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CIVIL SERVICE RETIREMENT

August 1 (Legislative Day, July 30), 1969.—Ordered to be printed

Mr. McGee, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 2754]

The Committee on Post Office and Civil Service, to which was referred the bill (S. 2754) to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

Summary of the Bill

Title I provides a permanent solution to the financial problems of the Civil Service Retirement and Disability Fund by authorizing annual payments directly from the Treasury to the Fund equal to the "lost interest" on the unfunded liability of the Fund created by the Government's failure to contribute sufficient funds, the gradual increase in liability caused by past increased retirement benefits, and salary increases; and to transfer from the Treasury annually funds sufficient to pay the cost of annuity payments based on military service.

Title I also provides that future benefit increases and the effect of future salary increases will be paid for by amortizing the cost of such benefits and increases in equal installments over a 30-year period. This will authorize appropriations by the Congress, not direct transfer of money.

Title I also increases both employee and agency contributions from 6½ percent of payroll to 7 percent of payroll, effective January 1, 1970. Contributions by employees of the Congress are increased to 7½ percent, and contributions by Members of Congress are increased to 8 percent.

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Title [illegible] increases benefits under the Retirement Act:

Implemented 1. Uses "high-3" instead of "high-5" for computing civil service annuities.

" 2. Permits adding sick leave accumulated at time of retirement to the computation of annuity.

" 3. Adds 1 percent to cost-of-living increases for annuitants.

4. Makes the remarriage provisions of the 1966 Act partly retroactive.

5. Improves survivor benefits for employees and retired disabled employees who die in service or after disability retirement.

6. Exempts up to $3,000 of civil service retirement annuities from Federal income taxation.

7. Permits an employee of the Congress to receive 2½ percent credit for all years of Congressional employment rather than limiting such credit to 15 years.

Civil Service Retirement Financing

Title I of S. 2754 provides a long-term, permanent solution to the problem of the unfunded liability of the Civil Service Retirement and Disability Fund.

Since its creation in 1920, the Retirement Fund has had an unfunded deficit. The actuarial theory of the retirement system is that the normal cost will be fully met if a percentage of pay is withheld from the employee's salary, a percentage of payroll is contributed by each agency and the total is invested at interest. This actuarial determination takes into account the age and longevity of the group, and a normal progression in salary throughout a career in the Federal service. It does not take into account extending retirement benefits to new groups, improving retirement benefits, increases in salary enacted by Congress from time to time, the Government's failure to make payments in some years, or the Government's failure to pay the interest on the unfunded liability.

The result is that the Fund has a liability which is not funded through agency and employee contributions. All service performed prior to August 1, 1920, for instance, was credited even though no payment was made for such service. Increases in salary enacted by Congress increase the average salary base for annuity computation, but contributions are not made by either the employee or the agency to pay for the cost which such increases make in the future annuity when past service is credited at the new average salary rate. The Fund also loses the interest on the unfunded liability which would have been earned if payment had been made.

Of the total liability of $78 billion now owed by the Fund (that is, the present value of all payments promised for service already performed), $57.7 billion was not funded as of June 30, 1969.

Receipts now exceed disbursements, and will continue to do so until 1975. Thereafter, however, annuity payments will exceed income from employee and agency contributions and earnings, and by 1987 the liquid assets of the Fund will be depleted.

If action to prevent depletion of the Fund is not taken at this time, an annual appropriation will be necessary each year after 1987, and the impact upon the budget will be significant. It will also subject the payment of annuities to the procedures of budget requests and appropriations.

In 1963, the Committee on Post Office and Civil Service considered legislation to provide for a gradual increase in agency contributions to the Fund to meet the interest on the unfunded liability by the year 1986. That legislation proposed a mandatory increase in agency contribution from 6½ percent to 17½ percent over a 22-year period to meet the $1,574 million annual cost (in 1963) of lost interest on the unfunded liability. Action on that legislation was postponed.

In 1967, the administration proposed that legislation be enacted to authorize a permanent indefinite appropriation for a transfer of funds from the Treasury to the credit of the Civil Service Retirement and Disability Fund, beginning at 10 percent of the lost interest and increasing over a period of 10 years to meet the full amount of the lost interest on the unfunded liability; and that future liberalizations of the program be paid by amortizing the cost of the liberalizations in equal annual payments over a 30-year period. That is the legislation embodied in title I of S. 2754.

This method of funding the cost of future benefit changes will depend upon the willingness of the Congress and the administration to include in annual appropriations and budget requests funds necessary to meet the amortized cost of increased benefits. It will be of no consequence whatsoever to enact title I of S. 2754 unless both the Congress, through its appropriation process, and the Executive branch, in its recommendation of funds necessary for each fiscal year, face the fact that further inaction will result in a bankrupt retirement fund in 18 years.

Neither branch of the Government can ignore the cost implications of Federal retirement benefits. At the present time, the liability of the Civil Service Retirement and Disability Fund is increased by $2.55 every time a $1 pay increase is enacted. The $1.3 billion pay increase for classified and postal employees which became effective July 1, 1969, increased the future liability of the Fund by $3.4 billion. The annual interest on the present unfunded liability which was *not* paid at the end of fiscal year 1969 added more than $1.9 billion to the total liability of the Fund. The nine statutory salary increases, four civil service retirement laws, and the nine annual installments of lost interest on the unfunded liability of the Fund which have occurred since June 30, 1960, have doubled the unfunded liability—from $31.1 billion in 1960 to $61.1 billion in 1969.

The obligation of the Government to insure that payments for retired employees are made, and made when due, requires that action be taken now to insure that there will be an adequate amount in the Fund after 1987 to meet all obligations incurred.

MILITARY SERVICE CREDIT

The financing provisions of title I have been amended to provide that the cost of military service credited for civil service retirement shall be paid annually by a transfer of funds from the Treasury to the Civil Service Retirement and Disability Fund equal to the annual disbursement of annuities attributable to the crediting of military service. To avoid an undue impact upon the budget, the transfer is amortized over a 10-year period.

Under existing law, service credited for civil service retirement annuities includes years of active service in the military service of the United States. At the present time, this amounts to 4.5 percent of annuities, or an annual cost of $95 million. Neither the employee nor any agency of the Government contributes any money to the Fund for this credit. Thus, an employee who retires from the civil service after 15 years of civilian service and 5 years of military service receives an annuity based on 20 years' service, although he and his agency have paid for only 15 years' service. The cost of crediting military service is made up out of the Fund.

The committee recommendation requires that the Treasury pay to the Fund the amount of annual annuity payments resulting from military service credit. This payment will result in an annual payment to the Fund beginning at approximately $9.5 million and rising over a 20-year period to a maximum of $300 million a year. Thereafter, because of the restrictions of the Social Security Act relating to military service performed after December 31, 1956 which results in a social security benefit, service will not be permanently creditable for civil service retirement purposes. The annual payment will decline to a level figure of approximately $100 million in the distant future.

The committee believes that the transfer of funds is appropriate and desirable because the normal cost estimated by the Commission in determining an appropriate rate of contribution for agencies and employees includes 0.22 percent of payroll for military service credit even though it benefits only some employees and it is not civilian service to the Federal Government. The argument that such a transfer is merely bookkeeping loses effect in view of the fact that employees pay for the credit which only about one-half of all employees receive. Carried to its conclusion, the argument would support the position that all Government financial transactions are merely bookkeeping and all money should be appropriated in a lump sum.

TITLE II—RETIREMENT BENEFITS

The committee has reported favorably the following amendments to the Civil Service Retirement Act:

HIGH-3 AVERAGE

The committee approves language to change the basic period for computing civil service annuities from the highest 5 consecutive years to the highest 3 consecutive years. Under existing law, in effect since 1930, the formula for computing an employee's annuity is to multiply his number of years of service by a percentage of salary received over the best 5 consecutive years of earnings. The additional cost incurred will be 0.07 percent of payroll, equal to $15.4 million increase in normal cost of the system.

CREDIT FOR UNUSED SICK LEAVE

The committee approves language for crediting, for retirement purposes, accumulated sick leave which an employee has at the time of his retirement.

Under the Annual and Sick Leave Act of 1951, each employee subject to the Act is entitled to sick leave on an accumulative basis. For each biweekly pay period, he is credited with 4 hours of sick leave. There is no restriction on the total number of hours he may accumulate. An employee who works 30 years in the civil service has earned 390 days of sick leave, equal to about a year and a half of normal working days. At the time of his retirement his sick leave, if any, is forfeited.

The Civil Service Commission estimates that about half of all Federal employees retire with no accumulated sick leave and about half of them retire with an average of 44 days of unused sick leave. The problem of the use (or abuse) of sick leave is one that should be handled properly by administrative officers of the Executive branch; but regardless of the reasons for the use (or abuse) of sick leave, an employee who retires with 6 months' accumulated sick leave has devoted more time serving his Government than an employee who retires with no accumulated sick leave.

The additional cost incurred by crediting unused sick leave will be 0.06 percent of payroll, or $13.2 million increase in normal cost.

The committee would like for the Civil Service Commission to consult with Federal agencies during the calendar year 1970 to survey the use of sick leave after the enactment of this Act to determine whether there has been any significant effect upon its use by employees, and to report to this committee at the beginning of the 92d Congress on the results of its survey.

COST-OF-LIVING ADJUSTMENTS FOR RETIRED FEDERAL EMPLOYEES

The committee approves provisions increasing all cost-of-living adjustments under section 8340 of title 5, United States Code, by 1 percent beyond the Consumer Price Index figure used as a basis for adjustments.

Under existing law, whenever the Consumer Price Index shows a 3-percent increase for each of 3 consecutive months over the base month, annuities are adjusted by the highest percentage of any of the 3 months and that month becomes the new base month for the purpose of future adjustments. Since the cost-of-living provisions of the Civil Service Retirement Act were revised in 1965, cost-of-living adjustments have been made in January 1967, May 1968, and March of 1969—each 3.9 percent.

In order to take into account the increased productivity of a national economy, as well as the possible inaccuracy of the Consumer Price Index as an indicator of purchased goods, particularly for retired employees, the committee approves the addition of a 1-percent adjustment with each cost-of-living increase.

SURVIVOR ANNUITIES UNDER THE ACT OF JULY 18, 1966

Section 506 of Public Law 89-504 amended the Civil Service Retirement Act to provide that when the surviving spouse of a Federal employee remarries after attaining age 60, her civil service annuity would not be terminated, or if she remarried prior to age 60 and the marriage was terminated, her annuity could be reinstated. The benefits provided by that Act (signed by the President, July 18, 1966) were not retroactive and had no effect upon the survivor annuity of any spouse whose annuity was *based on* a death *or* retirement occurring prior to the date of enactment of the legislation. The effect of this was that two surviving spouses of two Federal employees, one of whom retired on July 17, 1966 and the other of whom retired on July 19, 1966, would be treated quite differently if they remarried at any time after their husbands' deaths. Twenty years later, the same two surviving spouses could remarry after achieving age 60, and one would continue to receive her annuity while the other would not.

It has been the general policy of the committee to refrain from recommending legislation which has a retroactive effect upon civil service retirement; however, in this instance the equities of the situation are such that language permitting continuance of annuity in the case of a spouse whose survivor annuity is based on a death or retirement occurring *prior* to July 18, 1966, but whose remarriage occurred *on or after* the date of enactment of the 1966 Act, should be approved. In addition, language authorizing the continuance of such an annuity whenever the survivor of a Federal employee has been incorrectly advised by Government authority between the effective date of the 1966 Act and the effective date of this Act that such remarriage would not affect her annuity is approved. It is unfortunate that in some circumstances, officials of Executive agencies have advised an employee of rights or benefits under prevailing law or regulations which advice is erroneous. The surviving spouse of a Federal employee who receives a letter from a Government agency indicating that her annuity will not be jeopardized by her remarriage should be able to rely upon such information.

SURVIVOR ANNUITIES

The committee proposes to amend the Civil Service Retirement Act to improve very substantially the survivor benefits for employees who die with little Federal service, for employees who die after retiring upon a disability annuity, and for the surviving children of Federal employees.

Under existing law, no civil service employee earns any vested annuity rights or benefits until he has completed 5 years of service under the Civil Service Retirement Act. Thus, an employee who dies with 4 years 11 months and 29 days of Federal civilian service under the Act is entitled to no benefits and his survivors receive only a refund of the deductions which have been made from his payroll check in each pay period during his years of service. Had he lived another day, such an employee would have vested annuity benefits for his survivors which would pay to each of his children approximately $61 a month and would pay to his surviving spouse a 55-percent remainder of his earned annuity.

An employee who retires on a disability annuity of 40 percent of salary under the Civil Service Retirement Act and who thereafter dies, leaves his family with minimal benefits, because the basis for the disability annuity which he received as a retired employee is substantially reduced in determining survivor annuity benefits.

For example, Joe Jones is a 27-year-old civil service employee with 6 years' service and an average salary of $10,000 a year. He dies, leaving a wife and two small children. Mrs. Jones receives a survivor annuity equal to 55 percent of his *earned* annuity. After 6 years' service, Joe has an earned annuity of 9¼ percent of his average salary, or $925 a year. Mrs. Jones' annuity is $527 a year, or $44 a month. Each child is entitled to a survivor annuity of $61 a month. The total survivor annuity for Jones' widow and the children is $1,991 a year, subject to cost-of-living adjustments related to the Consumer Price Index.

If Jones had been employed in private industry subject to the Social Security Act under similar pay and tenure, his survivors would have received the "maximum family benefit" of $4,982.40 a year. This would result from applicable current social security law which under existing limitations would give Mrs. Jones and each child $138.40 a month. When the older child reaches majority, the other child and the widow's benefit would increase to $153 a month each, almost twice the benefit payable to all three under the Civil Service Retirement Act's survivor provisions.

In the case of a civil service employee who is disabled and subsequently dies, the example is similar. Had Jones retired on a disability annuity, his annuity would be the smaller of 40 percent of his average salary or his annuity projected to age 60. In most cases, the 40-percent clause applies, and Jones would receive $4,000 a year. But if he died after disability retirement, the 40-percent provision would be eliminated and his survivors would be entitled only to a survivor annuity based on his earned annuity. Mrs. Jones would receive the same $527 a year for herself and the same $1,464 for the children. Had Jones been retired on disability under social security, the survivor's annuity would be the same as that described in the first example.

Using social security as a comparison is not entirely relevant when evaluating benefits under the Civil Service Retirement Act, because the two systems have different basic purposes. Civil service retirement is a long term, staff retirement plan based on earnings and length of service; but that it is a staff retirement plan should not obscure the fact that 3 million employees rely upon its protection for survivor benefits as well as retirement, and are excluded from participation under social security.

Adequate protection, particularly for the younger employee whose earnings are low and service is short, has been a major goal of this committee and the administration for several years. Legislation to provide a transfer of credit from civil service to social security has been proposed, but no encouraging action has been taken by the Committees on Post Office and Civil Service, the Committee on Finance, or the Committee on Ways and Means.

In 1967, employee unions initially supported such a plan in public hearings before the House Committee on Post Office and Civil Service, but subsequently provisions necessary to effect the transfer of credit were stricken from a bill reported by the Committee on Ways and Means. This committee is inclined to believe that Federal employees do not desire to establish a close relationship between social security and civil service retirement.

Until the issue of transfers between retirement systems can be satisfactorily resolved, the survivors of Federal employees who die with fewer than 5 years' service, or those who die with a vested annuity but little service will continue to suffer drastic curtailment of income. The committee believes it is in the best interest of the employee and the Government to improve substantially the survivor protection offered these employees at this time, solely through amendments to the Civil Service Retirement Act, and continue the effort to work out a transfer system at a later date.

Accordingly, the committee recommends that when an employee serves 18 consecutive months in a position under the Civil Service Retirement Act, his annuity rights (for survivor protection only) shall vest, and in the event of his death thereafter, his widow shall be entitled to an annuity equal to 55 percent of 40 percent of his average salary. If he dies after retiring on disability, his wife will be entitled to at least 55 percent of his disability salary.

Although this is a very substantial improvement in the retirement program, it is not a great windfall. Mrs. Jones, in the example cited above, would be entitled to a survivor annuity of $2,200 a year rather than $527.

The committee also recommends that the survivor annuity for the unmarried children under 18 years of age of a Federal employee (or an unmarried child between 18 and 22 who is a full-time student) be increased from the present minimum standards. Existing law pays a benefit of $600 a year, or 40 percent of the employee's average salary divided by the number of children, or $1,800 a year divided by the number of children, *whichever is less*. The cost-of-living adjustments in effect since 1962 have raised the actual minimum payment to $732 per child per year for not to exceed three children.

The committee recommends that the minimum be increased to $900 a year, 60 percent of average salary divided by the number of children, or $2,700 divided by the number of children, whichever is less. This is an actual increase of $168 per child per year under existing annuity payment schedules, or about 25 percent. The cost-of-living adjustments made since 1962 would be eliminated and a new base period for future adjustments would be established. Proportional increases are made in the survivor annuity of a child who has lost both parents.

The total cost of the entire survivor annuity amendment proposed by the committee will be $46 million a year in normal cost. This is equal to 0.21 percent of payroll. The survivor annuity amendments relating to extension of coverage to short-term employees and a new guaranteed minimum for the survivors of an employee who dies after retirement on a disability annuity, will cost 0.17 percent of payroll; and the increases in the survivor annuities for children presently on the rolls and those coming on the rolls in the future is 0.04 percent of payroll.

ANNUITIES FOR CONGRESSIONAL EMPLOYEES

Under the provisions of the Civil Service Retirement Act relating to employees of the Congress, the first 15 years of military service and Congressional service are computed at 2½ percent of the employee's high-5 average rather than the normal percentage computation used for civil service employees generally (1½ percent for the first 5 years, 1¾ percent for the next 5 years, and 2 percent for the remainder). This has been a part of the Civil Service Retirement Act for some years and compensates employees of the Congress because their jobs generally depend upon the good health and political fortunes of a Senator or Representative.

The committee approves language to remove the limitation on the number of years of Congressional employee service computed at 2½ percent (not to exceed a total maximum annuity of 80 percent of the high-3 average), to limit military service creditable at 2½ percent to 5 years, and to increase the Congressional employee's contribution from 6½ percent to 7½ percent of gross pay.

The committee proposes several new amendments to the Civil Service Retirement Act to provide basic and significant changes in the Civil Service Retirement System:

TAXATION OF RETIREMENT ANNUITIES

Finally, the committee recommends that the Civil Service Retirement Act be amended to exclude an amount not to exceed $3,000 in annuity payments from Federal income taxes.

Under existing law, civil service retirement annuities are not subject to Federal income tax until the employee's total contribution to the Retirement Fund has been paid by annuity payments. Ordinarily, it takes about 3 years for this to happen. Thereafter, civil service retirement annuity payments are ordinary income.

Neither social security nor railroad retirement benefits, both paid by the Federal Government, are subject to Federal income tax. The committee has received repeated suggestions by retired employees that at least a portion of civil service annuities be exempted from income taxes.

The anticipated loss of revenue resulting from the committee amendment cannot be accurately estimated. Considering that annuitants and their spouses past the age of 65 each receive a double exemption and a retirement credit under the provisions of the Internal Revenue Code, the taxable income after all deductions is small and the amount of income tax paid to the Federal Government is not substantial. But it is also clear that retired Federal employees are discriminated against when compared to social security or railroad retirement annuitants. In any case, the committee believes that it is clearly equitable and socially desirable to exempt a reasonable portion of the civil service retirement annuity from Federal taxation.

The provisions of this amendment are similar to the provisions of S. 2087, which was introduced on May 8, 1969, and referred to the Committee on Post Office and Civil Service.

COST

The bill as reported by the committee will increase the normal cost of the civil service retirement system from the present figure of 13.86 percent of payroll to 13.98 percent of payroll. This cost figure takes into account the reduction in the cost caused by charging the general fund of the Treasury with the funding of retirement credit for military service.

The unfunded liability will be increased by the benefits enacted in this legislation by $1.4 billion and will be reduced by the transfer of funds relating to military service credit by $4.7 billion, resulting in a net decrease of the unfunded liability of $3.3 billion.

SECTIONAL ANALYSIS

Section 101 adds several new definitions to the provisions of title 5, United States Code, relating to civil service retirement in order to implement the new provisions of the bill relating to retirement financing.

Section 101(3) defines "normal cost." Normal cost is the contribution necessary, invested at interest, to pay for the benefits authorized by law. The present normal cost of the system is 13.86 percent of payroll, but the contribution is 13 percent.

The benefits and added contribution included in this bill will increase normal cost to 13.98 percent and contribution to 14 percent.

Section 101(3) defines "fund balance" to mean cash on hand plus investments at par.

Section 101(3) defines "unfunded liability."

The total liability of the Fund now is about $78 billion, of which about $58 billion is not funded in any manner other than the full faith and credit of the Government of the United States.

Section 102 increases agency and employee contribution from 6.5 percent to 7 percent of payroll.

Section 102 increases the contribution of an employee of the Congress from 6.5 percent to 7.5 percent, to pay for the added benefits in section 203 of the bill, and increases a Member's contribution to 8 percent.

Section 102(b) makes the new contribution rate effective on the first pay period beginning in 1970.

Section 103 authorizes the Civil Service Commission to pay the expenses of administering the retirement program (and other retirement programs) out of the Civil Service Retirement and Disability Fund.

This language is presently contained in annual appropriation bills.

Section 103 enacts two new subsections relating to retirement financing.

Section 8348(g) of existing law, commonly known as the Thomas Rider (named for Congressman Albert Thomas, chairman of the Independent Offices Appropriations Subcommittee), prohibits the payment of liberalizations in the retirement program until appropriations are made to pay the cost. The benefit changes in retirement annuities enacted in 1962, for instance, were not paid until June 1963, because appropriations were not made until that time. Annual appropriations have been made since 1963 to pay the annual cost of the 5-percent increase.

The new language repeals the Thomas Rider and provides that hereafter liberalized benefits or increases in salary will automatically authorize appropriations over a 30-year period, in equal annual installments, to pay the cost of the added unfunded liability caused by such benefits or salary increases.

The effect will be to stop the increase in the growth of the unfunded liability by paying the cost on an annual basis. The Commission estimates that the unfunded liability will cease to grow in fiscal year 1979 and will remain constant thereafter at about $76.8 billion.

The new subsection 8348(g) authorizes the Secretary of the Treasury to transfer money from the Treasury to the Fund at the end of each fiscal year to pay the interest on the unfunded liability as well as the cost of military service credit. To avoid a severe impact on the budget, the payment would be graduated over a 10-year period, becoming fully effective in fiscal year 1980, at a level cost of $2,990 million.

Section 104 is a technical amendment revising language in title 5 relating to annual reports. The substance of the report requirement is not changed.

Section 105 repeals a report requirement on the annual cost of the annuity increases enacted by Congress in 1958. Such costs will hereafter be paid out of the Fund and annual reports or annual appropriations will not be necessary. This is a technical amendment.

Section 201 revises the computation factor so that the "average salary" used to compute annuities for retired employees will be the highest 3 consecutive years rather than the highest 5 consecutive years and so that average salary for short term will conform to the new survivor annuity amendments.

Section 202 permits an employee retiring with accumulated sick leave to have such leave credited towards his length of service for annuity purposes.

Section 203 allows an employee of the Congress to compute his total congressional service on the 2.5 percent formula, rather than limiting such computation to not more than 15 years' Congressional service.

The Congressional employees would pay an additional 1 percent for this additional benefit.

Section 204 adds 1 percent to each cost-of-living increase for retired employees.

Under existing law, whenever the Consumer Price Index rises 3 percent for each of 3 consecutive months, all civil service annuities are increased by the highest percentage figure within those 3 months. This provision would add another 1 percent to the increase.

Section 204(b) increases the minimum survivor annuity for the children of a deceased Federal employee.

Section 205 changes the remarriage provisions of the 1966 retirement bill. Under the law, which applies only to persons eligible *after* the date of enactment, the surviving spouse of an employee or annuitant who remarries after age 60 does not lose her annuity, or if she remarried prior to age 60, she can have her annuity reinstated if the second marriage is terminated. The liberalization applies to no spouse whose annuity is *based on* a death or retirement occurring prior to July 18, 1966 (date of enactment).

This change permits the widow to continue receiving her annuity or to have such annuity reinstated if her spouse died or retired prior to July 18, 1966, but her remarriage did or does *not* occur until after such date.

Section 205 also permits the widow of an employee whose survivor annuity has been terminated by remarriage to have her annuity reinstated if she was advised by Government authority that her remarriage would not affect her annuity.

Section 206 provides the new survivor annuity language for Federal employees who have at least 18 months' service or who retire on disability.

Section 207 exempts up to $3,000 of civil service retirement annuities from Federal income taxes.

Section 208 provides effective dates.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

I. TITLE 5, UNITED STATES CODE

CHAPTER 13—SPECIAL AUTHORITY

*   *   *   *   *   *   *

§ 1308. Annual reports

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(c) The Commission shall publish an annual report on the operation of subchapter III of chapter 83 of this title, including a statement concerning the status of the Civil Service Retirement and Disability Fund [on a normal cost plus interest basis].

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CHAPTER 83—RETIREMENT

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SUBCHAPTER III—CIVIL SERVICE RETIREMENT

§ 8331. Definitions

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(4) "average pay" means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect—

(A) over any [5] *3* consecutive years of creditable service *or, in the case of an annuity under subsection (d) or (e) (1) of section 8341 of this title based on service of less than 3 years, over the period of service*; or

(B) at a Member's option over all periods of Member service after August 2, 1946, used in the computation of an annuity under this subchapter;

with each rate weighted by the time it was in effect;

*   *   *   *   *   *   *

(15) "price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; [and]

(16) "base month" means the month for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase**[.]***;*

(17) "normal cost" means the entry-age normal cost computed by the Civil Service Commission in accordance with generally accepted actuarial practice and expressed as a level percentage of aggregate basic pay;

(18) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value; and

(B) the cash balance of the Fund on the books of the Treasury; and

(19) "unfunded liability" means the esitmated excess of the present value of all benefits payable from the Fund to employees and Members, and former employees and Members, subject to this subchapter, and to their survivors, over the sum of—

(A) the present value of deductions to be withheld from the future basic pay of employees and Members currently subject to this subchapter and of future agency contributions to be made in their behalf; plus

(B) the present value of Government payments to the Fund under section 8348(f) of this title; plus

(C) the Fund balance as of the date the unfunded liability is determined.

* * * * * * *

§ 8334. Deductions, contributions, and deposits

(a)*(1)* The employing agency shall deduct and withhold **[**6½**]** *7* percent of the basic pay of an employee, **[**and**]** 7½ percent of the basic pay of a *Congressional employee, and 8 percent of the basic pay of a* Member **[**, and an**]**. *An* equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingency fund of the House the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

(2) The amounts so deducted and withheld, together with the amounts so contributed, shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe. Deposits made by an employee or Member **[**under this section**]** also shall be credited to the Fund.

(b) Each employee or Member is deemed to consent and agree to these deductions from basic pay. Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less these deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to the benefits to which the employee or Member is entitled under this subchapter.

(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

	Percentage of basic pay	Service period
Employee	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	[After October 31, 1956.] *November 1, 1956, to December 31, 1969.*
	7	*After December 31, 1969.*
Member or employee for Congressional employee service	*2½*	*August 1, 1920, to June 30, 1926.*
	3½	*July 1, 1926, to June 30, 1942.*
	5	*July 1, 1942, to June 30, 1948.*
	6	*July 1, 1948, to October 31, 1956.*
	6½	*November 1, 1956, to December 31, 1969.*
	7½	*After December 31, 1969.*
Member for Member service	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to August 1, 1946.
	6	August 2, 1946, to October 31, 1956.
	7½	[After October 31, 1956.] *November 1, 1956, to December 31, 1969.*
	8	*After December 31, 1969.*

Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332(b)(6) [which was performed prior to the effective date of the National Guard Technicians Act of 1968] *of this title performed before January 1, 1969*, shall be an amount equal to 55 [per centum] *percent* of a deposit computed in accordance with such provisions.

(d) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which he may be allowed credit under this subchapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

(e) Interest under subsection (c) or (d) of this section is computed from the mid-point of each service period included in the computation, or from the date refund was paid, to the date of deposit or commencing date of annuity, whichever is earlier. The interest is computed at the rate of 4 percent a year to December 31, 1947, and 3 percent a year thereafter compounded annually. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

(f) Under such regulations as the Civil Service Commission may prescribe, amounts deducted under subsection (a) of this section and deposited under subsections (c) and (d) of this section shall be entered on individual retirement records.

(g) Deposit may not be required for—

(1) service before August 1, 1920;

(2) military service;

(3) service for the Panama Railroad Company before January 1, 1924; [or]

(4) service performed before January 1, 1950, by natives of the Pribilof Islands in the taking and curing of fur seal skins and other activities in connection with the administration of the Pribilof Islands[.]*; or*

(5) days of unused sick leave credited under section 8339(m) of this title.

(h) For the purpose of survivor annuity, deposits authorized by subsections (c) and (d) of this section may also be made by the survivor of an employee or Member.

* * * * * * *

§ 8339. Computation of annuity

(a) Except as otherwise provided by this section the annuity of an employee retiring under this subchapter is—

(1) 1½ percent of his average pay multiplied by so much of his total service as does not exceed 5 years; plus

(2) 1¾ percent of his average pay multiplied by so much of his total service as exceeds 5 years but does not exceed 10 years; plus

(3) 2 percent of his average pay multiplied by so much of his total service as exceeds 10 years.

However, when it results in a larger annuity, 1 percent of his average pay plus $25 is substituted for the percentage specified by paragraph (1), (2), or (3) of this subsection, or any combination thereof.

(b) The annuity of a Congressional employee, or former Congressional employee, retiring under this subchapter is computed under subsection (a) of this section, except, if he has had—

(1) at least 5 years' service as a Congressional employee or Member or any combination thereof; and

(2) deductions withheld from his pay or has made deposit covering his last 5 years of civilian service;

his annuity is computed, with respect to [so much of] his service as a Congressional employee, [and] his military service [as does] not [exceed a total of 15] *exceeding 5* years, and any Member service, by multiplying 2½ percent of his average pay by the years of that service.

(c) The annuity of a Member, or former Member with title to Member annuity, retiring under this subchapter is computed under subsection (a) of this section, except, if he has had at least 5 years' service as a Member or Congressional employee or any combination thereof, his annuity is computed with respect to—

(1) his service as a Member and so much of his military service as is creditable for the purpose of this paragraph;

(2) [so much of] his Congressional employee service [as does not exceed 15 years];

by multiplying 2½ percent of his average pay by the years of that service.

(d) The annuity of an employee retiring under section 8336(c) of this title is 2 percent of his average pay multiplied by his total service.

(e) The annuity computed under subsections (a)–(d) of this section may not exceed 80 percent of—

(1) the average pay of the employee; or

(2) the greater of—

(A) the final basic pay of the Member; or

(B) the final basic pay of the appointive position of a former Member who elects to have his annuity computed or recomputed under section 8344(b)(1) of this title.

(f) The annuity of an employee or Member retiring under section 8337 of this title is at least the smaller of—

(1) 40 percent of his average pay; or

(2) the sum obtained under subsections (a)–(c) of this section after increasing his service of the type last performed by the period elapsing between the date of separation and the date he becomes 60 years of age.

[However, this subsection does not increase the annuity of a survivor.]

(g) The annuity computed under subsections (a), (b), and (e) of this section for an employee retiring under section 8336(d) of this title is reduced by 1/6 of 1 percent for each full month the employee is under 55 years of age at the date of separation. The annuity computed under subsections (c) and (e) of this section for a Member retiring under the second or third sentence of section 8336(f) of this title or the third sentence of section 8338(b) of this title is reduced by 1/12 of 1 percent for each full month not in excess of 60 months, and 1/6 of 1 percent for each full month in excess of 60 months, the Member is under 60 years of age at the date of separation.

(h) The annuity computed under subsections (a)–(g) of this section is reduced by 10 percent of a deposit described by section 8334(c) of this title remaining unpaid, unless the employee or Member elects to eliminate the service involved for the purpose of annuity computation.

(i) The annuity computed under subsections (a)–(h) of this section [(excluding any increase because of retirement under section 8337 of this title)] for a married employee or Member retiring under this subchapter, or any portion of that annuity designated in writing for the purpose of section 8341(b) of this title by the employee or Member at the time of retirement, is reduced by 2½ percent of so much thereof as does not exceed $3,600 and by 10 percent of so much thereof as exceeds $3,600, unless the employee or Member notifies the Civil Service Commission in writing at the time of retirement that he does not desire his spouse to receive an annuity under section 8341(b) of this title.

(j) At the time of retiring under section 8336 or 8338 of this title, an unmarried employee or Member who is found to be in good health by the Commission may elect a reduced annuity instead of an annuity computed under subsections (a)–(h) of this section and name in writing an individual having an insurable interest in the employee or Member to receive an annuity under section 8341(c) of this title after the death of the retired employee or Member. The annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual named is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(k) The annuity computed under subsections (a)–(j) of this section for an employee who is a citizen of the United States is increased by $36 for each year of service in the employ of—

(1) the Alaska Engineering Commission, or The Alaska Railroad, in Alaska between March 12, 1914, and July 1, 1923; or

(2) the Isthmian Canal Commission, or the Panama Railroad Company on the Isthmus of Panama between May 4, 1904, and April 1, 1914.

(l) In determining service for the purpose of computing an annuity under each paragraph of this section, 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b)(6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be disregarded.

(m) In computing any annuity under subsections (a)–(d) of this section, the total service of an employee who retires on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the limitations imposed by subsection (e) of this section, the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter.

§ 8340. Cost-of-living adjustment of annuities

(a) Effective December 1, 1965, each annuity payable from the Fund having a commencing date before December 2, 1965, is increased by—

(1) the percent rise in the price index, adjusted to the nearest 1/10 of 1 percent, determined by the Civil Service Commission on the basis of the annual average price index for calendar year 1962 and the price index for the base month of July 1965; plus

(2) 6½ percent if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred before October 2, 1956, or 1½ percent if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred after October 1, 1956.

Each annuity payable from the Fund (other than the immediate annuity of an annuitant's survivor or of a child entitled under section 8341(e) of this title) having a commencing date after December 1, 1965, but before January 1, 1966, is increased from its commencing date as if the annuity commencing date were December 1, 1965. Each survivor annuity authorized by—

(A) section 8 of the Act of May 29, 1930, as amended to July 6, 1950; or

(B) section 2 of the Act of June 25, 1958 (72 Stat. 219);

is increased by any additional amount required to make the total increase under this subsection equal to the smaller of 15 percent or $10 a month.

(b) Each month the Commission shall determine the percent change in the price index. Effective the first day of the third month that begins after the price index change equals a rise of at least 3 percent for 3 consecutive months over the price index for the base month, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by *1 percent plus* the percent rise in the price index (calculated on the highest level of the price index during the 3 consecutive months) adjusted to the nearest 1/10 of 1 percent.

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled

under section 8341(e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the annuitant was receiving under this section at death. However, the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date had been the effective date of the first increase under this section.

(2) For the purpose of computing ⟦an⟧ *the* annuity *of* ⟦that commences after the effective date of the first increase under this section to⟧ a child under section 8341(e) of this title *that commences on as after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969*, the items ⟦$600⟧ *$900*, ⟦$720⟧, *$1,080*, ⟦$1,800⟧ *$2,700*, and ⟦$2,160⟧ *$3,240* appearing in section 8341(e) of this title shall be increased by the total percent increases allowed and in force under this section ⟦or employee annuities that commenced after October 1, 1956⟧ *on or after such day* and, in case of a deceased annuitant, the items ⟦40⟧ *60* per cent and ⟦50⟧ *75* percent appearing in section 8341(e) of this title shall be increased by the total percent increase allowed and in force ⟦under this section⟧ to the annuitant ⟦at death⟧ *under this section on or after such day.*

(d) This section does not authorize an increase in an additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar. However, the monthly installment shall after adjustment reflect an increase of at least $1.

(f) Effective September 1, 1966, or on the commencing date of annuity, whichever is later, the annuity of each surviving spouse whose entitlement to annuity payable from the Fund resulted from the death of—

(1) an employee or Member before October 11, 1962; or

(2) a retired employee or Member whose retirement was based on a separation from service before October 11, 1962;

is increased by 10 percent.

§ 8341. Survivor annuities

*   *   *   *   *   *   *

(d) If an employee or Member dies after completing at least ⟦5 years⟧ *18 consecutive months* of civilian service, the widow or dependent widower of the employee or Member is entitled to an annuity equal to 55 percent of an annuity computed under section 8339 (a)–(e) and (h) of this title as may apply with respect to the employee or ⟦Member.⟧ *Member, except that in the computation of the annuity under such section, the annuity of the employee or Member shall be at least the smaller of (i) 40 percent of his average pay, or (ii) the sum obtained under such section after increasing his service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age.* The annuity of the widow or dependent widower commences on the day after the employee or Member dies. This annuity and the right thereto terminate on the last day of the month before—

(1) the widow or dependent widower dies;

(2) the dependent widower becomes capable of self-support;

(3) the widow or dependent widower of an employee remarries before becoming 60 years of age; or

(4) the widow or dependent widower of a Member remarries.

(e)(1) If an employee or Member dies after completing at least [5 years] *18 consecutive months* of civilian service, or an employee or Member dies after retiring under this subchapter, and is survived by a spouse, each surviving child is entitled to an annuity equal to the smallest of—

(A) [40] *60* percent of the average pay of the employee or Member divided by the number of children;

(B) [$600] *$900*; or

(C) [$1,800] *$2,700* divided by the number of children; subject to section 8340 of this title. If the employee or Member is not survived by a spouse, each surviving child is entitled to an annuity equal to the smallest of—

(i) [50] *75* percent of the average pay of the employee or Member divided by the number of children;

(ii) [$720] *$1,080*; or

(iii) [$2,160] *$3,240* divided by the number of children; subject to section 8340 of this title.

* * * * * * *

§ 8345. Payment of benefits; commencement, termination, and waiver of annuity

(a) Each annuity is stated as an annual amount, one-twelfth of which, fixed at the nearest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.

(b) Except as otherwise provided, the annuity of an employee or Member commences on the day after he is separated from the service, or on the day after his pay ceases and he meets the service and the age or disability requirements for title to annuity. An annuity payable from the Fund allowed after September 5, 1960, commences on the day after the occurrence of the event on which payment thereof is based.

(c) The annuity of a retired employee or Member terminates on the day death or other terminating event provided by this subchapter occurs. The annuity of a survivor terminates on the last day of the month before death or other terminating event occurs.

(d) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by a waiver signed and filed with the Civil Service Commission. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

(e) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Commission, is responsible for the care of the claimant, and the payment bars recovery by any other person.

(f) An amount, not to exceed $3,000 each year, which is received by an annuitant or a survivor annuitant under this subchapter and, except for this subsection, which would be included as gross income for purposes of the Federal income tax laws, shall not be included as gross income under such laws.

* * * * * * *

§ 8348. Civil Service Retirement and Disability Fund

(a) There is a Civil Service Retirement and Disability Fund. The Fund—

(*1*) is appropriated for *the* payment of—

[(1)] (*A*) benefits as provided by this subchapter; and

[(2)] (*B*) administrative expenses incurred by the Civil Service Commission in placing in effect each annuity adjustment granted under section 8340 of this title[.]*; and*

(2) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Commission in connection with the administration of this chapter and other retirement and annuity statutes.

(b) The Secretary of the Treasury may accept and credit to the Fund money received in the form of a donation, gift, legacy, or bequest, or otherwise contributed for the benefit of civil service employees generally.

(c) The Secretary shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

(d) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of public-debt obligations for purchase by the Fund. The obligations issued for purchase by the Fund shall have maturities fixed with due regard for the needs of the Fund and bear interest at a rate equal to the average market yield computed as of the end of the calendar month next preceding the date of the issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of that calendar month. If the average market yield is not a multiple of ⅛ of 1 percent, the rate of interest on the obligations shall be the multiple of ⅛ of 1 percent nearest the average market yield.

(e) The Secretary may purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price only if he determines that the purchases are in the public interest.

[(f) The Commission shall submit estimates of the appropriations necessary to finance the Fund on a normal cost-plus-interest basis and to carry out this subchapter.]

[(g) Money now or hereafter contained in the Fund may not be used to pay an increase in annuity benefits or a new annuity benefit under this subchapter or an earlier statute which is authorized by amendment thereof until and unless an appropriation is made to the Fund in an amount which the Commission estimates to be sufficient to prevent an immediate increase in the unfunded accrued liability of the Fund.]

(f) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund, including annuity increases other than under section 8340 of this title;

(2) extension of the coverage of this subchapter to new groups of employees; or

(3) increases in pay in which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the Civil Service Retirement System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of coverage, or increase in pay is effective

(g) At the end of each fiscal year, the Commission shall notify the Secretary of the Treasury of the amount equivalent (1) to interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and (2) that portion of disbursement for annuities for that year, which the Commission estimates is attributable credit allowed for military service. Before closing the accounts for each fiscal year, the Secretary shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the following percentages of such amounts: 10 percent for 1971; 20 percent for 1972; 30 percent for 1973; 40 percent for 1974; 50 percent for 1975; 60 percent for 1976; 70 percent for 1977; 80 percent for 1978; 90 percent for 1979; and 100 percent for 1980 and for each fiscal year thereafter. The Commission shall report to the President and to the Congress the sums credited to the Fund under this subsection.

II. TITLE I, INDEPENDENT OFFICES APPROPRIATION ACT, 1962

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CIVIL SERVICE COMMISSION

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PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the annuity benefits and increases provided by the Act of June 25, 1958 (72 Stat. 218), $44,637,000, to be credited to the civil service retirement and disability fund **[**: *Provided,* That the Civil Service Commission shall include annually, in its estimates to the Bureau of the Budget, estimates of the appropriations necessary to reimburse the civil service retirement and disability fund for the amounts paid out of the fund by reason of the enactment of Public Law 85-465, and the Bureau of the Budget shall submit such estimates annually to the Congress**]**.

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