

P.L. 103-409 10/25/94

FGLI LIVING BENEFITS ACT

Public Law 103-409
103d Congress

An Act

Oct. 25, 1994
[H.R. 512]

To amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill; to provide for continuation of health benefits coverage for certain individuals enrolled in health benefits plans administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and for other purposes.

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

FEGLI Living
Benefits Act.
USC 8701
et.

SECTION 1. SHORT TITLE.

This Act may be cited as the "FEGLI Living Benefits Act".

SEC. 2. OPTION TO RECEIVE "LIVING BENEFITS".

(a) IN GENERAL.—Chapter 87 of title 5, United States Code, is amended by inserting after section 8714c the following:

"§ 8714d. Option to receive 'living benefits'

"(a) For the purpose of this section, an individual shall be considered to be 'terminally ill' if such individual has a medical prognosis that such individual's life expectancy is 9 months or less.

regulations.

"(b) The Office of Personnel Management shall prescribe regulations under which any individual covered by group life insurance under section 8704(a) may, if such individual is terminally ill, elect to receive a lump-sum payment equal to—

"(1) the full amount of insurance under section 8704(a) (or portion thereof designated for this purpose under subsection (d)(4)) which would otherwise be payable under this chapter (on the establishment of a valid claim)—

"(A) computed based on a date determined under regulations of the Office (but not later than 30 days after the date on which the individual's application for benefits under this section is approved or deemed approved under subsection (d)(3)); and

"(B) assuming continued coverage under this chapter at that time; reduced by

"(2) an amount necessary to assure that there is no increase in the actuarial value of the benefit paid (as determined under regulations of the Office).

"(c)(1) If a lump-sum payment is taken under this section—

"(A) no insurance under the provisions of section 8704 (a) or (b) shall be payable based on the death or any loss of the individual involved, unless the lump-sum payment rep-

resents only a portion of the total benefits which could have been taken, in which case benefits under those provisions shall remain in effect, except that the basic insurance amount on which they are based—

“(i) shall be reduced by the percentage which the designated portion comprised relative to the total benefits which could have been taken (rounding the result to the nearest multiple of \$1,000 or, if midway between multiples of \$1,000, to the next higher multiple of \$1,000); and

“(ii) shall not be subject to further adjustment; and
“(B) deductions and withholdings under section 8707, and contributions under section 8708, shall be terminated with respect to such individual (or reduced in a manner consistent with the percentage reduction in the individual's basic insurance amount, if applicable), effective with respect to any amounts which would otherwise become due on or after the date of payment under this section.

“(2) An individual who takes a lump-sum payment under this section (whether full or partial) remains eligible for optional benefits under sections 8714a–8714c (subject to payment of the full cost of those benefits in accordance with applicable provisions of the section or sections involved, to the same extent as if no election under this section had been made).

“(d)(1) The Office's regulations shall include provisions regarding the form and manner in which an application under this section shall be made and the procedures in accordance with which any such application shall be considered.

“(2) An application shall not be considered to be complete unless it includes such information and supporting evidence as the regulations require, including certification by an appropriate medical authority as to the nature of the individual's illness and that the individual is not expected to live more than 9 months because of that illness.

“(3)(A) In order to ascertain the reliability of any medical opinion or finding submitted as part of an application under this section, the covered individual may be required to submit to a medical examination under the direction of the agency or entity considering the application. The individual shall not be liable for the costs associated with any examination required under this subparagraph.

“(B) Any decision by the reviewing agency or entity with respect to an application for benefits under this section (including one relating to an individual's medical prognosis) shall not be subject to administrative review.

“(4)(A) An individual making an election under this section may designate that only a limited portion (expressed as a multiple of \$1,000) of the total amount otherwise allowable under this section be paid pursuant to such election.

“(B) A designation under this paragraph may not be made by an individual described in paragraph (1) or (2) of section 8706(b).

“(5) An election to receive benefits under this section shall be irrevocable, and not more than one such election may be made by any individual.

“(6) The regulations shall include provisions to address the question of how to apply section 8706(b)(3)(B) in the case of an electing individual who has attained 65 years of age.”

(2) An individual who, on January 7, 1995, is entitled to continued coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after January 8, 1995.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after January 8, 1995.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, 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 in addition to amounts available under section 8906(g)(1) of such title.

(d) 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.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 512:

HOUSE REPORTS: No. 103-608 (Comm. on Post Office and Civil Service).

SENATE REPORTS: 103-595 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 140 (1994):

July 19, considered and passed House.

Oct. 7, considered and passed Senate, amended. House concurred in Senate amendments.

PUBLIC LAW 105-61—OCT. 10, 1997

TREASURY AND GENERAL GOVERNMENT
APPROPRIATIONS ACT, 1998

cerning testimony
 ry of the Treasury
 by the individual
 id costs: *Provided*
 all not be inferred
 ion: *Provided fur-*
 not pay any claim
 n 120 days after
 ter. That payment
 n full satisfaction
 al Secret Service

date determined
 other emoluments
 ry shall be those
 Stat. 4; 31 U.S.C.

later of—
 individual holding
 January 1, 1997,

considered to affect
 idual in connection
 under paragraph

public law referred
 apply in the case
 to which occurs

ases of determining
 continues to apply)

SUBMISSION OF
 vered by this Act,
 the Treasury who
 on Appropriations
 te, or any of its
 r days (excluding
 olidays) preceding
 the committee or

y to be presented,
 be submitted for

ubmitted for inclu-

PROCESS.—None of
 for any clearance
 that could cause
 sially transmitted

of testimony given
 of the House of
 s subcommittees;

(2) any information to be provided in writing in response to an oral or written request by such committee or subcommittee for specific information for inclusion in the record of the hearing.

(c) EXCEPTION.—The time periods established in subsections (a) and (b) shall not apply to any specific testimony, or corrections, if the Secretary of the Treasury—

(1) determines that special circumstances prevent compliance; and

(2) submits to the committee or subcommittee involved a written notification of such determination, including the Secretary's estimate of the time periods required for specific testimony, information, or corrections.

SEC. 118. (a) NEW RATES OF BASIC PAY.—Section 501 of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-416), is amended—

2 USC 204 note.

(1) in subsection (b)(1), by striking "Interior" and all that follows through "Treasury," and inserting "Interior";

(2) by redesignating subsection (c) as subsection (b)(3);

(3) in subsection (b)(3) (as redesignated)—

(A) by striking "or to officers and members of the United States Secret Service Uniformed Division"; and

(B) by striking "subsection (b) of this section" and inserting "this subsection"; and

(4) by adding after subsection (b) the following new subsection:

"(c)(1) The annual rates of basic compensation of officers and members of the United States Secret Service Uniformed Division, serving in classes corresponding or similar to those in the salary schedule in section 101 (District of Columbia Code, section 4-406), shall be fixed in accordance with the following schedule of rates:

"SALARY SCHEDULE

Salary class and title	Service steps								
	1	2	3	4	5	6	7	8	9
Class 1: Private	29,216	30,088	31,659	33,009	36,581	37,661	39,128	40,693	42,062
Class 4: Sergeant	39,729	41,747	43,728	46,718	47,715	49,719			
Class 5: Lieutenant	45,148	47,411	49,583	51,924	54,160				
Class 7: Captain	62,523	66,155	67,768	69,350					
Class 8: Inspector	60,880	65,918	68,077	70,029					
Class 9: Deputy Chief	71,433	76,260	81,113	85,980					
Class 10: Assistant Chief	84,924	90,324	95,987						
Class 11: Chief of the United States Secret Service Uniformed Division	89,353	104,923							

Effective date.

"(2) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of title 5, United States Code (or any subsequent similar provision of law), in the rates of pay under the General Schedule (or any pay system that may supersede such schedule), the annual rates of basic compensation of officers and members of the United States Secret Service Uniformed Division shall be adjusted by the Secretary of the Treasury by an amount equal to the percentage of such annual rate of pay which corresponds to the overall percentage of the adjustment made in the rates of pay under the General Schedule.

"(3) Locality-based comparability payments authorized under section 5304 of title 5, United States Code, shall be applicable to the basic pay under this section, except locality-based comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the officer or member, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

"(4) Basic pay, and any locality pay combined with basic pay may not be paid by reason of any provision of this subsection (disregarding any locality-based comparability payment payable under Federal law) at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code.

"(5) Any reference in any law to the salary schedule in section 101 (District of Columbia Code, section 4-406) with respect to officers and members of the United States Secret Service Uniformed Division shall be considered to be a reference to the salary schedule in paragraph (1) of this subsection as adjusted in accordance with this subsection.

"(6)(A) Except as otherwise permitted by or under law, no allowance, differential, bonus, award, or other similar cash payment under this title or under title 5, United States Code, may be paid to an officer or member of the United States Secret Service Uniformed Division in a calendar year if, or to the extent that, when added to the total basic pay paid or payable to such officer or member for service performed in such calendar year as an officer or member, such payment would cause the total to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year.

"(B) This paragraph shall not apply to any payment under the following provisions of title 5, United States Code:

"(i) Subchapter III or VII of chapter 55, or section 5596.

"(ii) Chapter 57 (other than section 5753, 5754, or 5755).

"(iii) Chapter 59 (other than section 5928).

"(7)(A) Any amount which is not paid to an officer or member of the United States Secret Service Uniformed Division in a calendar year because of the limitation under paragraph (6) shall be paid to such officer or member in a lump sum at the beginning of the following calendar year.

"(B) Any amount paid under this paragraph in a calendar year shall be taken into account for purposes of applying the limitations under paragraph (6) with respect to such calendar year.

Regulations.

"(5) The Office of Personnel Management shall prescribe regulations as may be necessary (consistent with section 5582 of title 5, United States Code) concerning how a lump-sum payment under paragraph (7) shall be made with respect to any employee who

dies b
(7) is r

(b)

be

Se

m

si

re

da

sc

Fi

ef

in

ul

St

ar

ch

ni

of

of

th

Co

of

in

pr

sh

in

se

Cl

th

ck

of

of

an

tic

su

wi

Pe

Co

sci

an

ae

wi

fo

ur

to:

in:

(c)

15, 19

1104).

dies before an amount payable to such employee under paragraph (7) is made."

(b) CONVERSION TO NEW SALARY SCHEDULE.—

(1)(A) Effective on the first day of the first pay period beginning after the date of enactment of this section, the Secretary of the Treasury shall fix the rates of basic pay for members of the United States Secret Service Uniformed Division in accordance with this paragraph. Effective date.

(B) Subject to subparagraph (C), each officer and member receiving basic compensation, immediately prior to the effective date of this section, at one of the scheduled rates in the salary schedule in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958, as adjusted by law and as in effect prior to the effective date of this section, shall be placed in and receive basic compensation at the corresponding scheduled service step of the salary schedule under subsection (a)(4).

(C)(i) The Assistant Chief and the Chief of the United States Secret Service Uniformed Division shall be placed in and receive basic compensation in salary class 10 and salary class 11, respectively, in the appropriate service step in the new salary class in accordance with section 304 of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-413).

(ii) Each member whose position is to be converted to the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-416(c)) as amended by this section, in accordance with subsection (a) of this section, and who, prior to the effective date of this section has earned, but has not been credited with, an increase in his or her rate of pay shall be afforded that increase before such member is placed in the corresponding service step in the salary schedule under section 501(c).

(2) Except in the cases of the Assistant Chief and the Chief of the United States Secret Service Uniformed Division, the conversion of positions and individuals to appropriate classes of the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-416(c)) as amended by this section, and the initial adjustments of rates of basic pay of those positions and individuals, in accordance with paragraph (1) of this subsection, shall not be considered to be transfers or promotions within the meaning of section 304 of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-413).

(3) Each member whose position is converted to the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-416(c)) as amended by this section, in accordance with subsection (a) of this section, shall be granted credit for purposes of such member's first service step adjustment under the salary schedule in such section 510(c) for all satisfactory service performed by the member since the member's last increase in basic pay prior to the adjustment under that section.

(c) LIMITATION ON PAY PERIOD EARNINGS.—The Act of August 15, 1950 (64 Stat. 477), (District of Columbia Code, section 4-1104), is amended—

(1) in subsection (h), by striking "any officer or member" each place it appears and inserting "an officer or member of the Metropolitan Police force; or of the Fire Department of the District of Columbia; or of the United States Park Police";

(2) by redesignating subsection (h)(3) as subsection (i); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) no premium pay provided by this section shall be paid to, and no compensatory time is authorized for, any officer or member of the United States Secret Service Uniformed Division whose rate of basic pay, combined with any applicable locality-based comparability payment, equals or exceeds the lesser of—

"(i) 150 percent of the minimum rate payable for grade GS-15 of the General Schedule (including any applicable locality-based comparability payment under section 5304 of title 5, United States Code or any similar provision of law, and any applicable special rate of pay under section 5305 of title 5, United States Code or any similar provision of law); or

"(ii) the rate payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code.

"(B) In the case of any officer or member of the United States Secret Service Uniformed Division whose rate of basic pay, combined with any applicable locality-based comparability payment, is less than the lesser of—

"(i) 150 percent of the minimum rate payable for grade GS-15 of the General Schedule (including any applicable locality-based comparability payment under section 5304 of title 5, United States Code or any similar provision of law, and any applicable special rate of pay under section 5305 of title 5, United States Code or any similar provision of law); or

"(ii) the rate payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code,

such premium pay may be paid only to the extent that such payment would not cause such officer or member's aggregate rate of compensation to exceed such lesser amount with respect to any pay period."

(d) SAVINGS PROVISION.—On the effective date of this section, any existing special salary rates authorized for members of the United States Secret Service Uniformed Division under section 5305 of title 5, United States Code (or any previous similar provision of law) and any special rates of pay or special pay adjustments under section 403, 404, or 405 of the Federal Law Enforcement Pay Reform Act of 1990 applicable to members of the United States Secret Service Uniformed Division shall be rendered inapplicable.

5 USC 5305 note.

(e) CONFORMING AMENDMENT.—The Federal Law Enforcement Pay Reform Act of 1990 (104 Stat. 1466) is amended by striking subsections (b)(1) and (c)(1) of section 405.

(f) EFFECTIVE DATE.—The provisions of this section shall become effective on the first day of the first pay period beginning after the date of enactment of this Act.

SEC. 119. Section 117 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in

section 101(f) repealed.

SEC. 120. for Proposals, initiate a pilot: electronic retu ward and fil returns) prop Service, up to mined by the be in the be. payment may provided with Provided furti ard procurer through these the security c of the privacy

SEC. 121. States Code, is

"(a) The : designee, in : for positions and the Bure: pay provisions level police off: is less than and no execut for a calendar Schedule GS—:

SEC. 122. receive all unc feiture Fund Act of 1988 Drug Control (31 U.S.C. 970 1, 1998, as r U.S.C. 9703(g)

(b) Paragr: Code, is amen graph as amer Unobligated b shall also be c

(c) Paragr: Code, is amen the first and or

SEC. 123. Secretary of th as a port of e in Anchorage, authorized to the costs asso using such Uni

SEC. 124. be used by th assistance serv 1105(g) of title

Public Law 105-85
105th Congress

An Act

To authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Nov. 18, 1997
[H.R. 11191]

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1998".

National Defense
Authorization
Act for Fiscal
Year 1998.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) **DIVISIONS.**—This Act is organized into three divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees defined.

**DIVISION A—DEPARTMENT OF DEFENSE
AUTHORIZATIONS**

TITLE 1—PROCUREMENT

Subtitle A—Authorization of Appropriations

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Defense-wide activities.
- Sec. 105. Reserve components.
- Sec. 106. Defense Inspector General.
- Sec. 107. Chemical Demilitarization Program.
- Sec. 108. Defense health programs.
- Sec. 109. Defense Export Loan Guarantee Program.

Subtitle B—Army Programs

- Sec. 111. Army helicopter modernization plan.
- Sec. 112. Multiyear procurement authority for specified Army programs.
- Sec. 113. M113 vehicle modifications.

Subtitle C—Navy Programs

- Sec. 121. New Attack Submarine program.
- Sec. 122. CVN-77 nuclear aircraft carrier program.

SEC. 3525. ENHANCED RECRUITMENT AND RETENTION AUTHORITIES.

(a) RECRUITMENT, RELOCATION, AND RETENTION BONUSES.—Section 1217 (22 U.S.C. 3657) is amended—

- (1) by redesignating subsection (c) as subsection (e);
- (2) in subsection (e) (as so redesignated), by striking out "for the same or similar work performed in the United States by individuals employed by the Government of the United States" and inserting in lieu thereof "of the individual to whom the compensation is paid"; and
- (3) by inserting after subsection (b) the following new subsections:

"(c)(1) The Commission may pay a recruitment bonus to an individual who is newly appointed to a position with the Commission, or a relocation bonus to an employee of the Commission who must relocate to accept a position, if the Commission determines that the Commission would be likely, in the absence of such a bonus, to have difficulty in filling the position.

"(2) A recruitment or relocation bonus may be paid to an employee under this subsection only if the employee enters into an agreement with the Commission to complete a period of employment established in the agreement. If the employee voluntarily fails to complete such period of employment or is separated from service in such employment as a result of an adverse action before the completion of such period, the employee shall repay the entire amount of the bonus.

"(3) A recruitment or relocation bonus under this subsection may be paid as a lump sum. A bonus under this subsection may not be considered to be part of the basic pay of an employee.

"(d)(1) The Commission may pay a retention bonus to an employee of the Commission if the Commission determines that—

- "(A) the employee has unusually high or unique qualifications and those qualifications make it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date, or the Commission otherwise has a special need for the services of the employee making it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date; and
- "(B) the employee would be likely to leave employment with the Commission before the end of that period if the retention bonus is not paid.

"(2) A retention bonus under this subsection—

- "(A) shall be in a fixed amount;
- "(B) shall be paid on a pro rata basis (over the period specified by the Commission as essential for the retention of the employee), with such payments to be made at the same time and in the same manner as basic pay; and
- "(C) may not be considered to be part of the basic pay of an employee.

"(3) A decision by the Commission to exercise or to not exercise the authority to pay a bonus under this subsection shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5, United States Code."

(b) EDUCATIONAL SERVICES.—Section 1321(e)(2) (22 U.S.C. 3731(e)(2)) is amended by striking out "and persons" and inserting in lieu thereof ", to other Commission employees when determined

by the Commission, and to other
 SEC. 3525. TRANS
 Chapter 2
 adding at the
 TRAN
 SEC. 1233.
 of the Commis
 Postal Service,
 (as contained i
 208; 110 Stat. 3
 for employees o
 to as "section 65
 "(1) th
 Commission;
 a position
 at least thr
 tion under
 is covered
 Federal En
 of chapter
 States Code
 "(A) thr
 "(E
 24-mon
 receive
 1217(c
 preced.
 under
 "(2) th
 shall inclu
 (b)(2) of the
 "I
 tiona
 "(I
 payme
 "(A
 facilit
 the Re
 "(3) a
 be paid to
 to facilitat
 the Unitec
 required by
 "(4) su
 "I
 sion n
 "I
 specif
 of an
 by re
 begin
 or du
 endin.

NTION AUTHORITIES.
ENTION BONUSES.—

subsection (e);
ed), by striking out
n the United States
nent of the United
individual to whom

e following new sub-
tment bonus to an
n with the Commis-
of the Commission
Commission deter-
in the absence of
tion.

may be paid to an
employee enters into
a period of employ-
employee voluntarily
or is separated from
diverse action before
shall repay the entire

nder this subsection
this subsection may
ay of an employee.
ntion bonus to an
1 determines that—
or unique qualifica-
tial for the Commis-
d specified by the
inal Transfer Date,
eed for the services
the Commission to
by the Commission
te; and
leave employment
period if the reten-

s (over the period
or the retention of
made at the same
id
t of the basic pay

s or to not exercise
ction shall not be
re or any agency
r any of the laws
ed States Code.”
.(e)(2) (22 U.S.C.
ons” and inserting
when determined

by the Commission to be necessary for their recruitment or retention, and to other persons”.

SEC. 382A. TRANSITION SEPARATION INCENTIVE PAYMENTS.

Chapter 2 of title I (22 U.S.C. 3641 et seq.) is amended by adding at the end of subchapter III the following new section:

TRANSITION SEPARATION INCENTIVE PAYMENTS

SEC. 1233. (a) In applying to the Commission and employees of the Commission the provisions of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104-208; 110 Stat. 3009-383), relating to voluntary separation incentives for employees of certain Federal agencies (in this section referred to as “section 663”)—

22 USC 3673.

“(1) the term ‘employee’ shall mean an employee of the Commission who has served in the Republic of Panama in a position with the Commission for a continuous period of at least three years immediately before the employee’s separation under an appointment without time limitation and who is covered under the Civil Service Retirement System or the Federal Employees’ Retirement System under subchapter III of chapter 83 or chapter 84, respectively, of title 5, United States Code, other than—

“(A) an employee described in any of subparagraphs (A) through (F) of subsection (a)(2) of section 663; or

“(B) an employee of the Commission who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 1217(c) of this Act or who, within the 12-month period preceding the date of separation, received a retention bonus under section 1217(d) of this Act;

“(2) the strategic plan under subsection (b) of section 663 shall include (in lieu of the matter specified in subsection (b)(2) of that section)—

“(A) the positions to be affected, identified by occupational category and grade level;

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

“(C) a description of how such incentive payments will facilitate the successful transfer of the Panama Canal to the Republic of Panama;

“(3) a separation incentive payment under section 663 may be paid to a Commission employee only to the extent necessary to facilitate the successful transfer of the Panama Canal by the United States of America to the Republic of Panama as required by the Panama Canal Treaty of 1977;

“(4) such a payment—

“(A) may be in an amount determined by the Commission not to exceed \$25,000; and

“(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of an eligible employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on the date of the enactment of this section or during the period beginning on October 1, 1998, and ending on December 31, 1998;

Public Law 105-205
105th Congress

An Act

To amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

July 22, 1998
(H.R. 1316)

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

SECTION 1. DOMESTIC RELATIONS ORDERS.

Section 8705 of title 5, United States Code, is amended—

(1) in subsection (a) by striking "(a) The" and inserting

"(a) Except as provided in subsection (e), the"; and

(2) by adding at the end the following:

"(e)(1) Any amount which would otherwise be paid to a person determined under the order of precedence named by 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 order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

"(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 covered employee's death, by the employing agency or, if the employee has separated from service, 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."

Regulations.

SEC. 2. DIRECTED ASSIGNMENT.

Section 8706(e) of title 5, United States Code, is amended—

(1) by striking "(e)" and inserting "(e)(1)"; and

(2) by adding at the end the following:

"(2) A court decree of divorce, annulment, or legal separation, or the terms of a court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation, 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."

Approved July 22, 1998.

LEGISLATIVE HISTORY—H.R. 1316:

HOUSE REPORTS: No. 105-134 (Comm. on Government Reform and Oversight).

CONGRESSIONAL RECORD:

Vol. 143 (1997): June 24, considered and passed House.

Vol. 144 (1998): June 19, considered and passed Senate.

Public Law 105-206
105th Congress

An Act

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

July 22, 1998

[H.R. 2876]

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; WAIVER OF ESTIMATED TAX PENALTIES; TABLE OF CONTENTS.

Internal Revenue Service Restructuring and Reform Act of 1998, 26 USC 1 note.

(a) **SHORT TITLE.**—This Act may be cited as the “Internal Revenue Service Restructuring and Reform Act of 1998”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **WAIVER OF ESTIMATED TAX PENALTIES.**—No addition to tax shall be made under section 6654 or 6665 of the Internal Revenue Code of 1986 with respect to any underpayment of an installment required to be paid on or before the 30th day after the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this Act.

26 USC 6654 note.

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

Sec. 1. Short title; amendment of 1986 Code; waiver of estimated tax penalties; table of contents.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

Sec. 1001. Reorganization of the Internal Revenue Service.
Sec. 1002. Internal Revenue Service mission to focus on taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

Sec. 1101. Internal Revenue Service Oversight Board.
Sec. 1102. Commissioner of Internal Revenue; other officials.
Sec. 1103. Treasury Inspector General for Tax Administration.
Sec. 1104. Other personnel.
Sec. 1105. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle C—Personnel Flexibilities

Sec. 1201. Improvements in personnel flexibilities.
Sec. 1202. Voluntary separation incentive payments.
Sec. 1203. Termination of employment for misconduct.
Sec. 1204. Basis for evaluation of Internal Revenue Service employees.
Sec. 1205. Employee training program.

TITLE II—ELECTRONIC FILING

Sec. 2001. Electronic filing of tax and information returns.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

SEC. 1001. REORGANIZATION OF THE INTERNAL REVENUE SERVICE.

26 USC 7801
note.

(a) **IN GENERAL.**—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

(3) establish organizational units serving particular groups of taxpayers with similar needs; and

(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

(b) **SAVINGS PROVISIONS.**—

(1) **PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.**—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

(2) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section; and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section

han 1 year.

the 21st Century.
Act of 1996.

Act of 1993.
90.

vestment trusts from
market treatment.

IS SUBJECT TO

n veto.

ON EQUITY ACT

ubtitle.

SEC. 1105. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

(a) **IN GENERAL.**—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

***SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.**

“(a) **PROHIBITION.**—It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

“(b) **REPORTING REQUIREMENT.**—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

“(c) **EXCEPTIONS.**—Subsection (a) shall not apply to any written request made—

“(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service;

“(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section; or

“(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

“(d) **PENALTY.**—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

“(e) **APPLICABLE PERSON.**—For purposes of this section, the term ‘applicable person’ means—

“(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President; and

“(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.”

(b) **CLERICAL AMENDMENT.**—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

“Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

26 USC 7217
note.

Subtitle C—Personnel Flexibilities**SEC. 1201. IMPROVEMENTS IN PERSONNEL FLEXIBILITIES.**

(a) **IN GENERAL.**—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

"Subpart I—Miscellaneous**"CHAPTER 95—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE**

*Sec.

- *9501. Internal Revenue Service personnel flexibilities.
- *9502. Pay authority for critical positions.
- *9503. Streamlined critical pay authority.
- *9504. Recruitment, retention, relocation incentives, and relocation expenses.
- *9505. Performance awards for senior executives.
- *9506. Limited appointments to career reserved Senior Executive Service positions.
- *9507. Streamlined demonstration project authority.
- *9508. General workforce performance management system.
- *9509. General workforce classification and pay.
- *9510. General workforce staffing.

"§ 9501. Internal Revenue Service personnel flexibilities

"(a) Any flexibilities provided by sections 9502 through 9510 of this chapter shall be exercised in a manner consistent with—

- "(1) chapter 23 (relating to merit system principles and prohibited personnel practices);
- "(2) provisions relating to preference eligibles;
- "(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);
- "(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and
- "(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Secretary of the Treasury under section 1104(a)(2).

"(b) The Secretary of the Treasury shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

"(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9507 through 9510 of this chapter unless the exclusive representative and the Internal Revenue Service have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

"§ 9502. Pay authority for critical positions

"(a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

"(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

"§ 9503. Streamlined critical pay authority

"(a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive

service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service, if—

"(1) the positions—

"(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

"(B) are critical to the Internal Revenue Service's successful accomplishment of an important mission;

"(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

"(3) the number of such positions does not exceed 40 at any one time;

"(4) designation of such positions are approved by the Secretary of the Treasury;

"(5) the terms of such appointments are limited to no more than 4 years;

"(6) appointees to such positions were not Internal Revenue Service employees prior to June 1, 1998;

"(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

"(8) all such positions are excluded from the collective bargaining unit.

"(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

§ 9504. Recruitment, retention, relocation incentives, and relocation expenses

"(a) For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Secretary of the Treasury may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

"(b) For a period of 10 years after the date of enactment of this section, the Secretary of the Treasury may pay from appropriations made to the Internal Revenue Service allowable relocation expenses under section 5724a for employees transferred or reemployed and allowable travel and transportation expenses under section 5723 for new appointees, for any new appointee appointed to a position for which pay is fixed under section 9502 or 9503 after June 1, 1998.

§ 9505. Performance awards for senior executives

"(a) For a period of 10 years after the date of enactment of this section, Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Secretary of the Treasury finds such award warranted based on the executive's performance.

"(b) In evaluating an executive's performance for purposes of an award under this section, the Secretary of the Treasury shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679), Revenue Procedure 64-22 (as in effect on July 30, 1997), taxpayer service surveys, and other performance metrics or plans established in consultation with the Internal Revenue Service Oversight Board.

"(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Secretary of the Treasury.

"(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year. The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

"(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

§ 9506. Limited appointments to career reserved Senior Executive Service positions

"(a) In the application of section 3132, a 'career reserved position' in the Internal Revenue Service means a position designated under section 3132(b) which may be filled only by—

"(1) a career appointee; or

"(2) a limited emergency appointee or a limited term appointee—

"(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

"(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

"(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

"(2) Notwithstanding section 3132—

"(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

"(B) such an appointee may serve—

"(i) two such terms; or

"(ii) two such terms in addition to any unexpired term applicable at the time of appointment.

§ 9507. Streamlined demonstration project authority

“(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

“(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

“(1) section 4703(b)(1) shall be deemed to read as follows:

“(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;;

“(2) section 4703(b)(3) shall not apply;

“(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

“(4) section 4703(h)(6) shall be deemed to read as follows:

“(6) provides each House of Congress with the final version of the plan;:

“(5) section 4703(c)(1) shall be deemed to read as follows:

“(1) subchapter V of chapter 63 or subpart G of part III of this title;:

“(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

“(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

“(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

Deadline.
Federal Register,
publication.

§ 9508. General workforce performance management system

“(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury shall, within 1 year after the date of enactment of this section, establish for the Internal Revenue Service a performance management system that—

“(1) maintains individual accountability by—

“(A) establishing one or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

“(B) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

“(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking one or more of the following actions:

“(i) Reassignment.

“(ii) An action under chapter 43 or chapter 75 of this title.

“(iii) Any other appropriate action to resolve the performance problem; and

“(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system's effectiveness by—

“(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service's performance planning procedures, including those established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679), Revenue Procedure 64-22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

“(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

“(C) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

“(b)(1) For purposes of subsection (a)(2), the term ‘performance assessment’ means a determination of whether or not retention standards established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

“(2) For purposes of this title, the term ‘unacceptable performance’ with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

“(c)(1) The Secretary of the Treasury may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

“(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

“(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, ‘30 days’ may be deemed to be ‘15 days’.

“(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

“§ 9509. General workforce classification and pay

“(a) For purposes of this section, the term ‘broad-banded system’ means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established

under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in one or more occupational series.

"(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.

Regulations.

"(B) With the approval of the Office of Personnel Management, a broad-banded system established under this section may either include or consist of positions that otherwise would be subject to subchapter IV of chapter 53 or section 5376.

"(2) The Office of Personnel Management may require the Secretary of the Treasury to submit information relating to broad-banded systems at the Internal Revenue Service.

"(3) Except as otherwise provided under this section, employees under a broad-banded system shall continue to be subject to the laws and regulations covering employees under the pay system that otherwise would apply to such employees.

"(4) The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

Regulations.

"(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

"(B) establish the minimum and maximum number of grades that may be combined into pay bands;

"(C) establish requirements for setting minimum and maximum rates of pay in a pay band;

"(D) establish requirements for adjusting the pay of an employee within a pay band;

"(E) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

"(F) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

"(c) With the approval of the Office of Personnel Management and in accordance with a plan for implementation submitted by the Secretary of the Treasury, the Secretary may, with respect to Internal Revenue Service employees who are covered by a broad-banded system established under this section, provide for variations from the provisions of subchapter VI of chapter 53.

§ 9510. General workforce staffing

"(a)(1) Except as otherwise provided by this section, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures—

"(A) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

"(B) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

"(C) the employee's performance under such term appointment or appointments met established retention standards, or, if not covered by a performance management system established under section 9508, was rated at the fully successful level or higher (or equivalent thereof); and

"(D) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

"(2) An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

"(b)(1) Notwithstanding subchapter I of chapter 33, the Secretary of the Treasury may establish category rating systems for evaluating applicants for Internal Revenue Service positions in the competitive service under which qualified candidates are divided into two or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

"(2) Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

"(3) Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS-9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

"(4) An appointing authority may select any applicant from the highest quality category or, if fewer than three candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories.

"(5) Notwithstanding paragraph (4), the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(c) The Secretary of the Treasury may detail employees among the offices of the Internal Revenue Service without regard to the 120-day limitation in section 3341(b).

"(d) Notwithstanding any other provision of law, the Secretary of the Treasury may establish a probationary period under section 3321 of up to 3 years for Internal Revenue Service positions if the Secretary of the Treasury determines that the nature of the work is such that a shorter period is insufficient to demonstrate complete proficiency in the position.

"(e) Nothing in this section exempts the Secretary of the Treasury from—

"(1) any employment priority established under direction of the President for the placement of surplus or displaced employees; or

"(2) any obligation under a court order or decree relating to the employment practices of the Internal Revenue Service or the Department of the Treasury."

(b) CLERICAL AMENDMENT.—The table of sections for part III of title 5, United States Code, is amended by adding at the end the following new items:

"Subpart I—Miscellaneous

95. Personnel flexibilities relating to the Internal Revenue Service 9601".

SEC. 1202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

5 USC 5597 note.

(a) DEFINITION.—In this section, the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Internal Revenue Service 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—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

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

(4) 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;

(5) 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;

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

(7) any employee who, during the 24-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 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

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

(1) IN GENERAL.—The Commissioner of Internal Revenue may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Internal Revenue Service under section 1001.

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

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

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

(C) shall be equal to the lesser of—

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

(ii) an amount determined by an 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 January 1, 2003;

(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.

(c) ADDITIONAL INTERNAL REVENUE SERVICE 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, the Internal Revenue Service 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 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.**—In 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.

(d) **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 Internal Revenue Service.

(e) EFFECT ON INTERNAL REVENUE SERVICE EMPLOYMENT LEVELS.—

(1) **INTENDED EFFECT.**—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) **USE OF VOLUNTARY SEPARATIONS.**—The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

26 USC 7804
note.

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

(a) **IN GENERAL.**—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any

employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of—

(A) any right under the Constitution of the United States; or

(B) any civil right established under—

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990;

(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) **DISCRETION.**—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) **NO APPEAL.**—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) **DEFINITION.**—For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

26 USC 7804
note.

SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) **IN GENERAL.**—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate employees; or

(2) to impose or suggest production quotas or goals with respect to such employees.

(b) **TAXPAYER SERVICE.**—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) **CERTIFICATION.**—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

(d) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3734) is repealed.

(e) **EFFECTIVE DATE.**—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

26 USC 7803
note.
Applicability.

26 USC 7804.
Deadline.

SEC. 1205. EMPLOYEE TRAINING PROGRAM.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) **CONTENTS.**—The plan submitted under subsection (a) shall—

(1) detail a comprehensive employee training program to ensure adequate customer service training;

(2) detail a schedule for training and the fiscal years during which the training will occur;

(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(4) review the organizational design of customer service;

(5) provide for the implementation of a performance development system; and

S
S
S
Y
C
P
S
A
S
O
N

(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.

TITLE II—ELECTRONIC FILING

2001. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of Congress that—

26 USC 6011
note.

(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns;

(2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007; and

(3) the Internal Revenue Service should cooperate with and encourage the private sector by encouraging competition to increase electronic filing of such returns.

(b) STRATEGIC PLAN.—

26 USC 6011
note.
Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new section:

“(f) PROMOTION OF ELECTRONIC FILING.—

“(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

“(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.”

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1998, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic commerce advisory group established under section (b)(2) shall report to the Committees on Ways and Means, Appropriations, Government Reform and Oversight, and all Business of the House of Representatives and the Committees on Finance, Appropriations, Governmental Affairs, and Small Business of the Senate on—

Deadline.
26 USC 6011
note.

Public Law 105-244
105th Congress

An Act

To extend the authorization of programs under the Higher Education Act of 1965,
and for other purposes.

Oct. 7, 1998

[H.R. 6]

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

Higher Education
Amendments of
1998.
Grants.
Inter-
governmental
relations.
Loans.
20 USC 1001
note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Higher
Education Amendments of 1998".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. References.
- Sec. 3. General effective date.

TITLE I—GENERAL PROVISIONS

- Sec. 101. Revision of title I.
- Sec. 102. Conforming amendments.

TITLE II—TEACHER QUALITY

- Sec. 201. Teacher quality enhancement grants.

TITLE III—INSTITUTIONAL AID

- Sec. 301. Transfers and redesignations.
- Sec. 302. Findings.
- Sec. 303. Strengthening institutions.
- Sec. 304. Strengthening HBCU's.
- Sec. 305. Endowment challenge grants.
- Sec. 306. HBCU capital financing.
- Sec. 307. Minority science and engineering improvement program.
- Sec. 308. General provisions.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS

- Sec. 401. Federal Pell Grants.
- Sec. 402. Federal TRIO programs.
- Sec. 403. Gear up program.
- Sec. 404. Academic achievement incentive scholarships.
- Sec. 405. Repeals.
- Sec. 406. Federal supplemental educational opportunity grants.
- Sec. 407. Leveraging educational assistance partnership program.
- Sec. 408. Special programs for students whose families are engaged in migrant and seasonal farmwork.
- Sec. 409. Robert C. Byrd Honors Scholarship Program.
- Sec. 410. Child care access means parents in school.
- Sec. 410A. Learning anytime anywhere partnerships.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

- Sec. 411. Limitation repealed.
- Sec. 412. Advances to reserve funds.
- Sec. 413. Guaranty agency reforms.
- Sec. 414. Scope and duration of Federal loan insurance program.

such discounts, the extent to which financial aid is provided to students with limited need in order to attract a student to a particular institution, and the extent to which Federal financial aid, including loan aid, has been used to offset the costs of such practices.

Deadline.

"(3) FINAL REPORT.—The Commissioner of Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the appropriate committees of Congress not later than September 30, 2002.

Reports.
Deadline.

"(4) HIGHER EDUCATION MARKET BASKET.—The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education market basket that identifies the items that comprise the costs of higher education. The Bureau of Labor Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

"(5) FINES.—In addition to actions authorized in section 487(c), the Secretary may impose a fine in an amount not to exceed \$25,000 on an institution of higher education for failing to provide the information described in paragraph (1) in a timely and accurate manner, or for failing to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under this section and pursuant to the program participation agreement entered into under section 487.

"(d) STUDENT AID RECIPIENT SURVEY.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

"(A) to identify the population of students receiving Federal student aid;

"(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

"(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

"(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

"(E) to disseminate such information in both published and machine readable form.

"(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the post-secondary education community.

"PART D—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

20 USC 1018.

"SEC. 141. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.

"(a) ESTABLISHMENT AND PURPOSE.—

"(1) ESTABLISHMENT.—There is established in the Department a Performance-Based Organization (hereafter referred to

as
resp
the
in s

"(b)
pro
ity
tion
un
be
sh

sh
fin
gr
of

which financial aid is provided and in order to attract a student and the extent to which Federal aid, has been used to offset

Commissioner of Education Statistics the findings of the study and the appropriate committees of October 30, 2002.

MARKET BASKET.—The Bureau of Education Statistics, in cooperation with the Commissioner of Education, shall provide a report on the higher education market basket at comprise the costs of higher education. The appropriate committees shall provide a report to the Committee on Labor and Human Resources and the Committee on Education and the Workforce not later than

actions authorized in section 487. The Secretary shall impose a fine in an amount not to exceed \$10,000 for violation of the provisions described in paragraph (1) of this section, or for failing to otherwise comply with the provisions of this section on the cost of higher education or the program participation rate under section 487.

SURVEY.—(1) The Secretary shall conduct a survey, on a regular cycle, but not less than

once every five years, of the distribution of students receiving Federal financial aid, the distribution of aid from State, Federal, and other sources, and the distribution of aid from State, Federal, and other sources, by students from all income

categories, including the burden of loan recipients and other financial obligations, and information in both published and unpublished sources.

(2) The Secretary shall designate a representative of full-time and part-time students, including professional and current and former students, and should be designed in consultation with the Congress and the postsecondary education community.

OPERATIONAL AND ADMINISTRATIVE PROVISIONS FOR THE DELIVERY OF STUDENT FINANCIAL ASSISTANCE.

ORGANIZATION FOR THE DELIVERY OF STUDENT FINANCIAL ASSISTANCE.

SECTION 488.

(a) There is established in the Department of Education (hereafter referred to

as the 'PBO') which shall be a discrete management unit responsible for managing the operational functions supporting the programs authorized under title IV of this Act, as specified in subsection (b).

(2) PURPOSES.—The purposes of the PBO are—

"(A) to improve service to students and other participants in the student financial assistance programs authorized under title IV, including making those programs more understandable to students and their parents;

"(B) to reduce the costs of administering those programs;

"(C) to increase the accountability of the officials responsible for administering the operational aspects of these programs;

"(D) to provide greater flexibility in the management of the operational functions of the Federal student financial assistance programs;

"(E) to integrate the information systems supporting the Federal student financial assistance programs;

"(F) to implement an open, common, integrated system for the delivery of student financial assistance under title IV; and

"(G) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

(b) GENERAL AUTHORITY.—

"(1) **AUTHORITY OF SECRETARY.**—Notwithstanding any other provision of this part, the Secretary shall maintain responsibility for the development and promulgation of policy and regulations relating to the programs of student financial assistance under title IV. In the exercise of its functions, the PBO shall be subject to the direction of the Secretary. The Secretary shall—

"(A) request the advice of, and work in cooperation with, the Chief Operating Officer in developing regulations, policies, administrative guidance, or procedures affecting the information systems administered by the PBO, and other functions performed by the PBO;

"(B) request cost estimates from the Chief Operating Officer for system changes required by specific policies proposed by the Secretary; and

"(C) assist the Chief Operating Officer in identifying goals for the administration and modernization of the delivery system for student financial assistance under title IV.

(2) PBO FUNCTIONS.—Subject to paragraph (1), the PBO shall be responsible for administration of the information and financial systems that support student financial assistance programs authorized under this title, excluding the development of policy relating to such programs but including the following:

"(A) The administrative, accounting, and financial management functions of the delivery system for Federal student assistance, including—

"(i) the collection, processing and transmission of applicant data to students, institutions and authorized third parties, as provided for in section 483;

"(ii) design and technical specifications for software development and systems supporting the delivery of student financial assistance under title IV;

"(iii) all software and hardware acquisitions and all information technology contracts related to the delivery and management of student financial assistance under title IV;

"(iv) all aspects of contracting for the information and financial systems supporting student financial assistance programs under this title; and

"(v) providing all customer service, training, and user support related to systems that support those programs.

"(B) Annual development of a budget for the operations and services of the PBO, in consultation with the Secretary, and for consideration and inclusion in the Department's annual budget submission.

"(3) ADDITIONAL FUNCTIONS.—The Secretary may allocate to the PBO such additional functions as the Secretary and the Chief Operating Officer determine are necessary or appropriate to achieve the purposes of the PBO.

"(4) INDEPENDENCE.—Subject to paragraph (1), in carrying out its functions, the PBO shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions.

"(5) AUDITS AND REVIEW.—The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

"(6) CHANGES.—

"(A) IN GENERAL.—The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (c).

"(B) REVISIONS TO AGREEMENT.—The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (d)(4) in light of policy, market, or other changes that occur after the Secretary and the Chief Operating Officer enter into the agreement.

"(c) PERFORMANCE PLAN AND REPORT.—

"(1) PERFORMANCE PLAN.—

"(A) IN GENERAL.—Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

"(B) CONSULTATION.—In developing the 5-year performance plan and any revision to the plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

"(C) AREAS.—The plan shall include a concise statement of the goals for a modernized system for the delivery of student financial assistance under title IV and identify

ical specifications for software
ns supporting the delivery of
nce under title IV;

nd hardware acquisitions and
ogy contracts related to the
nt of student financial assist-

ontracting for the information
supporting student financial
er this title; and

ustomer service, training, and
systems that support those

t of a budget for the operations
onsultation with the Secretary,
inclusion in the Department's

—The Secretary may allocate
ctions as the Secretary and
rmine are necessary or appro-
the PBO.

t to paragraph (1), in carrying
l exercise independent control
penditures, personnel decisions
and other administrative and

The PBO shall be subject to
eral audit procedures and to
of the Department.

Secretary and the Chief Operat-
ncerning the effects of policy,
on the ability of the PBO to
ives established in the perform-
ction (c).

EMENT.—The Secretary and the
y revise the annual performance
section (d)(4) in light of policy,
that occur after the Secretary
ficer enter into the agreement.
PORT.—

n year, the Secretary and Chief
ree on, and make available to
an for the PBO for the succeed-
measurable goals and objectives

a developing the 5-year perform-
on to the plan, the Secretary
ficer shall consult with students,
cation, Congress, lenders, the
dent Financial Assistance, and
ot less than 30 days prior to
performance plan or revision.
shall include a concise state-
ernized system for the delivery
nce under title IV and identify

action steps necessary to achieve such goals. The plan shall address the PBO's responsibilities in the following areas:

"(i) IMPROVING SERVICE.—Improving service to students and other participants in student financial aid programs authorized under this title, including making those programs more understandable to students and their parents.

"(ii) REDUCING COSTS.—Reducing the costs of administering those programs.

"(iii) IMPROVEMENT AND INTEGRATION OF SUPPORT SYSTEMS.—Improving and integrating the information and delivery systems that support those programs.

"(iv) DELIVERY AND INFORMATION SYSTEM.—Developing an open, common, and integrated delivery and information system for programs authorized under this title.

"(v) OTHER AREAS.—Any other areas identified by the Secretary.

"(2) ANNUAL REPORT.—Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year. The annual report shall include the following:

"(A) An independent financial audit of the expenditures of both the PBO and programs administered by the PBO.

"(B) Financial and performance requirements applicable to the PBO under the Chief Financial Officer Act of 1990 and the Government Performance and Results Act of 1993.

"(C) The results achieved by the PBO during the year relative to the goals established in the organization's performance plan.

"(D) The evaluation rating of the performance of the Chief Operating Officer and senior managers under subsections (d)(4) and (e)(2), including the amounts of bonus compensation awarded to these individuals.

"(E) Recommendations for legislative and regulatory changes to improve service to students and their families, and to improve program efficiency and integrity.

"(F) Other such information as the Director of the Office of Management and Budget shall prescribe for performance based organizations.

"(3) CONSULTATION WITH STAKEHOLDERS.—The Chief Operating Officer, in preparing the report described in paragraph (2), shall establish appropriate means to consult with borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under this title—

"(A) regarding the degree of satisfaction with the delivery system; and

"(B) to seek suggestions on means to improve the delivery system.

"(d) CHIEF OPERATING OFFICER.—

Deadline.

"(1) APPOINTMENT.—The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years, and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code. The Secretary shall appoint the Chief Operating Officer within 6 months after the date of enactment of the Higher Education Amendments of 1998. The appointment shall be made on the basis of demonstrated management ability and expertise in information technology, including experience with financial systems, and without regard to political affiliation or activity.

"(2) REAPPOINTMENT.—The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (4), is satisfactory.

"(3) REMOVAL.—The Chief Operating Officer may be removed by—

"(A) the President; or

"(B) the Secretary, for misconduct or failure to meet performance goals set forth in the performance agreement in paragraph (4).

The President or Secretary shall communicate the reasons for any such removal to the appropriate committees of Congress.

"(4) PERFORMANCE AGREEMENT.—

"(A) IN GENERAL.—Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

"(B) TRANSMITTAL.—The final agreement, and any revision to the final agreement, shall be transmitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, and made publicly available.

"(5) COMPENSATION.—

"(A) IN GENERAL.—The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(B) of such title. The compensation of the Chief Operating Officer shall be considered for purposes of section 207(c)(2)(A) of title 18, United States Code, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

"(B) BONUS.—In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

"(C) PAYMENT.—Payment of a bonus under this subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not

Public information.

management of the PBO shall be appointed by the Chief Operating Officer who shall be appointed for a term of not less than 3 and not more than 5 years, without regard to chapters 51 and 53 of title 5, United States Code. The Secretary shall appoint the Chief Operating Officer within 6 months after the date of the Higher Education Amendments of 1998. The appointment shall be made on the basis of the Chief Operating Officer's ability and expertise in information systems, financial systems, and public administration or activity.

The Secretary may reappoint the Chief Operating Officer on subsequent terms of not less than 3 years, so long as the performance agreement, as set forth in the performance agreement in paragraph (4), is satisfactory.

The Chief Operating Officer may be removed from office for

misconduct or failure to meet the requirements set forth in the performance agreement.

The Secretary shall communicate the reasons for the removal to the appropriate committees of Congress.

PERFORMANCE AGREEMENT.—

Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement that sets forth measurable organizational goals for the Chief Operating Officer. The final agreement, and any revision, shall be transmitted to the Committee on Labor and Human Resources of the House of Representatives and the Committee on Labor and Human Resources of the Senate, and made publicly available.

The Chief Operating Officer shall receive an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title. The compensation of the Chief Operating Officer shall be considered for purposes of section 207(c)(2)(A) of title 18, United States Code, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 125 percent of the maximum rate of basic pay, based upon the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

The removal of a bonus under this section shall not be made to the Chief Operating Officer if the position of Chief Operating Officer is vacant.

cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

(e) SENIOR MANAGEMENT.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The Chief Operating Officer may appoint such senior managers as that officer determines necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(B) COMPENSATION.—The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) PERFORMANCE AGREEMENT.—Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals. The agreement shall be subject to review and renegotiation at the end of each term.

(3) COMPENSATION.—

(A) IN GENERAL.—A senior manager appointed under this subsection may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title. The compensation of a senior manager shall be considered for purposes of section 207(c)(2)(A) of title 18, United States Code, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) BONUS.—In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

(4) REMOVAL.—A senior manager shall be removable by the Chief Operating Officer, or by the Secretary if the position of Chief Operating Officer is vacant.

(f) STUDENT LOAN OMBUDSMAN.—

(1) APPOINTMENT.—The Chief Operating Officer, in consultation with the Secretary, shall appoint a Student Loan Ombudsman to provide timely assistance to borrowers of loans made, insured, or guaranteed under title IV by performing the functions described in paragraph (3).

(2) PUBLIC INFORMATION.—The Chief Operating Officer shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty

agencies, loan servicers, and other participants in those student loan programs.

Regulations.

"(3) FUNCTIONS OF OMBUDSMAN.—The Ombudsman shall—

"(A) in accordance with regulations of the Secretary, receive, review, and attempt to resolve informally complaints from borrowers of loans described in paragraph (1), including, as appropriate, attempts to resolve such complaints within the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in the loan programs described in paragraph (1)(A); and

Records.

"(B) compile and analyze data on borrower complaints and make appropriate recommendations.

"(4) REPORT.—Each year, the Ombudsman shall submit a report to the Chief Operating Officer, for inclusion in the annual report under subsection (c)(2), that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

"(g) PERSONNEL FLEXIBILITY.—

"(1) PERSONNEL CEILINGS.—The PBO shall not be subject to any ceiling relating to the number or grade of employees.

"(2) ADMINISTRATIVE FLEXIBILITY.—The Chief Operating Officer shall work with the Office of Personnel Management to develop and implement personnel flexibilities in staffing, classification, and pay that meet the needs of the PBO, subject to compliance with title 5, United States Code.

"(3) EXCEPTED SERVICE.—The Chief Operating Officer may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 25 technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(h) ESTABLISHMENT OF A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The PBO shall establish an annual performance management system, subject to compliance with title 5, United States Code and consistent with applicable provisions of law and regulations, which strengthens the organizational effectiveness of the PBO by providing for establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the performance plan of the PBO and its performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees.

Deadline.

"(i) REPORT.—The Secretary and the Chief Operating Officer, not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO.

"(j) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall allocate from funds made available under section 458 such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this part, including transition costs.

“SEC. 142. PROCUREMENT FLEXIBILITY.

20 USC 1018a.

“(a) **PROCUREMENT AUTHORITY.**—Subject to the authority of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term ‘PBO’ includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

“(b) **IN GENERAL.**—Except as provided in this section, the PBO shall abide by all applicable Federal procurement laws and regulations when procuring property and services. The PBO shall—

“(1) enter into contracts for information systems supporting the programs authorized under title IV to carry out the functions set forth in section 141(b)(2); and

“(2) obtain the services of experts and consultants without regard to section 3109 of title 5, United States Code and set pay in accordance with such section.

“(c) **SERVICE CONTRACTS.**—

“(1) **PERFORMANCE-BASED SERVICING CONTRACTS.**—The Chief Operating Officer shall, to the extent practicable, maximize the use of performance-based servicing contracts, consistent with guidelines for such contracts published by the Office of Federal Procurement Policy, to achieve cost savings and improve service.

“(2) **FEE FOR SERVICE ARRANGEMENTS.**—The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the title IV delivery system from any entity that has the capability and capacity to meet the requirements for the system. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides an information system or service that meets the requirements of the PBO, as determined by the Chief Operating Officer.

“(d) **TWO-PHASE SOURCE-SELECTION PROCEDURES.**—

“(1) **IN GENERAL.**—The PBO may use a two-phase process for selecting a source for a procurement of property or services.

“(2) **FIRST PHASE.**—The procedures for the first phase of the process for a procurement are as follows:

“(A) **PUBLICATION OF NOTICE.**—The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637), except that the notice shall include only the following:

“(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

“(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

“(iii) A description of the information that is to be required under subparagraph (B).

“(iv) Any additional information that the contracting officer determines appropriate.

Contracts.

FILE COPY

PUBLIC LAW 105-261—OCT. 17, 1998

**STROM THURMOND NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL YEAR 1999**

Subtitle C—Health Care Services for Medicare-Eligible Department of Defense Beneficiaries

SEC. 721. DEMONSTRATION PROJECT TO INCLUDE CERTAIN COVERED BENEFICIARIES WITHIN FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) FEHBP DEMONSTRATION PROJECT.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1108. Health care coverage through Federal Employees Health Benefits program: demonstration project

“(a) FEHBP OPTION DEMONSTRATION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to conduct a demonstration project (in this section referred to as the ‘demonstration project’) under which eligible beneficiaries described in subsection (b) and residing within one of the areas covered by the demonstration project may enroll in health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5. The number of eligible beneficiaries and family members of such beneficiaries under subsection (b)(2) who may be enrolled in health benefits plans during the enrollment period under subsection (d)(2) may not exceed 66,000.

“(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An eligible beneficiary under this subsection is—

“(A) a member or former member of the uniformed services described in section 1074(b) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

“(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G);

“(C) an individual who is—

“(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

“(ii) a member of family as defined in section 8901(5) of title 5; or

“(D) an individual who is—

“(i) a dependent of a living member or former member described in section 1076(b)(1) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member's or former member's eligibility for such hospital insurance benefits; and

“(ii) a member of family as defined in section 8901(5) of title 5.

“(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

"(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under the demonstration project.

"(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

"(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

"(c) AREA OF DEMONSTRATION PROJECT.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly identify and select the geographic areas in which the demonstration project will be conducted. The Secretary and the Director shall establish at least six, but not more than ten, such demonstration areas. In establishing the areas, the Secretary and Director shall include—

"(1) an area that includes the catchment area of one or more military medical treatment facilities;

"(2) an area that is not located in the catchment area of a military medical treatment facility;

"(3) an area in which there is a Medicare Subvention Demonstration project area under section 1896 of title XVIII of the Social Security Act (42 U.S.C. 1395ggg); and

"(4) not more than one area for each TRICARE region.

"(d) DURATION OF DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct the demonstration project during three contract years under the Federal Employees Health Benefits program.

"(2) Eligible beneficiaries shall, as provided under the agreement pursuant to subsection (a), be permitted to enroll in the demonstration project during an open enrollment period for the year 2000 (conducted in the fall of 1999). The demonstration project shall terminate on December 31, 2002.

"(e) PROHIBITION AGAINST USE OF MTFs AND ENROLLMENT UNDER TRICARE.—Covered beneficiaries under this chapter who are provided coverage under the demonstration project shall not be eligible to receive care at a military medical treatment facility or to enroll in a health care plan under the TRICARE program.

"(f) TERM OF ENROLLMENT IN PROJECT.—(1) Subject to paragraphs (2) and (3), the period of enrollment of an eligible beneficiary who enrolls in the demonstration project during the open enrollment period for the year 2000 shall be three years unless the beneficiary disenrolls before the termination of the project.

"(2) A beneficiary who elects to enroll in the project, and who subsequently discontinues enrollment in the project before the end of the period described in paragraph (1), shall not be eligible to reenroll in the project.

"(3) An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans and coverage in the same manner as any other Federal

Em
pla
ber
pro
pro
Off
un-
pro
pro
in .
for
em
acc
pro
89
res
sh
be
89
of
col
we
in .
the
su
in
the
be
sh
fol

der this subsection shall
 criteria specified in chapter
 paragraph (1)(C) or (1)(D))
 a benefits plans offered
 Benefits program under

Whether an individual is a
 of section 8901 of title
 (D), a member or former
 1076(a)(2)(B) of this title
 such section.

eligible to enroll in the
 am as an employee under
 ll in a Federal Employees

JECT.—The Secretary of
 of Personnel Management
 geographic areas in which
 acted. The Secretary and
 , but not more than ten,
 g the areas, the Secretary

catchment area of one or
 ities;

d in the catchment area
 y;

Medicare Subvention Dem-
 on 1896 of title XVIII of
 5ggg); and

or each TRICARE region.
 ROJECT.—(1) The Secretary
 ation project during three
 yeas Health Benefits pro-

provided under the agree-
 ermitted to enroll in the
 enrollment period for the
 The demonstration project

MTFs AND ENROLLMENT
 es under this chapter who
 stration project shall not
 medical treatment facility
 r the TRICARE program.

JECT.—(1) Subject to para-
 nt of an eligible beneficiary
 during the open enrollment
 ears unless the beneficiary
 project.

oll in the project, and who
 the project before the end
 l), shall not be eligible to

d in a Federal Employees
 may change health benefits
 ner as any other Federal

Employees Health Benefits program beneficiary may change such plans.

“(g) EFFECT OF CANCELLATION.—The cancellation by an eligible beneficiary of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project.

“(h) SEPARATE RISK POOLS; CHARGES.—(1) The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.

“(2) The Director shall determine total subscription charges for self only or for family coverage for eligible beneficiaries who enroll in a health benefits plan under chapter 89 of title 5 in accordance with this section. The subscription charges shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5 for administrative expenses and contingency reserves.

“(i) GOVERNMENT CONTRIBUTIONS.—The Secretary of Defense shall be responsible for the Government contribution for an eligible beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

“(j) REPORT REQUIREMENTS.—(1) The Secretary of Defense and the Director of the Office of Personnel Management shall jointly submit to Congress two reports containing the information described in paragraph (2). The first report shall be submitted not later than the date that is 15 months after the date that the Secretary begins to implement the demonstration project. The second report shall be submitted not later than December 31, 2002.

“(2) The reports required by paragraph (1) shall include the following:

“(A) Information on the number of eligible beneficiaries who elect to participate in the demonstration project.

“(B) An analysis of the percentage of eligible beneficiaries who participate in the demonstration project as compared to the percentage of covered beneficiaries under this chapter who elect to enroll in a health care plan under such chapter.

“(C) Information on eligible beneficiaries who elect to participate in the demonstration project and did not have Medicare Part B coverage before electing to participate in the project.

“(D) An analysis of the enrollment rates and cost of health services provided to eligible beneficiaries who elect to participate in the demonstration project as compared with similarly situated enrollees in the Federal Employees Health Benefits program under chapter 89 of title 5.

“(E) An analysis of how the demonstration project affects the accessibility of health care in military medical treatment facilities, and a description of any unintended effects on the treatment priorities in those facilities in the demonstration area.

“(F) An analysis of any problems experienced by the Department of Defense in managing the demonstration project.

"(G) A description of the effects of the demonstration project on medical readiness and training of the Armed Forces at military medical treatment facilities located in the demonstration area, and a description of the probable effects that making the project permanent would have on the medical readiness and training.

"(H) An examination of the effects that the demonstration project, if made permanent, would be expected to have on the overall budget of the Department of Defense, the budget of the Office of Personnel Management, and the budgets of individual military medical treatment facilities.

"(I) An analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to eligible beneficiaries.

"(J) Any additional information that the Secretary of Defense or the Director of the Office of Personnel Management considers appropriate to assist Congress in determining the viability of expanding the project to all Medicare-eligible members of the uniformed services and their dependents.

"(K) Recommendations on whether eligible beneficiaries—

"(i) should be given more than one chance to enroll in the demonstration project under this section;

"(ii) should be eligible to enroll in the project only during the first year following the date that the eligible beneficiary becomes eligible to receive hospital insurance benefits under part A of title XVIII of the Social Security Act; or

"(iii) should be eligible to enroll in the project only during the 2-year period following the date on which the beneficiary first becomes eligible to enroll in the project.

"(k) COMPTROLLER GENERAL REPORT.—Not later than December 31, 2002, the Comptroller General shall submit to Congress a report addressing the same matters required to be addressed under subsection (j)(2). The report shall describe any limitations with respect to the data contained in the report as a result of the size and design of the demonstration project.

"(l) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

"(2) In applying paragraph (1)—

"(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to 36 months; and

"(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Defense in consultation with the Director of the Office of Personnel Management."



The publication of

Can

CANON INC.

330-2, Shimon

CANON U.S.A.

One Canon Plaza

CANON CAN.

6390 Dixie Road

CANON EUROPE

Bovenkerke

The Netherlands

CANON DELTA

P.O. Box 10000

CANON (U.K.)

Canon House

CANON FRANCE

Centre d'Affaires

CANON LATIN

Apartado 7022

CANON AUSTRIA

1 Thomas Holt

CANON SINGAPORE

95 South Bridge

CANON HONG KONG

10/F., Mirror To

Hong Kong

the demonstration project of the Armed Forces at locations in the demonstrable effects that making in the medical readiness

that the demonstration is expected to have on the Department of Defense, the budget of the Department, and the budgets of the facilities.

the demonstration project of the Department of Defense of prescription drugs, and cost of such drugs

that the Secretary of Defense of Personnel Management is responsible in determining the eligibility of Medicare-eligible members and dependents.

for eligible beneficiaries—each member has one chance to enroll in the project only on the date that the eligible member receives hospital insurance under Part III of the Social Security Act.

enroll in the project only on the date on which the member is to enroll in the project. Not later than December 31, 2000, the Secretary shall submit to Congress a report to be addressed under subsection (b) with respect to any limitations with respect to the size and

enroll in the project only on the date on which the member is to enroll in the project. Not later than December 31, 2000, the Secretary shall submit to Congress a report to be addressed under subsection (b) with respect to any limitations with respect to the size and

PROVISIONS TO DEMONSTRATION PROJECT.—Paragraph (2), the provisions of subsections (3) through (iv) of subparagraph (A) of section 1108 of the Social Security Act shall apply to the demonstration project in the manner as they apply to the demonstration project (enrollment) with a choice plan.

(v) or (vi) of section 1108 of the Social Security Act is deemed a reference

under section 1882(s)(3)(D) in the manner specified by the Secretary in consultation with the Director of the

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1108. Health care coverage through Federal Employees Health Benefits program: demonstration project.”

(b) CONFORMING AMENDMENTS.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8905—

(A) by redesignating subsections (d) through (f) as subsections (e) through (g), respectively; and

(B) by inserting after subsection (c) the following new subsection:

“(d) An individual whom the Secretary of Defense determines is an eligible beneficiary under subsection (b) of section 1108 of title 10 may enroll, as part of the demonstration project under such section, in a health benefits plan under this chapter in accordance with the agreement under subsection (a) of such section between the Secretary and the Office and applicable regulations under this chapter.”;

(2) in section 8906(b)—

(A) in paragraph (1), by striking “paragraphs (2) and (3)” and inserting in lieu thereof “paragraphs (2), (3), and (4)”; and

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

“(4) In the case of persons who are enrolled in a health benefits plan as part of the demonstration project under section 1108 of title 10, the Government contribution shall be subject to the limitation set forth in subsection (i) of that section.”;

(3) in section 8906(g)—

(A) in paragraph (1), by striking “paragraph (2)” and inserting in lieu thereof “paragraphs (2) and (3)”; and

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

“(3) The Government contribution for persons enrolled in a health benefits plan as part of the demonstration project under section 1108 of title 10 shall be paid as provided in subsection (i) of that section.”; and

(4) in section 8909, by adding at the end the following new subsection:

“(g) The fund described in subsection (a) is available to pay costs that the Office incurs for activities associated with implementation of the demonstration project under section 1108 of title 10.”.

SEC. 722. TRICARE AS SUPPLEMENT TO MEDICARE DEMONSTRATION.

10 USC 1673 note.

(a) IN GENERAL.—(1) The Secretary of Defense shall, after consultation with the other administering Secretaries, carry out a demonstration project in order to assess the feasibility and advisability of providing medical care coverage under the TRICARE program to the individuals described in subsection (c). The demonstration project shall be known as the “TRICARE Senior Supplement”.

(2) The Secretary shall commence the demonstration project not later than January 1, 2000, and shall terminate the demonstration project not later than December 31, 2002.

(3) Under the demonstration project, the Secretary shall permit eligible individuals described in subsection (c) to enroll in the TRICARE program.

(2) individuals with the necessary skills to manage large construction and environmental remediation projects.

(c) LEGISLATIVE CHANGES.—The plan shall include an identification of the provisions of Federal law that would need to be changed to allow the Secretary of Energy to restructure the Department of Energy defense environmental management workforce to hire individuals described in subsection (b), while staying within any numerical limitations required by law (including section 3161 of Public Law 103-337 (42 U.S.C. 7231 note)) on employment of such individuals.

SEC. 3164. DEPARTMENT OF ENERGY NUCLEAR MATERIALS COURIERS.

(a) MAXIMUM AGE FOR ENTRY INTO NUCLEAR MATERIALS COURIER FORCE.—Section 3307 of title 5, United States Code, is amended—

(1) in subsection (a), by striking “and (d)” and inserting “(d), (e), and (f)”; and

(2) by adding at the end the following:

“(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a nuclear materials courier, as defined by section 8331(27) or 8401(33).”

(b) DEFINITION FOR PURPOSES OF CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(1) by striking “and” at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting “; and”; and

(3) by adding at the end the following:

“(27) ‘Nuclear materials courier’—

“(A) means an employee of the Department of Energy, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security; and

“(B) includes an employee who is transferred directly to a supervisory or administrative position within the same Department of Energy organization, after performing duties referred to in subparagraph (A) for at least 3 years.”

(c) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS UNDER CSRS.—(1) Subsection (a)(1) of section 8334 of title 5, United States Code, is amended by striking “or member of the Capitol Police,” and inserting “member of the Capitol Police, or nuclear materials courier,”

(2) Subsection (c) of that section is amended by adding after the item for a Member of the Capitol Police the following new item:

“Nu

of ti
105-
for
the
Unit
Disa
who
duri
pay.
such

of ti

of ti
and

MEM
ame

title
each
“Fre

8415
“nuc

8422
after
mem
new

cessary skills to manage large remediation projects.
 plan shall include an identifica-
 that would need to be changed
 to restructure the Department
 management workforce to hire
 (b), while staying within any
 law (including section 3161 of
 1 note)) on employment of such

NUCLEAR MATERIALS COURIERS.
 RY INTO NUCLEAR MATERIALS
 title 5, United States Code, is
 striking "and (d)" and inserting

following:
 may determine and fix the maxi-
 appointment to a position as a
 defined by section 8331(27) or

OF CIVIL SERVICE RETIREMENT
 nited States Code, is amended—
 end of paragraph (25);
 at the end of paragraph (26)

following:
 courier—

ee of the Department of Energy,
 ion are primarily to transport,
 t and protection during transit
 ar weapon components, strategic
 ar materials or other materials
 ; and

oyee who is transferred directly
 strative position within the same
 nization, after performing duties
 aph (A) for at least 3 years."

IONS, AND DEPOSITS UNDER
 tion 8334 of title 5, United States
 member of the Capitol Police,
 pital Police, or nuclear materials

ion is amended by adding after
 apitol Police the following new

"Nuclear materials courier"	7	October 1, 1977 to the day before the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.
	7.5	The date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 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."

5 USC 8334 note.

(3) Notwithstanding subsection (a)(1) or (k)(1) of section 8334 of title 5, United States Code, or section 7001(a) of Public Law 105-33, during the period beginning on the effective date provided for under subsection (a)(1) and ending on September 30, 2002, the Department of Energy shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund on behalf of each nuclear materials courier from whose basic pay a deduction is made under such subsection (a)(1) during that period an amount equal to 9.01 percent of such basic pay, in lieu of the agency contributions otherwise required under such subsection (a)(1) during that period.

(d) **MANDATORY SEPARATION UNDER CSRS.**—Section 8335(b) of title 5, United States Code, is amended in the second sentence—

(1) by inserting "or nuclear materials courier" after "law enforcement officer"; and

(2) by inserting "or courier, as the case may be," after "that officer".

(e) **IMMEDIATE RETIREMENT UNDER CSRS.**—Section 8336(c)(1) of title 5, United States Code, is amended by striking "or firefighter" and inserting ", firefighter, or nuclear materials courier".

(f) **DEFINITION FOR PURPOSES OF FEDERAL EMPLOYEES' RETIREMENT SYSTEM.**—Section 8401 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (31);

(2) by striking the period at the end of paragraph (32) and inserting "; and"; and

(3) by adding at the end the following:

"(33) 'Nuclear materials courier' has the meaning given that term in section 8331(27)."

(g) **IMMEDIATE RETIREMENT UNDER FERS.**—Section 8412(d) of title 5, United States Code, is amended by striking "or firefighter" each place it appears in paragraphs (1) and (2) and inserting "firefighter, or nuclear materials courier".

(h) **COMPUTATION OF BASIC ANNUITY UNDER FERS.**—Section 8415(g) of title 5, United States Code, is amended by inserting "nuclear materials courier," after "firefighter."

(i) **DEDUCTIONS AND CONTRIBUTIONS UNDER FERS.**—(1) Section 8422(a)(3) of title 5, United States Code, is amended by adding after the item relating to a law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller the following new item:

"Nuclear materials courier	7	January 1, 1987 to the day before the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.
	7.5	The date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 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, 2001.
	7.5	After December 31, 2002."

5 USC 8422 note.

(2) Contributions under subsections (a) and (b) of section 8423 of title 5, United States Code, shall not be reduced as a result of that portion of the amendment made by paragraph (1) requiring employee deductions at a rate in excess of 7.5 percent for the period beginning on January 1, 1999, and ending on December 31, 2002.

(j) AGENCY CONTRIBUTIONS UNDER FERS.—Paragraphs (1)(B)(i) and (3)(A) of section 8423(a) of title 5, United States Code, are each amended by inserting "nuclear materials couriers," after "firefighters,".

(k) MANDATORY SEPARATION UNDER FERS.—Section 8425(b) of title 5, United States Code, is amended by inserting "or nuclear materials courier" after "law enforcement officer" both places it appears in the second sentence.

5 USC 8346 note.

(l) PAYMENTS.—(1) The Department of Energy shall pay into the Civil Service Retirement and Disability Fund an amount determined by the Director of the Office of Personnel Management to be necessary to reimburse the Fund for any estimated increase in the unfunded liability of the Fund resulting from the amendments related to the Civil Service Retirement System under this section, and for any estimated increase in the supplemental liability of the Fund resulting from the amendments related to the Federal Employees Retirement System under this section.

(2) The Department shall pay the amount so determined in five equal annual installments with interest computed at the rate used in the most recent valuation of the Federal Employees Retirement System.

(3) The Department shall make payments under this subsection from amounts available for weapons activities of the Department.

5 USC 8331 note.

(m) APPLICABILITY.—Subsections (b) through (l) shall apply only to an individual who is employed as a nuclear materials courier, as defined by section 8331(27) or 8401(33) of title 5, United States Code (as amended by this section), after the later of—

- (1) September 30, 1998; or
- (2) the date of the enactment of this Act.

5 USC 8331 note.

(n) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect at the beginning of the first pay period that begins after the later of—

- (A) October 1, 1998; or
- (B) the date of the enactment of this Act.

(2)
on the c
(B)
take eff
SEC. 31:

Sec
for Fise
is ames
under s
Executi
SEC. 31.

(a)
663 of
Approp
383; 5
volunta
who ve
before
(b)
untary
accorda
SEC. 31

Se
Fiscal
2121 n
SEC. 31.
(a)
develop
based t
the sa:
perform
certain
(b)
retary
(a), sh:
(c)
Energy
Senate
Repres
to dev
include

th
th
of

(a
of

(2)(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(B) The amendments made by subsections (d) and (k) shall take effect 1 year after the date of the enactment of this Act.

SEC. 3155. INCREASE IN MAXIMUM RATE OF PAY FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL RESPONSIBLE FOR SAFETY AT DEFENSE NUCLEAR FACILITIES.

Section 3161(a)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 42 U.S.C. 7231 note) is amended by striking out "level IV of the Executive Schedule under section 5315" and inserting in lieu thereof "level III of the Executive Schedule under section 5314".

SEC. 3156. EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) **EXTENSION.**—Notwithstanding subsection (c)(2)(D) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-383; 5 U.S.C. 5597 note), the Department of Energy may pay voluntary separation incentive payments to qualifying employees who voluntarily separate (whether by retirement or resignation) before January 1, 2001.

(b) **EXERCISE OF AUTHORITY.**—The Department shall pay voluntary separation incentive payments under subsection (a) in accordance with the provisions of such section 663.

SEC. 3157. REPEAL OF FISCAL YEAR 1998 STATEMENT OF POLICY ON STOCKPILE STEWARDSHIP PROGRAM.

Section 3156 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2045; 42 U.S.C. 2121 note) is repealed.

SEC. 3158. REPORT ON STOCKPILE STEWARDSHIP CRITERIA.

(a) **REQUIREMENT FOR CRITERIA.**—The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.

(b) **COORDINATION WITH SECRETARY OF DEFENSE.**—The Secretary of Energy, in developing the criteria required by subsection (a), shall coordinate with the Secretary of Defense.

(c) **REPORT.**—Not later than March 1, 2000, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the efforts by the Department of Energy to develop the criteria required by subsection (a). The report shall include—

(1) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable and the relationship of the science-based tools to the collection of that information; and

(2) a description of the criteria required by subsection (a) to the extent they have been developed as of the date of the submission of the report.

42 USC 2121
note.