SEC. ___. INCREASE IN MAXIMUM AMOUNT OF VOLUNTARY SEPARATION INCENTIVE PAY AUTHORIZED FOR CIVILIAN EMPLOYEES.

(a) GOVERNMENT EMPLOYEES GENERALLY.—Section 3523(b)(3)(B) of title 5, United States Code, is amended by striking "$25,000" and inserting "$40,000".

(b) DEPARTMENT OF DEFENSE EMPLOYEES.—Section 9902(f)(5)(A)(ii) of such title is amended by striking "$25,000" and inserting "an amount determined by the Secretary, not to exceed $40,000".

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would amend sections 3523(b)(3)(B) and 9902(f)(5)(A)(ii) of title 5, United States Code, by increasing the maximum amount of separation pay authorized for Voluntary Separation Incentive Pay (VSIP) from the current ceiling of $25,000 to $40,000. This increased maximum amount would adjust for inflation from when VSIP was first authorized for the Department of Defense (DoD) 1993. The Chief Human Capital Officers Act of 2002 (Public Law 107-296) provided government-wide authority to provide VSIP. The maximum payable amount has not been adjusted since VSIP was first authorized.

The government-wide VSIP authority under 5 U.S.C. 3521-3525 allows agencies to seek approval from the U.S. Office of Personnel Management to offer lump-sum payments to employees who are in surplus positions or have skills that are no longer needed in the workforce, as an incentive to separate. Under the current authority, agencies may pay up to $25,000, or an amount equal to the amount of severance pay an employee would be entitled to receive, whichever is less. Employees may separate to accept VSIP by resignation, optional retirement, or by voluntary early retirement, if authorized. VSIP are an option for increasing voluntary attrition in agencies that are downsizing or restructuring.

The National Defense Authorization Act for Fiscal Year (FY) 2010 required the DoD to develop a new performance appraisal system, redesign procedures for use within DoD to make appointments to positions within the competitive service, and authorized the Secretary of Defense, at his discretion, to establish a Civilian Workforce Incentive Fund. The NDAA for 2010 required DoD to provide a means for ensuring employee involvement (for bargaining unit employees, through their exclusive representatives) in the design and implementation such new system. The process by which the initiatives to develop the new authorities unfolded came to be known as "New Beginnings." One recommendation, made with union input, was that DoD increase the VSIP cap from the current $25,000 to a maximum of $40,000.

The Department of Defense has traditionally offered incentives to encourage voluntary separations as one means to minimize the impact of workforce restructuring and reductions. Without sufficient voluntary separations when faced with the need for workforce restructuring or reductions, the Department may impact more employees through reductions in force (RIF). RIFs are costly and disruptive to the mission and create negative morale in the workforce. The recent announcements of anticipated reductions to the DoD budget over the next few years require management to efficiently reduce the workforce while not adversely affecting the mission and the Department's commitment to support our warfighters. Buyouts provide a less expensive, more humane, and more manageable way to efficiently reduce and restructure the workforce.

The maximum amount payable under VSIP has not changed since the Department of Defense was first authorized to offer voluntary separation incentives in 1993. In the meantime, the buying power of a dollar has decreased dramatically. Based on the Consumer Price Index (CPI) as calculated by the Bureau of Labor Statistics, the rate of inflation from 1993 to 2013 was 89 percent. During the same period, General Schedule salaries increased by 71 percent. While $25,000 was considered an appropriate amount to induce employees to voluntarily separate in 1993, it cannot possibly provide the same incentive in current dollars. Employees are clearly influenced by prevailing economic conditions when making financial decisions. The VSIP amount should have increased to $47,250 to keep pace with inflation, or to $42,750 to mirror the GS salary increase. The proposed figure is rounded down from the lesser amount.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2017	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	175	175	175	175	175	Operation and Maintenance, Army	BA1, 2, 3, 4	Multiple	
Navy	1.70	1.72	1.74	1.78	1.83	Operation and Maintenance, Navy	BA1	N/A	
Navy	10.41	10.60	10.79	10.98	11.18	Navy Working Capital Fund	BA1	N/A	
Navy	.52	.54	.56	.56	.58	Research, Development, Test & Evaluation, Navy	BA1	N/A	
Air	47.50	47.50	47.50	47.50	47.50	Operation and	BA1	N/A	

Force						Maintenance, Air Force			
USMC	.49	.51	.51	.52	.52	Operation and Maintenance, Marine Corps	BA1	N/A	
Total	235.62	235.87	236.10	236.34	236.61				

Budget Implications: Adoption of the proposal would increase the maximum VSIP amount from $25,000 to a maximum of $40,000. It will not change the severance pay formulas used to calculate the actual VSIP amount.

NUMBER OF PERSONNEL AFFECTED									
	FY 2017	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	4366	4366	4366	4366	4366	Operation and Maintenance, Army	BA1, 2, 3, 4	Multiple	
Navy	42	43	43	45	45	Operation and Maintenance, Navy	BA1	N/A	
Navy	260	265	272	274	279	Navy Working Capital Fund	BA1	N/A	
Navy	14	14	14	14	14	Research, Development, Test, and Evaluation, Navy	BA1	N/A	
Air Force	1187	1187	1187	1187	1187	Operation and Maintenance, Air Force	BA1	N/A	
USMC	12	12	12	12	12	Operation and Maintenance, Marine Corps	BA1	N/A	
Total	5881	5887	5894	5898	5903				

Cost Methodology: The Department anticipates significant use of VSIP in the foreseeable future as civilian workforce levels drop in response to announced and forecasted reductions in funding, and as the need for reshaping the workforce continues. VSIP is used to encourage voluntary reductions that mitigate adverse effects on civilian employees and are less costly to the Department than involuntary reductions via RIF. The resource requirements listed reflect the total cost of buyouts over the fiscal year development plan, taking into account the number of

employees that historically participated in VSIP as well as Component projections of how many additional employees are expected to take VSIP at the increased amount. It assumes a nearly a straight-line increase of $15,000 per buyout since historically 99 percent of the buyouts approved are at the maximum amount of $25,000. This extra expenditure will be absorbed by reducing the costs associated with RIF, including severance pay, unemployment compensation, continuation of benefits, transition assistance, and various administrative costs.

Changes to Existing Law: This proposal would make the following changes to title 5, United States Code:

§ 3523. Authority to provide voluntary separation incentive payments

(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

(b) A voluntary incentive payment—

(1) shall be offered to agency employees on the basis of—

(A) 1 or more organizational units;

(B) 1 or more occupational series or levels;

(C) 1 or more geographical locations;

(D) skills, knowledge, or other factors related to a position;

(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

(F) any appropriate combination of factors;

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

(3) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

(B) an amount determined by the agency head, not to exceed **~~$25,000~~** **<u>$40,000</u>**;

(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

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

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

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§ 9902. Department of Defense personnel authorities

(a) ***

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(f) PROVISIONS RELATED TO SEPARATION AND RETIREMENT INCENTIVES.—

(1) The Secretary may establish a program within the Department of Defense under which employees may be eligible for early retirement, offered separation incentive pay to separate from service voluntarily, or both. This authority may be used to reduce the number of personnel employed by the Department of Defense or to restructure the workforce to meet mission objectives without reducing the overall number of personnel. This authority is in addition to, and notwithstanding, any other authorities established by law or regulation for such programs.

(2)(A) The Secretary may not authorize the payment of voluntary separation incentive pay under paragraph (1) to more than 25,000 employees in any fiscal year, except that employees who receive voluntary separation incentive pay as a result of a closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) shall not be included in that number.

(B) The Secretary shall prepare a report each fiscal year setting forth the number of employees who received such pay as a result of a closure or realignment of a military base as described under subparagraph (A).

(C) The Secretary shall submit the report under subparagraph (B) to the Committee on Armed Services and the Committee on Governmental Affairs of the Senate, and the Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

(3) For purposes of this section, the term "employee" means an employee of the Department of Defense, serving under an appointment without time limitation, except that such term does not include—

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

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

(C) for purposes of eligibility for separation incentives under this section, an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance.

(4) An employee who is at least 50 years of age and has completed 20 years of service, or has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the Department of Defense and receive benefits in accordance with chapter 83 or 84 if the employee has been employed continuously within the Department of Defense for more than 30 days before the date on which the determination to conduct a reduction or restructuring within 1 or more Department of Defense components is approved.

(5)(A) Separation pay shall be paid in a lump sum or in installments and may be equal to the lesser of—

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

(ii) ~~$25,000~~ <u>an amount determined by the Secretary, not to exceed $40,000</u>.

(B) Separation pay shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit. Separation pay shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595, based on any other separation.

(C) Separation pay, if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract as described in paragraph (6).

(6)(A) An employee who receives separation pay under such program may not be reemployed by the Department of Defense for a 12-month period beginning on the effective date of the employee's separation, unless this prohibition is waived by the Secretary on a case-by-case basis.

(B) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111) and accepts employment with the Government of the United States, or who commences work through a personal services contract with the United States within 5 years after the date of the separation on which payment of the separation pay is based, shall be required to repay the entire amount of the separation pay to the Department of Defense. If the employment is with an Executive agency (as defined by section 105) other than the Department of Defense, the Director may, at the request of the head of that agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is within the Department of Defense, the Secretary may waive the repayment if the individual involved is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(7) Under this program, early retirement and separation pay may be offered only pursuant to regulations established by the Secretary, subject to such limitations or conditions as the Secretary may require.

(g) ***

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