service and allow retired employees to continue such coverage with no reduction after age 65, to improve Family Optional life insurance benefits, and to improve program administration."

The first section provides that the bill may be cited as the "Federal Employees' Group Life Insurance Improvement Act of 1997."

Section 2 would amend chapter 87 of title 5, concerning the Federal Employees' Group Life Insurance (FEGLI) Program, to repeal the maximum limitation on employee annual base pay included for purposes of determining basic life insurance coverage and Additional Optional life insurance equal to 1 to 5 times annual salary. These benefits will no longer be limited by the rate payable for positions at level II of the Executive Schedule, currently \$133,600. Amendments to the FEGLI law in 1967 effectively increased the original \$20,000 maximum limitation on Basic insurance to \$30,000, a level more consistent with benefits then offered by other large employers, and provided for automatic adjustments of the maximum limitation on the salary for level II of the Executive Schedule, then \$30,000.

The limitation currently affects about 200 positions, including the President, Congressional leadership positions, Supreme Court and Federal Appeals Court justices, and 18 executive branch positions at level I of the Executive Schedule. This change will make FEGLI benefits more comparable with accepted employer practice and more equitable to all FEGLI participants. It will involve only a negligible cost to the Government for contributions of \$0.0825 biweekly for each \$1,000 of new coverage in excess of the present maximum basic insurance amount of \$136,000 (level II base pay, rounded to next \$1,000, plus \$2,000).

Section 3 would amend 5 U.S.C. 8701(d)(1)(B) to broaden the definition of "family member" to include a foster child under the same conditions as a stepchild. The new definition is consistent with the definition of "family member" under the Federal Employees Health Benefits (FEHB) Program.

Section 4 would amend 5 U.S.C. 8705, which prescribes an Order of Precedence for purposes of paying insurance proceeds, to specify that these provisions shall be disregarded if inconsistent with the terms of a qualifying court decree of divorce, annulment, or legal separation, or court-approved property settlement agreement concerning insurance. A qualifying court order is one received in the employing agency (or the Office of Personnel Management in the case of employees who are retired or receiving workers compensation) before the insured individual dies or completes an assignment of incidents of insurance ownership as permitted by another provision of law. An insurance beneficiary named by a qualifying court order could be changed

only with that beneficiary's written consent or by a modification of the original court order received in the responsible agency before the insured individual dies.

The current Order of Precedence for FEGLI purposes first recognizes a designation of beneficiary that is written, witnessed, and received in the appropriate agency before the insured employee's death. Any designation, change, or cancellation of beneficiary in a will or other document not executed as the law provides is expressly without force or effect. The law further allows an insured individual to change a designation of beneficiary for FEGLI purposes at any time, except insured individuals who irrevocably assign life insurance ownership to another person as provided elsewhere in the law. Under current FEGLI law, domestic relations court orders can be defeated by an individual who, contrary to the terms of the order, files a designation of beneficiary that is inconsistent with the court's order.

Section 4 also would amend 5 U.S.C. 8706(e) to provide that a domestic relations court order may direct an individual to make an irrevocable assignment of FEGLI to the person named in the court order or agreement, when there is not a previous assignment. Irrevocable assignment deprives the insured individual of further control over payment of insurance proceeds.

Section 5 would add a new subsection (g) to section 8706 of title 5 to authorize continuation of life insurance coverage in certain cases where an otherwise ineligible employee nevertheless became insured, or was permitted to continue insurance, through administrative error. The new provision specifies that erroneous coverage shall not be invalidated unless the error is discovered within 2 years after erroneous insurance and applicable withholdings began. Similar incontestability clauses are standard practice in the insurance industry. With regard to the FEGLI Program, however, contractual incontestability provisions cannot be applied contrary to applicable FEGLI law. There is no statutory bar to allowing active employees to continue whatever coverage they have reasonably come to rely on after discovery of an error, but since FEGLI law imposes a 5-year participation requirement for continuing insurance during receipt of annuity or workers' compensation, insurance that is erroneously continued in these cases must be terminated whenever the error is discovered. A statutory incontestability provision will establish consistent treatment of all enrollees.

Section 6 of the bill would authorize direct payment of the employee share of Basic life insurance premiums or the cost of optional life insurance if salary, annuity, or compensation on account of work-related disease or injury, is insufficient to cover necessary withholdings. In such cases, the employee could continue insurance by arranging to pay directly through the agency or retirement system that administers pay, annuity, or compensation. Annuitants subject to the Federal Employees Health Benefits Program currently can elect direct payment of enrollee contributions, preserving maximum choice among available health plans.

This proposal would give employees many prerogatives for using self-paid, optional group life insurance for added financial security: increased access to accelerated benefit payments, Additional Optional insurance portability, increased family insurance and post-retirement

employee life insurance. OPM wants to ensure that no employees and annuitants face limited choices because withholdings are not possible.

Section 7 would amend 5 U.S.C. 8714b, which authorizes Additional Optional life insurance in multiples of 1 to 5 times basic pay. It would allow employees eligible to continue Additional Optional life insurance during retirement or receipt of workers' compensation to avoid any reduction in coverage after age 65. Employees bear the entire cost of optional insurance and currently pay age-adjusted premiums until the later of age 65 or retirement/receipt of workers' compensation. Under current law, once premiums cease, the face value of Additional Optional insurance begins reducing by 2 percent per month until coverage terminates after 50 months. As amended, the law would provide that Additional Optional insurance for an annuitant shall continue without reduction if, at the time eligibility to continue insurance arises, the insured individual elects continued withholdings beyond the date they otherwise would have ceased.

Since 1981, the FEGLI law has permitted employees who qualify to continue Basic life insurance while retired or receiving compensation to elect to pay extra contributions to avoid the usual reduction in Basic life insurance after age 65. More recently, Members of Congress and others have expressed concern that Basic insurance reflecting 1 year's salary may not be adequate for every employee's post-retirement needs and that more coverage should be available to individuals willing to pay all of the associated cost.

Section 7 also would introduce--on a temporary basis (not to exceed 3 years)--a new concept of group life insurance portability to benefit employees who exhaust 12 months of leave without pay or separate from Federal service without entitlement to receive immediate annuity or workers' compensation. Under current law, such individuals lose group eligibility, subject to the right to convert coverage to an individual policy without evidence of insurability, but at substantially higher cost. Subsection (b) of section 7 would permit continuation of all or a portion of the Additional Optional life insurance coverage which has been in force on the employee for 5 years of service immediately before the event which would otherwise cause insurance to stop or, if less, during all service during which insurance was available, at the same age-adjusted group rates as for other program participants. Additional Optional insurance continued under this provision would be subject to a 50 percent reduction in face value at age 70 and termination at age 80, with a right to convert insurance reductions to an individual life insurance policy without evidence of insurability. Portability of optional group life insurance, to assist employees with career transitions, is an emerging trend among large employers in this age of corporate reconfiguration. Before the expiration of this 3-year pilot program, OPM would have to report to Congress on the operation of this program, including recommendations on whether it should expire, be extended, or made permanent. If the authority is allowed to expire, individuals who elected to continue Additional Optional insurance under this provision would have such insurance terminated, subject to a temporary extension and conversion to an individual policy.

Section 8 would amend 5 U.S.C. 8714c(b) to increase benefits under FEGLI Family Optional insurance, which currently amount to \$5,000 for a spouse and \$2,500 for a child. Further,

employees would have the option of electing among three levels of coverage for a spouse-- \$10,000, \$20,000, or \$30,000--with each level also providing a \$10,000 benefit on the death of an eligible dependent child. Insured employees pay the full cost of optional FEGLI coverage. The new \$10,000 minimum benefits will cause existing age-adjusted premiums for Optional Insurance for Family Members to approximately double. Premiums for family benefits currently range from \$0.30 biweekly for individuals under age 35 to \$2.60 biweekly for those 60 and over.

This increased coverage is desirable because there has been no adjustment in benefit levels since family coverage was introduced in 1981, and the benefit amounts are increasingly failing to keep pace with basic funeral expenses. The amendment would further authorize OPM to increase the amount of Family Optional insurance by regulation in the future whenever the maximum spouse benefit is less than 50 percent of the average basic insurance amount for insured employees. [As of March 1997, the Governmentwide average annual basic salary was \$42,904, making the average basic insurance amount \$45,000.] These changes are consistent with practices among life insurance programs offered by other large employers.

Section 9 specifies that the bill is generally effective upon enactment and has no effect in cases of employees who die, separate, or retire before enactment, except as otherwise provided by this section. It also directs OPM to conduct a FEGLI open enrollment opportunity.

Subsection 9(a) specifies the following sections are effective other than on the date of enactment:

- Amendments in section 2 (repeal of the maximum limitation on basic pay for purposes of determining Basic and Additional Optional life insurance) and section 6 (authority for direct payment of contributions by employees with insufficient pay or annuity) are effective the first day of the first pay period that begins on or after the date of enactment.
- Section 5, concerning continuation of erroneous insurance coverage under certain conditions, is effective in any case in which the error is discovered on or after the date of enactment.
- Section 7 (unreduced Additional Optional insurance and portability) and section 8 (increased Optional Life Insurance on Family) are effective with the first pay period beginning 180 days after enactment, unless OPM specifies an earlier date which is at least 60 days after enactment. Section 9(a)(4) further provides limited retroactivity under section 8 by directing OPM to prescribe regulations that allow retired employees who have Additional Optional insurance in force on the bill's date of enactment to elect withholdings necessary to continue such insurance without subsequent reduction.
- Section 9(a)(5) provides that Optional Life Insurance on Family Members which is in force immediately before the effective date of section 8 shall automatically increase to the minimum \$10,000 benefit level for a spouse or child, with a corresponding increase in premium, unless the insured employee cancels coverage.

Finally, section 9(b) directs OPM to conduct an open enrollment opportunity over a period of not less than 8 weeks beginning no later than 180 days after the date of enactment for purposes of allowing all eligible employees to enroll under all FEGLI options without evidence of medical insurability. However, to limit adverse selection against the Program, no open season elections would be effective until the first pay period which begins at least 365 days after the beginning of the open enrollment period and which follows a pay period during which the employee was in a pay and duty status.

## A BILL

To amend chapter 87 of title 5, United States Code, concerning the Federal Employees' Group Life Insurance (FEGLI) Program, to enforce domestic relations court orders concerning payment of insurance proceeds, to make Additional Optional life insurance portable upon separation from service and allow retired employees to continue such coverage with no reduction after age 65, to improve Family Optional life insurance benefits, and to improve program administration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Group Life Insurance Improvement Act of 1997".

### REPEAL OF MAXIMUM LIMITATION ON EMPLOYEE INSURANCE

Sec. 2. Chapter 87 of title 5, United States Code, is amended--

(1) in section 8701(c), in the first sentence, by striking the comma immediately following "\$10,000" and all that follows and inserting a period; and

(2) in section 8714b(b), in the first sentence, by striking "except" and all that follows and inserting a period.

### FOSTER CHILD COVERAGE

Sec. 3. Section 8701(d)(1)(B) of title 5, United States Code, is amended by inserting "or foster child" after "stepchild" both places it appears.

### ENFORCEMENT OF COURT-ORDERED BENEFIT PAYMENTS

Sec. 4. Chapter 87 of title 5, United States Code, is amended--

(1) in section 8705--

(A) in subsection (a) by striking "(a) The" and inserting "(a) Except as provided in subsection (e), the"; and

(B) by adding at the end the following new subsection:

"(e)(1) Any amount which would otherwise be paid to a person under the order of precedence set forth in subsection (a) shall be paid (in whole or in part) by the Office to another person, if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court-ordered or court-approved property settlement agreement incident to such decree.

"(2) For purposes of this subsection, a decree, order, or agreement referred to in paragraph (1) shall not be effective unless it is received before the date of the insured employee's death by the employing agency or, if the employee was receiving an annuity or benefits under subchapter I of chapter 81, by the Office.

"(3) A designation under this subsection with respect to any person may not be changed except--

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

"(B) by modification of the decree, order, or agreement, as the case may be, if received as described in paragraph (2).

"(4) The Office shall prescribe any regulations necessary to carry out this subsection, including regulations for the application of this subsection in the event that two or more decrees, orders, or agreements are received with respect to the same amount."; and

(2) in section 8706(e), by striking "(e)" and inserting "(e)(1)" and by adding at the end the following new paragraph:

"(2) A court decree of divorce, annulment, or legal separation, or the terms of a court-approved property settlement agreement incident to such decree, may direct that an insured employee or former employee make an irrevocable assignment of the employee's or former employee's incidents of ownership in insurance under this chapter (if there is no previous assignment) to the person specified in the court order or court-approved property settlement agreement."

#### **INCONTESTABILITY OF ERRONEOUS COVERAGE**

Sec. 5. Section 8706 of title 5, United States Code, as amended by section 4(2), is further amended by adding the following new subsection at the end:

"(g) The insurance of an employee under a policy purchased under section 8709 shall not be invalidated based on a finding that the employee erroneously became insured, or erroneously continued insurance upon retirement or entitlement to compensation under subchapter I of chapter 81 of this title, if such finding occurs after the erroneous insurance and applicable withholdings have been in force for 2 years during the employee's lifetime."

#### **DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS**

Sec. 6. Chapter 87 of title 5, United States Code, is amended--

(1) in section 8707--

(A) in subsection (a) by striking "(a) During" and inserting "(a) Except as

provided in subsection (c)(2), during";

(B) in subsection (b) by striking "(b)(1) Whenever" and inserting "(b)(1) Except as provided in subsection (c)(2), whenever"; and

(C) in subsection (c) by inserting "(1)" immediately after "(c)" and by adding at the end the following new paragraph:

"(2) An employee who is subject to withholdings under this section and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required by this section.";

(2) in section 8714a(d) by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required by this subsection.";

(3) in section 8714b(d) by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue additional optional insurance if the

employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required by this subsection."; and

(4) in section 8714c(d) by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional life insurance on family members if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required by this subsection."

#### **ADDITIONAL OPTIONAL LIFE INSURANCE CONTINUATION AND PORTABILITY**

Sec. 7. Section 8714b of title 5, United States Code, as amended by sections 2(2) and 6(3), is further amended--

(1) in subsection (c)(2)--

(A) by inserting "(A)" immediately after "(2)" and by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(B) by adding at the end the following: "Beginning at the end of the calendar month in which the former employee becomes 65 years of age, the additional optional insurance shall be without cost to the former employee."

"(B) The amount of additional optional insurance continued under subparagraph (A) shall be continued without the reduction described in the second and third sentences thereof if, at the time eligibility to continue insurance during retirement or receipt of compensation arises, the insured employee elects (in such manner as the Office by regulation requires) to have the full cost continue to be withheld from annuity or compensation, as the case may be, on and after the date the withholdings would otherwise cease under the last sentence of subparagraph (A).

"(C) If an employee elects to continue insurance under subparagraph (B), the employee may later cancel that election and additional optional insurance shall be determined as if the employee had originally continued insurance under subparagraph (A)."; and

(2) by amending subsection (d)(1) to read as follows:

"(d)(1) During each period in which the additional optional insurance is in force on an employee, the full cost of the insurance shall be withheld from the employee's pay. During each period in which an employee continues additional optional insurance after retirement or while in receipt of compensation under subchapter I of chapter 81 because of disease or injury to the employee, the full cost of the insurance shall be withheld from the former employee's annuity or compensation, except as specified under subsection (c)(2)(A). Amounts required by this subsection shall be deposited, used, and invested as provided in section 8714 and shall be reported and accounted for together with amounts withheld under section 8714a(d)."

(b)(1) An employee whose additional optional insurance under section 8714b of title 5,

United States Code, would otherwise stop in accordance with subsection (c)(1) of such section and who is not eligible to continue insurance under subsection (c)(2) of such section may elect, under conditions prescribed by the Office of Personnel Management, to continue all or a portion of so much of the additional optional insurance as has been in force for not less than--

(A) the 5 years of service immediately preceding the date of the event which would cause insurance to stop under such subsection (c)(1); or

(B) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years--

at group rates established for purposes of such section 8714b, in lieu of conversion to an individual policy. The amount of insurance continued under this subsection shall be reduced by 50 percent effective at the beginning of the second calendar month after the date the employee or former employee attains age 70 and shall stop at the beginning of the second calendar month after attainment of age 80, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office. Alternatively, insurance continued under this subsection may be reduced or stopped at any time the employee or former employee elects<sup>(2)</sup>; and

(2) When an employee or former employee elects to continue additional optional insurance under this subsection following separation from service or 12 months without pay, the insured individual must submit timely payment of the full cost thereof, plus any amount the Office determines necessary to cover associated administrative expenses, in such manner as the Office shall prescribe by regulation. Amounts required by this paragraph shall be deposited, used, and invested as provided in section 8714 of title 5, United States Code, and shall be

reported and accounted for together with amounts withheld under section 8714a(d) of such title.

(3) No election to continue additional optional insurance as provided by this subsection shall be permitted more than 3 years after the effective date of this subsection. No later than 3 years after the date of enactment of this Act, the Office shall report to the Congress on the operation of this subsection, including recommendations as to whether or not authority for continuation of additional optional insurance as provided by this subsection should expire, be extended beyond the period prescribed in this paragraph, or be made permanent. If authority to elect additional optional insurance under this subsection is allowed to expire, all additional optional insurance under this subsection for former employees shall terminate on the date of expiration of this subsection, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office.

#### **INCREASE IN OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS**

Sec. 8. Section 8714c of title 5, United States Code, as amended by section 6(4), is further amended--

(1) by amending subsection (b) to read as follows:

"(b)(1) The optional life insurance on family members provided under this section shall be made available to each eligible employee who elects coverage under this section, under conditions the Office shall prescribe, in the amount of \$10,000, \$20,000, or \$30,000 for a spouse, in accordance with the employee's election, and the amount of \$10,000 for each child described in section 8701(d). An employee may reduce coverage for a spouse or stop coverage elected

pursuant to this section at any time.

"(2) The Office may, by regulation, increase the amounts of optional life insurance provided under this subsection when the Office determines that the maximum level of coverage for a spouse is less than 50 percent of the average basic insurance amount for insured employees.";

(2) in subsection (c)(2) by striking "section 8714b(c)(2)" and inserting "section 8714b(c)(2)(A)"; and

(3) in subsection (e) by striking the period at the end and inserting the following:  
"and the employee's election concerning the amount of insurance for a spouse."

#### **EFFECTIVE DATES; OPEN SEASON**

Sec. 9. (a) EFFECTIVE DATES.--(1) Except as otherwise provided by this subsection, the amendments made by this Act shall take effect on the date of enactment of this Act and shall apply only in the case of an employee who died, separated from Federal service, or retired on or after the date of enactment.

(2) Sections 2 and 6 shall be effective on the first day of the employee's first pay period which begins on or after the date of enactment.

(3) Section 5 shall be effective in any case in which a finding of erroneous insurance coverage is made on or after the date of enactment.

(4) Sections 7 and 8 shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of enactment of this Act, or on any earlier date that the Office of Personnel Management may prescribe which is at least 60 days after the date of

enactment. The Office shall prescribe regulations under which an employee who--

(A) separated from service before the effective date of section 7 due to retirement or entitlement to compensation under subchapter I of chapter 81 of title 5, United States Code; and

(B) continued additional optional insurance pursuant to section 8714b(c)(2) as in effect immediately before the date of enactment of this Act--

may elect to continue additional optional insurance which remains in force on the effective date of section 7 of this Act without subsequent reduction and with the full cost withheld from annuity or compensation on and after such effective date.

(5) Optional life insurance on family members under section 8714c of title 5, United States Code, which is in force on the day before the effective date of section 8 of this Act, other than by continuation under section 8714c(c)(2) of title 5, shall increase to the minimum benefit levels established by this Act on the effective date of section 8, with a corresponding increase in premium, unless the employee cancels coverage before such effective date.

(b) OPEN SEASON.--(1) Beginning no later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall conduct an open enrollment opportunity for purposes of chapter 87 of title 5, United States Code, over a period of not less than 8 weeks. During this period, an employee (as defined by section 8701(a) of such title 5)--

(A) may, if the employee previously declined or voluntarily terminated any coverage under chapter 87 of title 5, elect to begin, resume, or increase group life insurance (and acquire applicable accidental death and dismemberment insurance) under all sections of chapter 87 without submitting evidence of insurability; and

(B) may, if currently insured for optional life insurance on family members, elect an amount above the minimum insurance on a spouse.

(2) Any election by an employee in accordance with this subsection, and applicable withholdings, shall not be effective until the first pay period which begins at least 365 days after the start of the election period authorized by this subsection and which follows a pay period in which the employee was in a pay and duty status.

Public Law 105-311,  
105th Congress

An Act

Oct. 30, 1998  
(H.R. 2675)

To provide for the Office of Personnel Management to conduct a study and submit a report to Congress on the provision of certain options for universal life insurance coverage and additional death and dismemberment insurance under chapter 87 of title 5, United States Code, to improve the administration of such chapter, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal  
Employees Life  
Insurance  
Improvement  
Act.  
5 USC 8701 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Employees Life Insurance Improvement Act".

**SEC. 2. STUDY AND REPORT ON CERTAIN LIFE INSURANCE OPTIONS OFFERED TO FEDERAL EMPLOYEES.**

(a) **IN GENERAL.**—Not later than July 31, 1998, the Office of Personnel Management shall conduct a study on life insurance options for Federal employees described under subsection (b) and submit a report to Congress.

(b) **STUDY AND REPORT.**—The study and report referred to under subsection (a) shall—

- (1) survey and ascertain the interest of Federal employees in an offering under chapter 87 of title 5, United States Code, of insurance coverage options relating to—
  - (A) group universal life insurance;
  - (B) group variable universal life insurance; and
  - (C) additional voluntary accidental death and dismemberment insurance; and
- (2) include any comments, analysis, and recommendations of the Office of Personnel Management relating to such options.

**SEC. 3. REPEAL OF MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.**

Chapter 87 of title 5, United States Code, is amended—

- (1) in section 8701(c), in the first sentence, by striking the comma immediately following "\$10,000" and all that follows and inserting a period; and
- (2) in section 8714b(b), in the first sentence, by striking "except" and all that follows and inserting a period.

**SEC. 4. FOSTER CHILD COVERAGE.**

Section 8701(d)(1)(B) of title 5, United States Code, is amended by inserting "or foster child" after "stepchild" both places it appears.

**SEC. 5. INCONTESTABILITY OF ERRONEOUS COVERAGE.**

Section 8706 of title 5, United States Code, as amended by section 5(2), is further amended by adding at the end the following new subsection:

“(g) The insurance of an employee under a policy purchased under section 8709 shall not be invalidated based on a finding that the employee erroneously became insured, or erroneously continued insurance upon retirement or entitlement to compensation under subchapter 1 of chapter 81 of this title, if such finding occurs after the erroneous insurance and applicable withholdings have been in force for 2 years during the employee’s lifetime.”

**SEC. 6. DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.**

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8707—

(A) in subsection (a), by striking “(a) During” and inserting “(a) Subject to subsection (c)(2), during”;

(B) in subsection (b), by striking “(b)(1) Whenever” and inserting “(b)(1) Subject to subsection (c)(2), whenever”; and

(C) in subsection (c), by inserting “(1)” immediately after “(c)” and by adding at the end the following new paragraph:

“(2) An employee who is subject to withholdings under this section and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue insurance if the employee arranges to pay currently into the Employees’ Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this section.”;

(2) in section 8714a(d), by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional insurance if the employee arranges to pay currently into the Employees’ Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.”;

(3) in section 8714b(d), by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue additional optional insurance if the employee arranges to pay currently into the Employees’ Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.”; and

(4) in section 8714c(d), by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional life insurance on family members

if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection."

**SEC. 7. ADDITIONAL OPTIONAL LIFE INSURANCE CONTINUATION AND PORTABILITY.**

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

(1) in subsection (c)—

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

and

(B) by adding at the end the following:

"(3) The amount of additional optional insurance continued under paragraph (2) shall be continued, with or without reduction, in accordance with the employee's written election at the time eligibility to continue insurance during retirement or receipt of compensation arises, as follows:

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

"(i) the amount of additional optional insurance continued under paragraph (2) shall be reduced each month by 2 percent effective at the beginning of the second calendar month after the date the employee becomes 65 years of age and is retired or is in receipt of compensation; and

"(ii) the reduction under clause (i) shall continue for 50 months at which time the insurance shall stop.

"(B) The employee may, instead of the option under subparagraph (A), elect to have the full cost of additional optional insurance continue to be withheld from such employee's annuity or compensation on and after the date such withholdings would otherwise cease pursuant to an election under subparagraph (A), in which case the amount of additional optional insurance continued under paragraph (2) shall not be reduced, subject to paragraph (4).

"(C) An employee who does not make any election under the preceding provisions of this paragraph shall be treated as if such employee had made an election under subparagraph (A).

"(4) If an employee makes an election under paragraph (3)(B), that individual may subsequently cancel such election, in which case additional optional insurance shall be determined as if the individual had originally made an election under paragraph (3)(A).

"(5)(A) An employee whose additional optional insurance under this section would otherwise stop in accordance with paragraph (1) and who is not eligible to continue insurance under paragraph (2) may elect, under conditions prescribed by the Office of Personnel Management, to continue all or a portion of so much of the additional optional insurance as has been in force for not less than—

"(i) the 5 years of service immediately preceding the date of the event which would cause insurance to stop under paragraph (1); or

"(ii) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years.

at group rates established for purposes of this section, in lieu of conversion to an individual policy. The amount of insurance continued under this paragraph shall be reduced by 50 percent effective at the beginning of the second calendar month after the date the employee or former employee attains age 70 and shall stop at the beginning of the second calendar month after attainment of age 80, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office. Alternatively, insurance continued under this paragraph may be reduced or stopped at any time the employee or former employee elects.

“(B) When an employee or former employee elects to continue additional optional insurance under this paragraph following separation from service or 12 months without pay, the insured individual shall submit timely payment of the full cost thereof, plus any amount the Office determines necessary to cover associated administrative expenses, in such manner as the Office shall prescribe by regulation. Amounts required under this subparagraph shall be deposited, used, and invested as provided under section 8714 and shall be reported and accounted for together with amounts withheld under section 8714a(d).

“(C)(i) Subject to clause (ii), no election to continue additional optional insurance may be made under this paragraph 3 years after the effective date of this paragraph.

“(ii) On and after the date on which an election may not be made under clause (i), all additional optional insurance under this paragraph for former employees shall terminate, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office.”; and

(2) in the second sentence of subsection (d)(1) by inserting “if insurance is continued as provided under subsection (c)(3)(A),” after “except that.”

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Office of Personnel Management shall submit a report to Congress on additional optional insurance provided under section 8714b(c)(5) of title 5, United States Code (as added by subsection (a) of this section). Such report shall include recommendations on whether continuation for such additional optional insurance should terminate as provided under such section, be extended, or be made permanent.

(c) TECHNICAL AMENDMENT.—The last sentence of section 8714b(d)(1) of title 5, United States Code, is amended by inserting “(and any amounts withheld as provided in subsection (c)(3)(B))” after “Amounts so withheld”.

#### SEC. 8. IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.

(a) IN GENERAL.—Section 8714c(b) of title 5, United States Code, is amended to read as follows:

“(b)(1) The optional life insurance on family members provided under this section shall be made available to each eligible employee who has elected coverage under this section, under conditions the Office shall prescribe, in multiples, at the employee’s election, of 1, 2, 3, 4, or 5 times—

“(A) \$5,000 for a spouse; and

“(B) \$2,500 for each child described under section 8701(d).

Deadline.  
5 USC 8714b  
note.

"(2) An employee may reduce or stop coverage elected pursuant to this section at any time."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8714c of title 5, United States Code, is amended—

(1) in subsection (c)(2), by striking "section 8714b(c)(2) of this title" and inserting "section 8714b(c) (2) through (4)"; and

(2) in subsection (d)(1), by inserting before the last sentence the following: "Notwithstanding the preceding sentence, the full cost shall be continued after the calendar month in which the former employee becomes 65 years of age if, and for so long as, an election under this section corresponding to that described in section 8714b(c)(3)(B) remains in effect with respect to such former employee."

Deadline.

5 USC 8701 note.

#### SEC. 8. OPEN SEASON.

Beginning not later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall conduct an open enrollment opportunity for purposes of chapter 87 of title 5, United States Code, over a period of not less than 8 weeks. During this period, an employee (as defined under section 8701(a) of such title)—

(1) may, if the employee previously declined or voluntarily terminated any coverage under chapter 87 of such title, elect to begin, resume, or increase group life insurance (and acquire applicable accidental death and dismemberment insurance) under all sections of such chapter without submitting evidence of insurability; and

(2) may, if currently insured for optional life insurance on family members, elect an amount above the minimum insurance on a spouse.

#### SEC. 10. MERIT SYSTEM JUDICIAL REVIEW.

(a) IN GENERAL.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1) by striking "within 30 days" and inserting "within 60 days"; and

(2) in subsection (d) in the first sentence, by inserting after "filing" the following: ", within 60 days after the date the Director received notice of the final order or decision of the Board."

5 USC 7703 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and apply to any suit, action, or other administrative or judicial proceeding pending on such date or commenced on or after such date.

5 USC 8701 note.

#### SEC. 11. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.—Section 3 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(c) ERRONEOUS COVERAGE.—Section 5 shall be effective in any case in which a finding of erroneous insurance coverage is made on or after the date of enactment of this Act.

(d) DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.—Section 6 shall take effect on the first day of the first applicable pay

period beginning on or after the date of enactment of this Act.

(e) **ADDITIONAL OPTIONAL LIFE INSURANCE.**—

(1) **IN GENERAL.**—Section 7 shall take effect on the first day of the first pay period that begins on or after the 180th day following the date of enactment of this Act, or on any earlier date that the Office of Personnel Management may prescribe that is at least 60 days after the date of enactment of this Act.

(2) **REGULATIONS.**—The Office shall prescribe regulations under which an employee may elect to continue additional optional insurance that remains in force on such effective date without subsequent reduction and with the full cost withheld from annuity or compensation on and after such effective date if that employee—

(A) separated from service before such effective date due to retirement or entitlement to compensation under subchapter 1 of chapter 81 of title 5, United States Code; and

(B) continued additional optional insurance pursuant to section 8714b(c)(2) as in effect immediately before such effective date.

(f) **IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.**—The amendments made by section 8 shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of enactment of this Act or on any earlier date that the Office of Personnel Management may prescribe.

(g) **OPEN SEASON.**—Any election made by an employee under section 9, and applicable withholdings, shall be effective on the first day of the first applicable pay period that—

(1) begins on or after the date occurring 365 days after the first day of the election period authorized under section 9; and

(2) follows a pay period in which the employee was in a pay and duty status.

Approved October 30, 1998.

**LEGISLATIVE HISTORY—H.R. 2675:**

HOUSE REPORTS: No. 105-373 (Comm. on Government Reform and Oversight).

SENATE REPORTS: No. 105-337 (Comm. on Governmental Affairs).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Nov. 4, considered and passed House.

Vol. 144 (1998): Oct. 5, considered and passed Senate, amended.

Oct. 8, House concurred in Senate amendments.

DC

**\*Public Law 105-33  
105th Congress**

**An Act**

To provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

Aug. 5, 1997  
(H.R. 2015)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Balanced Budget  
Act of 1997.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Balanced Budget Act of 1997".

**SEC. 2. TABLE OF TITLES.**

This Act is organized into titles as follows:

- Title I—Food Stamp Provisions
- Title II—Housing and Related Provisions
- Title III—Communications and Spectrum Allocation Provisions
- Title IV—Medicare, Medicaid, and Children's Health Provisions
- Title V—Welfare and Related Provisions
- Title VI—Education and Related Provisions
- Title VII—Civil Service Retirement and Related Provisions
- Title VIII—Veterans and Related Provisions
- Title IX—Asset Sales, User Fees, and Miscellaneous Provisions
- Title X—Budget Enforcement and Process Provisions
- Title XI—District of Columbia Revitalization

**TITLE I—FOOD STAMP PROVISIONS**

**SEC. 1001. EXEMPTION.**

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

- (1) in paragraph (2)(D), by striking "or (5)" and inserting "(5), or (6)";
- (2) by redesignating paragraph (6) as paragraph (7); and
- (3) by inserting after paragraph (5) the following:

**"(6) 15-PERCENT EXEMPTION.—**

**"(A) DEFINITIONS.—**In this paragraph:

**"(i) CASELOAD.—**The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

**"(ii) COVERED INDIVIDUAL.—**The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

**"(I)** is not eligible for an exception under paragraph (3);

**"(II)** does not reside in an area covered by a waiver granted under paragraph (4);

\*Note: This is a hard enrollment pursuant to Public Law 105-32.

(3) In subsection (d)(1)(B), strike "new budget" and all that follows through "spending authority" and insert "budgetary resources" and strike "or" after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike "base levels of total revenues and total budget outlays, as" and insert "figures", and strike "251(a)(2)(B) or (c)(2)," and insert "254".

#### SEC. 10212. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

2 USC 900 note.

(1) by striking "Part C of this title, section" and inserting "Sections 251, 253, 258B, and";

(2) by striking "1995" and inserting "2002"; and

(3) by adding at the end the following new sentence: "The remaining sections of part C of this title shall expire September 30, 2006."

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note) is repealed.

2 USC 902 note.

#### SEC. 10213. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of that section for any fiscal year resulting from the enactment of this Act or of the Taxpayer Relief Act of 1997.

National Capital  
Revitalization  
and  
Self-Government  
Improvement Act  
of 1997.

## TITLE XI—DISTRICT OF COLUMBIA REVITALIZATION

### SECTION 11000. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "National Capital Revitalization and Self-Government Improvement Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 11000. Short title, table of contents.

Subtitle A—District of Columbia Retirement Funds

CHAPTER 1—SHORT TITLE; FINDINGS; DEFINITIONS

Sec. 11001. Short title.

Sec. 11002. Findings and declaration of policy.

Sec. 11003. Definitions.

CHAPTER 2—FEDERAL BENEFIT PAYMENTS UNDER DISTRICT RETIREMENT PROGRAMS

Sec. 11011. Obligation of Federal government to make benefit payments.

Sec. 11012. Federal benefit payments described.

Sec. 11013. Establishment of single annual cost-of-living adjustment under District Retirement Program.

CHAPTER 3—DETERMINATIONS AND REVIEW OF ELIGIBILITY AND PAYMENTS,  
INFORMATION SHARING

- Sec. 11021. Determination of eligibility for and amount of Federal benefit payments made by Trustee.
- Sec. 11022. Procedures for resolving claims arising from denied benefit payments.
- Sec. 11023. Transfer of and access to records of District Government.
- Sec. 11024. Federal information sharing for verification of benefit determinations.

## CHAPTER 4—DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND

- Sec. 11031. Creation of Trust Fund.
- Sec. 11032. Uses of amounts in Trust Fund.
- Sec. 11033. Transfer of assets and obligations of District Retirement Funds.
- Sec. 11034. Treatment of Trust Fund under certain laws.
- Sec. 11035. Administration through Trustee.

## CHAPTER 5—RESPONSIBILITIES OF DISTRICT GOVERNMENT

- Sec. 11041. Interim administration.
- Sec. 11042. Replacement plan.

## CHAPTER 6—FINANCING OF BENEFIT PAYMENTS AFTER DEPLETION OF TRUST FUND

- Sec. 11051. Creation of Federal Supplemental Fund.
- Sec. 11052. Uses of amounts in Fund.
- Sec. 11053. Determination of annual payment into Federal Supplemental Fund.
- Sec. 11054. Determination of methodology for making payments.
- Sec. 11055. Special requirements upon discontinuation of Trust Fund.

## CHAPTER 7—REPORTS

- Sec. 11061. Annual valuations and reports by enrolled actuary.
- Sec. 11062. Reports by Comptroller General.

## CHAPTER 8—JUDICIAL ENFORCEMENT

- Sec. 11071. Judicial review.
- Sec. 11072. Jurisdiction and venue.
- Sec. 11073. Statute of limitations.
- Sec. 11074. Treatment of misappropriation of fund amounts as Federal crime.

## CHAPTER 9—MISCELLANEOUS

- Sec. 11081. Coordination between Secretary, Trustee, and District Government.
- Sec. 11082. Study of alternatives for financing Federal obligations.
- Sec. 11083. Issuance of regulations by Secretary.
- Sec. 11084. Effect on Reform Act and other laws.
- Sec. 11085. Reference to new Federal program for retirement of judges of District of Columbia courts.
- Sec. 11086. Full faith and credit.
- Sec. 11087. Severability of provisions.

## Subtitle B—Management Reform Plans

- Sec. 11101. Short title.
- Sec. 11102. Management reform plans for District Government.
- Sec. 11103. Procedures for development of plans.
- Sec. 11104. Implementation of plans.
- Sec. 11105. Reform of powers and duties of department heads.
- Sec. 11106. No effect on powers of Financial Responsibility and Management Assistance Authority.

## Subtitle C—Criminal Justice

## CHAPTER 1—CORRECTIONS

- Sec. 11201. Bureau of Prisons.
- Sec. 11202. Corrections Trustee.
- Sec. 11203. Priority consideration for employees of the District of Columbia.
- Sec. 11204. Amendments related to persons with a mental disease or defect.
- Sec. 11205. Liability for and litigation authority of Corrections Trustee.
- Sec. 11206. Permitting expenditure of funds to carry out certain sewer agreement.

## CHAPTER 2—SENTENCING

- Sec. 11211. Truth-in-Sentencing Commission.
- Sec. 11212. General duties, powers, and goals of Commission.
- Sec. 11213. Data collection.

Sec. 11214. Enactment of amendments to District of Columbia Code.

CHAPTER 3—OFFENDER SUPERVISION AND PAROLE

- Sec. 11231. Parole.  
 Sec. 11232. Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee.  
 Sec. 11233. Offender Supervision, Defender and Courts Services Agency.  
 Sec. 11234. Authorization of appropriations.

CHAPTER 4—DISTRICT OF COLUMBIA COURTS

SUBCHAPTER A—TRANSFER OF ADMINISTRATION AND FINANCING OF COURTS TO FEDERAL GOVERNMENT

- Sec. 11241. Authorization of appropriations.  
 Sec. 11242. Administration of courts under District of Columbia Code.  
 Sec. 11243. Budgeting and financing requirements for courts under Home Rule Act.  
 Sec. 11244. Auditing of accounts of court system.  
 Sec. 11245. Miscellaneous budgeting and financing requirements for courts under District law.  
 Sec. 11246. Other provisions relating to administration of District of Columbia courts.

SUBCHAPTER B—JUDICIAL RETIREMENT PROGRAM

- Sec. 11251. Judicial Retirement and Survivors Annuity Fund.  
 Sec. 11252. Termination of current fund and program.  
 Sec. 11253. Conforming amendments.

SUBCHAPTER C—MISCELLANEOUS CONFORMING AND ADMINISTRATIVE PROVISIONS

- Sec. 11251. Treatment of courts under miscellaneous District laws.  
 Sec. 11252. Representation of indigents in criminal cases.

CHAPTER 5—PRETRIAL SERVICES AGENCY AND PUBLIC DEFENDER SERVICE

- Sec. 11271. Amendments affecting Pretrial Services Agency.  
 Sec. 11272. Amendments affecting Public Defender Service.

CHAPTER 6—MISCELLANEOUS PROVISIONS

- Sec. 11281. Technical assistance and research.  
 Sec. 11282. Exemption from personnel and budget ceilings for Trustees and related agencies.

Subtitle D—Privatization of Tax Collection and Administration

- Sec. 11301. Findings.  
 Sec. 11302. Authorizing Chief Financial Officer to privatize tax administration and collection.

Subtitle E—Financing of District of Columbia Accumulated Deficit

- Sec. 11401. Findings.  
 Sec. 11402. Authorization for intermediate-term advances of funds by the Secretary of the Treasury to liquidate the accumulated general fund deficit of District of Columbia.  
 Sec. 11403. Conforming amendments.  
 Sec. 11404. Technical corrections.  
 Sec. 11405. Authorization for issuance of general obligation bonds by the District of Columbia to finance or refund its accumulated general fund deficit.

Subtitle F—District of Columbia Bond Financing Improvements

- Sec. 11501. Short title.  
 Sec. 11502. Findings.  
 Sec. 11503. Amendment to Section 462 (relating to contents of borrowing legislation and elections on issuing general obligation bonds).  
 Sec. 11504. Amendment to Section 466 (relating to public or negotiated sale of general obligation bonds).  
 Sec. 11505. Amendment to Section 467 (relating to authority to create security interests in District revenues).  
 Sec. 11506. Amendment to Section 472 (relating to borrowing in anticipation of revenues).  
 Sec. 11507. Addition of new Section 475 (relating to general obligation bond anticipation notes).  
 Sec. 11508. Amendment to Section 490 (relating to revenue bonds and other obligations).

Sec. 11509. Conforming amendment.

Subtitle G—District of Columbia Government Budget

- Sec. 11601. Elimination of the annual Federal payment to the District of Columbia.  
 Sec. 11602. Requirement that the District of Columbia balance its budget in FY 1998.  
 Sec. 11603. Permitting expedited submission and approval of consensus budget and financial plan.  
 Sec. 11604. Increase in maximum amount of permitted District borrowing.

Subtitle H—Miscellaneous Provisions

CHAPTER 1—REGULATORY REFORM IN THE DISTRICT OF COLUMBIA

- Sec. 11701. Review and revision of regulations and permit and application processes.  
 Sec. 11702. Repeal of Clean Air Compliance Fee Act of 1994.  
 Sec. 11703. Repeal requirement for Congressional authorization of certain mergers involving District of Columbia public utility corporations.  
 Sec. 11704. Exemption of certain contracts from Council review.

CHAPTER 2—OTHER MISCELLANEOUS PROVISIONS

- Sec. 11711. Revisions to Financial Responsibility and Management Assistance Act.  
 Sec. 11712. Cooperative agreements between Federal agencies and Metropolitan Police Department.  
 Sec. 11713. Permitting garnishment of wages of officers and employees of District of Columbia government.  
 Sec. 11714. Permitting excess appropriations by Water and Sewer Authority for capital projects.  
 Sec. 11715. Requiring certain Federal officials to provide notice before carrying out activities affecting real property located in District of Columbia.  
 Sec. 11716. Repeal term of deed of conveyance to certain hospital.  
 Sec. 11717. Short title of Home Rule Act.

CHAPTER 3—EFFECTIVE DATE; GENERAL PROVISIONS

- Sec. 11721. Effective date.  
 Sec. 11722. Technical assistance.  
 Sec. 11723. Liability.

Subtitle A—District of Columbia  
Retirement Funds

District of  
Columbia  
Retirement  
Protection Act of  
1997.

CHAPTER 1—SHORT TITLE; FINDINGS; DEFINITIONS

Sec. 11001. SHORT TITLE.

This subtitle may be cited as the "District of Columbia Retirement Protection Act of 1997".

Sec. 11002. FINDINGS AND DECLARATION OF POLICY.

- (a) FINDINGS.—The Congress finds that—
- (1) State and municipal retirement programs should be funded on an actuarially sound basis;
  - (2) the retirement programs for the police officers and firefighters, teachers and judges of the District of Columbia had significant unfunded liabilities totaling approximately \$1,900,000,000 when the Federal government transferred those programs to the District of Columbia, and those liabilities have since increased to nearly \$4,800,000,000, an increase which is almost entirely attributable to the accumulation of interest on the value which existed at the time of transfer;
  - (3) the District of Columbia has fully met its financial obligations under the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122);
  - (4) the growth of the unfunded liabilities of the three pension funds listed above did not occur because of any action

shall begin the transferring of inmates to Bureau of private contract facilities required by this section.

#### CORRECTIONS TRUSTEE.

##### APPOINTMENT AND REMOVAL OF TRUSTEE.—

1) APPOINTMENT.—Pursuant to the Federal Government's apportionment of responsibility for persons convicted of a felony under the District of Columbia Code, the Attorney General in consultation with the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this chapter referred to as the "D.C. Board"), the Mayor of the District of Columbia, the District of Columbia Council, and the District of Columbia Attorney General, shall select a Corrections Trustee, who shall be an independent officer of the government of the District of Columbia to oversee financial operations of the District of Columbia Department of Corrections until the Bureau of Prisons has operated all felony offenders sentenced under the District of Columbia Code to a penal or correctional facility operated and contracted for by the Bureau of Prisons under section 11201.

2) REMOVAL.—The Corrections Trustee may be removed by the Mayor with the concurrence of the Attorney General. The Attorney General shall have the authority to remove the Corrections Trustee for misfeasance or malfeasance in office. At the request of the Corrections Trustee, the District of Columbia Financial Responsibility and Management Assistance Authority may exercise any of its powers and authorities on behalf of the Corrections Trustee.

3) DUTIES OF TRUSTEE.—Beginning on the date of appointment and continuing until the felony population sentenced pursuant to the District of Columbia Code residing at the Lorton Correctional Institution is transferred to a penal or correctional facility operated and contracted for by the Bureau of Prisons, the Corrections Trustee shall carry out the following responsibilities (notwithstanding any law of the District of Columbia to the contrary):

1) Exercise financial oversight over the District of Columbia Department of Corrections and allocate funds as enacted by law or as otherwise allocated, including funds for short-term improvements which are necessary for the safety and security of staff, inmates and the community.

2) Purchase any necessary goods or services on behalf of the District of Columbia Department of Corrections consistent with Federal procurement regulations as they apply to the Bureau of Prisons.

##### 4) FUNDING.—

1) IN GENERAL.—Funds available for the Corrections Trustee, staff and all necessary and appropriate operations shall be made available to the extent provided in appropriations to the Corrections Trustee. Funding requests shall be submitted by the Corrections Trustee to the President and Congress for each Fiscal Year.

2) REIMBURSEMENT TO BUREAU OF PRISONS.—Upon receipt of Federal funds, the Corrections Trustee shall immediately provide an advance reimbursement to the Bureau of Prisons for funds identified by the Congress for construction of new facilities and major renovations, which shall remain available until expended. The Bureau of Prisons shall be responsible

and accountable for determining how these funds shall be used for renovation and construction, including type, security level, and location of new facilities.

(3) ACCOUNTABILITY AND REPORTS.—The District of Columbia Department of Corrections and the Bureau of Prisons shall maintain accountability for funds reimbursed from the Corrections Trustee, and shall provide expense reports by project at the request of the Corrections Trustee.

(d) COMPENSATION AND DETAILEES.—The Corrections Trustee shall be compensated at a rate not to exceed the basic pay payable for Level IV of the Executive Schedule. The Corrections Trustee may appoint and fix the pay of additional staff without regard to the provisions of the District of Columbia Code governing appointments and salaries, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. Upon request of the Corrections Trustee, the head of any Federal department or agency may, on a reimbursable or non reimbursable basis, provide services and detail any personnel of that department or agency to the Corrections Trustee to assist in carrying out his duties.

(e) PROCUREMENT AND JUDICIAL REVIEW.—The provisions of the District of Columbia Code governing procurement shall not apply to the Corrections Trustee. The Corrections Trustee may seek judicial enforcement of his authority to carry out his duties.

(f) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE CORRECTIONS TRUSTEE.—

(1) IN GENERAL.—A Federal employee who, within 3 days after separating from the Federal Government, is appointed Corrections Trustee or becomes employed by the Corrections Trustee—

(A) shall be treated as an employee of the Federal Government for purposes of chapters 83, 84, 87, and 89 of title 5 of the United States Code; and

(B) if, after serving with the Trustee, such employee becomes reemployed by the Federal Government, shall be entitled to credit for the full period of such individual's service with the Trustee, for purposes of determining the applicable leave accrual rate.

(2) REGULATIONS.—The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this subsection.

**SEC. 11203. PRIORITY CONSIDERATION FOR EMPLOYEES OF THE DISTRICT OF COLUMBIA.**

(a) ESTABLISHMENT.—As soon as practicable after appointment, the Bureau of Prisons, working with the Corrections Trustee, shall establish a priority consideration program to facilitate employment placement for employees of the District of Columbia Department of Corrections who are scheduled to be separated from service as a result of closing the Lorton Correctional Complex.

(b) PROVISIONS.—The priority consideration program shall include provisions under which a vacant federal correctional institution position established as a result of this Act and identified for external hiring shall not be filled by the appointment of any

individual from outside of the District of Columbia Department of Corrections if there is available any interested applicant within the District of Columbia Department of Corrections who meets all qualification and suitability requirements for Bureau of Prisons law enforcement positions, including those related to criminal history, educational experience and level of functions, drug use, and work-related misconduct. The priority consideration program shall also include provisions under which an employee described in subsection (a) who does not meet the qualification and suitability requirements for Bureau of Prisons law enforcement positions shall receive priority consideration for other Federal positions, and any such employee who is found to be well qualified for such a position may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such program shall terminate one year after the closing of the Lorton Correctional Complex.

Termination  
date.

**SEC. 11204. AMENDMENTS RELATED TO PERSONS WITH A MENTAL DISEASE OR DEFECT.**

Title 18, United States Code, is amended as follows:

- (1) Section 4246 is amended—
  - (A) in subsection (a) by inserting “in the custody of the Bureau of Prisons” after “certifies that a person”; and
  - (B) by adding at the end the following new subsection:
 

“(h) DEFINITION.—As used in this chapter the term “State” includes the District of Columbia.”
- (2) Section 4247(a) is amended—
  - (A) in paragraph (1)(D) by striking “and” after the semicolon;
  - (B) in paragraph (2) by striking the period and inserting “; and”; and
  - (C) by adding at the end the following new paragraph:
 

“(3) ‘State’ includes the District of Columbia.”
- (3) Section 4247(j) of title 18, United States Code, is amended by striking “This chapter does” and inserting “Sections 4241, 4242, 4243, and 4244 do”.

**SEC. 11203. LIABILITY FOR AND LITIGATION AUTHORITY OF CORRECTIONS TRUSTEE.**

(a) **LIABILITY.**—The District of Columbia shall defend any civil action or proceeding brought in any court or other official Federal, State, or municipal forum against the Corrections Trustee, or against the District of Columbia or its officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding, if the action or proceeding arises from—

- (1) an inmate’s confinement with the District of Columbia Department of Corrections;
- (2) the District of Columbia’s operation or management of the buildings, facilities, or lands comprising the Lorton property; or
- (3) the District of Columbia’s operations or activities occurring on any property not specifically transferred to the administrative control of the Federal Government pursuant to this Act.

(b) **LITIGATION.**—

(1) **CORPORATION COUNSEL.**—Subject to paragraph (2), the Corporation Counsel of the District of Columbia shall provide litigation services to the Corrections Trustee, except that the

18 USC 4201  
note.

Phaseout Act of 1996 (Public Law 104-232) is amended to read as follows:

“(c) The United States Parole Commission shall have no more than five members.”.

**SEC. 11232. PRETRIAL SERVICES, DEFENSE SERVICES, PAROLE, ADULT PROBATION AND OFFENDER SUPERVISION TRUSTEE.**

(a) **APPOINTMENT AND REMOVAL.**—

(1) **APPOINTMENT.**—The Attorney General, in consultation with the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as the “D.C. Control Board”) and the Mayor of the District of Columbia, shall appoint a Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee, who shall be an independent officer of the government of the District of Columbia, to effectuate the reorganization and transition of functions and funding relating to pretrial services, defense services, parole, adult probation and offender supervision.

(2) **REMOVAL.**—The Trustee may be removed by the Mayor with the concurrence of the Attorney General. The Attorney General shall have the authority to remove the Trustee for misfeasance or malfeasance in office. At the request of the Trustee, the District of Columbia Financial Responsibility and Management Assistance Authority may exercise any of its powers and authorities on behalf of the Trustee.

(b) **AUTHORITY.**—Beginning on the date of appointment, and continuing until the District of Columbia Offender Supervision, Defender, and Courts Services Agency is established under section 11233, the Trustee shall—

(1) have the authority to exercise all powers and functions authorized for the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency;

(2) have the authority to direct the actions of all agencies of the District of Columbia whose functions will be assumed by or within the District of Columbia Offender Supervision, Defender and Courts Services Agency, and of the Board of Parole of the District of Columbia, including the authority to discharge or replace any officers or employees of these agencies, except that the Trustee may not direct the conduct of particular cases by the District of Columbia Public Defender Service;

(3) exercise financial oversight over all agencies of the District of Columbia whose functions will be assumed by or within the District of Columbia Offender Supervision, Defender and Courts Services Agency, and over the Board of Parole of the District of Columbia, and allocate funds to these agencies as appropriated by Congress and allocated by the President;

(4) receive and transmit to the District of Columbia Pretrial Services Agency all funds appropriated for such agency; and

(5) receive and transmit to the District of Columbia Public Defender Service all funds appropriated for such agency.

(c) **COMPENSATION.**—The Trustee shall be compensated at a rate not to exceed the basic pay payable for Level IV of the Executive Schedule. The Trustee may appoint and fix the pay of additional staff without regard to the provisions of the District of Columbia Code governing appointments and salaries, without regard to the

provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of Chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. Upon request of the Trustee, the head of any Federal department or agency may, on a reimbursable or non-reimbursable basis, provide services and/or detail any personnel of that department or agency to the Trusteeship to assist in carrying out its duties.

(d) **PROCUREMENT AND JUDICIAL REVIEW.**—The provisions of the District of Columbia Code governing procurement shall not apply to the Trustee. The Trustee may enter into such contracts as the Trustee considers appropriate to carry out the Trustee's duties. The Trustee may seek judicial enforcement of the Trustee's authority to carry out the Trustee's duties.

(e) **PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEE WHO BECOMES THE TRUSTEE OR FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE TRUSTEE.**—

(1) **IN GENERAL.**—A Federal employee who, within 3 days after separating from the Federal Government, is appointed Trustee or becomes employed by the Trustee—

(A) shall be treated as an employee of the Federal Government for purposes of chapters 83, 84, 87, and 89 of title 5 of the United States Code; and

(B) if, after serving with the Trustee, such employee becomes reemployed by the Federal Government, shall be entitled to credit for the full period of such individual's service with the Trustee, for purposes of determining the applicable leave accrual rate.

(2) **REGULATIONS.**—The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this subsection.

(f) **FUNDING.**—Funds available for operations of the Trustee shall be made available to the extent provided in appropriations acts to the Trustee, through the State Justice Institute. Funding requests shall be proposed by the Trustee to the President and Congress for each Fiscal Year.

(g) **LIABILITY AND LITIGATION AUTHORITY.**—

(1) **LIABILITY.**—The District of Columbia shall defend any civil action or proceeding brought in any court or other official Federal, state, or municipal forum against the Trustee, or against the District of Columbia or its officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding, if the action or proceeding arises from the—

(A) supervision of offenders on probation, parole, or supervised release;

(B) provision of pretrial services by the District of Columbia; or

(C) activities of the District of Columbia Board of Parole.

(2) **LITIGATION.**—

(A) **CORPORATION COUNSEL.**—Subject to subparagraph (B), the Corporation Counsel of the District of Columbia shall provide litigation services to the Trustee, except that the Trustee may instead elect, either generally or in relation to particular cases or classes of cases, to hire necessary

staff and personnel or enter into contracts for the provision of litigation services at the Trustee's expense.

(B) ATTORNEY GENERAL.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), with respect to any litigation involving the Trustee, the Attorney General may—

(I) direct the litigation of the Trustee, and of the District of Columbia on behalf of the Trustee; and

(II) provide on a reimbursable or non-reimbursable basis litigation services for the Trustee at the Trustee's request or on the Attorney General's own initiative.

(ii) APPROVAL OF SETTLEMENT.—With respect to any litigation involving the Trustee, the Trustee may not agree to any settlement involving any form of equitable relief without the approval of the Attorney General. The Trustee shall provide to the Attorney General such notice and reports concerning litigation as the Attorney General may direct.

(iii) DISCRETION.—Any decision to exercise any authority of the Attorney General under this paragraph shall be in the sole discretion of the Attorney General and shall not be reviewable in any court.

(3) LIMITATIONS.—Nothing in this section shall be construed—

(1) as a waiver of sovereign immunity, or as limiting any other defense or immunity that would otherwise be available to the United States, the District of Columbia, their agencies, officers, employees, or agents; or

(2) to obligate the District of Columbia to represent or indemnify the Corrections Trustee or any officer, employee, or agent where the Trustee (or any person employed by or acting under the authority of the Trustee) acts beyond the scope of his authority.

(h) CERTIFICATION.—The District of Columbia Offender Supervision, Defender, and Courts Services Agency shall assume its duties pursuant to section 11233 when, within the period beginning one year after the date of the enactment of this subtitle and ending three years after the date of the enactment of this subtitle, the Trustee certifies to the Attorney General and the Attorney General concurs that the Agency can carry out the functions described in section 11233 and the United States Parole Commission can carry out the functions described in section 11231.

SEC. 11233. OFFENDER SUPERVISION, DEFENDER AND COURTS SERVICES AGENCY.

(a) ESTABLISHMENT.—There is established within the executive branch of the Federal Government the District of Columbia Offender Supervision, Defender, and Courts Services Agency (hereafter in this section referred to as the "Agency") which shall assume its duties not less than one year or more than three years after the enactment of this Act.

(b) DIRECTOR.—

(1) APPOINTMENT AND COMPENSATION.—The Agency shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate, for a term of six

Effective date:  
Termination  
date.

President.

years. The Director shall be compensated at the rate prescribed for Level IV of the Executive Schedule, and may be removed from office prior to the expiration of term only for neglect of duty, malfeasance in office, or other good cause shown.

(2) **POWERS AND DUTIES OF DIRECTOR.**—The Director shall—

(A) submit annual appropriation requests for the Agency to the Office of Management and Budget;

(B) determine, in consultation with the Chief Judge of the United States District Court for the District of Columbia, the Chief Judge of the Superior Court of the District of Columbia, and the Chairman of the United States Parole Commission, uniform supervision and reporting practices for the Agency;

(C) hire and supervise supervision officers and support staff for the Agency;

(D) direct the use of funds made available to the Agency;

(E) enter into such contracts, leases, and cooperative agreements as may be necessary for the performance of the Agency's functions, including contracts for substance abuse and other treatment and rehabilitative programs;

(F) develop and operate intermediate sanctions programs for sentenced offenders; and

(G) arrange for the supervision of District of Columbia paroled offenders in jurisdictions outside the District of Columbia.

(c) **FUNCTIONS.**—

(1) **IN GENERAL.**—The Agency shall provide supervision, through qualified supervision officers, for offenders on probation, parole, and supervised release pursuant to the District of Columbia Code. The Agency shall carry out its responsibilities on behalf of the court or agency having jurisdiction over the offender being supervised.

(2) **SUPERVISION OF RELEASED OFFENDERS.**—The Agency shall supervise any offender who is released from imprisonment for any term of supervised release imposed by the Superior Court of the District of Columbia. Such offender shall be subject to the authority of the United States Parole Commission until completion of the term of supervised release. The United States Parole Commission shall have and exercise the same authority as is vested in the United States district courts by paragraphs (d) through (i) of section 3583 of title 18, United States Code, except that—

(A) the procedures followed by the Commission in exercising such authority shall be those set forth in chapter 311 of title 18, United States Code; and

(B) an extension of a term of supervised release under subsection (e)(2) of section 3583 may only be ordered by the Superior Court upon motion from the Commission.

(3) **SUPERVISION OF PROBATIONERS.**—Subject to appropriations and program availability, the Agency shall supervise all offenders placed on probation by the Superior Court of the District of Columbia. The Agency shall carry out the conditions of release imposed by the Superior Court (including conditions that probationers undergo training, education, therapy, counseling, drug testing, or drug treatment), and shall make such

Reports.

## Reports.

reports to the Superior Court with respect to an individual on probation as the Superior Court may require.

(4) SUPERVISION OF DISTRICT OF COLUMBIA PAROLEES.—The Agency shall supervise all individuals on parole pursuant to the District of Columbia Code. The Agency shall carry out the conditions of release imposed by the United States Parole Commission or, with respect to a misdemeanor, by the Superior Court of the District of Columbia, and shall make such reports to the Commission or Court with respect to an individual on parole supervision as the Commission or Court may require.

(d) AUTHORITY OF OFFICERS.—The supervision officers of the Agency shall have and exercise the same powers and authority as are granted by law to United States Probation and Pretrial Officers.

(e) PRETRIAL SERVICES AGENCY AND PUBLIC DEFENDER SERVICE.—

(1) INDEPENDENT ENTITIES.—The District of Columbia Pretrial Services Agency established by subchapter I of chapter 13 title 23, District of Columbia Code, and the District of Columbia Public Defender Service established by title III of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2701 et seq.) shall function as independent entities within the Agency.

(2) SUBMISSION ON BEHALF OF PRETRIAL SERVICES.—The Director of the Agency shall submit, on behalf of the District of Columbia Pretrial Services Agency and with the approval of the Director of the Pretrial Services Agency, an annual appropriation request to the Office of Management and Budget. Such request shall be separate from the request submitted for the Agency.

(3) SUBMISSION ON BEHALF OF PUBLIC DEFENDER SERVICE.—The Director of the Agency shall submit, on behalf of the District of Columbia Public Defender Service and with the approval of the Director of the Public Defender Service, an annual appropriation request to the Office of Management and Budget. Such request shall be separate from that submitted for the Agency.

(4) LIABILITY OF DISTRICT OF COLUMBIA.—The District of Columbia shall defend any civil action or proceeding brought in any court or other official Federal, state, or municipal forum against the District of Columbia Pretrial Services Agency, the District of Columbia Public Defender Service, or the District of Columbia or its officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding, if the action or proceeding arises from the activities of the District of Columbia Pretrial Services Agency or the District of Columbia Public Defender Service prior to the date on which the Offender Supervision, Defender and Courts Services Agency assumes its duties.

(5) LITIGATION.—

(A) CORPORATION COUNSEL.—Subject to subparagraph (B), the Corporation Counsel of the District of Columbia shall provide litigation services to the District of Columbia Pretrial Services Agency and the District of Columbia Public Defender Service, except that the District of Columbia

Pretrial Services Agency and the District of Columbia Public Defender Service may instead elect, either generally or in relation to particular cases or classes of cases, to hire necessary staff and personnel or enter into contracts for the provision of litigation services at such agency's expense.

(B) ATTORNEY GENERAL.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), with respect to any litigation involving the District of Columbia Pretrial Services Agency, the Attorney General may—

(I) direct the litigation of the agency, and of the District of Columbia on behalf of the agency; and

(II) provide, on a reimbursable or non-reimbursable basis litigation services for the agency at the agency's request or on the Attorney General's own initiative.

(ii) APPROVAL OF SETTLEMENT.—With respect to any litigation involving the District of Columbia Pretrial Services Agency, the agency may not agree to any settlement involving any form of equitable relief without the approval of the Attorney General. The agency shall provide to the Attorney General such notice and reports concerning litigation as the Attorney General may direct.

(iii) DISCRETION.—Any decision to exercise any authority of the Attorney General under this paragraph shall be in the sole discretion of the Attorney General and shall not be reviewable in any court.

Notices.  
Reports.

SEC. 11234. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary for the following:

- (1) District of Columbia Pretrial Services Agency.
- (2) District of Columbia Public Defender Service.
- (3) Supervision of offenders on probation, parole, or supervised release for offenses under the District of Columbia Code.
- (4) Operation of the parole system for offenders convicted of offenses under the District of Columbia Code.
- (5) Operation of the Trusteeship described in section 11232.

CHAPTER 4—DISTRICT OF COLUMBIA COURTS

Subchapter A—Transfer of Administration and Financing of Courts to Federal Government

SEC. 11241. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary for the following:

- (1) The Superior Court of the District of Columbia.
- (2) The District of Columbia Court of Appeals.
- (3) The District of Columbia Court System.

(b) SUBMISSION TO OMB.—The Joint Committee on Judicial Administration in the District of Columbia shall include in its

"(b) The Trustees of the University of the District of Columbia, the Board of Education, and the D.C. General Hospital Commission shall submit to the Mayor two copies of the application and completed approval form, as an advisory notice, concurrent with submitting the application and completed approval form to a grant-making agency in accordance with rules and regulations issued pursuant to subsection (c) of this section."

**SEC. 11248. OTHER PROVISIONS RELATING TO ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS.**

(a) **JUROR FEES.**—Section 11-1912(a), District of Columbia Code, is amended to read as follows:

"(a) Notwithstanding section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act, grand and petit jurors serving in the Superior Court shall receive fees and expenses at rates established by the Board of Judges of the Superior Court, except that such fees and expenses may not exceed the respective rates paid to such jurors in the Federal system."

(b) **COMPENSATION AND BENEFITS FOR COURT PERSONNEL.**—

(1) **IN GENERAL.**—Section 11-1726, District of Columbia Code, is amended to read as follows:

**11-1726. Compensation and benefits for court personnel.**

"(a) In the case of nonjudicial employees of the District of Columbia courts whose compensation is not otherwise fixed by his title, the Executive Officer shall fix the rates of compensation for such employees without regard to chapter 51 and subchapter 1 of chapter 53 of title 5, United States Code. Any rates so established shall be subject to the limitation on pay fixed by administrative action in section 5373 of such title. In fixing the rates of compensation of nonjudicial employees under this section, the Executive Officer may be guided by the rates of compensation paid for employees in the executive and judicial branches of the Federal Government or State or local governments occupying the same or similar positions or occupying positions of similar responsibility, duty, and difficulty.

"(b)(1) Nonjudicial employees of the District of Columbia courts shall be treated as employees of the Federal Government solely for purposes of any of the following provisions of title 5, United States Code:

"(A) Subchapter 1 of chapter 81 (relating to compensation for work injuries).

"(B) Chapter 83 (relating to retirement).

"(C) Chapter 84 (relating to the Federal Employees' Retirement System).

"(D) Chapter 87 (relating to life insurance).

"(E) Chapter 89 (relating to health insurance).

"(2) The employing agency shall make contributions under the provisions referred to paragraph (1) at the same rates applicable to agencies of the Federal Government.

"(3) An individual who is a nonjudicial employee of the District of Columbia courts on the date of the enactment of the Balanced Budget Act of 1997 may make, within 60 days after such date, an election under section 8351 or section 8432 of title 5, United States Code, to participate in the Thrift Savings Plan for Federal employees.

"(c)(1) Judicial employees of the District of Columbia courts shall be treated as employees of the Federal Government for purposes of any of the following provisions of title 5, United States Code:

"(A) Subchapter 1 of chapter 81 (relating to compensation for work injuries).

"(B) Chapter 87 (relating to life insurance).

"(C) Chapter 89 (relating to health insurance).

"(2) The employing agency shall make contributions under the provisions referred to paragraph (1) at the same rates applicable to agencies of the Federal Government.

"(3) For purposes of section 8706(b) and section 8901(3)(B) of title 5, United States Code, benefits paid from the retirement system for judicial employees of the District of Columbia courts or from the system providing benefits to survivors of such employees shall be considered an annuity.

"(4) For purposes of section 8901(3)(A) of title 5, United States Code, the retirement system for judicial employees of the District of Columbia courts shall be considered a retirement system for employees of the Government."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 15 of title 11, District of Columbia Code, is amended by amending the item relating to section 11-1726 to read as follows:

"11-1726. Compensation and benefits for court personnel."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to all months beginning after the date on which the Director of the Office of Personnel Management issues regulations to carry out section 11-1726, District of Columbia Code (as amended by paragraph (1)).

(c) RETIREMENT PERIOD FOR EXECUTIVE OFFICER.—Section 11-1703(d), District of Columbia Code, is amended by striking the period at the end and inserting the following: ", except that the Executive Officer (if initially hired after October 1, 1997) shall be eligible for retirement under subchapter III of chapter 15 when the Executive Officer has completed 7 years of service as Executive Officer, whether continuous or not."

#### Subchapter B—Judicial Retirement Program

##### SEC. 11261. JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.

(a) ESTABLISHMENT OF FUND.—Section 11-1570, District of Columbia Code, is amended to read as follows:

##### "§ 11-1570. The District of Columbia Judicial Retirement and Survivors Annuity Fund.

"(a) There is established in the Treasury a fund known as the District of Columbia Judicial Retirement and Survivors Annuity Fund (hereafter in this section referred to as the 'Fund'), which shall consist of the following assets:

"(1) Amounts deposited by, or deducted and withheld from the salary and retired pay of, a judge under section 1563 or 1567 of this title, which shall be credited to an individual account of the judge.

"(2) Amounts transferred from the District of Columbia Judges' Retirement Fund under section 124(c)(1) of the District

(1) **IN GENERAL.**—Section 11-2609, District of Columbia Code, is repealed.

(2) **CLERICAL AMENDMENT.**—The table of sections for chapter 26 of title 11, District of Columbia Code, is amended by striking the item relating to section 11-2609.

#### **CHAPTER 5—PRETRIAL SERVICES AGENCY AND PUBLIC DEFENDER SERVICE**

##### **11271. AMENDMENTS AFFECTING PRETRIAL SERVICES AGENCY.**

(a) **IN GENERAL.**—Sections 23-1304 through 23-1308 of the District of Columbia Code are amended to read as follows:

##### **-1304. Executive committee; composition; appointment and qualifications of Director**

(a) The agency shall be advised by an executive committee of seven members, of which four members shall constitute a quorum. Executive Committee shall be composed of the following persons or their designees: the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit, the Chief Judge of the United States District Court for the District of Columbia, the Chief Judge of the District of the Columbia Court of Appeals, the Chief Judge of the Superior Court of the District of Columbia, the United States Attorney for the District of Columbia, the Director of the District of Columbia Public Defender Service, and the Director of the District of Columbia Offender Supervision, Defender and Services Agency.

(b) The Chief Judge of the United States Court of Appeals for the District of Columbia Circuit and the Chief Judge of the United States District Court for the District of Columbia, in consultation with the other members of the executive committee, shall appoint a Director of the agency who shall be a member of the District of Columbia.

##### **-1305. Duties of director; compensation**

(a) The Director of the agency shall be responsible for the revision and execution of the duties of the agency. The Director shall be compensated as a member of the Senior Executive Service pursuant to subchapter VIII of chapter 53 of title 5, United States Code.

##### **-1306. Chief assistant and other agency personnel; compensation**

The Director shall employ a chief assistant who shall be compensated as a member of the Senior Executive Service pursuant to section 5382 of title 5, United States Code. The Director shall employ such agency personnel as may be necessary properly to conduct the business of the agency. All employees other than the chief assistant shall receive compensation that is comparable to the compensation established for Federal pretrial services agencies.

##### **-1307. Annual reports**

(a) The Director shall each year submit to the executive committee and to the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency a report as to the pretrial Services Agency's administration of its responsibilities.

for the previous fiscal year. The Director shall include in the report a statement of financial condition, revenues, and expenses for the past fiscal year.

**"§ 23-1308. Appropriation; budget**

"There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary to carry out the provisions of this subchapter. Funds appropriated by Congress for the District of Columbia Pretrial Services Agency shall be received by the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, and shall be disbursed by that Director to and on behalf of the District of Columbia Pretrial Services Agency. The District of Columbia trial Services Agency shall submit to the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency at the time and in the form prescribed by that Director, reports of its activities and financial position and its proposed budget."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 23, District of Columbia Code, is amended by striking the items relating to sections 23-1304 through 23-1308 and inserting the following:

"23-1304. Executive committee; composition; appointment and qualifications of Director.

"23-1305. Duties of director; compensation.

"23-1306. Chief assistant and other agency personnel; compensation.

"23-1307. Annual reports.

"23-1308. Appropriation; budget."

**SEC. 11272. AMENDMENTS AFFECTING PUBLIC DEFENDER SERVICE.**

(a) BOARD OF TRUSTEES.—Section 303(a) of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (DC Code, sec. 1-2703(a)) is amended to read as follows:

"(a) The Service shall be advised on matters of general policy by a Board of Trustees."

(b) APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.—Section 304 of such Act (DC Code, sec. 1-2704) is amended to read as follows:

**"SEC. 304. DIRECTOR AND DEPUTY DIRECTOR; APPOINTMENT; DUTIES; MEMBERSHIP IN BAR REQUIRED.**

"The Chief Judge of the United States Court of Appeals for the District of Columbia Circuit and the Chief Judge of the United States District Court for the District of Columbia, in consultation with the persons described in subparagraphs (B) through (D) of section 303(b)(1) and the Board of Trustees, shall appoint a Director and Deputy Director of the Service. The Director shall be responsible for the supervision and execution of the duties of the Service. The Deputy Director shall assist the Director and shall perform such duties as the Director may prescribe. The Director and Deputy Director shall be members of the bar of the District of Columbia. The Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency shall fix the compensation of the Director and the Deputy Director, but the compensation of the Director shall not exceed the compensation received by the United States Attorney for the District of Columbia."

(c) ANNUAL REPORT AND AUDIT.—Section 306 of such Act (DC Code, sec. 1-2706) is amended—

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(1) in subsection (a)—

(A) by striking "Board of Trustees" and inserting "Director", and

(B) by striking "and to the Mayor of the District of Columbia" and inserting "to the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, and to the Office of Management and Budget"; and

(2) in subsection (b)—

(A) by striking "Board of Trustees" and inserting "Director"; and

(B) by striking "the Administrative Office of the United States Courts" and inserting "the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency".

(d) APPROPRIATIONS.—Section 307 of such Act (DC Code, sec. 707) is amended—

(1) by amending subsection (a) to read as follows:

"(a) There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary to carry out the provisions of this chapter. Funds appropriated by Congress for the District of Columbia Public Defender Service shall be received by the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, and shall be disbursed by that Director to and on behalf of the Service. The Service shall submit to the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, at such time and in the form prescribed by that Director, reports of activities and financial position and its proposed budget."; and

(2) in subsection (b), by striking "Upon approval of the Board of Trustees, the" and inserting "The".

Reports.

## CHAPTER 6—MISCELLANEOUS PROVISIONS

### § 11281. TECHNICAL ASSISTANCE AND RESEARCH

There are authorized to be appropriated to the National Institute of Justice in each fiscal year (beginning with fiscal year 1998) such sums as may be necessary for the following activities:

(1) Research and demonstration projects, evaluations, and technical assistance to assess and analyze the crime problem in the District of Columbia, and to improve the ability of the criminal justice and other systems and entities in the District of Columbia to prevent, solve, and punish crimes.

(2) The establishment of a locally-based corporation or institute in the District of Columbia supporting research and demonstration projects relating to the prevention, solution, or punishment of crimes in the District of Columbia, including the provision of related technical assistance.

Appropriation authorization.

### § 11282. EXEMPTION FROM PERSONNEL AND BUDGET CEILINGS FOR TRUSTEES AND RELATED AGENCIES.

The Trustees described in sections 11202 and 11232 and the activities and personnel of, and the funds allocated or otherwise available to, the Trustees and the agencies over which the Trustees exercise financial oversight pursuant to those sections, shall not be subject to any general personnel or budget limitations which