

Calendar No. 390

100TH CONGRESS
1ST SESSION

H. R. 3395

IN THE SENATE OF THE UNITED STATES

OCTOBER 21 (legislative day, OCTOBER 16), 1987

Received

OCTOBER 22 (legislative day, OCTOBER 16), 1987

Read twice and ordered placed on the calendar

AN ACT

Making technical corrections relating to the Federal Employees' Retirement System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—AMENDMENTS RELATING TO THE
4 CIVIL SERVICE RETIREMENT SYSTEM AND
5 THE FEDERAL EMPLOYEES' RETIREMENT
6 SYSTEM

7 SEC. 101. REFERENCES.

8 Except as otherwise expressly provided, whenever in
9 this title an amendment or repeal is expressed in terms of an
10 amendment to, or a repeal of, a section or other provision,

1 the reference shall be considered to be made to a section or
2 other provision of title 5, United States Code.

3 **SEC. 102. DEPOSITS FOR "COVERED SERVICE" AFTER 1986 FOR**
4 **EMPLOYEES UNDER CSRS OFFSET PROVISIONS.**

5 Section 8334(c) is amended by striking the period at the
6 end of the last sentence and inserting in lieu thereof the fol-
7 lowing: “, and, with respect to any such service performed
8 after December 31, 1986, be equal to the amount that would
9 have been deducted from the employee’s basic pay under sub-
10 section (k) of this section if the employee’s pay had been sub-
11 ject to that subsection during such period.”.

12 **SEC. 103. AMENDMENTS RELATING TO LAW ENFORCEMENT**
13 **OFFICERS AND FIREFIGHTERS.**

14 (a) **MAXIMUM ENTRY AGES.—**

15 (1) **IN GENERAL.—**Section 3307 is amended—

16 (A) in subsection (d), by striking “may, with
17 the concurrence of such agent as the President
18 may designate,” and inserting in lieu thereof
19 “may”; and

20 (B) by adding at the end the following:

21 “(e) The head of an agency may determine and fix the
22 maximum age limit for an original appointment to a position
23 as a firefighter or law enforcement officer, as defined by sec-
24 tion 8401(14) or (17), respectively, of this title.”.

1 (2) CLARIFYING AMENDMENTS.—Paragraphs
2 (14)(A)(ii) and (17) of section 8401 are amended by
3 striking “are required to be” each place those words
4 appear and inserting in lieu thereof “should be”.

5 (b) DEFINITION UNDER THE LIFE INSURANCE PRO-
6 GRAM.—Section 8704(c)(2) is amended by inserting “or
7 8401(17)” after “8331(20)”.

8 (c) AMENDMENTS TO DEFINITIONS.—

9 (1) LAW ENFORCEMENT OFFICERS.—Section
10 8401(17) is amended—

11 (A) by redesignating subparagraphs (B) and
12 (C) as subparagraphs (C) and (D), respectively;

13 (B) by inserting after subparagraph (A) the
14 following:

15 “(B) an employee of the Department of the Interi-
16 or or the Department of the Treasury (excluding any
17 employee under subparagraph (A)) who occupies a po-
18 sition that, but for the enactment of the Federal Em-
19 ployees’ Retirement System Act of 1986, would be
20 subject to the District of Columbia Police and Fire-
21 fighters’ Retirement System, as determined by the Sec-
22 retary of the Interior or the Secretary of the Treasury,
23 as appropriate;” and

1 (C) by amending subparagraph (C), as so re-
2 designated by subparagraph (A), to read as
3 follows:

4 “(C) an employee who is transferred directly
5 to a supervisory or administrative position after
6 performing duties described in subparagraph (A)
7 or (B); and”.

8 (2) FIREFIGHTERS.—Section 8401(14)(B) is
9 amended by striking “for at least 10 years”.

10 (d) COORDINATION OF FERS WITH THE DISTRICT OF
11 COLUMBIA POLICE AND FIREFIGHTERS’ RETIREMENT
12 SYSTEM FOR EMPLOYEES OF THE PARK POLICE AND THE
13 SECRET SERVICE.—

14 (1) IN GENERAL.—Section 4-607(1) of title 4 of
15 the District of Columbia Code is amended by striking
16 the period and inserting in lieu thereof the following: “,
17 but does not include an officer or member of the
18 United States Park Police force, or of the United
19 States Secret Service Division, whose service is em-
20 ployment for the purposes of title II of the Social Se-
21 curity Act and chapter 21 of the Internal Revenue
22 Code of 1986, and who is not excluded from coverage
23 under chapter 84 of title 5, United States Code, by op-
24 eration of section 8402 of such title.”.

1 (2) CONFORMING AMENDMENT.—Section
2 8401(11)(i)(II) is amended by striking “(other than an
3 employee of the United States Park Police, or the
4 United States Secret Service, whose civilian service
5 after December 31, 1983, is such employment)”.

6 (e) OFFSETS TO PREVENT FULL DOUBLE COVERAGE
7 FOR EMPLOYEES OF THE PARK POLICE AND THE SECRET
8 SERVICE.—Notwithstanding any other provision of law, in
9 the case of an employee of the United States Secret Service
10 or the United States Park Police whose pay is simultaneously
11 subject to a deposit requirement under the District of Colum-
12 bia Police and Firefighters’ Retirement and Disability
13 System and the contribution requirement under section
14 3101(a) of the Internal Revenue Code of 1986—

15 (1) any deposits under the District of Columbia
16 Police and Firefighters’ Retirement and Disability
17 System shall be adjusted in a manner consistent with
18 section 8334(k) of title 5, United States Code (relating
19 to offsets in deductions from pay to reflect OASDI
20 contributions); and

21 (2) any benefits payable under the District of Co-
22 lumbia Police and Firefighters’ Retirement and Disabil-
23 ity System based on the service of any such employee
24 shall be adjusted in a manner consistent with section
25 8349 of title 5, United States Code (relating to offsets

1 to reflect benefits under title II of the Social Security
2 Act).

3 (f) **EFFECTIVE DATE.**—This section, and the amend-
4 ments made by this section, shall be effective as of Janu-
5 ary 1, 1987.

6 **SEC. 104. MILITARY SERVICE DEPOSITS BY SURVIVORS.**

7 (a) Section 8422(e) is amended by adding at the end the
8 following:

9 “(5) For the purpose of survivor annuities, deposits au-
10 thorized by this subsection may also be made by a survivor of
11 an employee or Member.”.

12 (b) Section 8411(c)(4)(A) is amended by striking “sub-
13 section (f)(4)” and inserting in lieu thereof “section
14 8422(e)(5)”.

15 **SEC. 105. DEPOSITS AND REFUNDS RELATING TO CERTAIN**
16 **SERVICE UNDER THE CIVIL SERVICE RETIRE-**
17 **MENT SYSTEM.**

18 (a) **DEPOSIT FOR SERVICE COVERED BY REFUND PER-**
19 **MITTED ONLY IF REFUND WAS PURSUANT TO APPLICA-**
20 **TION FILED BEFORE BECOMING SUBJECT TO FERS.**—
21 Section 8411(f)(1) is amended by adding at the end the fol-
22 lowing: “A deposit under this paragraph may be made only
23 with respect to a refund received pursuant to an application
24 filed with the Office before the date on which the employee or
25 Member first becomes subject to this chapter.”.

1 (b) LUMP-SUM CREDIT FOR CERTAIN CSRS SERVICE
2 SOUGHT AFTER BECOMING SUBJECT TO FERS IS PAY-
3 ABLE TO THE EXTENT THAT IT EXCEEDS 1.3 PERCENT
4 OF BASIC PAY.—The last sentence of section 8342(a), as
5 added by section 207(h) of the Federal Employees' Retire-
6 ment System Act of 1986 (Public Law 99-335; 100 Stat.
7 596) is amended to read as follows: “In applying this subsec-
8 tion to an employee or Member who becomes subject to chap-
9 ter 84 (other than by an election under title III of the Feder-
10 al Employees' Retirement System Act of 1986) and who,
11 while subject to such chapter, files an application with the
12 Office for a payment under this subsection—

13 “(i) entitlement to payment of the lump-sum
14 credit shall be determined without regard to paragraph
15 (1) or (3) if, or to the extent that, such lump-sum credit
16 relates to service of a type described in clauses (i)
17 through (iii) of section 302(a)(1)(C) of the Federal Em-
18 ployees' Retirement System Act of 1986; and

19 “(ii) if, or to the extent that, the lump-sum credit
20 so relates to service of a type referred to in clause (i),
21 it shall (notwithstanding section 8331(8)) consist of—

22 “(I) the amount by which any unrefunded
23 amount described in section 8331(8) (A) or (B) re-
24 lating to such service, exceeds 1.3 percent of
25 basic pay for such service; and

1 “(II) interest on the amount payable under
2 subclause (I), computed in a manner consistent
3 with applicable provisions of section 8331(8).”.

4 **SEC. 106. OPTION FOR CERTAIN EMPLOYEES TO ELECT FERS**
5 **COVERAGE.**

6 Section 301(a) of the Federal Employees’ Retirement
7 System Act of 1986 (Public Law 99–335; 100 Stat. 599) is
8 amended by adding at the end the following:

9 “(3)(A) Except as provided in subparagraph (B), any
10 individual—

11 “(i) who is excluded from the operation of sub-
12 chapter III of chapter 83 of title 5, United States
13 Code, under subsection (g), (i), (j), or (l) of section
14 8347 of such title, and

15 “(ii) with respect to whom chapter 84 of title 5,
16 United States Code, does not apply because of section
17 8402(b)(2) of such title,
18 shall, for purposes of an election under paragraph (1) or (2),
19 be treated as if such individual were subject to subchapter III
20 of chapter 83 of title 5, United States Code.

21 “(B) An election under this paragraph may not be made
22 by any individual who would be excluded from the operation
23 of chapter 84 of title 5, United States Code, under section
24 8402(c) of such title (relating to exclusions based on the tem-
25 porary or intermittent nature of one’s employment).”.

1 SEC. 107. CERTAIN CSRS SERVICE CREDITABLE TO DETER-
2 MINE ELIGIBILITY FOR 1.1 PERCENT ACCRUAL
3 RATE.

4 Section 302(a)(1)(D) of the Federal Employees' Retire-
5 ment System Act of 1986 (Public Law 99-335; 100 Stat.
6 602) is amended—

7 (1) by striking “and” at the end of subclause (IV);

8 (2) by striking the period at the end of subclause
9 (V) and inserting in lieu thereof “; and”; and

10 (3) by adding after subclause (V) the following:

11 “(VI) the provision of subsection (g) of sec-
12 tion 8415 which relates to the minimum period of
13 service required to qualify for the higher accrual
14 rate under such subsection.”.

15 SEC. 108. AMENDMENTS RELATING TO MISCELLANEOUS PRO-
16 VISIONS OF LAW EXTENDING COVERAGE OR
17 BENEFITS UNDER CERTAIN FEDERAL PRO-
18 GRAMS TO INDIVIDUALS NOT OTHERWISE
19 ELIGIBLE.

20 (a) TERMINATION OF CERTAIN SPECIAL ELIGIBILITY
21 PROVISIONS.—

22 (1) CIVIL SERVICE RETIREMENT SYSTEM.—Sec-
23 tion 8347 is amended by adding at the end the
24 following:

25 “(o) Any provision of law outside of this subchapter
26 which provides coverage, service credit, or any other benefit

1 under this subchapter to any individuals who (based on their
2 being employed by an entity other than the Government)
3 would not otherwise be eligible for any such coverage, credit,
4 or benefit, shall not apply with respect to any individual ap-
5 pointed, transferred, or otherwise commencing that type of
6 employment on or after October 1, 1988.”.

7 (2) LIFE INSURANCE.—

8 (A) IN GENERAL.—Section 87 of title 5,
9 United States Code, is amended by inserting after
10 section 8712 the following:

11 “§ 8713. Effect of other statutes

12 “Any provision of law outside of this chapter which pro-
13 vides coverage or any other benefit under this chapter to any
14 individuals who (based on their being employed by an entity
15 other than the Government) would not otherwise be eligible
16 for any such coverage or benefit shall not apply with respect
17 to any individual appointed, transferred, or otherwise com-
18 mencing that type of employment on or after October 1,
19 1988.”.

20 (B) CHAPTER ANALYSIS.—The analysis for
21 chapter 87 of title 5, United States Code, is
22 amended by inserting after the item relating to
23 section 8712 the following:

“8713. Effect of other statutes.”.

24 (3) HEALTH INSURANCE.—

1 (A) IN GENERAL.—Chapter 89 of title 5,
2 United States Code, is amended by adding at the
3 end the following:

4 “§ 8914. Effect of other statutes

5 “Any provision of law outside of this chapter which pro-
6 vides coverage or any other benefit under this chapter to any
7 individuals who (based on their being employed by an entity
8 other than the Government) would not otherwise be eligible
9 for any such coverage or benefit shall not apply with respect
10 to any individual appointed, transferred, or otherwise com-
11 mencing that type of employment on or after October 1,
12 1988.”.

13 (B) CHAPTER ANALYSIS.—The analysis for
14 chapter 89 of title 5, United States Code, is
15 amended by adding at the end the following:

“8914. Effect of other statutes.”.

16 (b) EXTENSION OF OFFSET PROVISIONS UNDER
17 CHAPTER 83.—

18 (1) CONTRIBUTIONS.—Section 8334(k) is amend-
19 ed by adding at the end the following:

20 “(4) In administering paragraphs (1) through (3)—

21 “(A) the term ‘an individual described in section
22 8402(b)(2) of this title’ shall be considered to include
23 any individual—

1 “(i) who is subject to this subchapter as a
2 result of a provision of law described in section
3 8347(o), and

4 “(ii) whose employment (as described in sec-
5 tion 8347(o)) is also employment for purposes of
6 title II of the Social Security Act and chapter 21
7 of the Internal Revenue Code of 1986; and

8 “(B) the term ‘Federal wages’, as applied with re-
9 spect to any individual to whom this subsection applies
10 as a result of subparagraph (A), means basic pay for
11 any employment referred to in subparagraph (A)(ii).”.

12 (2) **BENEFITS.**—Section 8349 is amended by
13 adding at the end the following:

14 “(d) In administering subsections (a) through (c)—

15 “(1) the terms ‘an individual under section
16 8402(b)(2)’ and ‘an individual described in section
17 8402(b)(2)’ shall each be considered to include any
18 individual—

19 “(A) who is subject to this subchapter as a
20 result of any provision of law described in section
21 8347(o), and

22 “(B) whose employment (as described in sec-
23 tion 8347(o)) is also employment for purposes of
24 title II of the Social Security Act and chapter 21
25 of the Internal Revenue Code of 1986; and

1 “(2) the term ‘Federal service’, as applied with
2 respect to any individual to whom this section applies
3 as a result of paragraph (1), means any employment
4 referred to in paragraph (1)(B) performed after Decem-
5 ber 31, 1983.”.

6 (3) **EFFECTIVE DATE.**—The amendments made
7 by this subsection shall be effective as of January 1,
8 1987.

9 **SEC. 109. CONTINUED COVERAGE UNDER CERTAIN FEDERAL**
10 **EMPLOYEE BENEFIT PROGRAMS FOR CERTAIN**
11 **EMPLOYEES OF SAINT ELIZABETHS HOSPITAL.**

12 (a) **IN GENERAL.**—Section 207 of the Federal Employ-
13 ees’ Retirement System Act of 1986 (Public Law 99–335;
14 100 Stat. 594) is amended by adding at the end the
15 following:

16 “(o) An employee of Saint Elizabeths Hospital who is
17 appointed to a position in the government of the District of
18 Columbia on October 1, 1987, pursuant to the Saint Eliza-
19 beths Hospital and District of Columbia Mental Health Serv-
20 ices Act (Public Law 98–621; 98 Stat. 3369 and following)
21 shall, for purposes of chapters 83, 87, and 89 of title 5,
22 United States Code, be treated in the same way as an indi-
23 vidual first employed by the government of the District of
24 Columbia before October 1, 1987.”.

1 (b) The amendment made by this section shall be effec-
2 tive as of October 1, 1987.

3 **SEC. 110. CREDITABILITY UNDER CSRS OF CERTAIN SERVICE**
4 **PERFORMED UNDER A PERSONAL SERVICE**
5 **CONTRACT WITH THE UNITED STATES.**

6 (a) **IN GENERAL.**—

7 (1) **CONDITIONS FOR RECEIVING CREDIT.**—Sub-
8 ject to the making of a deposit under section 8334(c) of
9 title 5, United States Code, upon application to the
10 Office of Personnel Management within 2 years after
11 the date of the enactment of this Act, any individual
12 who is an employee (as defined by section 8331(1) or
13 8401(11) of such title) on such date shall be allowed
14 credit under subchapter III of chapter 83 of such title
15 for any service if such service was performed—

16 (A) before November 5, 1985; and

17 (B) under a personal service contract with
18 the United States, except as provided in para-
19 graph (3).

20 (2) **CERTIFICATION.**—

21 (A) **IN GENERAL.**—The Office shall, with re-
22 spect to any service for which credit is sought
23 under this subsection, accept the certification of
24 the head of the agency which was party to the

1 contract referred to in paragraph (1)(B), but only
2 if such certification—

3 (i) states that the agency had intended,
4 through such contract, that the individual in-
5 volved (or that persons like the individual in-
6 volved) be considered as having been ap-
7 pointed to a position in which such individual
8 would be subject to subchapter III of chapter
9 83 of title 5, United States Code; and

10 (ii) indicates the period of service which
11 was performed under the contract by the in-
12 dividual involved, and includes copies of ap-
13 propriate records or other documentation to
14 support the determination as to the length of
15 such period.

16 (B) FINALITY.—A decision by an agency
17 head concerning whether or not to make a certifi-
18 cation under this paragraph in any particular in-
19 stance shall be at the sole discretion of the agency
20 head, and shall not be subject to administrative or
21 judicial review.

22 (3) EXCEPTION.—Nothing in this subsection shall
23 apply with respect to any service performed under—

24 (A) a contract for which any appropriations,
25 allocations, or funds were used under section

1 636(a)(3) of the Foreign Assistance Act of 1961;
2 or

3 (B) a contract entered into under section
4 10(a)(5) of the Peace Corps Act.

5 (b) APPLICABILITY TO ANNUITANTS.—

6 (1) IN GENERAL.—In the case of any individual
7 who—

8 (A) performed service for which credit is al-
9 lowable under subsection (a), and

10 (B) retired on an annuity payable under sub-
11 chapter III of chapter 83 of title 5, United States
12 Code, after January 23, 1980, and before the
13 date of the enactment of this Act,

14 any annuity under such subchapter based on the serv-
15 ice of such individual shall be redetermined to take into
16 account the amendment made by subsection (a) if appli-
17 cation therefor is made, and the deposit requirement
18 under such subsection is met, within 2 years after the
19 date of the enactment of this Act.

20 (2) AMOUNTS TO WHICH APPLICABLE.—Any
21 change in an annuity resulting from a redetermination
22 under paragraph (1) shall be effective with respect to
23 payments accruing for months beginning after the date
24 of the enactment of this Act.

1 **SEC. 111. EXCLUSION OF FOREIGN NATIONAL EMPLOYEES**
2 **UNDER CSRS FROM PARTICIPATING IN THE**
3 **THRIFT SAVINGS PLAN.**

4 (a) **IN GENERAL.**—Section 8351 is amended—

5 (1) by redesignating subsection (c) as subsection
6 (d); and

7 (2) by inserting after subsection (b) the following:

8 “(c) A member of the Foreign Service described in sec-
9 tion 103(6) of the Foreign Service Act of 1980 shall be ineli-
10 gible to make any election under this section.”.

11 (b) **EFFECTIVE DATE.**—The amendments made by sub-
12 section (a) shall be effective as of March 31, 1987. Any
13 refund which becomes payable as a result of the preceding
14 sentence shall, to the extent that such refund involves an
15 individual’s contributions to the Thrift Savings Fund (estab-
16 lished under section 8437 of title 5, United States Code), be
17 adjusted to reflect any earnings attributable thereto.

18 **SEC. 112. FOREIGN NATIONAL EMPLOYEES APPOINTED AFTER**
19 **DECEMBER 1987 EXCLUDED FROM CSRS.**

20 Section 8331(1) is amended—

21 (1) by striking “or” at the end of clause (x);

22 (2) by striking the period at the end of clause (xi)
23 and inserting in lieu thereof “; or”; and

24 (3) by adding after clause (xi) the following:

25 “(xii) a member of the Foreign Service (as
26 described in section 103(6) of the Foreign Service

1 Act of 1980), appointed after December 31,
2 1987.”.

3 **SEC. 113. EXCLUSION OF FOREIGN NATIONAL EMPLOYEES**
4 **FROM FERS.**

5 **(a) NO ELECTION TO CONVERT FROM CSRS.—**

6 **(1) IN GENERAL.—**Section 301(a) of the Federal
7 Employees' Retirement System Act of 1986 (Public
8 Law 99-335; 100 Stat. 599) is amended by adding at
9 the end the following:

10 “(4) A member of the Foreign Service described in sec-
11 tion 103(6) of the Foreign Service Act of 1980 shall be ineli-
12 gible to make any election under this subsection.”.

13 **(2) EFFECTIVE DATE.—**The amendment made by
14 paragraph (1) shall be effective as of June 30, 1987.
15 Any refund which becomes payable as a result of the
16 preceding sentence shall, to the extent that such refund
17 involves an individual's contributions to the Thrift Sav-
18 ings Fund (established under section 8437 of title 5,
19 United States Code), be adjusted to reflect any earn-
20 ings attributable thereto.

21 **(b) EXCLUSION FROM FERS.—**

22 **(1) IN GENERAL.—**Section 8401(11) is
23 amended—

24 **(A)** by striking “or” at the end of clause
25 **(i)(III);**

1 (B) by inserting “or” after the semicolon in
2 clause (ii); and

3 (C) by adding at the end the following:

4 “(iii) a member of the Foreign Service de-
5 scribed in section 103(6) of the Foreign Service
6 Act of 1980;”.

7 (2) **EFFECTIVE DATE.**—The amendments made
8 by paragraph (1) shall be effective as of January 1,
9 1987. Any refund which becomes payable as a result
10 of the preceding sentence shall, to the extent that such
11 refund involves an individual’s contributions to the
12 Thrift Savings Fund (established under section 8437 of
13 title 5, United States Code), be adjusted to reflect any
14 earnings attributable thereto.

15 **SEC. 114. EXCLUSION OF CERTAIN ONE-TIME GOVERNMENT**
16 **CONTRIBUTIONS TO THRIFT SAVINGS PLAN.**

17 Section 8432(d) is amended by adding at the end the
18 following: “However, no contribution made under subsection
19 (c)(3) shall be subject to, or taken into account, for purposes
20 of the preceding sentence.”.

21 **SEC. 115. GOVERNMENT’S 1 PERCENT THRIFT CONTRIBUTION**
22 **NOT FORFEITABLE FOR DEATH IN SERVICE.**

23 Section 8432(g) is amended—

24 (1) in paragraph (1), by striking “Except as pro-
25 vided in paragraphs (2) and (3),” and inserting in lieu

1 thereof “Except as otherwise provided in this subsec-
2 tion,”; and

3 (2) by adding at the end the following:

4 “(4) Nothing in paragraph (2) or (3) shall cause the for-
5 feiture of any contributions made for the benefit of an em-
6 ployee, Member, or Congressional employee under subsection
7 (c)(1), or any earnings attributable thereto, if such employee,
8 Member, or Congressional employee is not separated from
9 Government employment as of date of death.”.

10 **SEC. 116. CLARIFICATION RELATING TO AMOUNTS SUBJECT**
11 **TO LEGAL PROCESS FOR CHILD SUPPORT OR**
12 **ALIMONY.**

13 Section 8437(e)(3) is amended by adding at the end the
14 following: “For the purposes of this paragraph, an amount
15 contributed for the benefit of an individual under section
16 8432(c)(1) (including any earnings attributable thereto) shall
17 not be considered part of the balance in such individual’s ac-
18 count unless such amount is nonforfeitable, as determined
19 under applicable provisions of section 8432(g).”.

20 **SEC. 117. CLARIFICATION RELATING TO SOURCE OF FUNDING**
21 **FOR ADMINISTRATIVE EXPENSES OF THE**
22 **THRIFT SAVINGS PLAN.**

23 (a) **IN GENERAL.**—Section 8437 is amended—

1 (1) in subsection (d), by inserting a period after
2 “earnings in such Fund” and by striking the matter
3 thereafter; and

4 (2) in subsection (e)(1), by inserting “subsection
5 (d) and” before “paragraphs (2) and (3),”.

6 (b) **EFFECTIVE DATE.**—The amendments made by sub-
7 section (a) shall take effect on the first day of the first month
8 beginning on or after the date of the enactment of this Act.

9 **SEC. 118. EXCLUSION FROM AGE-BASED REDUCTION UNDER**
10 **CHAPTER 83 FOR CSRS PORTION OF ANNUITY**
11 **MADE SUBJECT TO REDUCTION UNDER CHAP-**
12 **TER 84 FOLLOWING AN ELECTION INTO FERS.**

13 Section 302(a)(4) of the Federal Employees' Retirement
14 System Act of 1986 (Public Law 99–335; 100 Stat. 603) is
15 amended by adding at the end the following: “Notwithstand-
16 ing the preceding sentence, in computing accrued benefits
17 under this paragraph for an individual retiring under section
18 8412(g) or 8413(b) of title 5, United States Code, section
19 8339(h) of such title (relating to reductions based on age at
20 date of separation) shall not apply.”.

1 SEC. 119. INTEREST ON REFUNDS OF CERTAIN EXCESS CON-
2 TRIBUTIONS BY INDIVIDUALS MAKING ELEC-
3 TIONS UNDER TITLE III OF THE FEDERAL EM-
4 PLOYEES' RETIREMENT SYSTEM ACT OF 1986.

5 (a) FOR INDIVIDUALS ELECTING FERS COVERAGE.—

6 Section 302(c)(2) of the Federal Employees' Retirement
7 System Act of 1986 (Public Law 99-335; 100 Stat. 605), as
8 amended by section 302(a) of the Federal Employees' Retire-
9 ment System Technical Corrections Act of 1986 (Public Law
10 99-556; 100 Stat. 3136), is amended to read as follows:

11 “(2) In accordance with regulations prescribed by the
12 Office of Personnel Management, a refund under this subsec-
13 tion shall be payable upon written application therefor filed
14 with the Office and shall include interest at the rate provided
15 in section 8334(e)(3) of title 5, United States Code. Interest
16 on the refund shall accrue monthly and shall be compounded
17 annually.”.

18 (b) FOR INDIVIDUALS ELECTING COVERAGE UNDER
19 CSRS WITH OFFSETS FOR SOCIAL SECURITY.—The last
20 sentence of section 303(a) of the Federal Employees' Retire-
21 ment System Act of 1986 (Public Law 99-335; 100 Stat.
22 605), as added by section 302(b) of the Federal Employees'
23 Retirement System Technical Corrections Act of 1986
24 (Public Law 99-556; 100 Stat. 3136), is amended to read as
25 follows: “A refund under this subsection shall be computed

1 with interest in accordance with section 302(c)(2) and regula-
 2 tions prescribed by the Office of Personnel Management.”.

3 **SEC. 120. EFFECTIVE DATE OF FINAL MERIT INCREASE**
 4 **UNDER THE PERFORMANCE MANAGEMENT AND**
 5 **RECOGNITION SYSTEM FOR EMPLOYEES OF**
 6 **SAINT ELIZABETHS HOSPITAL.**

7 (a) **IN GENERAL.**—Notwithstanding any other provision
 8 of law, the effective date of any merit increase under section
 9 5404 of title 5, United States Code, during calendar year
 10 1987 shall, in the case of any individual employed in or under
 11 Saint Elizabeths Hospital on September 1, 1987, be consid-
 12 ered to be the first day of the first applicable pay period com-
 13 mencing on or after September 1 (rather than October 1) of
 14 such year.

15 (b) **DEFINITION.**—For purposes of this section, “Saint
 16 Elizabeths Hospital” refers to the institution identified under
 17 section 3(1) of the Saint Elizabeths Hospital and District of
 18 Columbia Mental Health Services Act (Public Law 98-621;
 19 98 Stat. 3371).

20 **SEC. 121. DEADLINE FOR AGENCY CONTRIBUTIONS TO THRIFT**
 21 **SAVINGS PLAN.**

22 (a) **THE 1-PERCENT CONTRIBUTION.**—Section
 23 8432(c)(1)(A) is amended—

24 (1) by striking “At the end of” and inserting in
 25 lieu thereof “At the time prescribed by the Executive

1 Director, but no later than 12 days after the end of”;
2 and

3 (2) by striking “at the end of each succeeding pay
4 period,” and inserting in lieu thereof “within such time
5 as the Executive Director may prescribe with respect
6 to succeeding pay periods (but no later than 12 days
7 after the end of each such pay period),”.

8 (b) AMOUNTS BASED ON INDIVIDUAL CONTRIBU-
9 TIONS.—The second sentence of section 8432(c)(2)(A) is
10 amended by striking “at the end of such pay period.” and
11 inserting in lieu thereof “within such time as the Executive
12 Director may prescribe, but no later than 12 days after the
13 end of each such pay period.”.

14 **SEC. 122. AMENDMENTS RELATING TO DISABILITY ANNUITIES.**

15 (a) INITIAL DISABILITY ANNUITY OFFSET TO BE
16 BASED ON ACTUAL SOCIAL SECURITY DISABILITY INSUR-
17 ANCE BENEFIT; AMOUNT OF OFFSET NOT SUBJECT TO
18 ADJUSTMENT UNTIL AFTER THE FIRST YEAR.—Section
19 8452(a)(2)(B)(i) of title 5, United States Code, is amended to
20 read as follows:

21 “(B)(i) For purposes of this paragraph, the assumed dis-
22 ability insurance benefit of an annuitant for any month shall
23 be equal to—

24 “(I) the amount of the disability insurance benefit
25 to which the annuitant is entitled under section 223 of

1 the Social Security Act for the month in which the an-
2 nuity under this subchapter commences, or is restored,
3 or, if no entitlement to such disability insurance bene-
4 fits exists for such month, the first month thereafter for
5 which the annuitant is entitled both to an annuity
6 under this subchapter and disability insurance benefits
7 under section 223 of the Social Security Act, adjusted
8 by

9 “(II) all adjustments made under section 8462(b)
10 after the end of the period referred to in paragraph
11 (1)(A)(i) (or, if later, after the end of the month preced-
12 ing the first month for which the annuitant is entitled
13 both to an annuity under this subchapter and disability
14 insurance benefits under section 223 of the Social Se-
15 curity Act) and before the start of the month involved
16 (without regard to whether the annuitant’s annuity was
17 affected by any of those adjustments).”.

18 (b) REVISED METHOD FOR REDETERMINING A DIS-
19 ABILITY ANNUITY AT AGE 62.—Section 8452(b) of title 5,
20 United States Code, is amended to read as follows:

21 “(b)(1) Except as provided in subsection (d), if an annui-
22 tant is entitled to an annuity under this subchapter as of the
23 day before the date of the sixty-second anniversary of the
24 annuitant’s birth (hereinafter in this section referred to as the
25 annuitant’s ‘redetermination date’), such annuity shall be re-

1 determined by the Office in accordance with paragraph (2).
2 Effective as of the annuitant's redetermination date, the an-
3 nuity (as so redetermined) shall be in lieu of any annuity to
4 which such annuitant would otherwise be entitled under this
5 subchapter.

6 “(2)(A) An annuity redetermined under this subsection
7 shall be equal to the amount of the annuity to which the
8 annuitant would be entitled under section 8415, taking into
9 account the provisions of subparagraph (B).

10 “(B) In performing a computation under this para-
11 graph—

12 “(i) creditable service of an annuitant shall be in-
13 creased by including any period (or periods) before the
14 annuitant's redetermination date during which the an-
15 nuitant was entitled to an annuity under this subchap-
16 ter; and

17 “(ii) the average pay which would otherwise be
18 used shall be adjusted to reflect all adjustments made
19 under section 8462(b) with respect to any period (or
20 periods) referred to in clause (i) (without regard to
21 whether the annuitant's annuity was affected by any of
22 those adjustments).”

23 (c) METHOD FOR APPLYING COST-OF-LIVING ADJUST-
24 MENTS TO CERTAIN DISABILITY ANNUITY PROVISIONS.—

1 (1) MINIMUM DISABILITY ANNUITY AMOUNT
2 SUBJECT TO ADJUSTMENT AFTER THE FIRST
3 YEAR.—Section 8452 is amended—

4 (A) by redesignating subsection (d) as subsec-
5 tion (d)(1); and

6 (B) by adding after subsection (d)(1), as so
7 redesignated, the following:

8 “(2) In applying this subsection with respect to any an-
9 nuitant, the amount of an annuity so computed under section
10 8415 shall be adjusted under section 8462 (including subsec-
11 tion (c) thereof)—

12 “(A) to the same extent, and otherwise in the
13 same manner, as if it were an annuity—

14 “(i) subject to adjustment under such section;
15 and

16 “(ii) with a commencement date coinciding
17 with the date the annuitant’s annuity commenced
18 or was restored under this subchapter, as the case
19 may be; and

20 “(B) whether the amount actually payable to the
21 annuitant under this section in any month is deter-
22 mined under this subsection or otherwise.”.

23 (2) DISABILITY ANNUITY COLAS.—

1 (A) IN GENERAL.—Section 8452(a)(1)(B) of
2 title 5, United States Code, is amended to read as
3 follows:

4 “(B) An annuity computed under this paragraph—

5 “(i) shall not, during any period referred to in sub-
6 paragraph (A)(i), be adjusted under section 8462; but

7 “(ii) shall, after the end of any period referred to
8 in subparagraph (A)(i), be adjusted to reflect all adjust-
9 ments made under section 8462(b) after the end of the
10 period referred to in subparagraph (A)(i), whether the
11 amount actually payable to the annuitant under this
12 section in any month is determined under this subsec-
13 tion or otherwise.”.

14 (B) CLARIFYING AMENDMENT.—Section
15 8452(a) of title 5, United States Code, is amended
16 by adding at the end the following:

17 “(3) Section 8462 shall apply with respect to amounts
18 under this subsection only as provided in paragraphs (1) and
19 (2).”.

20 (d) EFFECTIVE DATE.—The amendments made by this
21 section shall be effective as of January 1, 1987, as if they
22 had been enacted as part of the Federal Employees’ Retire-
23 ment System Act of 1986 (Public Law 99–335; 100 Stat.
24 514 and following).

1 **SEC. 123. CLARIFYING AMENDMENTS RELATING TO FUNDING.**

2 (a) **FUND BALANCE.**—Section 8331(18) is amended by
3 adding at the end the following:

4 “but does not include any amount attributable to—

5 “(i) the Federal Employees’ Retirement
6 System; or

7 “(ii) contributions made under the Federal
8 Employees’ Retirement Contribution Temporary
9 Adjustment Act of 1983 by or on behalf of any
10 individual who became subject to the Federal Em-
11 ployees’ Retirement System;”.

12 (b) Section 8423(b)(1) is amended by striking the period
13 and inserting in lieu thereof “, except that in computing any
14 supplemental liability under subparagraph (B), any benefits,
15 deductions, or other amounts may not be taken into account
16 unless they relate to a period of service performed by the
17 current or former employee involved while subject to this
18 chapter.”.

19 **SEC. 124. CONCURRENT ENTITLEMENT TO BENEFITS UNDER**
20 **CHAPTER 81 AND CHAPTER 83 OR 84 OF TITLE 5,**
21 **UNITED STATES CODE.**

22 (a) **IN GENERAL.**—

23 (1) **AMENDMENTS.**—

24 (A) **CSRS.**—Section 8337 is amended by
25 striking subsections (f) and (g) and inserting in lieu
26 thereof the following:

1 “(f)(1) An individual is not entitled to receive—

2 “(A) an annuity under this subchapter, and

3 “(B) compensation for injury to, or disability of,
4 such individual under subchapter I of chapter 81, other
5 than compensation payable under section 8107,
6 covering the same period of time.

7 “(2) An individual is not entitled to receive an annuity
8 under this subchapter and a concurrent benefit under sub-
9 chapter I of chapter 81 on account of the death of the same
10 person.

11 “(3) Paragraphs (1) and (2) do not bar the right of a
12 claimant to the greater benefit conferred by either this sub-
13 chapter or subchapter I of chapter 81.

14 “(g) If an individual is entitled to an annuity under this
15 subchapter, and the individual receives a lump-sum payment
16 for compensation under section 8135 based on the disability
17 or death of the same person, so much of the compensation as
18 has been paid for a period extended beyond the date payment
19 of the annuity commences, as determined by the Department
20 of Labor, shall be refunded to that Department for credit to
21 the Employees’ Compensation Fund. Before the individual
22 may receive the annuity, the individual shall—

23 “(1) refund to the Department of Labor the
24 amount representing the commuted compensation pay-
25 ments for the extended period; or

1 “(2) authorize the deduction of the amount from
2 the annuity.

3 Deductions from the annuity may be made from accrued or
4 accruing payments. The amounts deducted and withheld from
5 the annuity shall be transmitted to the Department of Labor
6 for reimbursement to the Employees’ Compensation Fund.
7 When the Department of Labor finds that the financial cir-
8 cumstances of an individual entitled to an annuity under this
9 subchapter warrant deferred refunding, deductions from the
10 annuity may be prorated against and paid from accruing
11 payments in such manner as the Department determines
12 appropriate.”.

13 (B) FERS.—Subchapter VI of chapter 84 is
14 amended by inserting after section 8464 the
15 following:

16 “§ 8464a. **Relationship between annuity and workers’**
17 **compensation**

18 “(a)(1) An individual is not entitled to receive—

19 “(A) an annuity under subchapter II or V, and

20 “(B) compensation for injury to, or disability of,
21 such individual under subchapter I of chapter 81, other
22 than compensation payable under section 8107,
23 covering the same period of time.

24 “(2) An individual is not entitled to receive an annuity
25 under subchapter IV and a concurrent benefit under subchap-

1 ter I of chapter 81 on account of the death of the same
2 person.

3 “(3) Paragraphs (1) and (2) do not bar the right of a
4 claimant to the greater benefit conferred by either this chap-
5 ter or subchapter I of chapter 81.

6 “(b) If an individual is entitled to an annuity under sub-
7 chapter II, IV, or V, and the individual receives a lump-sum
8 payment for compensation under section 8135 based on the
9 disability or death of the same person, so much of the com-
10 pensation as has been paid for a period extended beyond the
11 date payment of the annuity commences, as determined by
12 the Department of Labor, shall be refunded to that Depart-
13 ment for credit to the Employees’ Compensation Fund.
14 Before the individual may receive the annuity, the individual
15 shall—

16 “(1) refund to the Department of Labor the
17 amount representing the commuted compensation pay-
18 ments for the extended period; or

19 “(2) authorize the deduction of the amount from
20 the annuity.

21 Deductions from the annuity may be made from accrued or
22 accruing payments. The amounts deducted and withheld from
23 the annuity shall be transmitted to the Department of Labor
24 for reimbursement to the Employees’ Compensation Fund.
25 When the Department of Labor finds that the financial cir-

1 cumstances of an individual entitled to an annuity under sub-
 2 chapter II, IV, or V warrant deferred refunding, deductions
 3 from the annuity may be prorated against and paid from ac-
 4 cruing payments in such manner as the Department deter-
 5 mines appropriate.”.

6 (2) CHAPTER ANALYSIS.—The analysis for chap-
 7 ter 84 is amended by inserting after the item relating
 8 to section 8464 the following:

“8464a. Relationship between annuity and workers’ compensation.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) Subchapter V of chapter 84 is amended—

11 (A) by striking section 8456; and

12 (B) by redesignating section 8457 as section
 13 8456.

14 (2) The analysis for chapter 84 is amended—

15 (A) by striking the item relating to section
 16 8456; and

17 (B) by striking “8457” and inserting in lieu
 18 thereof “8456”.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-
 21 graph (2), the amendments made by this section shall
 22 be effective as of January 1, 1987, and shall apply
 23 with respect to benefits payable based on a death or
 24 disability occurring on or after that date.

1 (2) EXCEPTION.—The amendment made by sub-
2 section (a)(1)(A) shall take effect on the date of the en-
3 actment of this Act and shall apply with respect to
4 benefits payable based on a death or disability occur-
5 ring on or after that date.

6 **SEC. 125. ELIGIBILITY OF CERTAIN INDIVIDUALS TO PARTICI-
7 PATE IN THE THRIFT SAVINGS PLAN.**

8 (a) DEFINITIONS.—For purposes of this section—

9 (1) the term “Executive Director” means the Ex-
10 ecutive Director under section 8474 of title 5, United
11 States Code; and

12 (2) the term “Thrift Savings Plan” refers to the
13 program under subchapter III of chapter 84 of title 5,
14 United States Code.

15 (b) REGULATIONS.—

16 (1) IN GENERAL.—The Executive Director shall
17 prescribe regulations relating to participation in the
18 Thrift Savings Plan by an individual described in sub-
19 section (c).

20 (2) SPECIFIC MATTERS TO BE INCLUDED.—
21 Under the regulations—

22 (A) in computing a percentage of basic pay
23 to determine an amount to be contributed to the
24 Thrift Savings Fund, the rate of basic pay to be
25 used shall be the same as that used in computing

1 any amount which the individual involved is oth-
2 erwise required, as a condition for participating in
3 the Civil Service Retirement System or the Fed-
4 eral Employees' Retirement System (as the case
5 may be), to contribute to the Civil Service Retire-
6 ment and Disability Fund; and

7 (B) an employing authority which would not
8 otherwise make contributions to the Thrift Sav-
9 ings Fund shall be allowed, with respect to any
10 individual under subsection (c) who is serving
11 under such authority, and at the sole discretion of
12 such authority, to make any contributions on
13 behalf of such individual which would be permit-
14 ted or required under the provisions of section
15 8432(c) of title 5, United States Code, if such au-
16 thority were the individual's employing agency
17 under such provisions.

18 (c) **APPLICABILITY.**—This section applies with respect
19 to any individual participating in the Civil Service Retire-
20 ment System or the Federal Employees' Retirement System
21 as—

22 (1) an individual who has entered on approved
23 leave without pay to serve as a full-time officer or em-
24 ployee of an organization composed primarily of em-

1 ployees (as defined by section 8331(1) or 8401(11) of
2 title 5, United States Code);

3 (2) an individual assigned from a Federal agency
4 to a State or local government under subchapter VI of
5 chapter 33 of title 5, United States Code; or

6 (3) an individual appointed or otherwise assigned
7 to one of the cooperative extension services, as defined
8 by section 1404(5) of the National Agricultural Re-
9 search, Extension, and Teaching Policy Act of 1977 (7
10 U.S.C. 3103(5)).

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the regulations prescribed under this section
14 shall become effective in accordance with the provi-
15 sions of such regulations.

16 (2) EXCEPTION.—The regulations prescribed
17 under this section shall, with respect to individuals
18 under subsection (c)(3), be effective as of January 1,
19 1987.

20 **SEC. 126. SPECIAL PAY OF VETERANS' ADMINISTRATION PHY-**
21 **SICIANS INCLUDED IN AVERAGE SALARY**
22 **UNDER FERS.**

23 Section 4118(f) of title 38, United States Code, is
24 amended—

1 (1) in paragraph (1), by striking “81 or 83” and
2 inserting in lieu thereof “81, 83, or 84”; and

3 (2) in paragraph (2)—

4 (A) in the first sentence, by striking “chapter
5 83 of title 5” and inserting in lieu thereof “chap-
6 ter 83 or 84 of title 5, as the case may be”;

7 (B) in the second sentence, by striking “sec-
8 tion 8331(4)” and all that follows thereafter
9 through “; or” and inserting in lieu thereof the
10 following: “section 8331(4) or 8401(3) of such
11 title (as applicable) only—

12 “(A) for the purposes of computing benefits
13 paid under section 8337, 8341 (d) or (e), 8442(b),
14 8443, or 8451 of such title; or”;

15 (C) in subparagraph (B), by inserting “if” at
16 the beginning thereof.

17 **SEC. 127. APPLICATION DEADLINE FOR CERTAIN FORMER**
18 **SPOUSES.**

19 Section 4(b)(1)(B) of the Civil Service Retirement
20 Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat.
21 3205), as amended by section 201(b)(1)(C) of the Federal
22 Employees Benefits Improvement Act of 1986 (Public Law
23 99-251; 100 Stat. 22), is amended—

24 (1) in clause (i), by inserting “, and before
25 May 8, 1987” before the semicolon; and

1 (2) by amending clause (iv) to read as follows:

2 “(iv) the former spouse files an application
3 for the survivor annuity with the Office on or
4 before May 7, 1989; and”.

5 **TITLE II—FOREIGN SERVICE RETIREMENT**

6 **PART A—GENERAL PROVISIONS**

7 **SEC. 201. REFERENCES.**

8 Except as otherwise expressly provided, whenever in
9 this title an amendment or repeal is expressed in terms of an
10 amendment or repeal to a section or other provision, the ref-
11 erence shall be considered to be made to a section or other
12 provision of the Foreign Service Act of 1980 (22 U.S.C.
13 4041 et seq.).

14 **SEC. 202. FORMER SPOUSES MARRIED BETWEEN 9 MONTHS**
15 **AND 10 YEARS.**

16 (a) **IN GENERAL.**—Subchapter I of chapter 8 (22
17 U.S.C. 4041 et seq.) is amended by adding after section 829
18 the following new section:

19 “**SEC. 830. QUALIFIED FORMER WIVES AND HUS-**
20 **BANDS.**—(a) Notwithstanding section 4(h) of the Civil Serv-
21 ice Retirement Spouse Equity Act of 1984, section 827 of
22 this Act shall apply with respect to section 8339(j), section
23 8341(e), and section 8341(h) of title 5, United States Code,
24 and section 4 (except for subsection (b)) of the Civil Service
25 Retirement Spouse Equity Act of 1984 to the extent that

1 those sections apply to a qualified former wife or husband.
2 For the purposes of this section any reference in the Civil
3 Service Retirement Spouse Equity Act of 1984 to the effec-
4 tive date of that Act shall be deemed to be a reference to the
5 effective date of this section.

6 “(b)(1) Payments pursuant to this section which would
7 otherwise be made to a participant or former participant
8 based upon his service shall be paid (in whole or in part) by
9 the Secretary of State to another person if and to the extent
10 expressly provided for in the terms of any court order or
11 spousal agreement. Any payment under this paragraph to a
12 person bars recovery by any other person.

13 “(2) Paragraph (1) shall only apply to payments made
14 by the Secretary of State under this chapter after the date of
15 receipt by the Secretary of State of written notice of such
16 court order or spousal agreement and such additional infor-
17 mation and documentation as the Secretary of State may
18 prescribe.

19 “(c) For the purposes of this section, the term ‘qualified
20 former wife or husband’ means a former wife or husband of
21 an individual if—

22 “(1) such individual performed at least 18 months
23 of civilian service creditable under this chapter; and

1 “(2) the former wife or husband was married to
2 such individual for at least 9 months but not more than
3 10 years.

4 “(d) Regulations issued pursuant to section 827 to im-
5 plement this section shall be submitted to the Committee on
6 Post Office and Civil Service and the Committee on Foreign
7 Affairs of the House of Representatives and the Committee
8 on Foreign Relations of the Senate. Such regulations shall
9 not take effect until 60 days after the date on which such
10 regulations are submitted to the Congress.”.

11 (b) CONFORMING AMENDMENT.—The table of contents
12 in section 2 of the Foreign Service Act of 1980 is amended
13 by inserting after the item relating to section 829 the
14 following:

“Sec. 830. Qualified former wives and husbands.”.

15 **SEC. 203. ELECTION TO PROVIDE SURVIVOR ANNUITY FOR**
16 **CERTAIN SPOUSES ACQUIRED BEFORE THE EF-**
17 **FECTIVE DATE OF THE FOREIGN SERVICE ACT**
18 **OF 1980.**

19 (a) ELECTION.—A former participant who married his
20 or her current spouse before the effective date of the Foreign
21 Service Act of 1980 and who married such spouse after re-
22 tirement under the Foreign Service Retirement and Disabil-
23 ity System and who was unable to provide a survivor annuity
24 for such spouse because—

1 (1) the participant was married at the time of re-
2 tirement and elected not to provide a survivor annuity
3 for that spouse at the time of retirement, or

4 (2) subject to subsection (e), the participant failed
5 to notify the Secretary of State of the participant's
6 post-retirement marriage within one year after the
7 marriage,
8 may make the election described in subsection (b).

9 (b) ELECTION DESCRIBED.—

10 (1) The election referred to in subsection (a) is an
11 election in writing—

12 (A) to provide for a survivor annuity for such
13 spouse under section 806(g) of the Foreign Serv-
14 ice Act of 1980 (22 U.S.C. 4046(g));

15 (B) to have his or her annuity reduced under
16 section 806(b)(2) of such Act; and

17 (C) to deposit in the Foreign Service Retire-
18 ment and Disability Fund an amount determined
19 by the Secretary of State, as nearly as may be
20 administratively feasible, to reflect the amount by
21 which such participant's annuity would have been
22 reduced had the election been continuously in
23 effect since the annuity commenced, plus interest
24 computed under paragraph (2).

1 (2) For the purposes of paragraph (1), the annual
2 rate of interest shall be 6 percent for each year during
3 which the annuity would have been reduced if the elec-
4 tion had been in effect on and after the date the annu-
5 ity commenced.

6 (c) **OFFSET.**—If the participant does not make the de-
7 posit referred to in subsection (b)(1)(C), the Secretary of
8 State shall collect such amount by offset against such partici-
9 pant's annuity, up to a maximum of 25 percent of the net
10 annuity otherwise payable to such participant. Such partici-
11 pant is deemed to consent to such offset.

12 (d) **NOTICE.**—The Secretary of State shall provide for
13 notice to the general public of the right to make an election
14 under this section.

15 (e) **PROOF OF ATTEMPTED ELECTION.**—In any case in
16 which subsection (a)(2) applies, the retired employee or
17 Member shall provide the Secretary of State with such docu-
18 mentation as the Secretary of State shall decide is appropri-
19 ate, to show that such participant attempted to elect a re-
20 duced annuity with survivor benefit for his or her current
21 spouse and that such election was rejected by the Secretary
22 of State because it was untimely filed.

23 (f) **DEPOSIT.**—A deposit required by this subsection
24 may be made by the surviving spouse of the participant.

1 (g) LIMITATION.—The election authorized in subsection
2 (a) may only be made within one year after the date of enact-
3 ment of this title in accordance with procedures prescribed by
4 the Secretary of State.

5 (h) DEFINITIONS.—For the purposes of this section, the
6 terms “participant” and “surviving spouse” have the same
7 meaning given such terms in subchapter I of chapter 8 of the
8 Foreign Service Act of 1980.

9 **SEC. 204. BENEFITS FOR CERTAIN FORMER SPOUSES OF MEM-**
10 **BERS OF THE FOREIGN SERVICE.**

11 (a) IN GENERAL.—Subchapter I of chapter 8 (22
12 U.S.C. 3901 et seq.), as amended by section 202 of this title,
13 is amended by inserting after section 830 the following:

14 **“SEC. 831. RETIREMENT BENEFITS FOR CERTAIN FORMER**
15 **SPOUSES.**

16 “(a) Any individual who was a former spouse of a par-
17 ticipant or former participant on February 14, 1981, shall be
18 entitled, to the extent of available appropriations, and except
19 to the extent such former spouse is disqualified under subsec-
20 tion (b), to benefits—

21 “(1) if married to the participant throughout the
22 creditable service of the participant, equal to 50 per-
23 cent of the benefits of the participant; or

1 “(2) if not married to the participant throughout
2 such creditable service, equal to that former spouse’s
3 pro rata share of 50 percent of such benefits.

4 “(b) A former spouse shall not be entitled to benefits
5 under this section if—

6 “(1) the former spouse remarries before age 55;

7 or

8 “(2) the former spouse was not married to the
9 participant at least 10 years during service of the par-
10 ticipant which is creditable under this chapter with at
11 least 5 years occurring while the participant was a
12 member of the Foreign Service.

13 “(c)(1) The entitlement of a former spouse to benefits
14 under this section—

15 “(A) shall commence on the later of—

16 “(i) the day the participant upon whose serv-
17 ice the benefits are based becomes entitled to ben-
18 efits under this chapter; or

19 “(ii) the first day of the month in which the
20 divorce or annulment involved becomes final; and

21 “(B) shall terminate on the earlier of—

22 “(i) the last day of the month before the
23 former spouse dies or remarries before 55 years of
24 age; or

1 “(ii) the date of the benefits of the partici-
2 pant terminates.

3 “(2) Notwithstanding paragraph (1), in the case of any
4 former spouse of a disability annuitant—

5 “(A) the benefits of the former spouse shall com-
6 mence on the date the participant would qualify on the
7 basis of his or her creditable service for benefits under
8 this chapter (other than a disability annuity) or the
9 date the disability annuity begins, whichever is later,
10 and

11 “(B) the amount of benefits of the former spouse
12 shall be calculated on the basis of benefits for which
13 the participant would otherwise so qualify.

14 “(3) Benefits under this section shall be treated the
15 same as an annuity under section 814(a)(7) for purposes of
16 section 806(h) or any comparable provision of law.

17 “(4)(A) Benefits under this section shall not be payable
18 unless appropriate written application is provided to the Sec-
19 retary, complete with any supporting documentation which
20 the Secretary may by regulation require, within 30 months
21 after the effective date of this section. The Secretary may
22 waive the 30-month application requirement under this sub-
23 paragraph in any case in which the Secretary determines that
24 the circumstances so warrant.

1 “(B) Upon approval of an application provided under
2 subparagraph (A), the appropriate benefits shall be payable to
3 the former spouse with respect to all periods before such ap-
4 proval during which the former spouse was entitled to such
5 benefits under this section, but in no event shall benefits be
6 payable under this section with respect to any period before
7 the effective date of this section.

8 “(d) For the purpose of this section, the term ‘benefits’
9 means—

10 “(1) with respect to a participant or former partic-
11 ipant subject to this subchapter, the annuity of the par-
12 ticipant or former participant; and

13 “(2) with respect to a participant or former partic-
14 ipant subject to subchapter II, the benefits of the par-
15 ticipant or former participant under that subchapter.

16 “(e) Nothing in this section shall be construed to impair,
17 reduce, or otherwise affect the annuity or the entitlement to
18 an annuity of a participant or former participant under this
19 chapter.

20 **“SEC. 832. SURVIVOR BENEFITS FOR CERTAIN FORMER**
21 **SPOUSES.**

22 “(a) Any individual who was a former spouse of a par-
23 ticipant or former participant on February 14, 1981, shall be
24 entitled, to the extent of available appropriations, and except
25 to the extent such former spouse is disqualified under subsec-

1 tion (b), to a survivor annuity equal to 55 percent of the
2 greater of—

3 “(1) the full amount of the participant’s or former
4 participant’s annuity, as computed under this chapter;
5 or

6 “(2) the full amount of what such annuity as so
7 computed would be if the participant or former partici-
8 pant had not withdrawn a lump-sum portion of contri-
9 butions made with respect to such annuity.

10 “(b) If an election has been made with respect to such
11 former spouse under section 2109 or 806(f), then the survivor
12 annuity under subsection (a) of such former spouse shall be
13 equal to the full amount of the participant’s or former partici-
14 pant’s annuity referred to in subsection (a) less the amount of
15 such election.

16 “(c) A former spouse shall not be entitled to a survivor
17 annuity under this section if—

18 “(1) the former spouse remarries before age 55;
19 or

20 “(2) the former spouse was not married to the
21 participant at least 10 years during service of the par-
22 ticipant which is creditable under this chapter with at
23 least 5 years occurring while the participant was a
24 member of the Foreign Service.

1 “(d)(1) The entitlement of a former spouse to a survivor
2 annuity under this section—

3 “(A) shall commence—

4 “(i) in the case of a former spouse of a par-
5 ticipant or former participant who is deceased as
6 of the effective date of this section, beginning on
7 such date; and

8 “(ii) in the case of any other former spouse,
9 beginning on the later of—

10 “(I) the date that the participant or
11 former participant to whom the former
12 spouse was married dies; or

13 “(II) the effective date of this section;
14 and

15 “(B) shall terminate on the last day of the month
16 before the former spouse’s death or remarriage before
17 attaining the age 55.

18 “(2)(A) A survivor annuity under this section shall not
19 be payable unless appropriate written application is provided
20 to the Secretary, complete with any supporting documenta-
21 tion which the Secretary may by regulation require, within
22 30 months after the effective date of this section. The Secre-
23 tary may waive the 30-month application requirement under
24 this subparagraph in any case in which the Secretary deter-
25 mines that the circumstances so warrant.

1 “(B) Upon approval of an application provided under
2 subparagraph (A), the appropriate survivor annuity shall be
3 payable to the former spouse with respect to all periods
4 before such approval during which the former spouse was
5 entitled to such annuity under this section, but in no event
6 shall a survivor annuity be payable under this section with
7 respect to any period before the effective date of this section.

8 “(e) The Secretary shall—

9 “(1) as soon as possible, but not later than 60
10 days after the effective date of this section, issue such
11 regulations as may be necessary to carry out this sec-
12 tion; and

13 “(2) to the extent practicable, and as soon as pos-
14 sible, inform each individual who was a former spouse
15 of a participant or former participant on February 14,
16 1981, of any rights which such individual may have
17 under this section.

18 “(f) Nothing in this section shall be construed to impair,
19 reduce, or otherwise affect the annuity or the entitlement to
20 an annuity of a participant or former participant under this
21 chapter.

22 **“SEC. 833. HEALTH BENEFITS FOR CERTAIN FORMER**
23 **SPOUSES.**

24 “(a) Except as provided in subsection (c)(1), any
25 individual—

1 “(1) formerly married to an employee or former
2 employee of the Foreign Service, whose marriage was
3 dissolved by divorce or annulment before May 7, 1985;

4 “(2) who, at any time during the 18-month period
5 before the divorce or annulment became final, was cov-
6 ered under a health benefits plan as a member of the
7 family of such employee or former employee; and

8 “(3) who was married to such employee for not
9 less than 10 years during periods of government serv-
10 ice by such employee, is eligible for coverage under a
11 health benefits plan in accordance with the provisions
12 of this section.

13 “(b)(1) Any individual eligible for coverage under sub-
14 section (a) may enroll in a health benefits plan for self alone
15 or for self and family if, before the expiration of the 6-month
16 period beginning on the effective date of this section, and in
17 accordance with such procedures as the Director of the Office
18 of Personnel Management shall by regulation prescribe, such
19 individual—

20 “(A) files an election for such enrollment; and

21 “(B) arranges to pay currently into the Employ-
22 ees Health Benefits Fund under section 8909 of title 5,
23 United States Code, an amount equal to the sum of the
24 employee and agency contributions payable in the case
25 of an employee enrolled under chapter 89 of such title

1 in the same health benefits plan and with the same
2 level of benefits.

3 “(2) The Secretary shall, as soon as possible, take all
4 steps practicable—

5 “(A) to determine the identity and current address
6 of each former spouse eligible for coverage under sub-
7 section (a); and

8 “(B) to notify each such former spouse of that in-
9 dividual’s rights under this section.

10 “(3) The Secretary shall waive the 6-month limitation
11 set forth in paragraph (1) in any case in which the Secretary
12 determines that the circumstances so warrant.

13 “(c)(1) Any former spouse who remarries before age 55
14 is not eligible to make an election under subsection (b)(1).

15 “(2) Any former spouse enrolled in a health benefits
16 plan pursuant to an election under subsection (b)(1) may con-
17 tinue the enrollment under the conditions of eligibility which
18 the Director of the Office of Personnel Management shall by
19 regulation prescribe, except that any former spouse who re-
20 marries before age 55 shall not be eligible for continued en-
21 rollment under this section after the end of the 31-day period
22 beginning on the date of remarriage.

23 “(d) No individual may be covered by a health benefits
24 plan under this section during any period in which such indi-
25 vidual is enrolled in a health benefits plan under any other

1 authority, nor may any individual be covered under more
2 than one enrollment under this section.

3 “(e) For purposes of this section the term ‘health bene-
4 fits plan’ means an approved health benefits plan under chap-
5 ter 89 of title 5, United States Code.”.

6 (b) CONFORMING AMENDMENT.—The table of contents
7 in section 2 of the Foreign Service Act of 1980 is amended
8 by inserting after the item relating to section 830 the
9 following:

“Sec. 831. Retirement benefits for certain former spouses.

“Sec. 832. Survivor benefits for certain former spouses.

“Sec. 833. Health benefits for certain former spouses.

10 **PART B—FOREIGN SERVICE RETIREMENT AND**
11 **DISABILITY SYSTEM**

12 **SEC. 211. DEFINITION OF SURVIVING SPOUSE.**

13 Paragraph (13) of section 804 (22 U.S.C. 4044) is
14 amended—

15 (1) by striking out “, in the case of death in serv-
16 ice or marriage after retirement,”;

17 (2) by striking out “one year” and inserting in
18 lieu thereof “9 months”; and

19 (3) by inserting before the semicolon the follow-
20 ing: “, except that the requirement for at least 9
21 months of marriage shall be deemed satisfied in any
22 case in which the participant or annuitant dies within
23 the applicable 9-month period, if—

1 “(A) the death of such participant or annui-
2 tant was accidental; or

3 “(B) the surviving spouse of such individual
4 had been previously married to the individual and
5 subsequently divorced and the aggregate time
6 married is at least 9 months”.

7 **SEC. 212. CONTRIBUTIONS FOR PRIOR SERVICE.**

8 Paragraph (1) of section 805(d) (22 U.S.C. 4045(d)) is
9 amended—

10 (1) by striking out “equal to” and inserting in lieu
11 thereof “. Special contributions for purposes of sub-
12 paragraph (A) shall equal”; and

13 (2) by adding at the end thereof the following:
14 “Special contributions for refunds under subparagraph
15 (B) shall equal the amount of the refund received by
16 the participant.”.

17 **SEC. 213. COMPUTATION OF ANNUITIES.**

18 (a) **JOINT ELECTION TO WAIVE SURVIVOR ANNUITY**
19 **WITH RESPECT TO A FORMER SPOUSE.**—Subparagraph (C)
20 of section 806(b)(1) (22 U.S.C. 4046(b)(1)) is amended by
21 striking out “12-month” and inserting in lieu thereof “24-
22 month”; and

23 (b) **RECALL SERVICE.**—Paragraph (2) of section 806(i)
24 (22 U.S.C. 4046 (i)) is amended by striking out “section
25 814(b)” and inserting in lieu thereof “this subchapter”.

1 **SEC. 214. SURVIVOR BENEFITS FOR CHILDREN.**

2 (a) **SURVIVOR BENEFITS FOR CHILDREN.**—Section 806
3 of Chapter 8 (22 U.S.C. 4046) (as amended by section 213 of
4 this Act) is amended—

5 (1) in subsection (c), by inserting “or a former
6 spouse who is the natural or adoptive parent of a sur-
7 viving child of the annuitant” after “survived by a
8 spouse” each place it appears; and

9 (2) in subsection (d), by amending the first sen-
10 tence to read as follows: “On the death of the surviv-
11 ing spouse or former spouse or termination of the an-
12 nuity of a child, the annuity of any other child or chil-
13 dren shall be recomputed and paid as though the
14 spouse, former spouse, or child had not survived the
15 participant.”.

16 (b) **DEATH IN SERVICE.**—Section 809 (22 U.S.C.
17 4049) is amended—

18 (1) in subsection (c), by inserting “or a former
19 spouse who is the natural or adoptive parent of a sur-
20 viving child of the annuitant,” after “spouse”; and

21 (2) in subsection (d), by inserting “or a former
22 spouse who is the natural or adoptive parent of a sur-
23 viving child of the annuitant,” after “spouse,”.

24 **SEC. 215. MINIMUM AGE REQUIREMENT.**

25 (a) **DISABILITY ANNUITY.**—Subsections (a) and (b) of
26 section 808 (22 U.S.C. 4048) are each amended by striking

1 out "65" each place it appears and inserting in lieu thereof
2 "60".

3 (b) DEATH IN SERVICE.—Subsection (e) of section 809
4 (22 U.S.C. 4049) is amended by striking out "65" and in-
5 serting in lieu thereof "60".

6 **SEC. 216. VOLUNTARY RETIREMENT.**

7 Section 811 of Chapter 8 (22 U.S.C. 4051) is amended
8 by adding at the end thereof the following: "The Secretary
9 shall withhold consent for retirement under this section by
10 any participant who has not been a member of the Service for
11 5 years. Any participant who voluntarily separates from the
12 Service before completing 5 years in the System and who, on
13 the date of separation, would be eligible for an annuity, based
14 on a voluntary separation, under section 8336 or 8338 of
15 title 5, United States Code, if the participant had been cov-
16 ered under the Civil Service Retirement System rather than
17 subject to this chapter while a member of the Service, may
18 receive an annuity under section 8836 or 8338, notwith-
19 standing section 8333(b) of title 5, United States Code, if all
20 contributions transferred to the Fund under section 805(c)(1)
21 of this Act, as well as all contributions withheld from the
22 participant's pay or contributed by the employer, and deposit-
23 ed into the Fund during the period he or she was subject to
24 this chapter, including interest on these amounts, are trans-
25 ferred to the Civil Service Retirement and Disability Fund

1 effective on the date the participant separates from the
2 Service.”.

3 **SEC. 217. FORMER SPOUSES.**

4 (a) **5 YEAR FOREIGN SERVICE REQUIREMENT.**—Para-
5 graph (1) of section 814(a) is amended by inserting “if such
6 former spouse was married to the participant for at least 10
7 years during service of the participant which is creditable
8 under this chapter with at least 5 of such years occurring
9 while the participant was a member of the Foreign Service
10 and” after “annuity”.

11 (b) **COURT ORDER EFFECTIVE 24 MONTHS AFTER**
12 **MARRIAGE IS DISSOLVED.**—Paragraph (4) of section 814(a)
13 (22 U.S.C. 4054(a)) is amended by striking out “12” and
14 inserting in lieu thereof “24”.

15 (c) **MONTHLY RATE OF ANNUITY NOT APPLICABLE IN**
16 **CERTAIN SITUATION.**—

17 (1) Subsection (1) of section 806 (22 U.S.C. 4046)
18 is repealed.

19 (2) Subsection (d) of section 814 (22 U.S.C. 4054)
20 is repealed.

21 **SEC. 218. LUMP SUM PAYMENTS.**

22 (a) **REQUIREMENTS FOR PAYMENT.**—Subsection (a) of
23 section 815 (22 U.S.C. 4055) is amended to read as follows:

24 “(a)(1) A participant is entitled to be paid a lump-sum
25 credit if the participant—

1 “(A) is separated from the Service for at least 31
2 consecutive days, or is transferred to a position in
3 which the participant is not subject to this chapter and
4 remains in such a position for at least 31 consecutive
5 days;

6 “(B) files an application with the Secretary of
7 State for payment of the lump-sum credit;

8 “(C) is not reemployed in a position in which the
9 participant is subject to this chapter at the time the
10 participant files the application;

11 “(D) will not become eligible to receive an annu-
12 ity under this subchapter within 31 days after filing the
13 application; and

14 “(E) has notified any spouse or former spouse the
15 participant may have of the application for payment in
16 accordance with regulations prescribed by the Secre-
17 tary of State.

18 Such regulations may provide for waiver of subparagraph (E)
19 under circumstances described in section 806(b)(1)D).

20 “(2) Such lump sum credit shall be paid to the partici-
21 pant and to any former spouse of the participant in accord-
22 ance with subsection (i).”.

23 **SEC. 219. COST OF LIVING ADJUSTMENTS.**

24 Paragraph (1) of section 826(c) (22 U.S.C. 4066(c)) is
25 amended to read as follows:

1 “(1) The first increase (if any) made under this
2 section to an annuity which is payable from the Fund
3 to a participant or to the surviving spouse or former
4 spouse of a deceased participant who died in service or
5 a deceased annuitant whose annuity was not increased
6 under this section, shall be equal to the product (ad-
7 justed to the nearest $\frac{1}{10}$ of 1 percent) of—

8 “(A) $\frac{1}{12}$ of the applicable percent change
9 computed under subsection (b) of this section,
10 multiplied by

11 “(B) the number of months (counting any
12 portion of a month as a month)—

13 “(i) for which the annuity was payable
14 from the Fund before the effective date of
15 the increase, or

16 “(ii) in the case of a surviving spouse or
17 former spouse of a deceased annuitant whose
18 annuity has not been so increased, since the
19 annuity was first payable to the deceased an-
20 nuitant.”.

21 **PART C—FOREIGN SERVICE PENSION SYSTEM**

22 **SEC. 241. DEFINITION OF LUMP-SUM CREDIT.**

23 Section 852 of chapter 8 (22 U.S.C. 4071a) is
24 amended—

1 (1) by redesignating paragraphs (3), (4), (5), (6),
2 and (7) as paragraphs (4), (5), (6), (7), and (8), respec-
3 tively; and

4 (2) by inserting after paragraph (2) the following
5 new paragraph:

6 “(3) the term ‘lump-sum credit’ means the unre-
7 funded amount consisting of—

8 “(A) retirement deductions made from the
9 basic pay of a participant under section 856 of
10 this chapter (or under section 204 of the Federal
11 Employees’ Retirement Contribution Temporary
12 Adjustment Act of 1983);

13 “(B) amounts deposited by a participant
14 under section 854 to obtain credit under this
15 System for prior civilian or military service; and

16 “(C) interest on the deductions and deposits
17 which, for any calendar year, shall be equal to the
18 overall average yield to the Fund during the pre-
19 ceding fiscal year from all obligations purchased
20 by the Secretary of the Treasury during such
21 fiscal year under section 819, as determined by
22 the Secretary of the Treasury (compounded annu-
23 ally); but does not include interest—

24 “(i) if the service covered thereby
25 aggregates 1 year or less; or

1 “(ii) for a fractional part of a month in
2 the total service;”.

3 **SEC. 242. CONTRIBUTION FOR CREDITABLE SERVICE OF EM-**
4 **PLOYEE OF A MEMBER OR OFFICE OF THE**
5 **CONGRESS.**

6 The second sentence of subsection (e) of section 854 (22
7 U.S.C. 4071c) is amended—

8 (1) by striking out “matching”; and

9 (2) by inserting “determined under section
10 857(a)” after “participant”).

11 **SEC. 243. CONFORMING AMENDMENT, HEALTH CARE.**

12 Subsection (b) of section 904 (22 U.S.C. 4084) is
13 amended by inserting “or Foreign Service Pension System”
14 after “Foreign Service Retirement and Disability System”.

15 **PART D—SAVINGS PROVISIONS AND EFFECTIVE DATE**

16 **SEC. 261. EFFECTIVE DATE.**

17 (a) **IN GENERAL.**—Except as provided in subsection (b),
18 this title and the amendments made by this title shall take
19 effect 90 days after the date of enactment of this title.

20 (b) **EXCEPTIONS.**—

21 (1) The amendments made by section 202 shall
22 apply to any individual who, on or after the date of en-
23 actment of this title, is married to a participant or
24 former participant.

1 (2) The amendment made by section 217(a) shall
2 not apply with respect to the former spouse of a partic-
3 ipant or former participant who is subject to subchap-
4 ter I of chapter 8 of the Foreign Service Act of 1980
5 if, on the date of enactment of this title, that former
6 spouse—

7 (A) was the spouse of that participant or
8 former participant; or

9 (B) is entitled to an annuity under section
10 814 of the Foreign Service Act of 1980 pursuant
11 to the divorce or annulment of the marriage to
12 that participant or former participant.

13 (c) DEFINITIONS.—For the purpose of this section, the
14 terms “participant” and “former participant” have the same
15 meaning as such terms in chapter 8 of the Foreign Service
16 Act of 1980.

Passed the House of Representatives October 19,
1987.

Attest:

Clerk.

SMITHSONIAN INSTITUTION LIBRARIES



3 9088 01760 7565

Calendar No. 390

100TH CONGRESS
1ST SESSION

H. R. 3395

AN ACT

Making technical corrections relating to the Federal
Employees' Retirement System, and for other pur-
poses.

OCTOBER 22 (legislative day, OCTOBER 16), 1987

Read twice and ordered placed on the calendar