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[Report No. 96-913]

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 22 (legislative day, JUNE 12), 1980 .

Mr. PELL (for Mr. CHURCH), from the Committee on Foreign Relations, reported the following original bill; which was read twice and ordered to be placed on the calendar

A BILL

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, 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 SECTION 1. SHORT TITLE.—This Act may be cited as
4 the “Foreign Service Act of 1980”.

5 SEC. 2. TABLE OF CONTENTS.—The table of contents
6 for this Act is as follows:

★(Star Print)

TABLE OF CONTENTS

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

CHAPTER 1—GENERAL PROVISIONS

- Sec. 101. Findings and objectives.
- Sec. 102. Definitions.
- Sec. 103. Members of the Service.
- Sec. 104. Functions of the Service.
- Sec. 105. Merit principles; protections of members of the Service; and minority recruitment.

CHAPTER 2—MANAGEMENT OF THE SERVICE

- Sec. 201. The Secretary of State.
- Sec. 202. Other agencies utilizing the Foreign Service personnel system.
- Sec. 203. Compatibility among agencies utilizing the Foreign Service personnel system.
- Sec. 204. Consolidated and uniform administration of the Service.
- Sec. 205. Compatibility between the Foreign Service and other Government personnel systems.
- Sec. 206. Regulations; delegation of functions.
- Sec. 207. Chief of mission.
- Sec. 208. Director General of the Foreign Service.
- Sec. 209. Inspector General.
- Sec. 210. Board of the Foreign Service.
- Sec. 211. Board of Examiners for the Foreign Service.

CHAPTER 3—APPOINTMENTS

- Sec. 301. General provisions relating to appointments.
- Sec. 302. Appointments by the President.
- Sec. 303. Appointments by the Secretary.
- Sec. 304. Appointment of chiefs of mission.
- Sec. 305. Appointment to the Senior Foreign Service.
- Sec. 306. Career appointments.
- Sec. 307. Entry levels for Foreign Service officer candidates.
- Sec. 308. Recall and reemployment of career members.
- Sec. 309. Limited appointments.
- Sec. 310. Reemployment rights following limited appointment.
- Sec. 311. Employment of family members of Government employees.
- Sec. 312. Diplomatic and consular commissions.

CHAPTER 4—COMPENSATION

- Sec. 401. Salaries of chiefs of mission.
- Sec. 402. Salaries of the Senior Foreign Service.
- Sec. 403. Foreign Service Schedule.
- Sec. 404. Assignment to a salary class.

3

- Sec. 405. Performance pay.
- Sec. 406. Within-class salary increases.
- Sec. 407. Salaries for Foreign Service personnel abroad who perform routine duties.
- Sec. 408. Local compensation plans.
- Sec. 409. Salaries of consular agents.
- Sec. 410. Compensation for imprisoned foreign national employees.
- Sec. 411. Temporary service as principal officer.
- Sec. 412. Special differentials and premium pay.
- Sec. 413. Death gratuity.

CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

- Sec. 501. Classification of positions.
- Sec. 502. Assignments to Foreign Service positions.
- Sec. 503. Assignments to agencies, international organizations, and other bodies.
- Sec. 504. Service in the United States and abroad.
- Sec. 505. Temporary details.

CHAPTER 6—PROMOTION AND RETENTION

- Sec. 601. Promotions.
- Sec. 602. Selection boards.
- Sec. 603. Basis for selection board review.
- Sec. 604. Confidentiality of records.
- Sec. 605. Implementation of selection board recommendations.
- Sec. 606. Other bases for increasing pay.
- Sec. 607. Retirement for expiration of time in class.
- Sec. 608. Retirement based on relative performance.
- Sec. 609. Retirement benefits.
- Sec. 610. Separation for cause.
- Sec. 611. Termination of limited appointments.
- Sec. 612. Termination of appointments of consular agents and foreign national employees.
- Sec. 613. Foreign Service Awards.

CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER DEVELOPMENT, TRAINING, AND ORIENTATION

- Sec. 701. Foreign Service Institute.
- Sec. 702. Foreign language requirements.
- Sec. 703. Training authorities.
- Sec. 704. Training grants.
- Sec. 705. Career counseling.

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

- Sec. 801. Administration of the System.
- Sec. 802. Maintenance of the Fund.
- Sec. 803. Participants.
- Sec. 804. Definitions.
- Sec. 805. Contributions to the Fund.
- Sec. 806. Computation of annuities.
- Sec. 807. Payment of annuity.

- Sec. 808. Retirement for disability or incapacity.
- Sec. 809. Death in service.
- Sec. 810. Discontinued service retirement.
- Sec. 811. Voluntary retirement.
- Sec. 812. Mandatory retirement.
- Sec. 813. Retirement of former Presidential appointees.
- Sec. 814. Former spouses.
- Sec. 815. Lump-sum payments.
- Sec. 816. Creditable service.
- Sec. 817. Extra credit for service at unhealthful posts.
- Sec. 818. Estimate of appropriations needed.
- Sec. 819. Investment of the Fund.
- Sec. 820. Assignment and attachment of moneys.
- Sec. 821. Payments for future benefits.
- Sec. 822. Unfunded liability obligations.
- Sec. 823. Annuity adjustment for recall service.
- Sec. 824. Reemployment.
- Sec. 825. Voluntary contributions.
- Sec. 826. Cost-of-living adjustments of annuities.
- Sec. 827. Compatibility between civil service and Foreign Service retirement systems.

CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

- Sec. 901. Travel and related expenses.
- Sec. 902. Loan of household effects.
- Sec. 903. Required leave in the United States.
- Sec. 904. Health care.
- Sec. 905. Representation expenses.

CHAPTER 10—LABOR-MANAGEMENT RELATIONS

- Sec. 1001. Labor-management policy.
- Sec. 1002. Definitions.
- Sec. 1003. Application.
- Sec. 1004. Employee rights.
- Sec. 1005. Management rights.
- Sec. 1006. Foreign Service Labor Relations Board.
- Sec. 1007. Functions of the Board.
- Sec. 1008. Functions of the General Counsel.
- Sec. 1009. Judicial review and enforcement.
- Sec. 1010. Foreign Service Impasse Disputes Panel.
- Sec. 1011. Exclusive recognition.
- Sec. 1012. Employees represented.
- Sec. 1013. Representation rights and duties.
- Sec. 1014. Resolution of implementation disputes.
- Sec. 1015. Unfair labor practices.
- Sec. 1016. Prevention of unfair labor practices.
- Sec. 1017. Standards of conduct for labor organizations.
- Sec. 1018. Administrative provisions.

CHAPTER 11—GRIEVANCES

- Sec. 1101. Definition of grievance.

- Sec. 1102. Grievances concerning former members.
- Sec. 1103. Freedom of action.
- Sec. 1104. Time limitations.
- Sec. 1105. Foreign Service Grievance Board.
- Sec. 1106. Board procedures.
- Sec. 1107. Board decisions.
- Sec. 1108. Access to records.
- Sec. 1109. Relationship to other remedies.
- Sec. 1110. Judicial review.

TITLE II—TRANSITION, AMENDMENTS TO OTHER LAWS, AND MISCELLANEOUS PROVISIONS

CHAPTER 1—TRANSITION

- Sec. 2101. Pay and benefits pending conversion.
- Sec. 2102. Conversion to the Foreign Service Schedule.
- Sec. 2103. Conversion to the Senior Foreign Service.
- Sec. 2104. Conversion from the Foreign Service.
- Sec. 2105. Conversion of certain positions in the Department of Agriculture.
- Sec. 2106. Preservation of status and benefits.
- Sec. 2107. Regulations.
- Sec. 2108. Authority of other agencies.

CHAPTER 2—AMENDMENTS RELATING TO FOREIGN AFFAIRS AGENCIES

- Sec. 2201. Basic authorities of the Department of State.
- Sec. 2202. Peace Corps Act.
- Sec. 2203. Foreign Assistance Act.
- Sec. 2204. Arms Control and Disarmament Act.
- Sec. 2205. Repealed provisions.
- Sec. 2206. Other conforming amendments.
- Sec. 2207. Retirement for Binational Center employees.

CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES CODE

- Sec. 2301. Reemployment rights.
- Sec. 2302. Salary for ambassadors at large.
- Sec. 2303. Advances of pay incident to departures from posts abroad.
- Sec. 2304. Premium pay.
- Sec. 2305. Attorneys fees in backpay cases.
- Sec. 2306. Separate maintenance allowance.
- Sec. 2307. Education allowance.
- Sec. 2308. Posts requiring special incentives.
- Sec. 2309. Advances of pay.
- Sec. 2310. Danger pay allowance.
- Sec. 2311. Leave.
- Sec. 2312. Retirement credit for imprisoned foreign nationals.
- Sec. 2313. Conforming amendments to title 5.
- Sec. 2314 Retirement credit for "radio" service.

1 effectively in response to the complex challenges of
2 modern diplomacy and international relations;

3 (4) the members of the Foreign Service should be
4 representative of the American people, aware of the
5 principles and history of the United States and in-
6 formed of current concerns and trends in American life,
7 knowledgeable of the affairs, cultures, and languages of
8 other countries, and available to serve in assignments
9 throughout the world; and

10 (5) the Foreign Service should be operated on the
11 basis of merit principles.

12 (b) The objective of this Act is to strengthen and im-
13 prove the Foreign Service of the United States by—

14 (1) assuring, in accordance with merit principles,
15 admission through impartial and rigorous examination,
16 acquisition of career status only by those who have
17 demonstrated their fitness through successful comple-
18 tion of probationary assignments, effective career de-
19 velopment, advancement and retention of the ablest,
20 and separation of those who do not meet the requisite
21 standards of performance;

22 (2) fostering the development and vigorous imple-
23 mentation of policies and procedures, including affirma-
24 tive action programs, which will facilitate and encour-
25 age (A) entry into and advancement in the Foreign

1 Service by persons from all segments of American soci-
2 ety, and (B) equal opportunity and fair and equitable
3 treatment for all without regard to political affiliation,
4 race, color, religion, national origin, sex, marital
5 status, age, or handicapping condition;

6 (3) providing for more efficient, economical, and
7 equitable personnel administration through a simplified
8 structure of Foreign Service personnel categories and
9 salaries;

10 (4) establishing a statutory basis for participation
11 by the members of the Foreign Service, through their
12 elected representatives, in the formulation of personnel
13 policies and procedures which affect their conditions of
14 employment, and maintaining a fair and effective
15 system for the resolution of individual grievances that
16 will insure the fullest measure of due process for the
17 members of the Foreign Service;

18 (5) minimizing the impact of the hardships, disrup-
19 tions, and other unusual conditions of service abroad
20 upon the members of the Foreign Service, and mitigat-
21 ing the special impact of such conditions upon their
22 families;

23 (6) providing salaries, allowances, and benefits
24 that will permit the Foreign Service to attract and
25 retain qualified personnel as well as a system of incen-

1 tive payments and awards to encourage and reward
2 outstanding performance;

3 (7) establishing a Senior Foreign Service which is
4 characterized by strong policy formulation capabilities,
5 outstanding executive leadership qualities, and highly
6 developed functional, foreign language and area
7 expertise;

8 (8) improving Foreign Service managerial flexibil-
9 ity and effectiveness;

10 (9) increasing efficiency and economy by promot-
11 ing maximum compatibility among the agencies author-
12 ized by law to utilize the Foreign Service personnel
13 system, as well as compatibility between the Foreign
14 Service personnel system and other personnel systems
15 of the Government; and

16 (10) otherwise enabling the Foreign Service to
17 serve effectively the interests of the United States and
18 to provide the highest caliber of representation in the
19 conduct of foreign affairs.

20 SEC. 102. DEFINITIONS.—(a) As used in this Act, the
21 term—

22 (1) “abroad” means all areas not included within
23 the United States;

24 (2) “agency” means an agency as defined in sec-
25 tion 552(e) of title 5, United States Code;

1 (3) "chief of mission" means the principal officer
2 in charge of a diplomatic mission of the United States
3 or of a United States office abroad which is designated
4 by the Secretary of State as diplomatic in nature, in-
5 cluding any individual assigned under section 502(c) to
6 be temporarily in charge of such a mission or office;

7 (4) "Department" means the Department of
8 State, except that with reference to the exercise of
9 functions under this Act with respect to another
10 agency authorized by law to utilize the Foreign Serv-
11 ice personnel system, such term means that other
12 agency;

13 (5) "employee" (except as provided in section
14 1002(8)) means, when used with respect to an agency
15 or to the Government generally, an officer or employee
16 (including a member of the Service) or a member of the
17 Armed Forces of the United States, the commissioned
18 corps of the Public Health Service, or the commis-
19 sioned corps of the National Oceanic and Atmospheric
20 Administration;

21 (6) "function" includes any duty, obligation,
22 power, authority, responsibility, right, privilege, discre-
23 tion, or activity;

24 (7) "Government" means the Government of the
25 United States;

1 (8) "merit principles" means the principles set out
2 in section 2301(b) of title 5, United States Code;

3 (9) "principal officer" means the officer in charge
4 of a diplomatic mission, consular mission (other than a
5 consular agency), or other Foreign Service post;

6 (10) "Secretary" means the Secretary of State,
7 except that (subject to section 201(b)) with reference to
8 the exercise of functions under this Act with respect to
9 any agency authorized by law to utilize the Foreign
10 Service personnel system, such term means the head of
11 that agency;

12 (11) "Service" or "Foreign Service" means the
13 Foreign Service of the United States; and

14 (12) "United States", when used in a geographic
15 sense, means the several States and the District of
16 Columbia.

17 (b) References in this Act or any other law to "Foreign
18 Service officers" shall, with respect to the International
19 Communication Agency, be deemed to refer to Foreign Serv-
20 ice information officers.

21 **SEC. 103. MEMBERS OF THE SERVICE.**—The following
22 are the members of the Service:

23 (1) Chiefs of mission, appointed under section
24 302(a)(1) or assigned under section 502(c).

1 (2) Ambassadors at large, appointed under section
2 302(a)(1).

3 (3) Members of the Senior Foreign Service, ap-
4 pointed under section 302(a)(1) or 303, who are the
5 corps of leaders and experts for the management of the
6 Service and the performance of its functions.

7 (4) Foreign Service officers, appointed under sec-
8 tion 302(a)(1), who have general responsibility for car-
9 rying out the functions of the Service.

10 (5) Foreign Service personnel, United States citi-
11 zens appointed under section 303, who provide skills
12 and services required for effective performance by the
13 Service.

14 (6) Foreign national employees, foreign nationals
15 appointed under section 303, who provide clerical, ad-
16 ministrative, technical, fiscal, and other support at For-
17 eign Service posts abroad.

18 (7) Consular agents, appointed under section 303
19 by the Secretary of State, who provide consular and
20 related services as authorized by the Secretary of State
21 at specified locations abroad where no Foreign Service
22 posts are situated.

23 SEC. 104. FUNCTIONS OF THE SERVICE.—Members of
24 the Service shall, under the direction of the Secretary—

1 (1) represent the interests of the United States in
2 relation to foreign countries and international organiza-
3 tions, and perform the functions relevant to their ap-
4 pointments and assignments, including (as appropriate)
5 functions under the Vienna Convention on Diplomatic
6 Relations, the Vienna Convention on Consular Rela-
7 tions, other international agreements to which the
8 United States is a party, the laws of the United States,
9 and orders, regulations, and directives issued pursuant
10 to law;

11 (2) provide guidance for the formulation and con-
12 duct of programs and activities of the Department and
13 other agencies which relate to the foreign relations of
14 the United States; and

15 (3) perform functions on behalf of any agency or
16 other Government establishment (including any estab-
17 lishment in the legislative or judicial branch) requiring
18 their services.

19 **SEC. 105. MERIT PRINCIPLES; PROTECTIONS FOR**
20 **MEMBERS OF THE SERVICE; AND MINORITY RECRUIT-**
21 **MENT.—(a)(1) All personnel actions with respect to career**
22 **members and career candidates in the Service (including ap-**
23 **plicants for career candidate appointments) shall be made in**
24 **accordance with merit principles.**

1 (2) For purposes of paragraph (1), the term "personnel
2 action" means—

3 (A) any appointment, promotion, assignment (in-
4 cluding assignment to any position or salary class),
5 award of performance pay or special differential,
6 within-class salary increase, separation, or performance
7 evaluation, and

8 (B) any decision, recommendation, examination, or
9 ranking provided for under this Act which relates to
10 any action referred to in subparagraph (A).

11 (b) The Secretary shall administer the provisions of this
12 Act and shall prescribe such regulations as may be necessary
13 to ensure that members of the Service, as well as applicants
14 for appointments in the Service—

15 (1) are free from discrimination on the basis of
16 race, color, religion, sex, national origin, age, handi-
17 capping condition, marital status, or political affiliation,
18 as prohibited under section 2302(b)(1) of title 5, United
19 States Code;

20 (2) are free from reprisal for—

21 (A) a disclosure of information by a member
22 or applicant which the member or applicant rea-
23 sonably believes evidences—

24 (i) a violation of any law, rule, or regu-
25 lation, or

1 (ii) mismanagement, a gross waste of
2 funds, an abuse of authority, or a substantial
3 and specific danger to public health or
4 safety,

5 if such disclosure is not specifically prohibited by
6 law and if such information is not specifically re-
7 quired by Executive order to be kept secret in the
8 interest of national defense or the conduct of for-
9 eign affairs; or

10 (B) a disclosure to the Special Counsel of the
11 Merit Systems Protection Board, or to the Inspec-
12 tor General of an agency (including the Inspector
13 General of the Department of State and the For-
14 eign Service) or another employee designated by
15 the head of the agency to receive such disclo-
16 sures, of information which the member or appli-
17 cant reasonably believes evidences—

18 (i) a violation of any law, rule, or regu-
19 lation, or

20 (ii) mismanagement, a gross waste of
21 funds, an abuse of authority, or a substantial
22 and specific danger to public health or
23 safety;

24 (3) are free to submit to officials of the Service
25 and the Department any report, evaluation, or recom-

1 mendment, including the right to submit such report,
2 evaluation, or recommendation through a separate dis-
3 sent channel, whether or not the views expressed
4 therein are in accord with approved policy, unless the
5 report, evaluation, or recommendation was submitted
6 with the knowledge that it was false or with willful
7 disregard for its truth or falsity; and

8 (4) are free from any personnel practice prohibited
9 by section 2302 of title 5, United States Code.

10 (c) This section shall not be construed as authorizing the
11 withholding of information from the Congress or the taking of
12 any action against a member of the Service who discloses
13 information to the Congress.

14 (d)(1) The Secretary shall establish a minority recruit-
15 ment program for the Service consistent with section 7201 of
16 title 5, United States Code.

17 (2) Not later than January 31 of each year, the Secre-
18 tary shall transmit to each House of the Congress a report,
19 signed by the Secretary, on the activities of the Secretary
20 under paragraph (1). Such report shall include any affirma-
21 tive action plans submitted by the Secretary under section
22 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16)
23 and any data necessary to evaluate the effectiveness of the
24 program under paragraph (1) for the preceding fiscal year,

1 together with recommendations for administrative or legisla-
2 tive action the Secretary considers appropriate.

3 (e) This section shall not be construed to extinguish or
4 lessen any effort to achieve equal employment opportunity
5 through affirmative action or any right or remedy available to
6 any employee or applicant for employment in the civil service
7 under—

8 (1) section 717 of the Civil Rights Act of 1964
9 (42 U.S.C. 2000e-16), prohibiting discrimination on
10 the basis of race, color, religion, sex, or national origin;

11 (2) sections 12 and 15 of the Age Discrimination
12 in Employment Act of 1967 (29 U.S.C. 631, 633a),
13 prohibiting discrimination on the basis of age;

14 (3) section 6(d) of the Fair Labor Standards Act
15 of 1938 (29 U.S.C. 206(d)), prohibiting discrimination
16 on the basis of sex;

17 (4) sections 501 and 505 of the Rehabilitation Act
18 of 1973 (29 U.S.C. 791, 794a), prohibiting discrimina-
19 tion on the basis of handicapping condition; or

20 (5) any provision of law, rule, or regulation pro-
21 hibiting discrimination on the basis of marital status or
22 political affiliation.

23 CHAPTER 2—MANAGEMENT OF THE SERVICE

24 SEC. 201. THE SECRETARY OF STATE.—(a) Under the
25 direction of the President, the Secretary of State shall admin-

1 ister and direct the Service and shall coordinate its activities
2 with the needs of the Department of State and other
3 agencies.

4 (b) The Secretary of State alone among the heads of
5 agencies utilizing the Foreign Service personnel system shall
6 perform the functions expressly vested in the Secretary of
7 State by this Act.

8 SEC. 202. OTHER AGENCIES UTILIZING THE FOREIGN
9 SERVICE PERSONNEL SYSTEM.—(a)(1) The Director of the
10 International Communication Agency and the Director of the
11 United States International Development Cooperation
12 Agency may utilize the Foreign Service personnel system
13 with respect to their respective agencies in accordance with
14 this Act.

15 (2) The Secretary of Agriculture may utilize the Foreign
16 Service personnel system in accordance with this Act—

17 (A) with respect to personnel of the Foreign Agri-
18 cultural Service, and

19 (B) with respect to other personnel of the Depart-
20 ment of Agriculture to the extent the President
21 determines to be necessary in order to enable the De-
22 partment of Agriculture to carry out functions which
23 require service abroad.

24 (3) The Secretary of Commerce may utilize the Foreign
25 Service personnel system in accordance with this Act—

1 (A) with respect to the personnel performing func-
2 tions transferred to the Department of Commerce from
3 the Department of State by Reorganization Plan
4 Number 3 of 1979, and

5 (B) with respect to other personnel of the Depart-
6 ment of Commerce to the extent the President deter-
7 mines to be necessary in order to enable the Depart-
8 ment of Commerce to carry out functions which require
9 service abroad.

10 (b) Subject to section 201(b)—

11 (1) the agency heads referred to in subsection (a),
12 and

13 (2) the head of any other agency (to the extent
14 authority to utilize the Foreign Service personnel
15 system is granted to such agency head under any other
16 Act),

17 shall in the case of their respective agencies exercise the
18 functions vested in the Secretary by this Act.

19 SEC. 203. COMPATIBILITY AMONG AGENCIES UTILIZ-
20 ING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a) The
21 Service shall be administered to the extent practicable in a
22 manner that will assure maximum compatibility among the
23 agencies authorized by law to utilize the Foreign Service per-
24 sonnel system. To this end, the other heads of such agencies
25 shall consult regularly with the Secretary of State.

1 (b) Nothing in this chapter shall be construed as dimin-
2 ishing the authority of the head of any agency authorized by
3 law to utilize the Foreign Service personnel system.

4 SEC. 204. CONSOLIDATED AND UNIFORM ADMINIS-
5 TRATION OF THE SERVICE.—The Secretary shall on a con-
6 tinuing basis consider the need for uniformity of personnel
7 policies and procedures and for consolidation (in accordance
8 with section 23 of the State Department Basic Authorities
9 Act of 1956 (22 U.S.C. 2695)) of personnel functions among
10 agencies utilizing the Foreign Service personnel system.
11 Where feasible, the Secretary of State shall encourage (in
12 consultation with the other heads of such agencies) the devel-
13 opment of uniform policies and procedures and consolidated
14 personnel functions.

15 SEC. 205. COMPATIBILITY BETWEEN THE FOREIGN
16 SERVICE AND OTHER GOVERNMENT PERSONNEL SYS-
17 TEMS.—The Service shall be administered to the extent
18 practicable in conformity with general policies and regula-
19 tions of the Government. The Secretary shall consult with
20 the Director of the Office of Personnel Management, the Di-
21 rector of the Office of Management and Budget, and the
22 heads of such other agencies as the President shall deter-
23 mine, in order to assure compatibility of the Foreign Service
24 personnel system with other Government personnel systems
25 to the extent practicable.

1 SEC. 206. REGULATIONS; DELEGATION OF FUNC-
2 TIONS.—(a) The Secretary may prescribe such regulations as
3 the Secretary deems appropriate to carry out functions under
4 this Act.

5 (b) The Secretary may delegate functions under this Act
6 which are vested in the Secretary to any employee of the
7 Department or any member of the Service.

8 SEC. 207. CHIEF OF MISSION.—(a) Under the direction
9 of the President, the chief of mission to a foreign country—

10 (1) shall have full responsibility for the direction,
11 coordination, and supervision of all Government em-
12 ployees in that country (except for employees under
13 the command of a United States area military com-
14 mander); and

15 (2) shall keep fully and currently informed with
16 respect to all activities and operations of the Govern-
17 ment within that country, and shall insure that all
18 Government employees in that country (except for em-
19 ployees under the command of a United States area
20 military commander) comply fully with all applicable
21 directives of the chief of mission.

22 (3) shall submit a report describing the foreign
23 language competence of the chief of mission and the
24 mission staff in the principal language or other dialect
25 of the country to the chairmen of the Senate Foreign

1 Relations and House Foreign Affairs Committees
2 within six months of assuming the post.

3 (b) Any agency having employees in a foreign country
4 shall keep the chief of mission to that country fully and cur-
5 rently informed with respect to all activities and operations of
6 its employees in that country, and shall insure that all of its
7 employees in that country (except for employees under the
8 command of a United States area military commander)
9 comply fully with all applicable directives of the chief of
10 mission.

11 SEC. 208. DIRECTOR GENERAL OF THE FOREIGN
12 SERVICE.—There shall be a Director General of the Foreign
13 Service, who shall be appointed by the President, by and
14 with the advice and consent of the Senate, from among the
15 career members of the Senior Foreign Service. The Director
16 General shall assist the Secretary of State in the manage-
17 ment of the Service and shall perform such functions as the
18 Secretary of State may prescribe.

19 SEC. 209. INSPECTOR GENERAL.—(a)(1) There shall
20 be an Inspector General of the Department of State and the
21 Foreign Service, who shall be appointed by the President, by
22 and with the advice and consent of the Senate, without
23 regard to political affiliation from among individuals excep-
24 tionally qualified for the position by virtue of their integrity,
25 and their demonstrated ability in accounting, auditing, finan-

1 cial analysis, law, management analysis, public administra-
2 tion, investigations, or their knowledge and experience in the
3 conduct of foreign affairs. The Inspector General shall report
4 to and be under the general supervision of the Secretary of
5 State. Neither the Secretary of State nor any other officer of
6 the Department shall prevent or prohibit the Inspector Gen-
7 eral from initiating, carrying out, or completing any audit or
8 investigation, or from issuing any subpoena during the course
9 of any audit or investigation. The Inspector General shall
10 periodically (at least every 5 years) inspect and audit the
11 administration of activities and operations of each Foreign
12 Service post and each bureau and other operating unit of the
13 Department of State, and shall perform such other functions
14 as the Secretary of State may prescribe, except that the Sec-
15 retary of State shall not assign to the Inspector General any
16 general program operating responsibilities.

17 (2) The Inspector General may be removed from office
18 by the President. The President shall communicate the rea-
19 sons for any such removal to both Houses of Congress.

20 (b) Inspections, investigations, and audits conducted by
21 or under the direction of the Inspector General shall include
22 the systematic review and evaluation of the administration of
23 activities and operations of Foreign Service posts and bu-
24 reaus and other operating units of the Department of State,
25 including an examination of—

1 (1) whether financial transactions and accounts
2 are properly conducted, maintained, and reported;

3 (2) whether resources are being used and man-
4 aged with the maximum degree of efficiency, effective-
5 ness, and economy;

6 (3) whether the administration of activities and
7 operations meets the requirements of applicable laws
8 and regulations and, specifically, whether such admin-
9 istration is consistent with the requirements of section
10 105;

11 (4) whether there exist instances of fraud or other
12 serious problems, abuses, or deficiencies, and whether
13 adequate steps for detection, correction, and prevention
14 have been taken; and

15 (5) whether policy goals and objectives are being
16 effectively achieved and whether the interests of the
17 United States are being accurately and effectively rep-
18 resented.

19 (c)(1) The Inspector General shall develop and imple-
20 ment policies and procedures for the inspection and audit ac-
21 tivities carried out under this section. These policies and pro-
22 cedures shall be consistent with the general policies and
23 guidelines of the Government for inspection and audit activi-
24 ties and shall comply with the standards established by the
25 Comptroller General of the United States for audits of Gov-

1 ernment agencies, organizations, programs, activities, and
2 functions.

3 (2) In carrying out the duties and responsibilities estab-
4 lished under this section, the Inspector General shall give
5 particular regard to the activities of the Comptroller General
6 of the United States with a view toward insuring effective
7 coordination and cooperation.

8 (3) In carrying out the duties and responsibilities estab-
9 lished under this section, the Inspector General shall report
10 expeditiously to the Attorney General whenever the Inspec-
11 tor General has reasonable grounds to believe there has been
12 a violation of Federal criminal law.

13 (d)(1) The Inspector General shall keep the Secretary of
14 State fully and currently informed, by means of the reports
15 required by paragraphs (2) and (3) and otherwise, concerning
16 fraud and other serious problems, abuses, and deficiencies re-
17 lating to the administration of activities and operations ad-
18 ministered or financed by the Department of State.

19 (2) The Inspector General shall, not later than April 30
20 of each year, prepare and furnish to the Secretary of State an
21 annual report summarizing the activities of the Inspector
22 General. Such report shall include—

23 (A) a description of significant problems, abuses,
24 and deficiencies relating to the administration of activi-
25 ties and operations of Foreign Service posts, and bu-

1 reaus and other operating units of the Department of
2 State, which were disclosed by the Inspector General
3 within the reporting period;

4 (B) a description of the recommendations for cor-
5 rective action made by the Inspector General during
6 the reporting period with respect to significant prob-
7 lems, abuses, or deficiencies described pursuant to sub-
8 paragraph (A);

9 (C) an identification of each significant recommen-
10 dation described in previous annual reports on which
11 corrective action has not been completed;

12 (D) a summary of matters referred to prosecutive
13 authorities and the prosecutions and convictions which
14 have resulted; and

15 (E) a listing of each audit report completed by the
16 Inspector General during the reporting period.

17 The Secretary of State shall transmit a copy of such annual
18 report within 30 days after receiving it to the Committee on
19 Foreign Relations of the Senate and the Committee on For-
20 eign Affairs of the House of Representatives and to other
21 appropriate committees, together with a report of the Secre-
22 tary of State containing any comments which the Secretary
23 of State deems appropriate. Within 60 days after transmit-
24 ting such reports to those committees, the Secretary of State

1 shall make copies of them available to the public upon re-
2 quest and at a reasonable cost.

3 (3) The Inspector General shall report immediately to
4 the Secretary of State whenever the Inspector General be-
5 comes aware of particularly serious or flagrant problems,
6 abuses, or deficiencies relating to the administration of activi-
7 ties and operations of Foreign Service posts or bureaus or
8 other operating units of the Department of State. The Secre-
9 tary of State shall transmit any such report to the Committee
10 on Foreign Relations of the Senate and the Committee on
11 Foreign Affairs of the House of Representatives and to other
12 appropriate committees within 7 days after receiving it, to-
13 gether with a report by the Secretary of State containing any
14 comments the Secretary of State deems appropriate.

15 (4) Nothing in this subsection shall be construed to au-
16 thorize the public disclosure by any individual of any informa-
17 tion which is—

18 (A) specifically prohibited from disclosure by any
19 other provision of law; or

20 (B) specifically required by Executive order to be
21 kept secret in the interest of national defense or the
22 conduct of foreign affairs.

23 (e)(1) The Inspector General shall have the same au-
24 thority in carrying out the provisions of this section as is
25 granted under section 6 of the Inspector General Act of 1978

1 to each Inspector General of an establishment (as defined in
2 section 11(2) of such Act) for carrying out the provisions of
3 that Act, and the responsibilities of other officers of the Gov-
4 ernment to the Inspector General shall be the same as the
5 responsibilities of the head of an agency or establishment
6 under section 6 (b) and (c) of such Act.

7 (2) At the request of the Inspector General, employees
8 of the Department and members of the Service may be as-
9 signed as employees of the Inspector General. The individ-
10 uals so assigned and individuals appointed pursuant to para-
11 graph (1) shall be responsible solely to the Inspector General,
12 and the Inspector General or his or her designee shall pre-
13 pare the performance evaluation reports for such individuals.

14 (f)(1) The Inspector General may receive and investi-
15 gate complaints or information from a member of the Service
16 or employee of the Department concerning the possible exist-
17 ence of an activity constituting a violation of laws or regula-
18 tions, constituting mismanagement, gross waste of funds, or
19 abuse of authority, or constituting a substantial and specific
20 danger to public health or safety.

21 (2) The Inspector General shall not, after receipt of a
22 complaint or information from a member of the Service or
23 employee of the Department, disclose the identity of such
24 individual without the consent of such individual, unless the

1 Inspector General determines such disclosure is unavoidable
2 during the course of the investigation.

3 (g) Under the general supervision of the Secretary of
4 State, the Inspector General may review activities and oper-
5 ations performed under the direction, coordination, and su-
6 pervision of chiefs of mission for the purpose of ascertaining
7 their consonance with the foreign policy of the United States
8 and their consistency with the responsibilities of the Secre-
9 tary of State and the chief of mission.

10 SEC. 210. BOARD OF THE FOREIGN SERVICE.—The
11 President shall establish a Board of the Foreign Service to
12 advise the Secretary of State on matters relating to the Serv-
13 ice, including furtherance of the objectives of maximum com-
14 patibility among agencies authorized by law to utilize the
15 Foreign Service personnel system and compatibility between
16 the Foreign Service personnel system and the other person-
17 nel systems of the Government. The Board of the Foreign
18 Service shall be chaired by a career member of the Senior
19 Foreign Service designated by the Secretary of State and
20 shall include one or more representatives of the Department
21 of State, the International Communication Agency, the
22 United States International Development Cooperation
23 Agency, the Department of Agriculture, the Department of
24 Commerce, the Department of Labor, the Office of Personnel
25 Management, the Office of Management and Budget, the

1 Equal Employment Opportunity Commission, and such other
2 agencies as the President may designate.

3 SEC. 211. BOARD OF EXAMINERS FOR THE FOREIGN
4 SERVICE.—(a) The President shall establish a Board of Ex-
5 aminers for the Foreign Service to develop, and supervise the
6 administration of, examinations prescribed under section
7 301(b) to be given to candidates for appointment in the Serv-
8 ice. The Board shall consist of 15 members appointed by the
9 President (no fewer than 5 of whom shall be appointed from
10 among individuals who are not Government employees and
11 who shall be qualified for service on the Board by virtue of
12 their knowledge, experience, or training in the fields of test-
13 ing or equal employment opportunity). The Board shall in-
14 clude representatives of agencies utilizing the Foreign Serv-
15 ice personnel system and representatives of other agencies
16 which have responsibility for employment testing. The Board
17 shall be chaired by a member of the Board, designated by the
18 President, who is a member of the Service.

19 (b) The Board of Examiners shall periodically review
20 the examinations prescribed under section 301(b) in order to
21 determine—

22 (1) whether any such examination has an adverse
23 impact on the hiring, promotion, or other employment
24 opportunity of members of any race, sex, or ethnic
25 group;

1 (2) methods of minimizing any such adverse
2 impact;

3 (3) alternatives to any examinations which have
4 such an adverse impact; and

5 (4) whether such examinations are valid in rela-
6 tion to job performance.

7 The Board of Examiners shall annually report its findings
8 under this subsection to the Secretary of State and shall fur-
9 nish to the Secretary of State its recommendations for im-
10 provements in the development, use, and administration of
11 the examinations prescribed under section 301(b).

12 (c) Any vacancy or vacancies on the Board shall not
13 impair the right of the remaining members to exercise the full
14 powers of the Board.

15 CHAPTER 3—APPOINTMENTS

16 SEC. 301. GENERAL PROVISIONS RELATING TO AP-
17 POINTMENTS.—(a) Only citizens of the United States may be
18 appointed to the Service, other than for service abroad as a
19 consular agent or as a foreign national employee.

20 (b) The Secretary shall prescribe, as appropriate, writ-
21 ten, oral, physical, foreign language, and other examinations
22 for appointment to the Service (other than as a chief of mis-
23 sion or ambassador at large).

24 (c) The fact that an applicant for appointment as a For-
25 eign Service officer candidate is a veteran or disabled veteran

1 shall be considered an affirmative factor in making such ap-
2 pointments. As used in this subsection, the term "veteran or
3 disabled veteran" means an individual who is a preference
4 eligible under subparagraph (A), (B), or (C) of section 2108(3)
5 of title 5, United States Code.

6 (d)(1) Members of the Service serving under career ap-
7 pointments are career members of the Service. Members of
8 the Service serving under limited appointments are either
9 career candidates or noncareer members of the Service.

10 (2) Chiefs of mission, ambassadors at large, and minis-
11 ters serve at the pleasure of the President.

12 (3) An appointment as a Foreign Service officer is a
13 career appointment.

14 SEC. 302. APPOINTMENTS BY THE PRESIDENT.—(a)(1)
15 The President may, by and with the advice and consent of
16 the Senate, appoint an individual as a chief of mission, as an
17 ambassador at large, as a minister, as a career member of the
18 Senior Foreign Service, or as a Foreign Service officer.

19 (2)(A) The President may, by and with the advice and
20 consent of the Senate, confer the personal rank of career am-
21 bassador upon a career member of the Senior Foreign Serv-
22 ice in recognition of especially distinguished service over a
23 sustained period.

24 (B) No person shall be designated as ambassador or
25 minister, or be designated to serve in any position with

1 the title of ambassador or minister, unless that person is ap-
2 pointed as an ambassador or minister with the advice and
3 consent of the Senate or in accordance with clause 3, section
4 2, of article II of the Constitution relating to recess appoint-
5 ments, except in accordance with this subparagraph. The per-
6 sonal rank of ambassador or minister may be conferred by the
7 President in connection with special missions for the Presi-
8 dent of an essentially limited and temporary nature of not
9 exceeding 6 months: *Provided*, That the President, 30 days
10 prior to conferring such rank, reports in writing to the Com-
11 mittee on Foreign Relations of the Senate his intent to confer
12 such rank, the necessity for conferring it, the dates during
13 which the rank shall be held, and the justification for not
14 submitting the nomination for Senate advice and consent
15 prior to such appointment, and transmits therewith all mate-
16 rials relating to any potential conflict of interest relevant to
17 such person.

18 (C) An individual upon whom a personal rank is con-
19 ferred under subparagraph (A) or (B) shall not receive any
20 additional compensation solely by virtue of such personal
21 rank.

22 (b) If a member of the Service is appointed to any posi-
23 tion in the executive branch by the President, by and with
24 the advice and consent of the Senate, or by the President
25 alone, the period of service in that position by the member

1 shall be regarded as an assignment under chapter 5 and the
2 member shall not, by virtue of the acceptance of such assign-
3 ment, lose his or her status as a member of the Service. A
4 member of the Senior Foreign Service who accepts such an
5 assignment may elect to continue to receive the salary of his
6 or her salary class, to remain eligible for performance pay
7 under chapter 4, and to receive the leave to which such
8 member is entitled under subchapter I of chapter 63 of title
9 5, United States Code, as a member of the Senior Foreign
10 Service, in lieu of receiving the salary and leave (if any) of
11 the position to which the member is appointed by the
12 President.

13 SEC. 303. APPOINTMENTS BY THE SECRETARY.—The
14 Secretary may appoint the members of the Service (other
15 than the members of the Service who are in the personnel
16 categories specified in section 302(a)) in accordance with this
17 Act and such regulations as the Secretary may prescribe.

18 SEC. 304. APPOINTMENT OF CHIEFS OF MISSION.—
19 (a)(1) An individual appointed or assigned to be a chief of
20 mission should possess clearly demonstrated competence to
21 perform the duties of a chief of mission, including, to the
22 maximum extent practicable, a useful knowledge of the prin-
23 cipal language or dialect of the country in which the individ-
24 ual is to serve, and knowledge and understanding of the his-

1 tory, the culture, the economic and political institutions, and
2 the interests of that country and its people.

3 (2) Given the qualifications specified in paragraph (1),
4 positions as chief of mission should normally be accorded to
5 career members of the Service, though circumstances will
6 warrant appointments from time to time of qualified individ-
7 uals who are not career members of the Service.

8 (3) Contributions to political campaigns should not be a
9 factor in the appointment of an individual as a chief of
10 mission.

11 (4) The President shall provide the Committee on For-
12 eign Relations of the Senate, with each nomination for a
13 chief of mission position, a report on that nominee's demon-
14 strated competence to perform the duties of chief of mission
15 in the country in which he or she is to serve.

16 (b)(1) In order to assist the President in selecting quali-
17 fied candidates for appointment or assignment as chiefs of
18 mission, the Secretary of State shall from time to time fur-
19 nish the President with the names of career members of the
20 Service who are qualified to serve as chiefs of mission, to-
21 gether with pertinent information about such members.

22 (2) Each individual nominated by the President to be a
23 chief of mission, ambassador at large, or minister shall, at the
24 time of nomination, file with the Committee on Foreign Rela-
25 tions of the Senate and the Speaker of the House of Repre-

1 sentatives a report of contributions made by such individual
2 and by members of his or her immediate family during the
3 period beginning on the first day of the fourth calendar year
4 preceding the calendar year of the nomination and ending on
5 the date of the nomination. The report shall be verified by the
6 oath of the nominee, taken before any individual authorized
7 to administer oaths. The chairman of the Committee on For-
8 eign Relations of the Senate shall have each such report
9 printed in the Congressional Record. As used in this para-
10 graph, the term "contribution" has the same meaning given
11 such term by section 301(8) of the Federal Election Cam-
12 paign Act of 1971 (2 U.S.C. 431(8)), and the term "immedi-
13 ate family" means the spouse of the nominee, and any child,
14 parent, grandparent, brother, or sister of the nominee and the
15 spouses of any of them.

16 SEC. 305. APPOINTMENT TO THE SENIOR FOREIGN
17 SERVICE.—(a) Appointment to the Senior Foreign Service
18 shall be to a salary class established under section 402, and
19 not to a position.

20 (b) An individual may not be given a limited appoint-
21 ment in the Senior Foreign Service if that appointment would
22 cause the number of members of the Senior Foreign Service
23 serving under limited appointments to exceed 5 percent of
24 the total number of members of the Senior Foreign Service,
25 except that (1) members of the Senior Foreign Service as-

1 signed to the Peace Corps shall be excluded in the calcula-
2 tion and application of this limitation, and (2) members of the
3 Senior Foreign Service serving under limited appointments
4 with reemployment rights under section 310 as career ap-
5 pointees in the Senior Executive Service shall be considered
6 to be career members of the Senior Foreign Service for pur-
7 poses of this subsection.

8 **SEC. 306. CAREER APPOINTMENTS.**—(a) Before re-
9 ceiving a career appointment in the Service, an individual
10 shall first serve under a limited appointment as a career can-
11 didate for a trial period of service prescribed by the Secre-
12 tary. During such trial period of service, the Secretary shall
13 decide whether—

14 (1) to offer a career appointment to the candidate
15 under section 303, or

16 (2) to recommend to the President that the candi-
17 date be given a career appointment under section 302.

18 (b) Decisions by the Secretary under subsection (a) shall
19 be based upon the recommendations of boards, established by
20 the Secretary and composed entirely or primarily of career
21 members of the Service, which shall evaluate the fitness and
22 aptitude of career candidates for the work of the Service.

23 **SEC. 307. ENTRY LEVELS FOR FOREIGN SERVICE OF-**
24 **FICER CANDIDATES.**—A career candidate for appointment
25 as a Foreign Service officer may not be initially assigned

1 under section 404 to a salary class higher than class 4 in the
2 Foreign Service Schedule unless—

3 (1) the Secretary determines in an individual case
4 that assignment to a higher salary class is warranted
5 because of the qualifications and experience of the can-
6 didate, foreign language competence and the needs of
7 the Service; or

8 (2) at the time such initial assignment is made,
9 the candidate is serving under a career appointment in
10 the Service and is receiving a salary at a rate equal to
11 or higher than the minimum rate payable for class 4 in
12 the Foreign Service Schedule.

13 SEC. 308. RECALL AND REEMPLOYMENT OF CAREER
14 MEMBERS.—(a) Whenever the Secretary determines that the
15 needs of the Service so require, the Secretary may recall any
16 retired career member of the Service for active duty in the
17 same personnel category as that member was serving at the
18 time of retirement. A retired career member may be recalled
19 under this section to any appropriate salary class or rate,
20 except that a retired career member of the Senior Foreign
21 Service may not be recalled to a salary class higher than the
22 one in which the member was serving at the time of retire-
23 ment unless appointed to such higher class by the President,
24 by and with the advice and consent of the Senate.

1 (b) Former career members of the Service may be reap-
2 pointed under section 302(a)(1) or 303, without regard to
3 section 306, in a salary class which is appropriate in light of
4 the qualifications and experience of the individual being
5 reappointed.

6 SEC. 309. LIMITED APPOINTMENTS.—A limited ap-
7 pointment in the Service, including an appointment of an in-
8 dividual who is an employee of an agency, may not exceed 5
9 years in duration and, except as provided in section 311(a),
10 may not be extended or renewed. A limited appointment in
11 the Service which is limited by its terms to a period of one
12 year or less is a temporary appointment.

13 SEC. 310. REEMPLOYMENT RIGHTS FOLLOWING LIM-
14 ITED APPOINTMENT.—Any employee of an agency who ac-
15 cepts a limited appointment in the Service with the consent
16 of the head of the agency in which the employee is employed
17 shall be entitled, upon the termination of such limited ap-
18 pointment, to be reemployed in accordance with section 3597
19 of title 5, United States Code.

20 SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF
21 GOVERNMENT EMPLOYEES.—(a) The Secretary, when em-
22 ploying individuals abroad in positions to which career mem-
23 bers of the Service are not customarily assigned (including,
24 when continuity over a long term is not a significant consid-
25 eration, vacant positions normally filled by foreign national

1 employees), shall give equal consideration to employing
2 available qualified family members of members of the Service
3 or of other Government employees assigned abroad. Family
4 members so employed shall serve under renewable limited
5 appointments in the Service and may be paid either in ac-
6 cordance with the Foreign Service Schedule or a local com-
7 pensation plan established under section 408.

8 (b) Employment of family members in accordance with
9 this section may not be used to avoid fulfilling the need for
10 full-time career positions.

11 (c) The Secretary of State shall prescribe regulations
12 governing the employment at Foreign Service posts abroad of
13 family members of Government employees by all agencies
14 and other Government establishments (including establish-
15 ments in the legislative or judicial branch).

16 SEC. 312. DIPLOMATIC AND CONSULAR COMMIS-
17 SIONS.—(a) The Secretary of State may recommend to the
18 President that a member of the Service who is a citizen of
19 the United States be commissioned as a diplomatic or con-
20 sular officer or both. The President may, by and with the
21 advice and consent of the Senate, commission such member
22 of the Service as a diplomatic or consular officer or both. The
23 Secretary of State may commission as a vice consul a
24 member of the Service who is a citizen of the United States.
25 All official functions performed by a diplomatic or consular

1 officer, including a vice consul, shall be performed under
2 such a commission.

3 (b) Members of the Service commissioned under this sec-
4 tion may, in accordance with their commissions, perform any
5 function which any category of diplomatic officer (other than
6 a chief of mission) or consular officer is authorized by law to
7 perform.

8 (c) The Secretary of State shall define the limits of con-
9 sular districts.

10 CHAPTER 4—COMPENSATION

11 SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a)
12 Except as provided in section 302(b), each chief of mission
13 shall receive a salary, as determined by the President, at one
14 of the annual rates payable for levels II through V of the
15 Executive Schedule under sections 5313 through 5316 of
16 title 5, United States Code.

17 (b) The salary of a chief of mission shall commence upon
18 the effective date of appointment to that position. The official
19 services of a chief of mission are not terminated by the
20 appointment of a successor, but shall continue for such addi-
21 tional period, not to exceed 50 days after relinquishment of
22 charge of the mission, as the Secretary of State may deter-
23 mine. During that period, the Secretary of State may require
24 the chief of mission to perform such functions as the

1 Secretary of State deems necessary in the interest of the
2 Government.

3 SEC. 402. SALARIES OF THE SENIOR FOREIGN SERV-
4 ICE.—The President shall prescribe salary classes for the
5 Senior Foreign Service and shall prescribe an appropriate
6 title for each class. Basic salary rates for the Senior Foreign
7 Service may not exceed the maximum rate or be less than
8 the minimum rate of basic pay payable for the Senior Execu-
9 tive Service under section 5382 of title 5, United States
10 Code, and shall be adjusted at the same time and in the same
11 manner as rates of basic pay are adjusted for the Senior Ex-
12 ecutive Service.

13 SEC. 403. FOREIGN SERVICE SCHEDULE.—The Presi-
14 dent shall establish a Foreign Service Schedule which shall
15 consist of 9 salary classes and which shall apply to members
16 of the Service who are citizens of the United States and for
17 whom salary rates are not otherwise provided for by this
18 chapter. The maximum salary rate for the highest class es-
19 tablished under this section, which shall be designated class
20 1, may not exceed the maximum rate of basic pay payable for
21 GS-15 of the General Schedule under section 5332 of title 5,
22 United States Code. Salary rates established under this sec-
23 tion shall be adjusted in accordance with subchapter 1 of
24 chapter 53 of title 5, United States Code.

1 SEC. 404. ASSIGNMENT TO A SALARY CLASS.—(a)

2 The Secretary shall assign all Foreign Service officers and
3 Foreign Service personnel (other than Foreign Service per-
4 sonnel who are paid in accordance with section 407 or who
5 are family members of Government employees paid in ac-
6 cordance with a local compensation plan established under
7 section 408) to appropriate salary classes in the Foreign
8 Service Schedule.

9 (b)(1) The salary class to which a member of the Service
10 is assigned under this section shall not be affected by the
11 assignment of the member to a position classified under chap-
12 ter 5.

13 (2) Except as authorized by subchapter I of chapter 35
14 of title 5, United States Code, changes in the salary class of
15 a member of the Senior Foreign Service or a member of the
16 Service assigned to a salary class in the Foreign Service
17 Schedule shall be made only in accordance with chapter 6.
18 The Secretary shall prescribe regulations (which shall be
19 consistent with the relevant provisions of subchapter VI of
20 chapter 53 of title 5, United States Code, and with the regu-
21 lations prescribed to carry out such provisions) providing for
22 retention of pay by members of the Service in cases in which
23 reduction-in-force procedures are applied.

24 SEC. 405. PERFORMANCE PAY.—(a) Members of the
25 Senior Foreign Service who are serving—

1 (1) under career or career candidate appointments,
2 or

3 (2) under limited appointments with reemployment
4 rights under section 310 as career appointees in the
5 Senior Executive Service,

6 shall be eligible to compete for performance pay in accord-
7 ance with this section. Performance pay shall be paid in a
8 lump sum and shall be in addition to the basic salary pre-
9 scribed under section 402 and any other award. The fact that
10 a member of the Senior Foreign Service competing for per-
11 formance pay would, as a result of the payment of such
12 performance pay, receive compensation exceeding the com-
13 pensation of any other member of the Service shall not pre-
14 clude the award or its payment.

15 (b) Awards of performance pay shall take into account
16 the criteria established by the Office of Personnel Manage-
17 ment for performance awards under section 5384 of title 5,
18 United States Code, and rank awards under section 4507 of
19 title 5, United States Code. Awards of performance pay
20 under this section shall be subject to the following
21 limitations:

22 (1) Not more than 50 percent of the members of
23 the Senior Foreign Service may receive performance
24 pay in any fiscal year.

1 (2) Except as provided in paragraph (3), perform-
2 ance pay for a member of the Senior Foreign Service
3 may not exceed 20 percent of the annual rate of basic
4 salary for that member.

5 (3) Not more than 6 percent of the members of
6 the Senior Foreign Service may receive performance
7 pay in any fiscal year in an amount which exceeds the
8 percentage limitation specified in paragraph (2). Pay-
9 ments under this paragraph to a member of the Senior
10 Foreign Service may not exceed \$10,000 in any fiscal
11 year, except that payments of up to \$20,000 in any
12 fiscal year may be made under this paragraph to up to
13 1 percent of the members of the Senior Foreign
14 Service.

15 (4) The total amount of basic salary plus perform-
16 ance pay received in any fiscal year by any member of
17 the Senior Foreign Service may not exceed the salary
18 payable for level I of the Executive Schedule under
19 section 5312 of title 5, United States Code, as in effect
20 at the end of that fiscal year.

21 (c) The Secretary shall determine the amount of per-
22 formance pay available under subsection (b)(2) each year for
23 distribution among the members of the Senior Foreign Serv-
24 ice and shall distribute performance pay to particular individ-

1 uals on the basis of recommendations by selection boards es-
2 tablished under section 602.

3 (d) The President may grant awards of performance pay
4 under subsection (b)(3) on the basis of annual recommenda-
5 tions by the Secretary of State of members of the Senior
6 Foreign Service who are nominated by their agencies as
7 having performed especially meritorious or distinguished
8 service. Recommendations by the Secretary of State under
9 this subsection shall be made on the basis of recommenda-
10 tions by special interagency selection boards established by
11 the Secretary of State for the purpose of reviewing and eval-
12 uating the nominations of agencies.

13 SEC. 406. WITHIN-CLASS SALARY INCREASES.—(a)
14 Any member of the Service receiving a salary under the For-
15 eign Service Schedule shall receive an increase in salary at
16 periodic intervals to the next higher rate for the salary class
17 in which such member is serving unless the performance of
18 the member during any such interval is found in a review by
19 a selection board established under section 602 to fall below
20 the standards of performance for his or her salary class.

21 (b) The Secretary may grant, on the basis of especially
22 meritorious service, to any member of the Service receiving
23 an increase in salary under subsection (a), an additional
24 salary increase to any higher step in the salary class in which
25 the member is serving.

1 SEC. 407. SALARIES FOR FOREIGN SERVICE PERSON-
2 NEL ABROAD WHO PERFORM ROUTINE DUTIES.—(a) The
3 Secretary may establish salary rates at rates lower than
4 those established for the Foreign Service Schedule by section
5 403 for the Foreign Service personnel described in subsection
6 (b). The rates established under this subsection may be no
7 less than the then applicable minimum wage rate specified in
8 section 6(a)(1) of the Fair Labor Standards Act of 1938 (29
9 U.S.C. 206(a)(1)).

10 (b) The Secretary may pay Foreign Service personnel
11 who are recruited abroad, who are not available or are not
12 qualified for assignment to another Foreign Service post, and
13 who perform duties of a more routine nature than are gener-
14 ally performed by Foreign Service personnel assigned to the
15 lowest class in the Foreign Service Schedule, in accordance
16 with the salary rates established under subsection (a).

17 SEC. 408. LOCAL COMPENSATION PLANS.—(a)(1) The
18 Secretary shall establish compensation plans for foreign na-
19 tional employees of the Service, and for United States citi-
20 zens employed in the Service abroad who are family mem-
21 bers of Government employees. To the extent consistent with
22 the public interest, each compensation plan shall be based
23 upon prevailing wage rates and compensation practices (in-
24 cluding participation in local social security plans) for corre-
25 sponding types of positions in the locality of employment,

1 except that such compensation plans shall provide for pay-
2 ment of wages to those family members of Government em-
3 ployees who are paid in accordance with such plans at a rate
4 which is no less than the then applicable minimum wage rate
5 specified in section 6(a)(1) of the Fair Labor Standards Act of
6 1938 (29 U.S.C. 206(a)(1)). Any compensation plan estab-
7 lished under this section may include provision for leaves of
8 absence with pay for foreign national employees in accord-
9 ance with prevailing law and employment practices in the
10 locality of employment without regard to any limitation con-
11 tained in section 6310 of title 5, United States Code.

12 (2) The Secretary may make supplemental payments to
13 any civil service annuitant who is a former foreign national
14 employee of the Service (or who is receiving an annuity as a
15 survivor of a former foreign national employee of the Service)
16 in order to offset exchange rate losses, if the annuity being
17 paid such annuitant is based on—

18 (A) a salary that was fixed in a foreign currency
19 that has appreciated in value in terms of the United
20 States dollar; and

21 (B) service in a country in which (as determined
22 by the Secretary) the average retirement benefits being
23 received by individuals who retired from competitive
24 local organizations are superior to the local currency
25 value of civil service annuities plus any other retire-

1 ment benefits payable to foreign national employees
2 who retired during similar time periods and after com-
3 parable careers with the Government.

4 (b) For the purpose of performing functions abroad, any
5 agency or other Government establishment (including any es-
6 tablishment in the legislative or judicial branch) may adminis-
7 ter employment programs for its employees who are foreign
8 nationals or are family members of Government employees
9 assigned abroad, in accordance with the applicable provisions
10 of this Act.

11 (c) The Secretary of State may prescribe regulations
12 governing the establishment and administration of local com-
13 pensation plans under this section by all agencies and other
14 Government establishments.

15 SEC. 409. SALARIES OF CONSULAR AGENTS.—The
16 Secretary of State shall establish the salary rate for each
17 consular agent. Such salary rate shall be established after
18 taking into account the workload of the consular agency and
19 the prevailing wage rates in the locality where the agency is
20 located, except that, in the case of a consular agent who is a
21 citizen of the United States, the salary rate may not be less
22 than the then applicable minimum wage rate specified in sec-
23 tion 6(a)(1) of the Fair Labor Standards Act of 1938 (29
24 U.S.C. 206(a)(1)).

1 SEC. 410. COMPENSATION FOR IMPRISONED FOREIGN
2 NATIONAL EMPLOYEES.—(a) The head of any agency or
3 other Government establishment (including any in the legisla-
4 tive or judicial branch) may compensate any current or
5 former foreign national employee, or any foreign national
6 who is or was employed under a personal services contract,
7 who is or has been imprisoned by a foreign government if the
8 Secretary of State (or, in the case of a foreign national em-
9 ployed by the Central Intelligence Agency, the Director of
10 Central Intelligence) determines that such imprisonment is
11 the result of the employment of the foreign national by the
12 United States. Such compensation may not exceed the
13 amount that the agency head determines approximates the
14 salary and other benefits to which the foreign national would
15 have been entitled had he or she been employed during the
16 period of such imprisonment. Such compensation may be paid
17 under such terms and conditions as the Secretary of State
18 deems appropriate. For purposes of this section, an agency
19 head shall have the same powers with respect to imprisoned
20 foreign nationals who are or were employed by the agency as
21 an agency head has under subchapter VII of chapter 55 of
22 title 5, United States Code, to the extent that such powers
23 are consistent with this section.

24 (b) Any period of imprisonment of a current or former
25 foreign national employee which is compensable under this

1 section shall be considered for purposes of any other em-
2 ployee benefit to be a period of employment by the Govern-
3 ment, except that a period of imprisonment shall not be
4 creditable—

5 (1) for purposes of subchapter III of chapter 83 of
6 title 5, United States Code, unless it is expressly cred-
7 itable under that subchapter; or

8 (2) for purposes of subchapter I of chapter 81 of
9 title 5, United States Code, unless the individual was
10 employed by the Government at the time of his or her
11 imprisonment.

12 (c) No compensation or other benefit shall be awarded
13 under this section unless a claim therefor is filed within 3
14 years after—

15 (1) the termination of the period of imprisonment
16 giving rise to the claim, or

17 (2) the date of the claimant's first opportunity
18 thereafter to file such a claim, as determined by the
19 appropriate agency head.

20 (d) The Secretary of State may prescribe regulations
21 governing payments under this section by all agencies and
22 other Government establishments.

23 SEC. 411. TEMPORARY SERVICE AS PRINCIPAL OFFI-
24 CER.—For such time (in excess of such minimum period as
25 the Secretary of State may establish) as any member of the

1 Service is temporarily in charge of a Foreign Service post
2 during the absence or incapacity of the principal officer, that
3 member shall receive, in addition to the basic salary paid to
4 the member, an amount equal to that portion (which the Sec-
5 retary of State may determine to be appropriate) of the differ-
6 ence between such salary and the basic salary provided for
7 the principal officer, or, if there is no principal officer, for the
8 former principal officer.

9 SEC. 412. SPECIAL DIFFERENTIALS AND PREMIUM
10 PAY.—(a) The Secretary may pay special differentials, in ad-
11 dition to compensation otherwise authorized, to Foreign
12 Service officers who are required because of the nature of
13 their assignments to perform additional work on a regular
14 basis in substantial excess of normal requirements.

15 SEC. 413. DEATH GRATUITY.—(a) The Secretary may
16 provide for payment of a gratuity to the surviving dependents
17 of any Foreign Service employee, who dies as a result of
18 injuries sustained in the performance of duty abroad, in an
19 amount equal to one year's salary at the time of death. Any
20 death gratuity payment made under this section shall be held
21 to have been a gift and shall be in addition to any other
22 benefit payable from any source.

23 (b) A death gratuity payment shall be made under this
24 section only if the survivor entitled to payment under subsec-
25 tion (c) is entitled to elect monthly compensation under sec-

1 tion 8133 of title 5, United States Code, because the death
2 resulted from an injury (excluding a disease proximately
3 caused by the employment) sustained in the performance of
4 duty, without regard to whether such survivor elects to
5 waive compensation under such section 8133.

6 (c) A death gratuity payment under this section shall be
7 made as follows:

8 (1) First, to the widow or widower.

9 (2) Second, to the child, or children in equal
10 shares, if there is no widow or widower.

11 (3) Third, to the dependent parent, or dependent
12 parents in equal shares, if there is no widow, widower,
13 or child.

14 If there is no survivor entitled to payment under this subsec-
15 tion, no payment shall be made.

16 (d) As used in this section—

17 (1) the term “Foreign Service employee” means
18 any member of the Service or United States repre-
19 sentative to an international organization or commis-
20 sion; and

21 (2) each of the terms “widow”, “widower”,
22 “child”, and “parent” shall have the same meaning
23 given each such term by section 8101 of title 5, United
24 States Code.

1 CHAPTER 5—CLASSIFICATION OF POSITIONS AND
2 ASSIGNMENTS

3 SEC. 501. CLASSIFICATION OF POSITIONS.—The Sec-
4 retary shall designate and classify positions in the
5 Department and at Foreign Service posts which are to be
6 occupied by members of the Service (other than by chiefs of
7 mission and ambassadors at large). Positions designated
8 under this section are excepted from the competitive service.
9 Position classifications under this section shall be established,
10 without regard to chapter 51 of title 5, United States Code,
11 in relation to the salaries established under chapter 4. In
12 classifying positions at Foreign Service posts abroad, the
13 Secretary shall give appropriate weight to job factors relating
14 to service abroad and to the compensation practices applica-
15 ble to United States citizens employed abroad by United
16 States corporations.

17 SEC. 502. ASSIGNMENTS TO FOREIGN SERVICE POSI-
18 TIONS.—(a)(1) The Secretary (with the concurrence of the
19 agency concerned) may assign a member of the Service to
20 any position classified under section 501 in which that
21 member is eligible to serve (other than as chief of mission or
22 ambassador at large), and may assign a member from one
23 such position to another such position as the needs of the
24 Service may require.

1 (2) In making assignments under paragraph (1), the
2 Secretary shall assure that a member of the Service is not
3 assigned to a position at a post in a particular geographic
4 area exclusively on the basis of the race, ethnicity, or religion
5 of that member.

6 (b) Positions designated as Foreign Service positions
7 normally shall be filled by the assignment of members of the
8 Service to those positions. Subject to that limitation—

9 (1) Foreign Service positions may be filled by the
10 assignment for specified tours of duty of employees of
11 the Department and, under interagency agreements,
12 employees of other agencies; and

13 (2) Senior Foreign Service positions may also be
14 filled by other members of the Service.

15 (c) The President may assign a career member of the
16 Service to serve as charge d'affaires or otherwise as the head
17 of a mission (or as the head of a United States office abroad
18 which is designated under section 102(a)(3) by the Secretary
19 of State as diplomatic in nature) for such period as the public
20 interest may require.

21 SEC. 503. ASSIGNMENTS TO AGENCIES, INTERNA-
22 TIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The
23 Secretary may (with the concurrence of the agency, organi-
24 zation, or other body concerned) assign a member of the
25 Service for duty—

1 (1) in a non-Foreign Service (including Senior Ex-
2 ecutive Service) position in the Department or another
3 agency, or with an international organization, interna-
4 tional commission, or other international body;

5 (2) with a domestic or international trade, labor,
6 agricultural, scientific, or other conference, congress,
7 or gathering;

8 (3) for special instruction, training, or orientation
9 at or with a public or private organization; and

10 (4) in the United States (or in any territory or
11 possession of the United States or in the Common-
12 wealth of Puerto Rico), with a State or local gov-
13 ernment, a public or private nonprofit organization
14 (including an educational institution), or a Member or
15 office of the Congress.

16 (b)(1) The salary of a member of the Service assigned
17 under this section shall be the higher of the salary which that
18 member would receive but for the assignment under this sec-
19 tion or the salary of the position to which that member is
20 assigned.

21 (2) The salary of a member of the Service assigned
22 under this section shall be paid from appropriations made
23 available for the payment of salaries and expenses of the
24 Service. Such appropriations may be reimbursed for all or

1 any part of the costs of salaries and other benefits for mem-
2 bers assigned under this section.

3 (3) A member of the Service assigned under subsection
4 (a)(4) to a Member or office of the Congress shall be deemed
5 to be an employee of the House of Representatives or the
6 Senate, as the case may be, for purposes of payment of travel
7 and other expenses.

8 (c) Assignments under this section may not exceed four
9 years of continuous service for any member of the Service
10 unless the Secretary approves an extension of such period for
11 that member because of special circumstances.

12 SEC. 504. SERVICE IN THE UNITED STATES AND
13 ABROAD.—(a) Career members of the Service shall be obli-
14 gated to serve abroad and shall be expected to serve abroad
15 for substantial portions of their careers. The Secretary shall
16 establish by regulation limitations upon assignments of mem-
17 bers of the Service within the United States. A member of
18 the Service may not be assigned to duty within the United
19 States for any period of continuous service exceeding eight
20 years unless the Secretary approves an extension of such
21 period for that member because of special circumstances.

22 (b) Consistent with the needs of the Service, the Secre-
23 tary shall seek to assign each career member of the Service
24 who is a citizen of the United States to duty within the

1 United States at least once during each period of fifteen
2 years that the member is in the Service.

3 (c) The Secretary may grant a sabbatical to a career
4 member of the Senior Foreign Service for not to exceed
5 eleven months in order to permit the member to engage in
6 study or uncompensated work experience which will contrib-
7 ute to the development and effectiveness of the member. A
8 sabbatical may be granted under this subsection under condi-
9 tions specified by the Secretary in light of the provisions of
10 section 3396(c) of title 5, United States Code, which apply to
11 sabbaticals granted to members of the Senior Executive
12 Service.

13 SEC. 505. TEMPORARY DETAILS.—A period of duty of
14 not more than six months in duration by a member of the
15 Service shall be considered a temporary detail and shall not
16 be considered an assignment within the meaning of this
17 chapter.

18 CHAPTER 6—PROMOTION AND RETENTION

19 SEC. 601. PROMOTIONS.—(a) Career members of the
20 Senior Foreign Service are promoted by appointment under
21 section 302(a) to a higher salary class in the Senior Foreign
22 Service. Members of the Senior Foreign Service serving
23 under career candidate appointments or noncareer appoint-
24 ments are promoted by appointment under section 303 to a
25 higher salary class in the Senior Foreign Service. Foreign

1 Service officers, and Foreign Service personnel who are
2 assigned to a class in the Foreign Service Schedule, are pro-
3 moted by appointment under section 302(a) as career mem-
4 bers of the Senior Foreign Service or by assignment under
5 section 404 to a higher salary class in the Foreign Service
6 Schedule.

7 (b) Except as provided in section 606(a), promotions
8 of—

- 9 (1) members of the Senior Foreign Service, and
10 (2) members of the Service assigned to a salary
11 class in the Foreign Service Schedule (including pro-
12 motions of such members into the Senior Foreign
13 Service),

14 shall be based upon the recommendations and rankings of
15 selection boards established under section 602, except that
16 the Secretary may by regulation specify categories of career
17 members, and categories of career candidates, assigned to
18 salary classes in the Foreign Service Schedule who may
19 receive promotions on the basis of satisfactory performance.

20 (c)(1) Promotions into the Senior Foreign Service shall
21 be recommended by selection boards only from among career
22 members of the Service assigned to class FS-1 in the For-
23 eign Service Schedule who request that they be considered
24 for promotion into the Senior Foreign Service. The Secretary
25 shall prescribe the length of the period after such a request is

1 made (within any applicable time in class limitation estab-
2 lished under section 607(a)) during which such members may
3 be considered by selection boards for entry into the Senior
4 Foreign Service. A request by a member for consideration for
5 promotion into the Senior Foreign Service under this subsec-
6 tion may be withdrawn by the member, but if it is withdrawn,
7 that member may not thereafter request consideration for
8 promotion into the Senior Foreign Service.

9 (2) Decisions by the Secretary on the numbers of indi-
10 viduals to be promoted into and retained in the Senior For-
11 eign Service shall be based upon a systematic long-term pro-
12 jection of personnel flows and needs designed to provide—

13 (A) a regular, predictable flow of recruitment in
14 the Service;

15 (B) effective career development patterns to meet
16 the needs of the Service; and

17 (C) a regular, predictable flow of talent upward
18 through the ranks and into the Senior Foreign Service.

19 (3) The affidavit requirements of sections 3332 and
20 3333(a) of title 5, United States Code, shall not apply with
21 respect to a member of the Service who has previously com-
22 plied with those requirements and who subsequently is pro-
23 moted by appointment to any class in the Senior Foreign
24 Service without a break in service.

1 SEC. 602. SELECTION BOARDS.—(a) The Secretary
2 shall establish selection boards to evaluate the performance
3 of members of the Senior Foreign Service and members of
4 the Service assigned to a salary class in the Foreign Service
5 Schedule. Selection boards shall, in accordance with precepts
6 prescribed by the Secretary, rank the members of a salary
7 class on the basis of relative performance and may make rec-
8 ommendations for—

9 (1) promotions in accordance with section 601;

10 (2) awards of performance pay under section
11 405(c);

12 (3) denials of within class step increases under
13 section 406(a);

14 (4) offer or renewal of limited career extensions
15 under section 607(b); and

16 (5) such other actions as the Secretary may pre-
17 scribe by regulation.

18 (b) All selection boards established under this section
19 shall include public members. The Secretary shall assure that
20 a substantial number of women and members of minority
21 groups are appointed to each selection board established
22 under this section.

23 SEC. 603. BASIS FOR SELECTION BOARD REVIEW.—

24 (a) Recommendations and rankings by selection boards shall
25 be based upon records of the character, ability, conduct, qual-

1 ity of work, industry, experience, dependability, usefulness,
2 and general performance of members of the Service. Such
3 records may include reports prepared by or on behalf of the
4 Inspector General of the Department of State and the For-
5 eign Service, performance evaluation reports of supervisors,
6 records of commendations, reports of current language test
7 scores from the Foreign Service Institute, awards, reprimands,
8 and other disciplinary actions, and (with respect to
9 members of the Senior Foreign Service) records of current
10 and prospective assignments.

11 (b) Precepts for selection boards shall include a description
12 of the needs of the Service for performance requirements,
13 skills, and qualities, which are to be considered in
14 recommendations for promotion. The precepts for selection
15 boards responsible for recommending promotions into and
16 within the Senior Foreign Service shall emphasize performance
17 which demonstrates the strong policy formulation capabilities,
18 executive leadership qualities, and highly developed
19 functional and area expertise, which are required for the
20 Senior Foreign Service.

21 SEC. 604. CONFIDENTIALITY OF RECORDS.—The records
22 described in section 603(a) shall be maintained in
23 accordance with regulations prescribed by the Secretary.
24 Except to the extent that they pertain to the receipt, dis-
25 bursement, and accounting for public funds, such records

1 shall be confidential and subject to inspection only by the
2 President, the Secretary, such employees of the Government
3 as may be authorized by law or assigned by the Secretary to
4 work on such records, the legislative and appropriations com-
5 mittees of the Congress charged with considering legislation
6 and appropriations for the Service, and representatives duly
7 authorized by such committees. Access to such records relat-
8 ing to a member of the Service shall be granted to such
9 member, upon written request.

10 **SEC. 605. IMPLEMENTATION OF SELECTION BOARD**
11 **RECOMMENDATIONS.**—(a) Recommendations for promotion
12 made by selection boards shall be submitted to the Secretary
13 in rank order by salary class or in rank order by specializa-
14 tion within a salary class. The Secretary shall make promo-
15 tions and, with respect to career appointments into or within
16 the Senior Foreign Service, shall make recommendations to
17 the President for promotions, in accordance with the rankings
18 of the selection boards.

19 (b) Notwithstanding subsection (a), in special circum-
20 stances set forth by regulation, the Secretary may remove
21 the name of an individual from the rank order list submitted
22 by a selection board or delay the promotion of an individual
23 named in such a list.

24 **SEC. 606. OTHER BASES FOR INCREASING PAY.**—(a)
25 The Secretary may pursuant to a recommendation of the

1 Foreign Service Grievance Board, an equal employment
2 opportunity appeals examiner, or the Special Counsel of the
3 Merit Systems Protection Board, and shall pursuant to a de-
4 cision or order of the Merit Systems Protection Board—

5 (1) recommend to the President a promotion of a
6 member of the Service under section 302(a);

7 (2) promote a member of the Service under sec-
8 tion 303;

9 (3) grant performance pay to a member of the
10 Senior Foreign Service under section 405(c); or

11 (4) grant a within-class salary increase under sec-
12 tion 406 to a member of the Service who is assigned
13 to a salary class in the Foreign Service Schedule.

14 (b) In implementing subsection (a) of this section and in
15 cases in which the Secretary has exercised the authority of
16 section 605(b), the Secretary may, in special circumstances
17 set forth by regulation, make retroactive promotions, grant
18 performance pay, make retroactive within-class salary
19 increases, and recommend retroactive promotions by the
20 President.

21 SEC. 607. RETIREMENT FOR EXPIRATION OF TIME IN
22 CLASS.—(a)(1) The Secretary shall, by regulation, establish
23 maximum time in class limitations for—

24 (A) career members of the Senior Foreign
25 Service,

1 (B) Foreign Service officers, and

2 (C) other career members of the Service who are
3 in such occupational categories as may be designated
4 by the Secretary and who are assigned to salary
5 classes in the Foreign Service Schedule to which For-
6 eign Service officers may also be assigned.

7 (2) Maximum time in class limitations under this subsec-
8 tion (which may not be less than 3 years for career members
9 of the Senior Foreign Service) may apply with respect to the
10 time a member may remain in a single salary class or in a
11 combination of salary classes.

12 (3) The Secretary may, by regulation, increase or
13 decrease any maximum time in class established under this
14 subsection as the needs of the Service may require. If maxi-
15 mum time in class is decreased, the Secretary shall provide
16 any member of the Service who is in a category and salary
17 class subject to the new time in class limitation an oppor-
18 tunity to remain in class (notwithstanding the new limitation)
19 for a period which is at least as long as the shorter of—

20 (A) the period which the member would have
21 been permitted to remain in class but for the decrease
22 in maximum time in class, or

23 (B) such minimum period as the Secretary deter-
24 mines is necessary to provide members of the Service
25 who are in the same category and salary class as that

1 member a reasonable opportunity to be promoted into
2 the next higher class or combination of classes, as the
3 case may be.

4 (b) Members of the Service whose maximum time in
5 class under subsection (a) expires—

6 (1) after they have attained the highest salary
7 class for their respective occupational categories, or

8 (2) in the case of members of the Senior Foreign
9 Service, while they are in salary classes designated by
10 the Secretary,

11 may continue to serve only under limited extensions of their
12 career appointments. Such limited extensions may not exceed
13 5 years in duration and may be granted and renewed by the
14 Secretary in light of the recommendations of selection boards
15 established under section 602 and the needs of the Service.
16 Members of the Service serving under such limited career
17 extensions shall continue to be career members of the
18 Service.

19 (c) Any member of the Service—

20 (1) whose maximum time in class under subsec-
21 tion (a) expires and who is not promoted to a higher
22 class or combination of classes, as the case may be, or

23 (2) whose limited career extension under subsec-
24 tion (b) expires and is not renewed,

1 shall be retired from the Service and receive benefits in
2 accordance with section 609.

3 SEC. 608. RETIREMENT BASED ON RELATIVE PER-
4 FORMANCE.—(a) The Secretary shall prescribe regulations
5 concerning the standards of performance to be met by career
6 members of the Service who are citizens of the United
7 States. Whenever a selection board review indicates that the
8 performance of such a career member of the Service may not
9 meet the standards of performance for his or her class, the
10 Secretary shall provide for administrative review of the per-
11 formance of the member. The review shall include an oppor-
12 tunity for the member to be heard.

13 (b) In any case where the administrative review con-
14 ducted under subsection (a) substantiates that a career
15 member of the Service has failed to meet the standards of
16 performance for his or her class, the member shall be retired
17 from the Service and receive benefits in accordance with sec-
18 tion 609.

19 SEC. 609. RETIREMENT BENEFITS.—(a) A member of
20 the Service—

21 (1) who is retired under section 607(c)(2); or

22 (2) who is retired under section 607(c)(1) or
23 608(b)—

24 (A) after becoming eligible for voluntary re-
25 tirement under section 811, or

1 (B) from the Senior Foreign Service or while
2 assigned to class FS-1 in the Foreign Service
3 Schedule,
4 shall receive retirement benefits in accordance with section
5 806.

6 (b) Any member of the Service (other than a member to
7 whom subsection (a) applies) who is retired under section
8 607(c)(1) or 608(b) shall receive—

9 (1) one-twelfth of a year's salary at his or her
10 then current salary rate for each year of service and
11 proportionately for a fraction of a year, but not exceed-
12 ing a total of one year's salary at his or her then cur-
13 rent salary rate, payable without interest from the For-
14 eign Service Retirement and Disability Fund in 3 equal
15 installments, such installments to be paid on January 1
16 of each of the first 3 calendar years beginning after the
17 retirement of the member (except that in special cases,
18 the Secretary of State may accelerate or combine such
19 installments); and

20 (2) a refund as provided in section 815 of the con-
21 tributions made by the member to the Foreign Service
22 Retirement and Disability Fund, except that in lieu of
23 such refund a member who has at least 5 years of
24 service credit toward retirement under the Foreign
25 Service Retirement and Disability System (excluding

1 military and naval service) may elect to receive an an-
2 nuity, computed under section 806, commencing at age
3 60.

4 In the event that a member of the Service has elected to
5 receive retirement benefits under paragraph (2) and dies
6 before reaching age 60, his or her death shall be considered a
7 death in service within the meaning of section 809.

8 SEC. 610. SEPARATION FOR CAUSE.—(a)(1) The Sec-
9 retary may separate any member from the Service for such
10 cause as will promote the efficiency of the Service.

11 (2) A member of the Service who is a member of the
12 Senior Foreign Service or is assigned to a salary class in the
13 Foreign Service Schedule and who either (A) is serving under
14 a career appointment, or (B) if separation is to be by reason
15 of misconduct, is serving under a limited appointment, shall
16 not be separated from the Service under this section until the
17 member has been granted a hearing before the Foreign Serv-
18 ice Grievance Board and the cause for separation established
19 at such hearing, unless the member waives in writing the
20 right to a hearing. The hearing provided under this para-
21 graph shall be in accordance with the hearing procedures ap-
22 plicable to grievances under section 1106 and shall be in lieu
23 of any other administrative procedure authorized or required
24 by this or any other law.

1 (b) Any participant in the Foreign Service Retirement
2 and Disability System who is separated under subsection (a)
3 shall be entitled to receive a refund as provided in section
4 815 of the contributions made by the participant to the For-
5 eign Service Retirement and Disability Fund. Except in
6 cases where the Secretary determines that separation was
7 based in whole or in part on the ground of disloyalty to the
8 United States, a participant who has at least 5 years of serv-
9 ice credit toward retirement under the Foreign Service Re-
10 tirement and Disability System (excluding military and naval
11 service) may elect, in lieu of such refund, to an annuity, com-
12 puted under section 806, commencing at age 60.

13 SEC. 611. TERMINATION OF LIMITED APPOINT-
14 MENTS.—Except as provided in section 610(a)(2), the Secre-
15 tary may terminate at any time the appointment of any
16 member of the Service serving under a limited appointment
17 who is in the Senior Foreign Service, who is assigned to a
18 salary class in the Foreign Service Schedule, or who is a
19 family member of a Government employee serving under a
20 local compensation plan established under section 408.

21 SEC. 612. TERMINATION OF APPOINTMENTS OF CON-
22 SULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—

23 (a) The Secretary of State may terminate at any time the
24 appointment of any consular agent in light of the criteria and

1 procedures normally followed in the locality in similar
2 circumstances.

3 (b) The Secretary may terminate at any time the ap-
4 pointment of any foreign national employee in light of the
5 criteria and procedures normally followed in the locality in
6 similar circumstances.

7 SEC. 613. FOREIGN SERVICE AWARDS.—The Presi-
8 dent shall establish a system of awards to confer appropriate
9 recognition of outstanding contributions to the Nation by
10 members of the Service. The awards system established
11 under this section shall provide for presentation by the Presi-
12 dent and by the Secretary of medals or other suitable com-
13 mendations for performance in the course of or beyond the
14 call of duty which involve distinguished, meritorious service
15 to the Nation, including extraordinary valor in the face of
16 danger to life or health.

17 CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER
18 DEVELOPMENT, TRAINING, AND ORIENTATION

19 SEC. 701. FOREIGN SERVICE INSTITUTE.—(a) The
20 Secretary of State shall maintain and operate the Foreign
21 Service Institute (hereinafter in this chapter referred to as
22 the "Institute"), originally established under section 701 of
23 the Foreign Service Act of 1946, in order to promote career
24 development within the Service and to provide necessary
25 training and instruction in the field of foreign relations to

1 members of the Service and to employees of the Department
2 and of other agencies. The Institute shall be headed by a
3 Director, who shall be appointed by the Secretary of State.

4 (b) To the extent practicable, the Secretary of State
5 shall provide training under this chapter which meets the
6 needs of all agencies, and other agencies shall avoid duplicat-
7 ing the facilities and training provided by the Secretary of
8 State through the Institute and otherwise.

9 SEC. 702. FOREIGN LANGUAGE REQUIREMENTS.—(a)

10 The Secretary shall establish foreign language proficiency re-
11 quirements for members of the Service who are to be as-
12 signed abroad in order that Foreign Service posts abroad will
13 be staffed by individuals having a useful knowledge of the
14 language or dialect common to the country in which the post
15 is located.

16 (b) The Secretary of State shall arrange for appropriate
17 language training of members of the Service by the Institute
18 or otherwise in order to assist in meeting the requirements
19 established under subsection (a).

20 SEC. 703. TRAINING AUTHORITIES.—(a) In the exer-
21 cise of functions under this chapter, the Secretary of State
22 may—

23 (1) provide for the general nature of the training
24 and instruction to be furnished by the Institute, includ-
25 ing functional and geographic area specializations;

1 (2) correlate training and instruction furnished by
2 the Institute with courses given at other Government
3 institutions and at private institutions which furnish
4 training and instruction useful in the field of foreign
5 affairs;

6 (3) encourage and foster programs complementary
7 to those furnished by the Institute, including through
8 grants and other gratuitous assistance to nonprofit in-
9 stitutions cooperating in any of the programs under
10 this chapter;

11 (4)(A) employ in accordance with the civil service
12 laws such personnel as may be necessary to carry out
13 the provisions of this chapter, and

14 (B) if and to the extent determined to be neces-
15 sary by the Secretary of State, obtain without regard
16 to the provisions of law governing appointments in the
17 competitive service, by appointment or contract (sub-
18 ject to the availability of appropriations), the services
19 of individuals to serve as language instructors, lin-
20 guists, and other academic and training specialists (in-
21 cluding, in the absence of suitably qualified United
22 States citizens, qualified individuals who are not citi-
23 zens of the United States); and

24 (5) acquire such real and personal property and
25 equipment as may be necessary for the establishment,

1 maintenance, and operation of the facilities necessary
2 to carry out the provisions of this chapter without
3 regard to section 3709 of the Revised Statutes of the
4 United States (41 U.S.C. 5) and section 302 of the
5 Federal Property and Administrative Services Act of
6 1949 (41 U.S.C. 252).

7 (b)(1) The Secretary shall establish a professional devel-
8 opment program to assure that members of the Foreign Serv-
9 ice obtain the skills and knowledge required at the various
10 stages of their careers. With regard to Foreign Service Offi-
11 cers (including Foreign Service Information Officers), pri-
12 mary attention shall be given to training for career candidate
13 officers and for midcareer officers, both after achieving tenure
14 and as they approach eligibility for entry to the Senior For-
15 eign Service, to enhance and broaden their qualifications for
16 more senior levels of responsibility in the Foreign Service.
17 Training for other members of the Service shall emphasize
18 programs designed to enhance their particular skills and
19 expert knowledge.

20 (2) Junior Foreign Service Officer training shall be di-
21 rected primarily toward providing expert knowledge in the
22 basic functions of analysis and reporting as well as in con-
23 sular, administrative and linguistic skills relevant to the full
24 range of future job assignments. Midcareer training shall be
25 directed toward development and perfection of management,

1 functional, negotiating and policy development skills to pre-
2 pare the officers progressively for more senior levels of re-
3 sponsibility.

4 (3) Training for other members of the Service shall be
5 directed toward maintaining and improving their professional
6 expert knowledge, including development of the management
7 skills appropriate to their occupational categories.

8 (4) In each case the program of professional develop-
9 ment should be designed to provide members of the Service
10 with the opportunity to acquire skills and knowledge relevant
11 to clearly established professional standards of expected per-
12 formance. Career candidates should satisfactorily complete
13 such training prior to attainment of career status. All mem-
14 bers of the Service should satisfactorily complete mid-career
15 training before appointment to the Senior Foreign Service.

16 (5) In formulating programs under this subsection, the
17 Secretary should establish a system to provide, insofar as
18 possible, credit toward university degrees for successful com-
19 pletion of courses comparable to graduate-level, university
20 courses.

21 (6) Training provided under this subsection shall be con-
22 ducted by the Department and by other governmental and
23 nongovernmental institutions as may be considered appropri-
24 ate by the Secretary.

1 (7) The Secretary shall report annually to the Congress
2 and the President on the status of the professional develop-
3 ment program and the resources needed and made available
4 to achieve it. The first such report, to be submitted 90 days
5 after the effective date of this Act, shall set out the resources
6 required to initiate the program established by this subsection
7 successfully.

8 (c) In furtherance of the objectives of this Act, the Sec-
9 retary may—

10 (1) pay the tuition and other expenses of members
11 of the Service and employees of the Department who
12 are assigned or detailed in accordance with law for
13 special instruction or training, including orientation,
14 language, and career development training;

15 (2) pay the salary (excluding premium pay or any
16 special differential under section 411) of members of
17 the Service selected and assigned for training; and

18 (3) provide special monetary or other incentives to
19 encourage members of the Service to acquire or retain
20 proficiency in foreign languages or special abilities
21 needed in the Service.

22 (d) The Secretary may provide to family members of
23 members of the Service or of employees of the Department or
24 other agencies, in anticipation of their assignment abroad or
25 while abroad—

- 1 (1) appropriate orientation and language training;
2 and
3 (2) functional training for anticipated prospective
4 employment under section 311.

5 SEC. 704. TRAINING GRANTS.—(a) To facilitate train-
6 ing provided to members of families of Government employ-
7 ees under this chapter, the Secretary may make grants (by
8 advance payment or by reimbursement) to family members
9 attending approved programs of study. No such grant may
10 exceed the amount actually expended for necessary costs in-
11 curred in conjunction with such attendance.

12 (b) If a member of the Service who is assigned abroad,
13 or a member of his or her family, is unable to participate in
14 language training furnished by the Government through the
15 Institute or otherwise, the Secretary may compensate that
16 individual for all or part of the costs of language training,
17 related to the assignment abroad, which is undertaken at a
18 public or private institution.

19 SEC. 705. CAREER COUNSELING.—(a) In order to fa-
20 cilitate their transition from the Service, the Secretary may
21 provide (by contract or otherwise, subject to the availability
22 of appropriations) professional career counseling, advice, and
23 placement assistance to members of the Service, and to
24 former members of the Service who were assigned to receive
25 counseling and assistance under this subsection before they

1 were separated from the Service, other than those separated
2 for cause.

3 (b)(1) The Secretary may facilitate the employment of
4 spouses of members of the Service by—

5 (A) providing regular career counseling for such
6 spouses;

7 (B) maintaining a centralized system for catalog-
8 ing their skills and the various governmental and non-
9 governmental employment opportunities available to
10 them abroad; and

11 (C) otherwise assisting them in obtaining employ-
12 ment abroad.

13 (2) The Secretary shall establish a family liaison office
14 to carry out this subsection and such other functions as the
15 Secretary may determine.

16 CHAPTER 8—FOREIGN SERVICE RETIREMENT AND
17 DISABILITY SYSTEM

18 SEC. 801. ADMINISTRATION OF THE SYSTEM.—In ac-
19 cordance with such regulations as the President may pre-
20 scribe, the Secretary of State shall administer the Foreign
21 Service Retirement and Disability System (hereinafter in this
22 chapter referred to as the “System”), originally established
23 pursuant to section 18 of the Act of May 24, 1924 (43 Stat.
24 144).

1 SEC. 802. MAINTENANCE OF THE FUND.—The Secre-
2 tary of the Treasury shall maintain the special fund known as
3 the Foreign Service Retirement and Disability Fund (herein-
4 after in this chapter referred to as the “Fund”), originally
5 created by section 18 of the Act of May 24, 1924 (43 Stat.
6 144).

7 SEC. 803. PARTICIPANTS.—(a) The following members
8 of the Service (hereinafter in this chapter referred to as “par-
9 ticipants”) shall be entitled to the benefits of the System:

10 (1) Every member serving under a career appoint-
11 ment or as a career candidate under section 306—

12 (A) in the Senior Foreign Service, or

13 (B) who is assigned to a salary class in the
14 Foreign Service Schedule.

15 (2) Every chief of mission, who is not a partici-
16 pant under paragraph (1), who—

17 (A) has served as chief of mission for an ag-
18 gregate period of 20 years or more, and

19 (B) has paid into the Fund a special contri-
20 bution for each year of such service in accordance
21 with section 805.

22 (b) Any otherwise eligible member of the Service who is
23 appointed to a position in the executive branch by the Presi-
24 dent, by and with the advice and consent of the Senate, or by
25 the President alone, shall not by virtue of the acceptance of

1 such appointment cease to be eligible to participate in the
2 System.

3 SEC. 804. DEFINITIONS.—As used in this chapter,
4 unless otherwise specified, the term—

5 (1) “annuitant” means any individual, including a
6 former participant or survivor, who meets all require-
7 ments for an annuity from the Fund under this or any
8 other Act and who has filed a claim for such annuity;

9 (2) “child” means an individual—

10 (A) who—

11 (i) is an offspring or adopted child of the
12 participant,

13 (ii) is a stepchild or recognized natural
14 child of the participant and who received
15 more than one-half support from the partici-
16 pant, or

17 (iii) lived with the participant, for whom
18 a petition of adoption was filed by the par-
19 ticipant, and who is adopted by the surviving
20 spouse of the participant after the death of
21 the participant;

22 (B) who is unmarried; and

23 (C) who—

24 (i) is under the age of 18 years,

1 (ii) is a student under the age of 22
2 years (for purposes of this clause, an individ-
3 ual whose 22d birthday occurs before July 1
4 or after August 31 of the calendar year in
5 which that birthday occurs, and while the in-
6 dividual is a student, is deemed to become
7 22 years of age on the first July 1 which
8 occurs after that birthday); or

9 (iii) is incapable of self-support because
10 of a physical or mental disability which was
11 incurred before the individual reached the
12 age of 18 years;

13 (3) "court" means any court of any State or of
14 the District of Columbia;

15 (4) "court order" means any court decree of di-
16 vorce or annulment, or any court order or court-
17 approved property settlement agreement incident to
18 any court decree of divorce or annulment;

19 (5) "Foreign Service normal cost" means the
20 level percentage of payroll required to be deposited in
21 the Fund to meet the cost of benefits payable under
22 the System (computed in accordance with generally ac-
23 cepted actuarial practice on an entry-age basis) less the
24 value of retirement benefits earned under another re-
25 tirement system for Government employees and less

1 the cost of credit allowed for military and naval
2 service;

3 (6) "former spouse" means a former wife or hus-
4 band of a participant or former participant who was
5 married to such participant for not less than 10 years
6 during periods of service by that participant which are
7 creditable under section 816;

8 (7) "Fund balance" means the sum of—

9 (A) the investments of the Fund calculated at
10 par value, plus

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

13 (8) "lump-sum credit" means the compulsory and
14 special contributions to the credit of a participant or
15 former participant in the Fund plus interest on such
16 contributions at 4 percent a year compounded annually
17 to December 31, 1976, and after such date, for a par-
18 ticipant who separates from the Service after complet-
19 ing at least 1 year of civilian service and before com-
20 pleting 5 years of such service, at the rate of 3 percent
21 per year to the date of separation (except that interest
22 shall not be paid for a fractional part of a month in the
23 total service or on compulsory and special contributions
24 from an annuitant for recall service or other service

1 performed after the date of separation which forms the
2 basis for annuity);

3 (9) "military and naval service" means honorable
4 active service—

5 (A) in the Armed Forces of the United
6 States,

7 (B) in the Regular or Reserve Corps of the
8 Public Health Service after June 30, 1960, or

9 (C) as a commissioned officer of the National
10 Oceanic and Atmospheric Administration, or a
11 predecessor organization, after June 30, 1961,

12 but does not include service in the National Guard
13 except when ordered to active duty in the service of
14 the United States;

15 (10) "pro rata share", in the case of any former
16 spouse of any participant or former participant, means
17 a percentage which is equal to the percentage that (A)
18 the number of years during which the former spouse
19 was married to the participant during the creditable
20 service of that participant is of (B) the total number of
21 years of such creditable service;

22 (11) "student" means a child regularly pursuing a
23 full-time course of study or training in residence in a
24 high school, trade school, technical or vocational insti-
25 tute, junior college, college, university, or comparable

1 recognized educational institution (for purposes of this
2 paragraph, a child who is a student shall not be
3 deemed to have ceased to be a student during any
4 period between school years, semesters, or terms if the
5 period of nonattendance does not exceed 5 calendar
6 months and if the child shows to the satisfaction of the
7 Secretary of State that he or she has a bona fide inten-
8 tion of continuing to pursue his or her course of study
9 during the school year, semester, or term immediately
10 following such period);

11 (12) "surviving spouse" means the surviving wife
12 or husband of a participant or annuitant who, in the
13 case of a death in Service or marriage after retirement,
14 was married to the participant or annuitant for at least
15 one year immediately preceding his or her death or is a
16 parent of a child born of the marriage; and

17 (13) "unfunded liability" means the estimated
18 excess of the present value of all benefits payable from
19 the Fund over the sum of—

20 (A) the present value of deductions to be
21 withheld from the future basic salary of partici-
22 pants and of future agency contributions to be
23 made on their behalf, plus

24 (B) the present value of Government pay-
25 ments to the Fund under section 821, plus

1 (C) the Fund balance as of the date the un-
2 funded liability is determined.

3 SEC. 805. CONTRIBUTIONS TO THE FUND.—(a) 7 per-
4 cent of the basic salary received by each participant shall be
5 deducted from the salary and contributed to the Fund for the
6 payment of annuities, cash benefits, refunds, and allowances.
7 An equal amount shall be contributed by the Department
8 from the appropriations or fund used for payment of the
9 salary of the participant. The Department shall deposit in the
10 Fund the amounts deducted and withheld from basic salary
11 and the amounts contributed by the Department.

12 (b) Each participant shall be deemed to consent and
13 agree to such deductions from basic salary. Payment less
14 such deductions shall be a full and complete discharge and
15 acquittance of all claims and demands whatsoever for all reg-
16 ular services during the period covered by such payment,
17 except the right to the benefits to which the participant shall
18 be entitled under this Act, notwithstanding any law, rule, or
19 regulation affecting the salary of the individual.

20 (c)(1) If a member of the Service who is under another
21 retirement system for Government employees becomes a par-
22 ticipant in the System by direct transfer, the total contribu-
23 tions and deposits of that member that would otherwise be
24 refundable on separation (except voluntary contributions), in-
25 cluding interest thereon, shall be transferred to the Fund ef-

1 fective as of the date such member becomes a participant in
2 the System. Each such member shall be deemed to consent
3 to the transfer of such funds, and such transfer shall be a
4 complete discharge and acquittance of all claims and de-
5 mands against the other Government retirement fund on ac-
6 count of service rendered by such member prior to becoming
7 a participant in the System.

8 (2) A member of the Service whose contributions are
9 transferred to the Fund pursuant to paragraph (1) shall not
10 be required to make additional contributions for periods of
11 service for which required contributions were made to the
12 other Government retirement fund; nor shall any refund be
13 made to any such member on account of contributions made
14 during any period to the other Government retirement fund
15 at a higher rate than that fixed by subsection (d).

16 (d)(1) Any participant credited with civilian service after
17 July 1, 1924—

18 (A) for which no retirement contributions, deduc-
19 tions, or deposits have been made, or

20 (B) for which a refund of such contributions, de-
21 ductions, or deposits has been made which has not
22 been redeposited,

23 may make a special contribution to the Fund equal to the
24 following percentages of basic salary received for such
25 service:

Time of service:	Percent of basic salary
July 1, 1924, through October 15, 1960, inclusive.....	5
October 16, 1960, through December 31, 1969, inclusive	6½
On and after January 1, 1970.....	7

1 (2) Notwithstanding paragraph (1), a special contribu-
2 tion for prior nondeposit service as a National Guard techni-
3 cian which would be creditable toward retirement under sub-
4 chapter III of chapter 83 of title 5, United States Code, and
5 for which a special contribution has not been made, shall be
6 equal to the special contribution for such service computed in
7 accordance with the schedule in paragraph (1) multiplied by
8 the percentage of such service that is creditable under section
9 816.

10 (3) Special contributions under this subsection shall in-
11 clude interest computed from the midpoint of each service
12 period included in the computation, or from the date refund
13 was paid, to the date of payment of the special contribution
14 or commencing date of annuity, whichever is earlier. Interest
15 shall be compounded at the annual rate of 4 percent to De-
16 cember 31, 1976, and 3 percent thereafter. No interest shall
17 be charged on special contributions for any period of separa-
18 tion from Government service which began before October 1,
19 1956. Special contributions may be paid in installments (in-
20 cluding by allotment of pay) when authorized by the Secre-
21 tary of State.

22 (e) Contributions shall not be required for any period of
23 military and naval service or for any period for which credit

1 is allowed to individuals of Japanese ancestry under section
2 816 for periods of internment during World War II.

3 (f) A participant or survivor may make a special contri-
4 bution at any time before receipt of annuity and may author-
5 ize payment by offset against initial annuity accruals.

6 SEC. 806. COMPUTATION OF ANNUITIES.—(a) The an-
7 nuity of a participant shall be equal to 2 percent of his or her
8 average basic salary for the highest 3 consecutive years of
9 service multiplied by the number of years, not exceeding 35,
10 of service credit obtained in accordance with sections 816
11 and 817, except that the highest 3 years of service shall be
12 used in computing the annuity of any participant who serves
13 an assignment under section 302(b) in a position to which the
14 participant was appointed by the President and whose con-
15 tinuity of service in that position is interrupted prior to retire-
16 ment by appointment or assignment to any other position de-
17 termined by the Secretary of State to be of comparable im-
18 portance. In determining the aggregate period of service
19 upon which the annuity is to be based, the fractional part of a
20 month, if any, shall not be counted. The annuity shall be
21 reduced by 10 percent of any special contribution described
22 in section 805(d) which is due for service for which no contri-
23 butions were made and which remains unpaid unless the par-
24 ticipant elects to eliminate the service involved for purposes
25 of annuity computation.

1 (b)(1)(A) Except to the extent provided otherwise under
2 a written election under subparagraph (B) or (C), if at the
3 time of retirement a participant or former participant is mar-
4 ried (or has a former spouse who has not remarried before
5 attaining age 60), the participant shall receive a reduced an-
6 nuity and provide a survivor annuity for his or her spouse
7 under this subsection or former spouse under section 814(b),
8 or a combination of such annuities, as the case may be.

9 (B) At the time of retirement, a married participant or
10 former participant and his or her spouse may jointly elect in
11 writing to waive a survivor annuity for that spouse under this
12 section (or under section 814(b) if the spouse later qualifies as
13 a former spouse under section 804(6)), or to reduce such sur-
14 vivor annuity by designating a portion of the annuity of the
15 participant as the base for the survivor benefit.

16 (C) If a participant or former participant has a former
17 spouse, the participant and such former spouse may jointly
18 elect in writing to waive a survivor annuity under section
19 814(b) for that former spouse if the election is made (i) before
20 the end of the 12-month period after the divorce or annul-
21 ment involving that former spouse becomes final or (ii) at the
22 time of retirement, whichever occurs first.

23 (2) The annuity of a participant or former participant
24 providing a survivor benefit under this section (or section
25 814(b)), excluding any portion of the annuity not designated

1 or committed as a base for any survivor annuity, shall be
2 reduced by 2½ percent of the first \$3,600 plus 10 percent of
3 any amount over \$3,600. The reduction under this paragraph
4 shall be calculated before any reduction under section
5 814(a)(5).

6 (3)(A) If a former participant entitled to receive a re-
7 duced annuity under this subsection dies and is survived by a
8 spouse, a survivor annuity shall be paid to the surviving
9 spouse equal to 55 percent of the full amount of the partici-
10 pant's annuity computed under subsection (a), or 55 percent
11 of any lesser amount elected as the base for the survivor
12 benefit under paragraph (1)(B).

13 (B) Notwithstanding subparagraph (A), the amount of
14 the annuity calculated under subparagraph (A) for a surviving
15 spouse in any case in which there is also a surviving former
16 spouse of the participant who qualifies for an annuity under
17 section 814(b) may not exceed 55 percent of the portion (if
18 any) of the base for survivor benefits which remains available
19 under section 814(b)(4)(B).

20 (C) An annuity payable from the Fund to a surviving
21 spouse under this paragraph shall commence on the day after
22 the participant dies and shall terminate on the last day of the
23 month before (a) the surviving spouse's death or (b) if the
24 surviving spouse remarries before attaining age 60. If such a
25 survivor annuity is terminated because of remarriage, it shall

1 be restored at the same rate commencing on the date such
2 remarriage is terminated if any lump sum paid upon termina-
3 tion of the annuity is returned to the Fund.

4 (c)(1) If an annuitant who was a participant dies and is
5 survived by a spouse and by a child or children, in addition to
6 the annuity payable to the surviving spouse, there shall be
7 paid to or on behalf of each child an annuity equal to the
8 smaller of—

9 (A) \$900, or

10 (B) \$2,700 divided by the number of children.

11 (2) If an annuitant who was a participant dies and is not
12 survived by a spouse but by a child or children, each surviv-
13 ing child shall be paid an annuity equal to the smaller of—

14 (A) \$1,080, or

15 (B) \$3,240 divided by the number of children.

16 (3) The amounts specified in this subsection are subject
17 to—

18 (A) cost-of-living adjustments as specified under
19 section 826(e)(3), and

20 (B) the minimum specified in subsection (l)(2) of
21 this section.

22 (d) If a surviving spouse dies or the annuity of a child is
23 terminated, the annuities of any remaining children shall be
24 recomputed and paid as though such spouse or child had not
25 survived the participant. If the annuity to a surviving child

1 who has not been receiving an annuity is initiated or re-
2 sumed, the annuities of any other children shall be recom-
3 puted and paid from that date as though the annuities to all
4 currently eligible children in the family were then being
5 initiated.

6 (e) The annuity payable to a child under subsection (c)
7 or (d) shall begin on the day after the participant dies, or if
8 the child is not then qualified, on the first day of the month in
9 which the child becomes eligible. The annuity of a child shall
10 terminate on the last day of the month which precedes the
11 month in which eligibility ceases.

12 (f) At the time of retirement an unmarried participant
13 who does not have a former spouse for whose benefit a reduc-
14 tion is made under subsection (b) may elect to receive a re-
15 duced annuity and to provide for an annuity equal to 55 per-
16 cent of the reduced annuity payable after his or her death to
17 a beneficiary whose name is designated in writing to the Sec-
18 retary of State. The annuity payable to a participant making
19 such election shall be reduced by 10 percent of an annuity
20 computed under subsection (a) and by 5 percent of an annuity
21 so computed for each full 5 years the designated beneficiary
22 is younger than the retiring participant, but such total reduc-
23 tion shall not exceed 40 percent. No such election of a re-
24 duced annuity payable to a beneficiary shall be valid until the
25 participant has satisfactorily passed a physical examination

1 as prescribed by the Secretary of State. The annuity payable
2 to a beneficiary under this subsection shall begin on the day
3 after the annuitant dies and shall terminate on the last day of
4 the month preceding the death of the beneficiary. An annuity
5 which is reduced under this subsection (or any similar prior
6 provision of law) shall, effective the first day of the month
7 following the death of the beneficiary named under this sub-
8 section, be recomputed and paid as if the annuity had not
9 been so reduced.

10 (g) A participant or former participant who was unmar-
11 ried at retirement and who later marries may, within one
12 year after such marriage, irrevocably elect in writing to re-
13 ceive a reduced annuity and to provide a survivor annuity for
14 the spouse (if such spouse qualifies as a surviving spouse
15 under section 804(12)). Receipt by the Secretary of State of
16 notice of an election under this subsection voids prospectively
17 any election previously made under subsection (f). The reduc-
18 tion in annuity required by an election under this subsection
19 shall be computed and the amount of the survivor annuity
20 shall be determined in accordance with subsections (b) (2) and
21 (3). The annuity reduction or recomputation shall be effective
22 the first day of the month beginning one year after the date
23 of marriage.

24 (h) A surviving spouse or surviving former spouse of any
25 participant or former participant shall not become entitled to

1 a survivor annuity or to the restoration of a survivor annuity
2 payable from the Fund unless the survivor elects to receive it
3 instead of any other survivor annuity to which he or she may
4 be entitled under this or any other retirement system for
5 Government employees on the basis of a marriage to some-
6 one other than that participant.

7 (i)(1) Any married annuitant who reverts to retired
8 status with entitlement to a supplemental annuity under sec-
9 tion 823 shall, unless the annuitant and his or her spouse
10 jointly elect in writing to the contrary at that time, have the
11 supplemental annuity reduced by 10 percent to provide a
12 supplemental survivor annuity for his or her spouse. Such
13 supplemental survivor annuity shall be equal to 55 percent of
14 the supplemental annuity of the annuitant and shall be pay-
15 able to a surviving spouse to whom the annuitant was mar-
16 ried at the time of reversion to retired status or to whom the
17 annuitant had been married for at least one year at the time
18 of death or who is a parent of a child born of the marriage.

19 (2) The Secretary of State shall issue regulations to pro-
20 vide for the application of paragraph (1) of this subsection
21 and of section 823 of this Act in any case in which an annu-
22 itant has a former spouse who was married to the participant
23 during a period of recall service and who qualifies for an
24 annuity under section 814(b).

1 (j) An annuity which is reduced under this section or
2 any similar prior provision of law to provide a survivor bene-
3 fit for a spouse shall, if the marriage of the participant to
4 such spouse is dissolved, be recomputed and paid for each full
5 month during which an annuitant is not married (or is remar-
6 ried if there is no election in effect under the following sen-
7 tence) as if the annuity had not been so reduced. Upon re-
8 marriage the retired participant may irrevocably elect, by
9 means of a signed writing received by the Secretary within
10 one year after such remarriage, to receive during such mar-
11 riage a reduction in annuity for the purpose of allowing an
12 annuity for the new spouse of the annuitant in the event such
13 spouse survives the annuitant. Such reduction shall be equal
14 to the reduction in effect immediately before the dissolution
15 of the previous marriage (unless such reduction is adjusted
16 under section 814(b)(5)), and shall be effective the first day of
17 the first month beginning one year after the date of remar-
18 riage. A survivor annuity elected under this subsection shall
19 be treated in all respects as a survivor annuity under subsec-
20 tion (b).

21 (k) The Secretary of State shall, on an annual basis—

22 (1) inform each participant of his or her right of
23 election under subsections (g) and (j); and

24 (2) to the maximum extent practicable, inform
25 spouses or former spouses of participants or former

1 participants of their rights under this section and sec-
2 tion 814.

3 (1)(1) The monthly rate of an annuity payable under this
4 chapter to an annuitant, other than a child, shall not be less
5 than the smallest primary insurance amount, including any
6 cost-of-living increase added to that amount, authorized to be
7 paid from time to time under title II of the Social Security
8 Act (42 U.S.C. 401 et seq.).

9 (2) The monthly rate of an annuity payable under this
10 chapter to a surviving child shall not be less than the small-
11 est primary insurance amount, including any cost-of-living in-
12 crease added to that amount, authorized to be paid from time
13 to time under title II of the Social Security Act (42 U.S.C.
14 401 et seq.) or three times such primary insurance amount
15 divided by the number of surviving children entitled to an
16 annuity, whichever is the lesser.

17 (3) This subsection does not apply to an annuitant or to
18 a survivor who is or becomes entitled to receive from the
19 United States an annuity or retired pay under any other civil-
20 ian or military retirement system, benefits under title II of
21 the Social Security Act (42 U.S.C. 401 et seq.), a pension,
22 veterans' compensation, or any other periodic payment of a
23 similar nature, when the monthly rate thereof is equal to or
24 greater than the smallest primary insurance amount, includ-
25 ing any cost-of-living increase added to that amount, author-

1 ized to be paid from time to time under title II of the Social
2 Security Act (42 U.S.C. 401 et seq.).

3 SEC. 807. PAYMENT OF ANNUITY.—(a) Except as oth-
4 erwise provided, the annuity of a former participant who has
5 met the eligibility requirements for an annuity shall com-
6 mence on the day after separation from the Service or on the
7 day after pay ceases. The annuity of a former participant
8 who is entitled to a deferred annuity under this Act shall
9 become effective on the day he or she attains age 60.

10 (b) The annuity to a survivor shall become effective as
11 otherwise specified but shall not be paid until the survivor
12 submits an application for such annuity, supported by such
13 proof of eligibility as the Secretary of State may require. If
14 such application or proof of eligibility is not submitted during
15 the lifetime of an otherwise eligible individual, no annuity
16 shall be due or payable to his or her estate.

17 (c) An individual entitled to annuity from the Fund may
18 decline to accept all or any part of the annuity by submitting
19 a signed waiver to the Secretary of State. The waiver may
20 be revoked in writing at any time. Payment of the annuity
21 waived may not be made for the period during which the
22 waiver was in effect.

23 (d) Recovery of overpayments under this chapter may
24 not be made from an individual when, in the judgment of the
25 Secretary of State, the individual is without fault and recov-

1 ery would be against equity and good conscience or adminis-
2 tratively infeasible.

3 SEC. 808. RETIREMENT FOR DISABILITY OR INCA-
4 PACITY.—(a) Any participant who has at least 5 years of
5 service credit toward retirement under the System (excluding
6 military and naval service) and who becomes totally disabled
7 or incapacitated for useful and efficient service by reason of
8 disease, illness, or injury (not due to vicious habits, intemper-
9 ance, or willful conduct of the participant) shall, upon his or
10 her own application or upon order of the Secretary, be retired
11 on an annuity computed as prescribed in section 806. If the
12 disabled or incapacitated participant has less than 20 years of
13 service credit toward retirement under the System at the
14 time of retirement, his or her annuity shall be computed on
15 the assumption that the participant has had 20 years of serv-
16 ice, except that the additional service credit that may accrue
17 to a participant under this sentence shall in no case exceed
18 the difference between his or her age at the time of retire-
19 ment and age 60.

20 (b) Before being retired under this section, the partici-
21 pant shall be given a physical examination by one or more
22 duly qualified physicians or surgeons designated by the Sec-
23 retary of State to conduct examinations. Disability or inca-
24 pacity shall be determined by the Secretary of State on the
25 basis of the advice of such physicians or surgeons. Unless the

1 disability or incapacity is permanent, like examinations shall
2 be made annually until the annuitant has attained age 60. If
3 the Secretary of State determines on the basis of the advice
4 of one or more duly qualified physicians or surgeons conduct-
5 ing such examinations that an annuitant has recovered to the
6 extent that he or she can return to duty, the annuitant may
7 apply for reinstatement or reappointment in the Service
8 within 1 year from the date recovery is determined. Upon
9 application, the Secretary shall reinstate such recovered an-
10 nuitant in the class in which the annuitant was serving at
11 time of retirement, or the Secretary may, taking into consid-
12 eration the age, qualifications, and experience of such annu-
13 itant, and the present class of his or her contemporaries in
14 the Service, appoint or recommend that the President ap-
15 point the annuitant to a higher class. Payment of the annuity
16 shall continue until a date 6 months after the date of the
17 examination showing recovery or until the date of reinstate-
18 ment or reappointment in the Service, whichever is earlier.
19 Fees for examinations under this section, together with rea-
20 sonable traveling and other expenses incurred in order to
21 submit to examination, shall be paid out of the Fund. If the
22 annuitant fails to submit to examination as required under
23 this subsection, payment of the annuity shall be suspended
24 until continuance of the disability or incapacity is satisfactori-
25 ly established.

1 (c) If a recovered annuitant whose annuity is discontin-
2 ued is for any reason not reinstated or reappointed in the
3 Service, he or she shall be considered to have been separated
4 within the meaning of section 810 as of the date of retire-
5 ment for disability or incapacity and shall, after the discon-
6 tinuance of the annuity, be entitled to the benefits of that
7 section or of section 815, except that he or she may elect
8 voluntary retirement if eligible under section 811.

9 (d) No participant shall be entitled to receive an annuity
10 under this Act and compensation for injury or disability to
11 himself or herself under subchapter I of chapter 81 of title 5,
12 United States Code, covering the same period of time, except
13 that a participant may simultaneously receive both an annu-
14 ity under this section and scheduled disability payments
15 under section 8107 of title 5, United States Code. This sub-
16 section shall not bar the right of any claimant to the greater
17 benefit conferred by either this Act or such subchapter for
18 any part of the same period of time. Neither this subsection
19 nor any provision of such subchapter shall be construed to
20 deny the right of any participant to receive an annuity under
21 this Act and to receive concurrently any payment under such
22 subchapter by reason of the death of any other individual.

23 (e) Notwithstanding any other law, the right of any indi-
24 vidual entitled to an annuity under this Act shall not be af-
25 fected because such person has received an award of compen-

1 sation in a lump sum under section 8135 of title 5, United
2 States Code, except that where such annuity is payable on
3 account of the same disability for which compensation under
4 such section has been paid, so much of such compensation as
5 has been paid for any period extended beyond the date such
6 annuity becomes effective, as determined by the Secretary of
7 Labor, shall be refunded to the Department of Labor, to be
8 paid into the Federal Employees' Compensation Fund.
9 Before such individual receives such annuity, he or she
10 shall—

11 (1) refund to the Department of Labor the amount
12 representing such commuted payments for such ex-
13 tended period, or

14 (2) authorize the deduction of such amount from
15 the annuity payable under this Act, which amount
16 shall be transmitted to the Department of Labor for re-
17 imbursement to such Fund.

18 Deductions from such annuity may be made from accrued
19 and accruing payments, or may be prorated against and paid
20 from accruing payments in such manner as the Secretary of
21 Labor shall determine, whenever the Secretary of Labor finds
22 that the financial circumstances of the annuitant warrant de-
23 ferred refunding.

24 (f) A claim may be allowed under this section only if the
25 application is filed with the Secretary of State before the par-

1 ticipant is separated from the Service or within one year
2 thereafter. This time limitation may be waived by the Secre-
3 tary of State for a participant who at the date of separation
4 from the Service or within one year thereafter is mentally
5 incompetent, if the application is filed with the Secretary of
6 State within one year from the date of restoration of the par-
7 ticipant to competency or the appointment of a fiduciary,
8 whichever is earlier.

9 SEC. 809. DEATH IN SERVICE.—(a) If a participant
10 dies and no claim for annuity is payable under this Act, the
11 lump-sum credit shall be paid in accordance with section 815.

12 (b) If a participant who has at least 18 months of civil-
13 ian service credit toward retirement under the System dies
14 before retirement or other separation from the Service and is
15 survived by a spouse or former spouse qualifying for an annu-
16 ity under section 814(b), such surviving spouse shall be enti-
17 tled to an annuity equal to 55 percent of the annuity comput-
18 ed in accordance with subsections (e) and (g) of this section
19 and section 806(a) and any surviving former spouse shall be
20 entitled to an annuity under section 814(b) as if the partici-
21 pant died after being entitled to an annuity under this chap-
22 ter. If the participant had less than 3 years creditable civilian
23 service at the time of death, the survivor annuity shall be
24 computed on the basis of the average salary for the entire
25 period of such service.

1 (c) If a participant who has at least 18 months of civil-
2 ian service credit toward retirement under the System dies
3 before retirement or other separation from the Service and is
4 survived by a spouse and a child or children, each surviving
5 child shall be entitled to an annuity computed in accordance
6 with subsections (c)(1) and (d) of section 806.

7 (d) If a participant who has at least 18 months of civil-
8 ian service credit toward retirement under the System dies
9 before retirement or other separation from the Service and is
10 not survived by a spouse, but by a child or children, each
11 surviving child shall be entitled to an annuity computed in
12 accordance with subsections (c)(2) and (d) of section 806.

13 (e) If, at the time of his or her death, the participant had
14 less than 20 years of service credit toward retirement under
15 the System, the annuity payable in accordance with subsec-
16 tion (b) shall be computed in accordance with section 806 on
17 the assumption he or she has had 20 years of service, except
18 that the additional service credit that may accrue to a de-
19 ceased participant under this subsection shall in no case
20 exceed the difference between his or her age on the date of
21 death and age 60. In all cases arising under this subsection
22 or subsection (b), (c), (d), or (g), it shall be assumed that the
23 deceased participant was qualified for retirement on the date
24 of death.

1 (f) If an annuitant who elected a reduced annuity dies in
2 service after being recalled under section 308 and is survived
3 by a spouse or former spouse entitled to a survivor annuity
4 based on such an election, such survivor annuity shall be
5 computed as if the recall service had otherwise terminated on
6 the day of death and the annuity of the deceased had been
7 resumed in accordance with section 823. If such death occurs
8 after the annuitant had completed sufficient recall service to
9 attain eligibility for a supplemental annuity, a surviving
10 spouse or surviving former spouse who was married to the
11 participant during a period of recall service shall be entitled
12 to elect, in addition to any other benefits and in lieu of a
13 refund of retirement contributions made during the recall
14 service, a supplemental survivor annuity computed and paid
15 under section 806(i) as if the recall service had otherwise
16 terminated. If the annuitant had completed sufficient recall
17 service to attain eligibility to have his or her annuity deter-
18 mined anew, a surviving spouse or such a surviving former
19 spouse may elect, in lieu of any other survivor benefit under
20 this chapter, to have the rights of the annuitant redetermined
21 and to receive a survivor annuity computed under subsection
22 (b) on the basis of the total service of the annuitant.

23 (g) Notwithstanding subsection (b), if the participant or
24 former participant had a former spouse qualifying for an an-
25 nuity under section 814(b), the annuity of the spouse under

1 this section shall be subject to the limitation of section
2 806(b)(3)(B).

3 (h) Annuities that become payable under this section
4 shall commence, terminate, and be resumed in accordance
5 with subsection (b)(4), (e), or (h) of section 806, as
6 appropriate.

7 SEC. 810. DISCONTINUED SERVICE RETIREMENT.—

8 Any participant who voluntarily separates from the Service
9 after obtaining at least 5 years of service credit toward re-
10 tirement under the System (excluding military and naval
11 service) may upon separation from the Service or at any time
12 prior to becoming eligible for an annuity elect to have his or
13 her contributions to the Fund returned in accordance with
14 section 815, or to leave his or her contributions in the Fund
15 and receive an annuity, computed under section 806, com-
16 mencing at age 60.

17 SEC. 811. VOLUNTARY RETIREMENT.—Any partici-

18 pant who is at least 50 years of age and has 20 years of
19 creditable service, including at least 5 years of service credit
20 toward retirement under the System (excluding military and
21 naval service), may on his or her own application and with
22 the consent of the Secretary be retired from the Service and
23 receive retirement benefits in accordance with section 806.

24 SEC. 812. MANDATORY RETIREMENT.—(a) Except as
25 provided in subsection (b), any participant shall be retired

1 from the Service at the end of the month in which the partici-
2 pant reaches age 60 if the participant has at least 5 years of
3 service credit toward retirement under the System (excluding
4 military and naval service) and shall receive retirement bene-
5 fits in accordance with section 806.

6 (b) Any participant who reaches age 60 while occupying
7 a position to which he or she was appointed by the President,
8 by and with the advice and consent of the Senate, may con-
9 tinue to serve until that appointment is terminated. In addi-
10 tion, whenever the Secretary determines it to be in the public
11 interest, any participant who has reached age 60 may be
12 retained on active service for a period not to exceed 5 years.
13 Any participant who completes a period of service after
14 reaching age 60 as authorized by this subsection shall be
15 retired at the end of the month in which such authorized
16 service is completed.

17 SEC. 813. RETIREMENT OF FORMER PRESIDENTIAL
18 APPOINTEES.—If a participant completes an assignment
19 under section 302(b) in a position to which he or she was
20 appointed by the President and has not been reassigned
21 within 3 months after the termination of such assignment
22 (plus any period of authorized leave), the participant shall be
23 retired from the Service and receive retirement benefits in
24 accordance with section 806.

1 SEC. 814. FORMER SPOUSES.—(a)(1) Unless otherwise
2 expressly provided by any court order under section
3 820(b)(1), a former spouse of a participant or former partici-
4 pant is entitled to an annuity—

5 (A) if married to the participant throughout the
6 creditable service of the participant, equal to 50 per-
7 cent of the annuity of the participant; or

8 (B) if not married to the participant through such
9 creditable service, equal to that former spouse's pro
10 rata share of 50 percent of such annuity.

11 (2) A former spouse shall not be qualified for an annuity
12 under this subsection if before the commencement of that an-
13 nuity the former spouse remarries before becoming 60 years
14 of age.

15 (3) The annuity of a former spouse under this subsection
16 commences on the later of the day the participant upon
17 whose service the annuity is based becomes entitled to an
18 annuity under this title or the first day of the month in which
19 the divorce or annulment involved becomes final. The annu-
20 ity of such former spouse and the right thereto terminate
21 on—

22 (A) the last day of the month before the former
23 spouse dies or remarries before 60 years of age; or

1 (B) the date the annuity of the participant termi-
2 nates (except in the case of an annuity subject to para-
3 graph (5)(B)).

4 (4) No court order under section 820(b)(1) involving any
5 participant may provide for an annuity or any combination of
6 annuities under this subsection which exceeds the annuity of
7 the participant, nor may any such order relating to an annu-
8 ity under this subsection be given effect if it is issued more
9 than 12 months after the date the divorce or annulment in-
10 volved becomes final.

11 (5)(A) The annuity payable to any participant or former
12 participant shall be reduced by the amount of an annuity
13 under this subsection of any former spouse based upon the
14 service of that participant. Such reduction shall be disre-
15 garded in calculating the survivor annuity for any spouse,
16 former spouse, or other survivor under this chapter, and in
17 calculating any reduction in the annuity of the participant to
18 provide survivor benefits under subsection (b) or section
19 806(b)(3).

20 (B) If any annuitant whose annuity is reduced under
21 subparagraph (A) is recalled to service under section 308, or
22 reinstated or reappointed in the Service in the case of a re-
23 covered disability annuitant or if any annuitant is reemployed
24 as provided for under section 824, the salary of that annu-
25 itant shall be reduced by the same amount as the annuity

1 would have been reduced if it had continued. Amounts equal
2 to the reductions under this subparagraph shall be deposited
3 in the Treasury of the United States to the credit of the
4 Fund.

5 (6) Notwithstanding paragraph (3), in the case of any
6 former spouse of a disability annuitant—

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

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

15 (7) An annuity under this subsection shall be treated the
16 same as a survivor annuity under subsection (b) for purposes
17 of section 806(h) or any comparable provision of law.

18 (b)(1) Subject to any election under section 806(b)(1)(C)
19 and unless otherwise expressly provided by any court order
20 under section 820(b)(1), if a former participant who is entitled
21 to receive an annuity is survived by a former spouse, the
22 former spouse shall be entitled to a survivor annuity—

23 (A) if married to the participant throughout the
24 creditable service of the participant, equal to 55 per-

1 cent of the full amount of the participant's annuity, as
2 computed under section 806(a); or

3 (B) if not married to the participant throughout
4 such creditable service, equal to that former spouse's
5 pro rata share of 55 percent of the full amount of such
6 annuity.

7 (2) A former spouse shall not be qualified for an annuity
8 under this subsection if before the commencement of that an-
9 nuity the former spouse remarries before becoming 60 years
10 of age.

11 (3) An annuity payable from the Fund to a surviving
12 former spouse under this subsection shall commence on the
13 day after the annuitant dies and shall terminate on the last
14 day of the month before the former spouse's death or remar-
15 riage before attaining age 60. If such a survivor annuity is
16 terminated because of remarriage, it shall be restored at the
17 same rate commencing on the date such remarriage is termi-
18 nated if any lump sum paid upon termination of the annuity is
19 returned to the Fund.

20 (4)(A) The maximum survivor annuity or combination of
21 survivor annuities under this section (and section 806(b)(3))
22 with respect to any participant or former participant may not
23 exceed 55 percent of the full amount of the participant's an-
24 nuity, as calculated under section 806(a).

1 (B) Once a survivor annuity has been provided for under
2 this subsection for any former spouse, a survivor annuity may
3 thereafter be provided for under this subsection (or section
4 806(b)(3)) with respect to a participant or former participant
5 only for that portion (if any) of the maximum available which
6 is not committed for survivor benefits for any former spouse
7 whose prospective right to such annuity has not terminated
8 by reason of death or remarriage.

9 (C) After the death of a participant or former partici-
10 pant, a court order under section 820(b)(1) may not adjust
11 the amount of the annuity of any former spouse under this
12 section.

13 (5) For each full month after a former spouse of a par-
14 ticipant dies or remarries before attaining age 60, the annuity
15 of the participant, if reduced to provide a survivor annuity for
16 that former spouse, shall be recomputed and paid as if the
17 annuity had not been so reduced unless the participant is
18 then married and elects in writing within one year after the
19 death or remarriage of the former spouse to continue the re-
20 duction in order to provide a higher survivor annuity under
21 section 806(b)(3) for any spouse of the participant.

22 (c)(1) In the case of any participant or former partici-
23 pant providing a survivor annuity benefit under subsection (b)
24 for a former spouse—

25 (A) such participant may elect, or

1 (B) a court order under section 820(b)(1) may pro-
2 vide for,
3 an additional survivor annuity under this subsection for any
4 other former spouse or spouse surviving the participant, if the
5 participant satisfactorily passes a physical examination as
6 prescribed by the Secretary of State.

7 (2) Neither the total amount of survivor annuity or an-
8 nuities elected or ordered under this subsection with respect
9 to any participant or former participant, nor the survivor an-
10 nuity or annuities for any one surviving spouse or former
11 spouse of such participant under this section and section
12 806(b)(3), shall exceed 55 percent of the full amount of the
13 participant's annuity, as computed under section 806(a).

14 (3)(A) In accordance with regulations which the Secre-
15 tary of State shall prescribe, the participant involved shall
16 provide for any annuity under this subsection—

17 (i) by a reduction in the annuity or salary of the
18 participant,

19 (ii) by a lump sum payment or installment pay-
20 ments to the Fund, or

21 (iii) by any combination of such reduction and
22 payments.

23 (B) The present value of the total amount to accrue to
24 the Fund under subparagraph (A) to provide any annuity
25 under this subsection shall be actuarially equivalent in value

1 to such annuity, as calculated upon such tables of mortality
2 as may from time to time be prescribed for this purpose by
3 the Secretary of State.

4 (C) If a former spouse predeceases the participant or
5 remarries before attaining age 60 (or, in the case of a spouse,
6 the spouse does not qualify as a former spouse upon dissolu-
7 tion of the marriage)—

8 (i) if an annuity or salary reduction under subpar-
9 agraph (A) is in effect for that spouse or former
10 spouse, the annuity or salary shall be recomputed and
11 paid as if it had not been reduced, and

12 (ii) any amount accruing to the Fund under sub-
13 paragraph (A) shall be refunded, but only to the extent
14 that such amount may have exceeded the actuarial cost
15 of providing benefits under this subsection for the
16 period such benefits were provided, as determined
17 under regulations prescribed by the Secretary of State.

18 (4) An annuity payable under this subsection to a spouse
19 or former spouse shall commence on the day after the partici-
20 pant dies and shall terminate on the last day of the month
21 before the former spouse's death or remarriage before attain-
22 ing age 60.

23 (5) Section 826 shall not apply to any annuity under this
24 subsection, unless authorized under regulations prescribed by
25 the Secretary of State.

1 (d) Section 806(l) shall not apply—

2 (1) to any annuity payable under subsection (a) or
3 (b) to any former spouse if the amount of that annuity
4 varies by reason of a court order under section
5 820(b)(1) from the amount which would be calculated
6 under subsection (a)(1) or (b)(1), as the case may be, in
7 the absence of such court order; and

8 (2) to any annuity payable under subsection (c).

9 SEC. 815. LUMP-SUM PAYMENTS.—(a) Whenever a
10 participant becomes separated from the Service without be-
11 coming eligible for an annuity or a deferred annuity under
12 this chapter, a lump-sum credit shall be paid to the partici-
13 pant (and to any former spouse of the participant, in accord-
14 ance with subsection (i)).

15 (b) Whenever an annuitant becomes separated from the
16 Service following a period of recall service without becoming
17 eligible for a supplemental or recomputed annuity under sec-
18 tion 823, the compulsory contributions of the annuitant to the
19 Fund for such service, together with any special contribu-
20 tions the annuitant may have made for other service per-
21 formed after the date of separation from the Service which
22 forms the basis for annuity, shall be returned to the annuitant
23 (and any former spouse of the annuitant who was married to
24 the participant during the period of recall service, in accord-
25 ance with subsection (i)).

1 (c) If all annuity rights under this chapter based on the
2 service of a deceased participant or annuitant terminate
3 before the total annuity paid equals the lump-sum credit, the
4 difference shall be paid in accordance with subsection (f).

5 (d) If a participant or former participant dies and is not
6 survived by an individual eligible for an annuity under this
7 chapter or by such an individual or individuals all of whose
8 annuity rights terminate before a claim for survivor annuity
9 is filed, the lump-sum credit shall be paid in accordance with
10 subsection (f).

11 (e) If an annuitant who was a former participant dies,
12 any annuity accrued and unpaid shall be paid in accordance
13 with subsection (f).

14 (f) Payments under subsections (c) through (e) shall be
15 paid in the following order of precedence to individuals sur-
16 viving the participant and alive on the date entitlement to the
17 payment arises, upon the establishment of a valid claim
18 therefor, and such payment shall be a bar to recovery by any
19 other person:

20 (1) To the beneficiary or beneficiaries last desig-
21 nated by the participant before or after retirement in a
22 signed and witnessed writing filed with the Secretary
23 of State prior to the death of the participant, for which
24 purpose a designation, change, or cancellation of bene-

1 ficiary in a will or other document which is not so ex-
2 ecuted and filed shall have no force or effect.

3 (2) If there is no such beneficiary, to the surviving
4 wife or husband of the participant.

5 (3) If none of the above, to the child (without
6 regard to the definition in section 804(2)) or children of
7 the participant (including adopted and natural children
8 but not stepchildren) and descendants of deceased chil-
9 dren by representation.

10 (4) If none of the above, to the parents of the par-
11 ticipant or the survivor of them.

12 (5) If none of the above, to the duly appointed ex-
13 ecutor or administrator of the estate of the participant.

14 (6) If none of the above, to such other next of kin
15 of the participant as may be determined in the judg-
16 ment of the Secretary of State to be legally entitled to
17 such payment, except that no payment shall be made
18 under this paragraph until after the expiration of 30
19 days after the death of the participant or annuitant.

20 (g) Annuity accrued and unpaid on the death of a survi-
21 vor annuitant shall be paid in the following order of prece-
22 dence, and the payment bars recovery by any other person:

23 (1) To the duly appointed executor or administra-
24 tor of the estate of the survivor annuitant.

1 (2) If there is no such executor or administrator,
2 to such person as may be determined by the Secretary
3 of State (after the expiration of 30 days from the date
4 of death of the survivor annuitant) to be entitled under
5 the laws of the domicile of the survivor annuitant at
6 the time of death.

7 (h) Amounts deducted and withheld from basic salary of
8 a participant under section 805 from the beginning of the first
9 pay period after the participant has completed 35 years of
10 service computed under section 816 (excluding service credit
11 for unused sick leave under section 816(b)), together with
12 interest on the amounts at the rate of 3 percent a year com-
13 pounded annually from the date of the deduction to the date
14 of retirement or death, shall be applied toward any special
15 contribution due under section 805(d), and any balance not so
16 required shall be refunded in a lump sum to the participant
17 after separation or, in the event of a death in service, to a
18 beneficiary in the order of precedence specified in subsection
19 (f).

20 (i) Unless otherwise expressly provided by any court
21 order under section 820(b)(1), the amount of a participant's
22 or former participant's lump-sum credit payable to a former
23 spouse of that participant shall be—

24 (1) if the former spouse was married to the par-
25 ticipant throughout the period of creditable service of

1 the participant, 50 percent of the lump-sum credit to
2 which such participant would be entitled in the absence
3 of this subsection, or

4 (2) if such former spouse was not married to the
5 participant throughout such creditable service, an
6 amount equal to such former spouse's pro rata share of
7 50 percent of such lump-sum credit.

8 The lump-sum credit of the participant shall be reduced by
9 the amount of the lump-sum credit payable to the former
10 spouse.

11 SEC. 816. CREDITABLE SERVICE.—(a) Except as oth-
12 erwise specified by law, all periods of civilian and military
13 and naval service, and all other periods through the date of
14 final separation of a participant from the Service that the
15 Secretary of State determines would be creditable toward re-
16 tirement under the Civil Service Retirement and Disability
17 System (as determined in accordance with section 8332 of
18 title 5, United States Code), shall be creditable for purposes
19 of this chapter. Conversely, any such service performed after
20 December 31, 1976, that would not be creditable under spec-
21 ified conditions under section 8332 of title 5, United States
22 Code, shall be excluded under this chapter under the same
23 conditions.

24 (b) In computing any annuity under this chapter, the
25 total service of a participant who retires on an immediate

1 annuity or who dies leaving a survivor or survivors entitled
2 to annuity includes (without regard to the 35-year limitation
3 imposed by section 806(a)) the days of unused sick leave to
4 the credit of the participant, except that these days shall not
5 be counted in determining average basic salary or annuity
6 eligibility under this chapter. A contribution to the Fund shall
7 not be required from a participant for this service credit.

8 (c)(1) A participant who enters on approved leave with-
9 out pay to serve as a full-time officer or employee of an orga-
10 nization composed primarily of Government employees may,
11 within 60 days after entering on that leave without pay, file
12 with the employing agency an election to receive full retire-
13 ment credit for such periods of leave without pay and arrange
14 to pay concurrently into the Fund through the employing
15 agency, amounts equal to the retirement deductions and
16 agency contributions on the Foreign Service salary rate that
17 would be applicable if the participant were in a pay status. If
18 the election and all payments provided by this subsection are
19 not made for the periods of such leave without pay occurring
20 after November 7, 1976, the participant may not receive any
21 credit for such periods of leave without pay occurring after
22 such date.

23 (2) A participant may make a special contribution for
24 any period or periods of approved leave without pay while
25 serving before November 7, 1976, as a full-time officer or

1 employee of an organization composed primarily of Govern-
2 ment employees. Any such contribution shall be based upon
3 the suspended Foreign Service salary rate and shall be com-
4 puted in accordance with section 805. A participant who
5 makes such contributions shall be allowed full retirement
6 credit for the period or periods of leave without pay. If this
7 contribution is not made, up to 6 months' retirement credit
8 shall be allowed for such periods of leave without pay each
9 calendar year.

10 (d) A participant who has received a refund of retire-
11 ment contributions (which has not been repaid) under this or
12 any other retirement system for Government employees cov-
13 ering service which may be creditable may make a special
14 contribution for such service under section 805. Credit may
15 not be allowed for service covered by the refund unless the
16 special contribution is made.

17 (e) No credit in annuity computation shall be allowed for
18 any period of civilian service for which a participant made
19 retirement contributions to another retirement system for
20 Government employees unless—

21 (1) the right to any annuity under the other
22 system which is based on such service is waived, and

23 (2) a special contribution is made under section
24 805 covering such service.

1 (f) A participant who during a period of war, or national
2 emergency proclaimed by the President or declared by the
3 Congress, leaves the Service to enter the military service is
4 deemed, for the purpose of this chapter, as not separated
5 from the Service unless the participant applies for and re-
6 ceives a lump-sum payment under section 815. However, the
7 participant is deemed to be separated from the Service after
8 the expiration of 5 years of such military service.

9 (g)(1) An annuity or survivor annuity based on the serv-
10 ice of a participant of Japanese ancestry who would be eligi-
11 ble under section 8332(l) of title 5, United States Code, for
12 credit for civilian service for periods of internment during
13 World War II shall, upon application to the Secretary of
14 State, be recomputed to give credit for that service. Any such
15 recomputation of an annuity shall apply with respect to
16 months beginning more than 30 days after the date on which
17 application for such recomputation is received by the Secre-
18 tary of State.

19 (2) The Secretary of State shall take such action as may
20 be necessary and appropriate to inform individuals entitled to
21 have any service credited or annuity recomputed under
22 this subsection of their entitlement to such credit or
23 recomputation.

24 (3) The Secretary of State shall, on request, assist any
25 individual referred to in paragraph (1) in obtaining from any

1 agency or other Government establishment information nec-
2 essary to verify the entitlement of the individual to have any
3 service credited or any annuity recomputed under this sub-
4 section.

5 (4) Any agency or other Government establishment
6 shall, upon request, furnish to the Secretary of State any
7 information it possesses with respect to the internment or
8 other detention, as described in section 8332(l) of title 5,
9 United States Code, of any participant.

10 (h) A participant who, while on approved leave without
11 pay, serves as a full-time paid employee of a Member or
12 office of the Congress shall continue to make contributions to
13 the Fund based upon the Foreign Service salary rate that
14 would be in effect if the participant were in a pay status. The
15 participant's employing office in the Congress shall make a
16 matching contribution (from the appropriation or fund which
17 is used for payment of the salary of the participant) to the
18 Treasury of the United States to the credit of the Fund. All
19 periods of service for which full contributions to the Fund are
20 made under this subsection shall be counted as creditable
21 service for purposes of this chapter and shall not, unless all
22 retirement credit is transferred, be counted as creditable
23 service under any other Government retirement system.

24 (i)(1) Service of a participant shall be considered credit-
25 able service for purposes of applying provisions of this chap-

1 ter relating to former spouses if such service would be
2 creditable—

3 (A) under subsection (c)(1) or (2) but for the fact
4 an election was not made under subsection (c)(1) or a
5 special contribution was not made under subsection
6 (c)(2), and

7 (B) under subsection (d) but for the fact that a
8 refund of contributions has not been repaid unless the
9 former spouse received under this chapter a portion of
10 the lump sum (or a court order provided otherwise).

11 (2) A former spouse shall not be considered as married
12 to a participant—

13 (A) for periods assumed to be creditable service
14 under section 808(a) or section 809(e), or

15 (B) for any extra period of creditable service pro-
16 vided under section 817 for service of a participant at
17 an unhealthful post unless the former spouse resided
18 with the participant at that post during that period.

19 SEC. 817. EXTRA CREDIT FOR SERVICE AT UN-
20 HEALTHFUL POSTS.—The Secretary of State may from time
21 to time establish a list of places which by reason of climatic
22 or other extreme conditions are to be classed as unhealthful
23 posts. Each year of duty at such posts, inclusive of regular
24 leaves of absence, shall be counted as one and a half years in
25 computing the length of the service of a participant for the

1 purpose of retirement, fractional months being considered as
2 full months in computing such service. No such extra credit
3 for service at such unhealthful posts shall be credited to any
4 participant who is paid a differential under section 5925 or
5 5928 of title 5, United States Code, for such service.

6 SEC. 818. ESTIMATE OF APPROPRIATIONS
7 NEEDED.—The Secretary of the Treasury shall prepare the
8 estimates of the annual appropriations required to be made to
9 the Fund, and shall make actuarial valuations of the System
10 at intervals of not more than five years. The Secretary of
11 State may expend from money to the credit of the Fund an
12 amount not exceeding \$5,000 per year for the incidental ex-
13 penses necessary in administering the provisions of this chap-
14 ter, including actuarial advice.

15 SEC. 819. INVESTMENT OF THE FUND.—The Secre-
16 tary of the Treasury shall invest from time to time in inter-
17 est-bearing securities of the United States such portions of
18 the Fund as in the judgment of the Secretary of the Treasury
19 may not be immediately required for the payment of annu-
20 ities, cash benefits, refunds, and allowances. The income de-
21 rived from such investments shall constitute a part of the
22 Fund.

23 SEC. 820. ASSIGNMENT AND ATTACHMENT OF
24 MONEYS.—(a)(1) An individual entitled to an annuity from
25 the Fund may make allotments or assignments of amounts

1 from such annuity for such purposes as the Secretary of State
2 in his or her sole discretion considers appropriate.

3 (2) Notwithstanding section 3477 of the Revised Stat-
4 utes of the United States (31 U.S.C. 203) or any other law, a
5 member of the Service who is entitled to receive benefits
6 under section 609(b)(1) may assign to any person the whole
7 or any part of those benefits. Any such assignment shall be
8 on a form approved by the Secretary of the Treasury and a
9 copy of such assignment form shall be deposited with the
10 Secretary of the Treasury by the member executing the
11 assignment.

12 (b)(1)(A) In the case of any participant or annuitant who
13 has a former spouse with respect to whom there is a court
14 order—

15 (i) any right of any former spouse to any annuity
16 under section 814(a) in connection with any retirement
17 or disability annuity of the participant, and the amount
18 of any annuity under such section 814(a);

19 (ii) any right of a former spouse to a survivor an-
20 nuity under section 814 (b) or (c), and the amount of
21 any such annuity under section 814 (b) or (c) for any
22 surviving former spouse of the participant or annuitant;
23 and

24 (iii) any right of any former spouse to any pay-
25 ment of a lump-sum credit under section 815 (a) or (b);

1 shall be determined in accordance with a court order, if and
2 to the extent expressly provided for in the terms of that court
3 order.

4 (B) This subsection shall not apply in the case of any
5 court order which is inconsistent with the requirements of
6 this chapter, as determined by the Secretary of State.

7 (2) Except with respect to obligations between partici-
8 pants and former spouses, payments under this chapter which
9 would otherwise be made to a participant or annuitant based
10 upon his or her service shall be paid (in whole or in part) by
11 the Secretary of State to another individual to the extent
12 expressly provided for in the terms of any order or any court
13 decree of legal separation, or the terms of any court order or
14 court-approved property settlement agreement incident to
15 any court decree of legal separation.

16 (3) Paragraphs (1) and (2) shall apply only to payments
17 made under this chapter for periods beginning after the date
18 of receipt by the Secretary of State of written notice of such
19 decree, order, or agreement, and such additional information
20 and such documentation as the Secretary of State may
21 require.

22 (4) Any payment under this subsection to an individual
23 bars recovery by any other individual.

24 (5) The 10-year requirement of section 804(b)(6), or any
25 other provision of this chapter, shall not be construed to

1 affect the rights any spouse or individual formerly married to
2 a participant or annuitant may have, under any law or rule of
3 law of any State or the District of Columbia, with respect to
4 an annuity of a participant or annuitant under this chapter.

5 (c) None of the moneys mentioned in this chapter shall
6 be assignable either in law or equity, except under subsection
7 (a) or (b) of this section, or subject to execution, levy, attach-
8 ment, garnishment, or other legal process, except as other-
9 wise may be provided by Federal law.

10 SEC. 821. PAYMENTS FOR FUTURE BENEFITS.—(a)

11 Any statute which authorizes—

12 (1) new or liberalized benefits payable from the
13 Fund, including annuity increases other than under
14 section 825;

15 (2) extension of the benefits of the System to new
16 groups of employees; or

17 (3) increases in salary on which benefits are
18 computed;

19 is deemed to authorize appropriations to the Fund to finance
20 the unfunded liability created by that statute, in 30 equal
21 annual installments with interest computed at the rate used
22 in the then most recent valuation of the System and with the
23 first payment thereof due as of the end of the fiscal year in
24 which each new or liberalized benefit, extension of benefits,
25 or increase in salary is effective.

1 (b) There is authorized to be appropriated to the Fund
2 for each fiscal year an amount equal to the amount of the
3 Foreign Service normal cost for that year which is not met
4 by contributions to the Fund under section 805(a).

5 SEC. 822. UNFUNDED LIABILITY OBLIGATIONS.—(a)

6 At the end of each fiscal year, the Secretary of State shall
7 notify the Secretary of the Treasury of the amount equivalent
8 to—

9 (1) interest on the unfunded liability computed for
10 that year at the interest rate used in the then most
11 recent valuation of the System, and

12 (2) that portion of disbursement for annuities for
13 that year which the Secretary of State estimates is
14 attributable to credit allowed for military and naval
15 service.

16 (b) Before closing the accounts for each fiscal year, the
17 Secretary of the Treasury shall credit such amounts to the
18 Fund, as a Government contribution, out of any money in the
19 Treasury of the United States not otherwise appropriated.

20 (c) Requests for appropriations to the Fund under sec-
21 tion 821(b) shall include reports to the Congress on the sums
22 credited to the Fund under this section.

23 SEC. 823. ANNUITY ADJUSTMENT FOR RECALL SERV-

24 ICE.—(a) Any annuitant recalled to duty in the Service under
25 section 308(a) shall, while so serving, be entitled in lieu of

1 annuity to the full salary of the class in which serving.
2 During such service the recalled annuitant shall make contri-
3 butions to the Fund in accordance with section 805. On the
4 day following termination of the recall service, the former
5 annuity shall be resumed, adjusted by any cost-of-living in-
6 creases under section 825 that became effective during the
7 recall period.

8 (b) If the recall service lasts less than one year, the
9 contributions of the annuitant to the Fund during recall serv-
10 ice shall be refunded in accordance with section 815. If the
11 recall service lasts more than one year, the annuitant may, in
12 lieu of such refund, elect a supplemental annuity computed
13 under section 806 on the basis of service credit and average
14 salary earned during the recall period irrespective of the
15 number of years of service credit previously earned. If the
16 recall service continues for at least 5 years, the annuitant
17 may elect to have his or her annuity determined anew under
18 section 806 in lieu of any other benefits under this section.
19 Any annuitant who is recalled under section 308 may upon
20 written application count as recall service any prior service
21 that is creditable under section 816 that was performed after
22 the separation upon which his or her annuity is based.

23 SEC. 824. REEMPLOYMENT.—(a) Notwithstanding any
24 other law, any member of the Service who has retired and is
25 receiving an annuity under this chapter, and who is reem-

1 ployed in the Government service in any part-time or full-
2 time appointive position, shall be entitled to receive the
3 salary of the position in which he or she is serving plus so
4 much of the annuity payable under this chapter which when
5 combined with such salary does not exceed during any calen-
6 dar year the basic salary the member would be entitled to
7 receive under this Act if currently employed in the Foreign
8 Service class which the Secretary determines most compara-
9 ble to the class the member held on the date of retirement
10 from the Service. Any such reemployed member of the Serv-
11 ice who receives salary during any calendar year in excess of
12 the maximum amount which he or she may be entitled to
13 receive under this paragraph shall be entitled to such salary
14 in lieu of benefits under this chapter.

15 (b) When any such retired member of the Service is
16 reemployed, the employer shall send a notice of such reem-
17 ployment to the Secretary of State, together with all perti-
18 nent information relating to such employment, and shall pay
19 directly to such member the salary of the position in which he
20 or she is serving.

21 (c) In the event of any overpayment under this section,
22 such overpayment shall be recovered by withholding the
23 amount involved from the salary payable to such reemployed
24 member of the Service or from any other moneys, including
25 annuity payments, payable under this chapter.

1 SEC. 825. VOLUNTARY CONTRIBUTIONS.—(a) The vol-
2 untary contribution account shall be the sum of unrefunded
3 amounts voluntarily contributed prior to the effective date of
4 this Act by any participant or former participant under any
5 prior law authorizing such contributions to the Fund, plus
6 interest compounded at the rate of 3 percent per year to the
7 date of separation from the Service or (in case of participant
8 or former participant separated with entitlement to a deferred
9 annuity) to the date the voluntary contribution account is
10 claimed, the commencing date fixed for the deferred annuity,
11 or the date of death, whichever is earlier. Effective on the
12 date the participant becomes eligible for an annuity or a de-
13 ferred annuity and at the election of the participant, his or
14 her account shall be—

15 (1) returned in a lump sum;

16 (2) used to purchase an additional life annuity;

17 (3) used to purchase an additional life annuity for
18 the participant and to provide for a cash payment on
19 his or her death to a beneficiary whose name shall be
20 notified in writing to the Secretary of State by the par-
21 ticipant; or

22 (4) used to purchase an additional life annuity for
23 the participant and a life annuity commencing on his or
24 her death payable to a beneficiary whose name shall be
25 notified in writing to the Secretary of State by the par-

1 ticipant, with a guaranteed return to the beneficiary or
2 his or her legal representative of an amount equal to
3 the cash payment referred to in paragraph (3).

4 (b) The benefits provided by subsection (a) (2), (3), or (4)
5 shall be actuarially equivalent in value to the payment pro-
6 vided for by subsection (a)(1) and shall be calculated upon
7 such tables of mortality as may be from time to time pre-
8 scribed for this purpose by the Secretary of the Treasury.

9 (c) A voluntary contribution account shall be paid in a
10 lump sum following receipt of an application therefor from a
11 present or former participant if application is filed prior to
12 payment of any additional annuity. If not sooner paid, the
13 account shall be paid at such time as the participant sepa-
14 rates from the Service for any reason without entitlement to
15 an annuity or a deferred annuity or at such time as a former
16 participant dies or withdraws compulsory contributions to the
17 Fund. In case of death, the account shall be paid in the order
18 of precedence specified in section 815(f).

19 SEC. 826. COST-OF-LIVING ADJUSTMENTS OF ANNU-
20 ITIES.—(a) A cost-of-living annuity increase shall become ef-
21 fective under this section on the effective date of each such
22 increase under section 8340(b) of title 5, United States Code.
23 Each such increase shall be applied to each annuity payable
24 from the Fund which has a commencing date not later than
25 the effective date of the increase.

1 (b) Each annuity increase under this section shall be
2 identical to the corresponding percentage increase under sec-
3 tion 8340(b) of title 5, United States Code.

4 (c) Eligibility for an annuity increase under this section
5 shall be governed by the commencing date of each annuity
6 payable from the Fund as of the effective date of an increase
7 except as follows:

8 (1) An annuity (except a deferred annuity) payable
9 from the Fund to a participant who retires and re-
10 ceives an immediate annuity, or to a surviving spouse
11 or former spouse of a deceased participant who dies in
12 service or who dies after being separated with benefits
13 under section 609(b)(2), which has a commencing date
14 after the effective date of the then last preceding gen-
15 eral annuity increase under this section shall not be
16 less than the annuity which would have been payable if
17 the commencing date of such annuity had been the ef-
18 fective date of such last preceding increase. In the ad-
19 ministration of this paragraph, the number of days of
20 unused sick leave to the credit of a participant or de-
21 ceased participant on the effective date of the then last
22 preceding general annuity increase under this section
23 shall be deemed to be equal to the number of days of
24 unused sick leave to his or her credit on the day of
25 separation from the Service.

1 (2) Effective from its commencing date, an annu-
2 ity payable from the Fund to the survivor of an annu-
3 itant, except a child entitled to an annuity under sec-
4 tion 806(c) or 809 (c) or (d), shall be increased by the
5 total percentage increase the annuitant was receiving
6 under this section at death.

7 (3) For purposes of computing or recomputing an
8 annuity to a child under section 806 (c) or (d) or 809
9 (c) or (d), the items \$900, \$1,080, \$2,700, and \$3,240
10 appearing in section 806(c) shall be increased by the
11 total percentage increases by which corresponding
12 amounts are being increased under section 8340 of title
13 5, United States Code, on the date the annuity of the
14 child becomes effective.

15 (d) No increase in annuity provided by this section shall
16 be computed on any additional annuity purchased at retire-
17 ment by voluntary contributions.

18 (e) The monthly installment of annuity after adjustment
19 under this section shall be fixed at the nearest dollar, except
20 such installment shall after adjustment reflect an increase of
21 at least \$1.

22 (f) Effective from its commencing date, there shall be an
23 increase of 10 percent in the annuity of each surviving spouse
24 whose entitlement to annuity resulted from the death of an

1 annuitant who, prior to October 1, 1976, elected a reduced
2 annuity in order to provide a spouse's survivor annuity.

3 SEC. 827. COMPATIBILITY BETWEEN CIVIL SERVICE
4 AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a) In
5 order to maintain existing conformity between the Civil Serv-
6 ice Retirement and Disability System under subchapter III of
7 chapter 83 of title 5, United States Code, and the Foreign
8 Service Retirement and Disability System, whenever a law
9 of general applicability is enacted which—

10 (1) affects the treatment of current or former par-
11 ticipants, annuitants, or survivors under the Civil Serv-
12 ice Retirement and Disability System; and

13 (2) affects treatment which, immediately prior to
14 the enactment of such law, was substantially identical
15 to the treatment accorded to participants, former par-
16 ticipants, annuitants, or survivors under the Foreign
17 Service Retirement and Disability System;

18 such law shall be extended in accordance with subsection (b)
19 to the Foreign Service Retirement and Disability System so
20 that it applies in like manner with respect to participants,
21 former participants, annuitants, or survivors under that
22 System.

23 (b) The President shall by Executive order prescribe
24 regulations to implement this section and to make such ex-
25 tension retroactive to a date no earlier than the effective date

1 of the provision of law applicable to the Civil Service Retire-
2 ment and Disability System. Any provision of an Executive
3 order issued under this section shall modify, supersede, or
4 render inapplicable, as the case may be, to the extent incon-
5 sistent therewith—

6 (1) all provisions of law enacted prior to the effec-
7 tive date of that provision of the Executive order, and

8 (2) any prior provision of an Executive order
9 issued under this section.

10 CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

11 SEC. 901. TRAVEL AND RELATED EXPENSES.—The
12 Secretary may pay the travel and related expenses of mem-
13 bers of the Service and their families, including costs or ex-
14 penses incurred for—

15 (1) proceeding to and returning from assigned
16 posts of duty;

17 (2) authorized or required home leave;

18 (3) family members to accompany, precede, or
19 follow a member of the Service to a place of temporary
20 duty;

21 (4) representational travel within the country to
22 which the member of the Service is assigned or, when
23 not more than one family member participates, outside
24 such country;

1 (5) obtaining necessary medical care for an illness,
2 injury, or medical condition while abroad in a locality
3 where there is no suitable person or facility to provide
4 such care (without regard to those laws and regula-
5 tions limiting or restricting the furnishing or payment
6 of transportation and traveling expenses), as well as
7 expenses for—

8 (A) an attendant or attendants for a member
9 of the Service or a family member who is too ill
10 to travel unattended or for a family member who
11 is too young to travel alone, and

12 (B) a family member incapable of caring for
13 himself or herself if he or she remained at the
14 post at which the member of the Service is
15 serving;

16 (6) rest and recuperation travel of members of the
17 Service who are United States citizens, and members
18 of their families, while serving at locations abroad spe-
19 cifically designated by the Secretary for purposes of
20 this paragraph, to—

21 (A) other locations abroad having different
22 social, climatic, or other environmental conditions
23 than those at the post at which the member of the
24 Service is serving, or

25 (B) locations in the United States;

1 except that, unless the Secretary otherwise specifies in
2 extraordinary circumstances, travel expenses under this
3 paragraph shall be limited to the cost for a member of
4 the Service, and for each member of the family of the
5 member, of 1 round trip during any continuous 2-year
6 tour unbroken by home leave and of 2 round trips
7 during any continuous 3-year tour unbroken by home
8 leave;

9 (7) removal of the family members of a member of
10 the Service, and the furniture and household and per-
11 sonal effects (including automobiles) of the family, from
12 a Foreign Service post where there is imminent danger
13 because of the prevalence of disturbed conditions, and
14 the return of such individuals, furniture, and effects to
15 such post upon the cessation of such conditions, or to
16 such other Foreign Service post as may in the mean-
17 time have become the post to which the member of the
18 Service has been reassigned;

19 (8) trips by a member of the Service for purposes
20 of family visitation in situations where the family of the
21 member is prevented by official order from accompany-
22 ing the member to, or has been ordered from, the as-
23 signed post of the member because of imminent danger
24 due to the prevalence of disturbed conditions, except
25 that—

139

1 (A) with respect to any such member whose
2 family is located in the United States, the Secre-
3 tary may pay the costs and expenses for not to
4 exceed 2 round trips in a 12-month period; and

5 (B) with respect to any such member whose
6 family is located abroad, the Secretary may pay
7 such costs and expenses for trips in a 12-month
8 period as do not exceed the cost of 2 round trips
9 (at less than first class) to the District of
10 Columbia;

11 (9) round-trip travel from a location abroad for
12 purposes of family visitation in emergency situations
13 involving personal hardship;

14 (10) preparing and transporting to the designated
15 home in the United States or to a place not more dis-
16 tant, the remains of a member of the Service, or of a
17 family member of a member of the Service, who dies
18 abroad or while in travel status;

19 (11) transporting the furniture and household and
20 personal effects of a member of the Service (and of his
21 or her family) to successive posts of duty and, on sepa-
22 ration of a member from the Service, to the place
23 where the member will reside (or if the member has
24 died, to the place where his or her family will reside);

1 (12) packing and unpacking, transporting to and
2 from a place of storage, and storing the furniture and
3 household and personal effects of a member of the
4 Service (and of his or her family)—

5 (A) when the member is absent from his or
6 her post of assignment under orders or is assigned
7 to a Foreign Service post to which such furniture
8 and household and personal effects cannot be
9 taken or at which they cannot be used, or when it
10 is in the public interest or more economical to
11 authorize storage;

12 (B) in connection with an assignment of the
13 member to a new post, except that costs and
14 expenses may be paid under this subparagraph
15 only for the period beginning on the date of de-
16 parture from his or her last post or (in the case of
17 a new member) on the date of departure from the
18 place of residence of the member and ending on
19 the earlier of the date which is 3 months after ar-
20 rival of the member at the new post or the date
21 on which the member establishes residence quar-
22 ters; and

23 (C) in connection with separation of the
24 member from the Service, except that costs or
25 expenses may not be paid under this subpara-

1 graph for storing furniture and household and per-
2 sonal effects for more than 3 months;

3 (13) transporting, for or on behalf of a member of
4 the Service, a privately owned motor vehicle in any
5 case in which the Secretary determines that water,
6 rail, or air transportation of the motor vehicle is neces-
7 sary or expedient for all or any part of the distance
8 between points of origin and destination, but transpor-
9 tation may be provided under this paragraph for only
10 one motor vehicle of a member during any 48-month
11 period while the member is continuously serving
12 abroad, except that another motor vehicle may be so
13 transported as a replacement for such motor vehicle if
14 such replacement—

15 (A) is determined, in advance, by the Secre-
16 tary to be necessary for reasons beyond the con-
17 trol of the member and in the interest of the
18 Government, or

19 (B) is incident to a reassignment when the
20 cost of transporting the replacement motor vehicle
21 does not exceed the cost of transporting the motor
22 vehicle that is replaced;

23 (14) the travel and relocation of members of the
24 Service, and members of their families, assigned to or
25 within the United States, including assignments under

1 subchapter VI of chapter 33 of title 5, United States
2 Code (notwithstanding section 3375(a) of such title, if
3 an agreement similar to that required by section
4 3375(b) of such title is executed by the member of the
5 Service); and

6 (15) 1 round-trip per year for each child below
7 age 21 of a member of the Service assigned abroad—

8 (A) to visit the member abroad if the child
9 does not regularly reside with the member and
10 the member is not receiving an education allow-
11 ance or educational travel allowance for the child
12 under section 5924(4) of title 5, United States
13 Code; or

14 (B) to visit the other parent of the child if
15 the other parent resides in a country other than
16 the country to which the member is assigned and
17 the child regularly resides with the member and
18 does not regularly attend school in the country in
19 which the other parent resides,

20 except that a payment under this paragraph may not
21 exceed the cost of round-trip travel between the post
22 to which the member is assigned and the port of entry
23 in the contiguous 48 States which is nearest to that
24 post.

1 SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Sec-
2 retary may, as a means of eliminating transportation costs,
3 provide members of the Service with basic household furnish-
4 ing and equipment for use on a loan basis in personally
5 owned or leased residences.

6 SEC. 903. REQUIRED LEAVE IN THE UNITED
7 STATES.—(a) The Secretary may order a member of the
8 Service who is a citizen of the United States to take a leave
9 of absence under section 6305 of title 5, United States Code
10 (without regard to the introductory clause of subsection (a) of
11 that section), upon completion by that member of 18 months
12 of continuous service abroad. The Secretary shall order on
13 such a leave of absence a member of the Service who is a
14 citizen of the United States as soon as possible after comple-
15 tion by that member of 3 years of continuous service abroad.

16 (b) Leave ordered under this section may be taken in the
17 United States, its territories and possessions, or the Com-
18 monwealth of Puerto Rico.

19 (c) While on a leave of absence ordered under this sec-
20 tion, the services of any member of the Service shall be avail-
21 able for such work or duties in the Department or elsewhere
22 as the Secretary may prescribe, but the time of such work or
23 duties shall not be counted as leave.

24 SEC. 904. HEALTH CARE.—(a) The Secretary of State
25 may establish a health care program to promote and maintain

1 the physical and mental health of members of the Service,
2 and (when incident to service abroad) other designated eligi-
3 ble Government employees, and members of the families of
4 such members and employees.

5 (b) Any such health care program may include (1) medi-
6 cal examinations for applicants for employment, (2) medical
7 examinations and inoculations or vaccinations for members of
8 the Service and employees of the Department who are citi-
9 zens of the United States and for members of their families,
10 and (3) examinations necessary in order to establish disability
11 or incapacity of participants in the Foreign Service Retire-
12 ment and Disability System or to provide survivor benefits
13 under chapter 8.

14 (c) The Secretary of State may establish health care
15 facilities and provide for the services of physicians, nurses, or
16 other health care personnel at Foreign Service posts abroad
17 at which, in the opinion of the Secretary of State, a sufficient
18 number of Government employees are assigned to warrant
19 such facilities or services.

20 (d) If an individual eligible for health care under this
21 section incurs an illness, injury, or medical condition while
22 abroad which requires hospitalization or similar treatment,
23 the Secretary may pay all or part of the cost of such treat-
24 ment. Limitations on such payments established by regula-
25 tion may be waived whenever the Secretary determines that

145

1 the illness, injury, or medical condition clearly was caused or
2 materially aggravated by the fact that the individual con-
3 cerned is or has been located abroad.

4 (e) Health care may be provided under this section to a
5 member of the Service or other designated eligible Govern-
6 ment employee after the separation of such member or
7 employee from Government service. Health care may be
8 provided under this section to a member of the family of a
9 member of the Service or of a designated eligible Govern-
10 ment employee after the separation from Government service
11 or the death of such member of the Service or employee or
12 after dissolution of the marriage.

13 (f) The Secretary of State shall review on a continuing
14 basis the health care program provided for in this section.
15 Whenever the Secretary of State determines that all or any
16 part of such program can be provided for as well and as
17 cheaply in other ways, the Secretary may, for such individ-
18 uals, locations, and conditions as the Secretary of State
19 deems appropriate, contract for health care pursuant to such
20 arrangements as the Secretary deems appropriate.

21 SEC. 905. REPRESENTATION EXPENSES.—Notwith-
22 standing section 5536 of title 5, United States Code, the
23 Secretary may provide for official receptions and may pay
24 entertainment and representational expenses (including ex-
25 penses of family members) to enable the Department and the

1 Service to provide for the proper representation of the United
2 States and its interests. In carrying out the provisions of the
3 preceding sentence, the Secretary shall, to the maximum
4 extent practicable, provide for the use of American products,
5 including American wines.

6 CHAPTER 10—LABOR-MANAGEMENT RELATIONS

7 SEC. 1001. LABOR-MANAGEMENT POLICY.—The Con-
8 gress finds that—

9 (1) experience in both private and public employ-
10 ment indicates that the statutory protection of the right
11 of workers to organize, bargain collectively, and par-
12 ticipate through labor organizations of their own choos-
13 ing in decisions which affect them—

14 (A) safeguards the public interest,

15 (B) contributes to the effective conduct of
16 public business, and

17 (C) facilitates and encourages the amicable
18 settlement of disputes between workers and their
19 employers involving conditions of employment;

20 (2) the public interest demands the highest stand-
21 ards of performance by members of the Service and the
22 continuous development and implementation of modern
23 and progressive work practices to facilitate improved
24 performance and efficiency; and

1 (3) the unique conditions of Foreign Service em-
2 ployment require a distinct framework for the develop-
3 ment and implementation of modern, constructive, and
4 cooperative relationships between management officials
5 and organizations representing members of the Service.
6 Therefore, labor organizations and collective bargaining in
7 the Service are in the public interest and are consistent with
8 the requirement of an effective and efficient Government.
9 The provisions of this chapter should be interpreted in a
10 manner consistent with the requirement of an effective and
11 efficient Government.

12 SEC. 1002. DEFINITIONS.—As used in this chapter, the
13 term—

14 (1) “Authority” means the Federal Labor Rela-
15 tions Authority, described in section 7104(a) of title 5,
16 United States Code;

17 (2) “Board” means the Foreign Service Labor
18 Relations Board, established by section 1006(a);

19 (3) “collective bargaining” means the performance
20 of the mutual obligation of the management repre-
21 sentative of the Department and of the exclusive repre-
22 sentative of employees to meet at reasonable times and
23 to consult and bargain in a good-faith effort to reach
24 agreement with respect to the conditions of employ-
25 ment affecting employees, and to execute, if requested

1 by either party, a written document incorporating any
2 collective bargaining agreement reached, but this obli-
3 gation does not compel either party to agree to a pro-
4 posal or to make a concession;

5 (4) "collective bargaining agreement" means an
6 agreement entered into as a result of collective bar-
7 gaining under the provisions of this chapter;

8 (5) "conditions of employment" means personnel
9 policies, practices, and matters, whether established by
10 regulation or otherwise, affecting working conditions,
11 but does not include policies, practices, and matters—

12 (A) relating to political activities prohibited
13 abroad or prohibited under subchapter III of
14 chapter 73 of title 5, United States Code;

15 (B) relating to the designation or classifica-
16 tion of any position under section 501;

17 (C) to the extent such matters are specifi-
18 cally provided for by Federal statute; or

19 (D) relating to Government-wide or multi-
20 agency responsibility of the Secretary affecting
21 the rights, benefits, or obligations of individuals
22 employed in agencies other than those which are
23 authorized to utilize the Foreign Service person-
24 nel system;

1 (6) "confidential employee" means an employee
2 who acts in a confidential capacity with respect to an
3 individual who formulates or effectuates management
4 policies in the field of labor-management relations;

5 (7) "dues" means dues, fees, and assessments;

6 (8) "employee" means—

7 (A) a member of the Service who is a citizen
8 of the United States, wherever serving, other
9 than a management official, a confidential em-
10 ployee, a consular agent, or any individual who
11 participates in a strike in violation of section 7311
12 of title 5, United States Code; or

13 (B) a former member of the Service as de-
14 scribed in subparagraph (A) whose employment
15 has ceased because of an unfair labor practice
16 under section 1015 and who has not obtained any
17 other regular and substantially equivalent employ-
18 ment, as determined under regulations prescribed
19 by the Board;

20 (9) "exclusive representative" means any labor
21 organization which is certified as the exclusive repre-
22 sentative of employees under section 1011;

23 (10) "General Counsel" means the General Coun-
24 sel of the Authority;

1 (11) "labor organization" means an organization
2 composed in whole or in part of employees, in which
3 employees participate and pay dues, and which has as
4 a purpose dealing with the Department concerning
5 grievances (as defined in section 1101) and conditions
6 of employment, but does not include—

7 (A) an organization which, by its constitu-
8 tion, bylaws, tacit agreement among its members,
9 or otherwise, denies membership because of race,
10 color, creed, national origin, sex, age, preferential
11 or nonpreferential civil service status, political af-
12 filiation, marital status, or handicapping condition;

13 (B) an organization which advocates the
14 overthrow of the constitutional form of govern-
15 ment of the United States;

16 (C) an organization sponsored by the Depart-
17 ment; or

18 (D) an organization which participates in the
19 conduct of a strike against the Government or
20 any agency thereof or imposes a duty or obliga-
21 tion to conduct, assist, or participate in such a
22 strike;

23 (12) "management official" means an individual
24 who—

25 (A) is a chief of mission or principal officer;

1 (B) is serving in a position to which ap-
2 pointed by the President, by and with the advice
3 and consent of the Senate, or by the President
4 alone;

5 (C) occupies a position which in the sole
6 judgment of the Secretary is of comparable impor-
7 tance to the offices mentioned in subparagraph (A)
8 or (B);

9 (D) is serving as a deputy to any individual
10 described by subparagraph (A), (B), or (C);

11 (E) is assigned to carry out functions of the
12 Inspector General of the Department of State and
13 the Foreign Service under section 209; or

14 (F) is engaged in the administration of this
15 chapter or in the formulation of the personnel
16 policies and programs of the Department;

17 (13) "Panel" means the Foreign Service Impasse
18 Disputes Panel, established by section 1010(a); and

19 (14) "person" means an individual, a labor orga-
20 nization, or an agency to which this chapter applies.

21 SEC. 1003. APPLICATION.—(a) This chapter applies
22 only with respect to the Department of State, the Interna-
23 tional Communication Agency, the United States Interna-
24 tional Development Cooperation Agency, the Department of
25 Agriculture, and the Department of Commerce.

1 (b) The President may by Executive order exclude any
2 subdivision of the Department from coverage under this
3 chapter if the President determines that—

4 (1) the subdivision has as a primary function intel-
5 ligence, counterintelligence, investigative, or national
6 security work, and

7 (2) the provisions of this chapter cannot be ap-
8 plied to that subdivision in a manner consistent with
9 national security requirements and considerations.

10 (c) The President may by Executive order suspend any
11 provision of this chapter with respect to any post, bureau,
12 office, or activity of the Department, if the President deter-
13 mines in writing that the suspension is necessary in the inter-
14 est of national security because of an emergency.

15 SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee
16 has the right to form, join, or assist any labor organization,
17 or to refrain from any such activity, freely and without fear of
18 penalty or reprisal. Each employee shall be protected in the
19 exercise of such right.

20 (b) Except as otherwise provided under this chapter,
21 such right includes the right—

22 (1) to act for a labor organization in the capacity
23 of a representative and, in that capacity, to present the
24 views of the labor organization to the Secretary and

1 other officials of the Government, including the Con-
2 gress, or other appropriate authorities; and

3 (2) to engage in collective bargaining with respect
4 to conditions of employment through representatives
5 chosen by employees under this chapter.

6 SEC. 1005. MANAGEMENT RIGHTS.—(a) Subject to
7 subsection (b), nothing in this chapter shall affect the authori-
8 ty of any management official of the Department, in accord-
9 ance with applicable law—

10 (1) to determine the mission, budget, organization,
11 and internal security practices of the Department, and
12 the number of individuals in the Service or in the
13 Department;

14 (2) to hire, assign, direct, lay off, and retain indi-
15 viduals in the Service or in the Department, to sus-
16 pend, remove, or take other disciplinary action against
17 such individuals, and to determine the number of mem-
18 bers of the Service to be promoted and to remove the
19 name of or delay the promotion of any member in ac-
20 cordance with regulations prescribed under section
21 605(b);

22 (3) to assign work, to make determinations with
23 respect to contracting out, and to determine the per-
24 sonnel by which the operations of the Department shall
25 be conducted;

1 (4) to fill positions from any appropriate source;

2 (5) to determine the need for uniform personnel
3 policies and procedures between or among the agencies
4 to which this chapter applies; and

5 (6) to take whatever actions may be necessary to
6 carry out the mission of the Department during
7 emergencies.

8 (b) Nothing in this section shall preclude the Depart-
9 ment and the exclusive representative from negotiating—

10 (1) at the election of the Department, on the num-
11 bers, types, and classes of employees or positions as-
12 signed to any organizational subdivision, work project,
13 or tour of duty, or on the technology, methods, and
14 means of performing work;

15 (2) procedures which management officials of the
16 Department will observe in exercising any function
17 under this section; or

18 (3) appropriate arrangements for employees ad-
19 versely affected by the exercise of any function under
20 this section by such management officials.

21 **SEC. 1006. FOREIGN SERVICE LABOR RELATIONS**
22 **BOARD.**—(a) There is established within the Federal Labor
23 Relations Authority the Foreign Service Labor Relations
24 Board. The Board shall be composed of 3 members, 1 of
25 whom shall be the Chairman of the Authority, who shall be

155

1 the Chairperson of the Board. The remaining 2 members
2 shall be appointed by the Chairperson of the Board from
3 nominees approved in writing by the agencies to which this
4 chapter applies, and the exclusive representative (if any) of
5 employees in each such agency. In the event of inability to
6 obtain agreement on a nominee, the Chairperson shall ap-
7 point the remaining 2 members from among individuals the
8 Chairperson considers knowledgeable in labor-management
9 relations and the conduct of foreign affairs.

10 (b) The Chairperson shall serve on the Board while
11 serving as Chairman of the Authority. Of the 2 original mem-
12 bers of the Board other than the Chairperson, one shall be
13 appointed for a 2-year term and one shall be appointed for a
14 3-year term. Thereafter, each member of the Board other
15 than the Chairperson shall be appointed for a term of 3 years,
16 except that an individual appointed to fill a vacancy occur-
17 ring before the end of a term shall be appointed for the unex-
18 pired term of the member replaced. The Chairperson may at
19 any time designate an alternate Chairperson from among the
20 members of the Authority.

21 (c) A vacancy on the Board shall not impair the right of
22 the remaining members to exercise the full powers of the
23 Board.

24 (d) The members of the Board, other than the Chairper-
25 son, may not hold another office or position in the Govern-

1 ment except as authorized by law, and shall receive compen-
2 sation at the daily equivalent of the rate payable for level V
3 of the Executive Schedule under section 5316 of title 5,
4 United States Code, for each day they are performing their
5 duties (including traveltime).

6 (e) The Chairperson may remove any other Board
7 member, upon written notice, for corruption, neglect of duty,
8 malfeasance, or demonstrated incapacity to perform his or
9 her functions, established at a hearing, except where the
10 right to a hearing is waived in writing.

11 SEC. 1007. FUNCTIONS OF THE BOARD.—(a) The
12 Board shall—

13 (1) supervise or conduct elections and determine
14 whether a labor organization has been selected as the
15 exclusive representative by a majority of employees
16 who cast valid ballots and otherwise administer the
17 provisions of this chapter relating to the according of
18 exclusive recognition to a labor organization;

19 (2) resolve complaints of alleged unfair labor prac-
20 tices;

21 (3) resolve issues relating to the obligation to bar-
22 gain in good faith;

23 (4) resolve disputes concerning the effect, the in-
24 terpretation, or a claim of breach of a collective bar-

157

1 gaining agreement, in accordance with section 1014;
2 and

3 (5) take any action considered necessary to ad-
4 minister effectively the provisions of this chapter.

5 (b) Decisions of the Board under this chapter shall be
6 consistent with decisions rendered by the Authority under
7 chapter 71 of title 5, United States Code, other than in cases
8 in which the Board finds that special circumstances require
9 otherwise. Decisions of the Board under this chapter shall
10 not be construed as precedent by the Authority, or any court
11 or other authority, for any decision under chapter 71 of title
12 5, United States Code.

13 (c) In order to carry out its functions under this
14 chapter—

15 (1) the Board shall by regulation adopt procedures
16 to apply in the administration of this chapter; and

17 (2) the Board may—

18 (A) adopt other regulations concerning its
19 functions under this chapter;

20 (B) conduct appropriate inquiries wherever
21 persons subject to this chapter are located;

22 (C) hold hearings;

23 (D) administer oaths, take the testimony or
24 deposition of any individual under oath, and issue
25 subpenas;

1 (E) require the Department or a labor orga-
2 nization to cease and desist from violations of this
3 chapter and require it to take any remedial action
4 the Board considers appropriate to carry out this
5 chapter; and

6 (F) consistent with the provisions of this
7 chapter, exercise the functions the Authority has
8 under chapter 71 of title 5, United States Code,
9 to the same extent and in the same manner as is
10 the case with respect to persons subject to chap-
11 ter 71 of such title.

12 SEC. 1008. FUNCTIONS OF THE GENERAL COUN-
13 SEL.—The General Counsel may—

14 (1) investigate alleged unfair labor practices under
15 this chapter,

16 (2) file and prosecute complaints under this chap-
17 ter, and

18 (3) exercise such other powers of the Board as the
19 Board may prescribe.

20 SEC. 1009. JUDICIAL REVIEW AND ENFORCEMENT.—

21 (a) Except as provided in section 1014(d), any person ag-
22 grieved by a final order of the Board may, during the 60-day
23 period beginning on the date on which the order was issued,
24 institute an action for judicial review of such order in the
25 United States Court of Appeals for the District of Columbia,

1 which shall conduct its review on the same basis as an appeal
2 from a decision of a District Court.

3 (b) The Board may petition the United States Court of
4 Appeals for the District of Columbia for the enforcement of
5 any order of the Board under this chapter and for any appro-
6 priate temporary relief or restraining order.

7 (c) Subsection (c) of section 7123 of title 5, United
8 States Code, shall apply to judicial review and enforcement
9 of actions by the Board in the same manner that it applies to
10 judicial review and enforcement of actions of the Authority
11 under chapter 71 of title 5, United States Code.

12 (d) The Board may, upon issuance of a complaint as
13 provided in section 1016 charging that any person has en-
14 gaged in or is engaging in an unfair labor practice, petition
15 the United States District Court for the District of Columbia,
16 for appropriate temporary relief (including a restraining
17 order). Upon the filing of the petition, the court shall cause
18 notice thereof to be served upon the person, and thereupon
19 shall have jurisdiction to grant any temporary relief (includ-
20 ing a temporary restraining order) it considers just and
21 proper. A court shall not grant any temporary relief under
22 this section if it would interfere with the ability of the De-
23 partment to carry out its essential functions or if the Board
24 fails to establish probable cause that an unfair labor practice
25 is being committed.

1 SEC. 1010. FOREIGN SERVICE IMPASSE DISPUTES
2 PANEL.—(a) There is established within the Federal Labor
3 Relations Authority the Foreign Service Impasse Disputes
4 Panel, which shall assist in resolving negotiating impasses
5 arising in the course of collective bargaining under this chap-
6 ter. The Chairperson shall select the Panel from among indi-
7 viduals the Chairperson considers knowledgeable in labor-
8 management relations or the conduct of foreign affairs. The
9 Panel shall be composed of 5 members, as follows:

10 (1) 2 members of the Service (other than a man-
11 agement official, a confidential employee, or a labor or-
12 ganization official);

13 (2) one individual employed by the Department of
14 Labor;

15 (3) one member of the Federal Service Impasses
16 Panel; and

17 (4) one public member who does not hold any
18 other office or position in the Government.

19 The Chairperson of the Board shall set the terms of office for
20 Panel members and determine who shall chair the Panel.

21 (b) Panel members referred to in subsection (a) (3) and
22 (4) shall receive compensation for each day they are perform-
23 ing their duties (including traveltime) at the daily equivalent
24 of the maximum rate payable for grade GS-18 of the Gen-
25 eral Schedule under section 5332 of title 5, United States

1 Code, except that the member who is also a member of the
2 Federal Service Impasses Panel shall not be entitled to pay
3 under this subsection for any day for which he or she receives
4 pay under section 7119(b)(4) of title 5, United State Code.
5 Members of the Panel shall be entitled to travel expenses as
6 provided under section 5703 of title 5, United States Code.

7 (c)(1) The Panel or its designee shall promptly investi-
8 gate any impasse presented to it by a party. The Panel shall
9 consider the impasse and shall either—

10 (A) recommend to the parties to the negotiation
11 procedures for the resolution of the impasse; or

12 (B) assist the parties in resolving the impasse
13 through whatever methods and procedures, including
14 factfinding and recommendations, it may consider ap-
15 propriate to accomplish the purpose of this section.

16 (2) If the parties do not arrive at a settlement after as-
17 sistance by the Panel under paragraph (1), the Panel may—

18 (A) hold hearings;

19 (B) administer oaths, take the testimony or depo-
20 sition of any individual under oath, and issue subpoenas
21 as provided in section 7132 of title 5, United States
22 Code; and

23 (C) take whatever action is necessary and not in-
24 consistent with this chapter to resolve the impasse.

1 (3) Notice of any final action of the Panel under this
2 section shall be promptly served upon the parties, and the
3 action shall be binding on such parties during the term of the
4 collective bargaining agreement unless the parties agree
5 otherwise.

6 SEC. 1011. EXCLUSIVE RECOGNITION.—(a) The De-
7 partment shall accord exclusive recognition to a labor organi-
8 zation if the organization has been selected as the representa-
9 tive, in a secret ballot election, by a majority of the employ-
10 ees in a unit who cast valid ballots in the election.

11 (b) If a petition is filed with the Board—

12 (1) by any person alleging—

13 (A) in the case of a unit for which there is
14 no exclusive representative, that 30 percent of the
15 employees in the unit wish to be represented for
16 the purpose of collective bargaining by an exclu-
17 sive representative, or

18 (B) in the case of a unit for which there is an
19 exclusive representative, that 30 percent of the
20 employees in the unit alleged that the exclusive
21 representative is no longer the representative of
22 the majority of the employees in the unit; or

23 (2) by any person seeking clarification of, or an
24 amendment to, a certification then in effect or a matter
25 relating to representation;

1 the Board shall investigate the petition, and if it has reason-
2 able cause to believe that a question of representation exists,
3 it shall provide an opportunity for a hearing (for which a
4 transcript shall be kept) after reasonable notice. If the Board
5 finds on the record of the hearing that a question of represen-
6 tation exists, the Board shall supervise or conduct an election
7 on the question by secret ballot and shall certify the results
8 thereof. An election under this subsection shall not be con-
9 ducted in any unit within which a valid election under this
10 subsection has been held during the preceding 12 calendar
11 months or with respect to which a labor organization has
12 been certified as the exclusive representative during the pre-
13 ceding 24 calendar months.

14 (c) A labor organization which—

15 (1) has been designated by at least 10 percent of
16 the employees in the unit; or

17 (2) is the exclusive representative of the employ-
18 ees involved;

19 may intervene with respect to a petition filed pursuant to
20 subsection (b) and shall be placed on the ballot of any election
21 under subsection (b) with respect to the petition.

22 (d)(1) The Board shall determine who is eligible to vote
23 in any election under this section and shall establish regula-
24 tions governing any such election, which shall include regula-

1 tions allowing employees eligible to vote the opportunity to
2 choose—

3 (A) from labor organizations on the ballot, that
4 labor organization which the employees wish to have
5 represent them; or

6 (B) not to be represented by a labor organization.

7 (2) In any election in which more than two choices are
8 on the ballot, the regulations of the Board shall provide for
9 preferential voting. If no choice receives a majority of first
10 preferences, the Board shall distribute to the two choices
11 having the most first preferences the preferences as between
12 those two of the other valid ballots cast. The choice receiving
13 a majority of preferences shall be declared the winner. A
14 labor organization which is declared the winner of the
15 election shall be certified by the Board as the exclusive
16 representative.

17 (e) A labor organization seeking exclusive recognition
18 shall submit to the Board and to the Department a roster of
19 its officers and representatives, a copy of its constitution and
20 bylaws, and a statement of its objectives.

21 (f) Exclusive recognition shall not be accorded to a labor
22 organization—

23 (1) if the Board determines that the labor organi-
24 zation is subject to corrupt influence or influences op-
25 posed to democratic principles; or

165

1 (2) in the case of a petition filed under subsection
2 (b)(1)(A), if there is not credible evidence that at least
3 30 percent of the employees wish to be represented for
4 the purpose of collective bargaining by the labor orga-
5 nization seeking exclusive recognition.

6 (g) Nothing in this section shall be construed to prohibit
7 the waiving of hearings by stipulation for the purpose of a
8 consent election in conformity with regulations and rules or
9 decisions of the Board.

10 SEC. 1012. EMPLOYEES REPRESENTED.—The em-
11 ployees of the Department shall constitute a single and sepa-
12 rate worldwide bargaining unit, from which there shall be
13 excluded—

14 (1) employees engaged in personnel work in other
15 than a purely clerical capacity; and

16 (2) employees engaged in criminal or national se-
17 curity investigations or who audit the work of individ-
18 uals to insure that their functions are discharged hon-
19 estly and with integrity.

20 SEC. 1013. REPRESENTATION RIGHTS AND
21 DUTIES.—(a) A labor organization which has been accorded
22 exclusive recognition is the exclusive representative of, and is
23 entitled to act for, and negotiate collective bargaining agree-
24 ments covering, all employees in the unit described in section
25 1012. An exclusive representative is responsible for repre-

1 sending the interests of all employees in that unit without
2 discrimination and without regard to labor organization
3 membership.

4 (b)(1) An exclusive representative shall be given the op-
5 portunity to be represented at—

6 (A) any formal discussion between one or more
7 representatives of the Department and one or more
8 employees in the unit (or their representatives), con-
9 cerning any grievance (as defined in section 1101) or
10 any personnel policy or practice or other general condi-
11 tion of employment; and

12 (B) any examination of an employee by a Depart-
13 ment representative in connection with an investigation
14 if—

15 (i) the employee reasonably believes that the
16 examination may result in disciplinary action
17 against the employee, and

18 (ii) the employee requests such representa-
19 tion.

20 (2) The Department shall annually inform employees of
21 their rights under paragraph (1)(B).

22 (c) The Department and the exclusive representative,
23 through appropriate representatives, shall meet and negotiate
24 in good faith for the purposes of arriving at a collective bar-
25 gaining agreement. In addition, the Department and the ex-

1 exclusive representative may determine appropriate techniques,
2 consistent with the provisions of section 1010, to assist in
3 any negotiation.

4 (d) The rights of an exclusive representative under this
5 section shall not preclude an employee from—

6 (1) being represented by an attorney or other rep-
7 resentative of the employee's own choosing, other than
8 the exclusive representative, in any separation de-
9 scribed in section 1101(a)(1)(A) or any proceeding re-
10 lating to such a separation; or

11 (2) exercising grievance or appeal rights estab-
12 lished by law, rule, or regulation.

13 (e) The duty of the Department and the exclusive repre-
14 sentative to negotiate in good faith shall include the obliga-
15 tion—

16 (1) to approach the negotiations with a sincere re-
17 solve to reach a collective bargaining agreement;

18 (2) to be represented at the negotiations by duly
19 authorized representatives prepared to discuss and ne-
20 gotiate on any condition of employment;

21 (3) to meet at reasonable times and convenient
22 places as frequently as may be necessary and to avoid
23 unnecessary delays;

168

1 (4) for the Department to furnish to the exclusive
2 representative, or its authorized representative, upon
3 request and to the extent not prohibited by law, data—

4 (A) which is normally maintained by the De-
5 partment in the regular course of business;

6 (B) which is reasonably available and neces-
7 sary for full and proper discussion, understanding,
8 and negotiation of subjects within the scope of
9 collective bargaining; and

10 (C) which does not constitute guidance,
11 advice, counsel, or training provided for manage-
12 ment officials or confidential employees, relating
13 to collective bargaining;

14 (5) to negotiate jointly with respect to conditions
15 of employment applicable to employees in more than
16 one of the agencies authorized to utilize the Foreign
17 Service personnel system, as determined by the heads
18 of such agencies; and

19 (6) if agreement is reached, to execute, upon the
20 request of any party to the negotiation, a written docu-
21 ment embodying the agreed terms, and to take the
22 steps necessary to implement the agreement.

23 (f)(1) An agreement between the Department and the
24 exclusive representative shall be subject to approval by the
25 Secretary.

1 (2) The Secretary shall approve the agreement within
2 30 days after the date of the agreement unless the Secretary
3 finds in writing that the agreement is contrary to applicable
4 law, rule, or regulation.

5 (3) Unless the Secretary disapproves the agreement by
6 making a finding under paragraph (2), the agreement shall
7 take effect after 30 days from its execution and shall be bind-
8 ing on the Department and the exclusive representative sub-
9 ject to all applicable laws, orders, and regulations.

10 (g) The Department shall consult with the exclusive
11 representative with respect to Government-wide or multi-
12 agency matters affecting the rights, benefits, or obligations of
13 individuals employed in agencies not authorized to utilize the
14 Foreign Service personnel system. The exclusive representa-
15 tive shall be informed of any change proposed by the Depart-
16 ment with respect to such matters, and shall be permitted
17 reasonable time to present its views and recommendations
18 regarding such change. The Department shall consider the
19 views and recommendations of the exclusive representative
20 before taking final action on any such change, and shall pro-
21 vide the exclusive representative a written statement of the
22 reasons for taking the final action.

23 SEC. 1014. RESOLUTION OF IMPLEMENTATION DIS-
24 PUTES.—(a) Any dispute between the Department and the
25 exclusive representative concerning the effect, interpretation,

1 or a claim of breach of a collective bargaining agreement
2 shall be resolved through procedures negotiated by the De-
3 partment and the exclusive representative. Any procedures
4 negotiated under this section shall—

5 (1) be fair and simple,

6 (2) provide for expeditious processing, and

7 (3) include provision for appeal to the Foreign
8 Service Grievance Board by either party of any dispute
9 not satisfactorily settled.

10 (b) Either party to an appeal under subsection (a)(3)
11 may file with the Board an exception to the action of the
12 Foreign Service Grievance Board in resolving the implemen-
13 tation dispute. If, upon review, the Board finds that the
14 action is deficient—

15 (1) because it is contrary to any law, rule, or reg-
16 ulation; or

17 (2) on other grounds similar to those applied by
18 Federal courts in private sector labor-management re-
19 lations;

20 the Board may take such action and make such recommenda-
21 tions concerning the Foreign Service Grievance Board action
22 as it considers necessary, consistent with applicable laws,
23 rules, and regulations.

24 (c) If no exception to a Foreign Service Grievance
25 Board action is filed under subsection (b) within 30 days after

1 such action is communicated to the parties, such action shall
2 become final and binding and shall be implemented by the
3 parties.

4 (d) Resolutions of disputes under this section shall not
5 be subject to judicial review.

6 SEC. 1015. UNFAIR LABOR PRACTICES.—(a) It shall
7 be an unfair labor practice for the Department—

8 (1) to interfere with, restrain, or coerce any em-
9 ployee in the exercise by the employee of any right
10 under this chapter;

11 (2) to encourage or discourage membership in any
12 labor organization by discrimination in connection with
13 hiring, tenure, promotion, or other conditions of em-
14 ployment;

15 (3) to sponsor, control, or otherwise assist any
16 labor organization, other than to furnish upon request
17 customary and routine services and facilities on an im-
18 partial basis to labor organizations having equivalent
19 status;

20 (4) to discipline or otherwise discriminate against
21 an employee because the employee has filed a com-
22 plaint or petition, or has given any information, affida-
23 vit, or testimony under this chapter;

1 (5) to refuse to consult or negotiate in good faith
2 with a labor organization, as required under this chap-
3 ter;

4 (6) to fail or refuse to cooperate in impasse proce-
5 dures and impasse decisions, as required under this
6 chapter;

7 (7) to enforce any rule or regulation (other than a
8 rule or regulation implementing section 2302 of title 5,
9 United States Code) which is in conflict with an appli-
10 cable collective bargaining agreement if the agreement
11 was in effect before the date the rule or regulation was
12 prescribed; or

13 (8) to fail or refuse otherwise to comply with any
14 provision of this chapter.

15 (b) It shall be an unfair labor practice for a labor organi-
16 zation—

17 (1) to interfere with, restrain, or coerce any em-
18 ployee in the exercise by the employee of any right
19 under this chapter;

20 (2) to cause or attempt to cause the Department
21 to discriminate against any employee in the exercise by
22 the employee of any right under this chapter;

23 (3) to coerce, discipline, fine, or attempt to coerce
24 a member of the labor organization as punishment or
25 reprisal, or for the purpose of hindering or impeding

1 the member's work performance or productivity as an
2 employee or the discharge of the member's functions as
3 an employee;

4 (4) to discriminate against an employee with
5 regard to the terms and conditions of membership in
6 the labor organization on the basis of race, color,
7 creed, national origin, sex, age, preferential or nonpref-
8 erential civil service status, political affiliation, marital
9 status, or handicapping condition;

10 (5) to refuse to consult or negotiate in good faith
11 with the Department, as required under this chapter;

12 (6) to fail or refuse to cooperate in impasse proce-
13 dures and impasse decisions, as required under this
14 chapter;

15 (7)(A) to call, or participate in, a strike, work
16 stoppage, or slowdown, or to picket the operations of
17 the Department, but informational picketing in the
18 United States which does not interfere with such oper-
19 ations shall not be considered an unfair labor practice;
20 and

21 (B) to condone any unfair labor practice described
22 in subparagraph (A) by failing to take action to prevent
23 or stop such activity;

24 (8) to deny membership to any employee in the
25 unit represented by the labor organization except—

1 (A) for failure to tender dues uniformly re-
2 quired as a condition of acquiring and retaining
3 membership, or

4 (B) in the exercise of disciplinary procedures
5 consistent with the organization's constitution or
6 bylaws and this chapter; or

7 (9) to fail or refuse otherwise to comply with any
8 provision of this chapter.

9 (c) The expression of any personal view, argument, or
10 opinion, or the making of any statement, which—

11 (1) publicizes the fact of a representational elec-
12 tion and encourages employees to exercise their right
13 to vote in such an election;

14 (2) corrects the record with respect to any false or
15 misleading statement made by any person; or

16 (3) informs employees of the Government's policy
17 relating to labor-management relations and representa-
18 tion,

19 if the expression contains no threat of reprisal or force or
20 promise of benefit and was not made under coercive condi-
21 tions shall not—

22 (A) constitute an unfair labor practice under this
23 chapter, or

24 (B) constitute grounds for the setting aside of any
25 election conducted under this chapter.

1 (d) Issues which can properly be raised under an appeals
2 procedure may not be raised as unfair labor practices prohib-
3 ited under this section. Except for matters wherein, under
4 section 1109(b), an employee has an option of using the
5 grievance procedure under chapter 11 or an appeals proce-
6 dure, issues which can be raised under section 1014 or chap-
7 ter 11 may, in the discretion of the aggrieved party, be raised
8 either under such section or chapter or else raised as an
9 unfair labor practice under this section, but may not be raised
10 both under this section and under section 1014 or chapter 11.

11 SEC. 1016. PREVENTION OF UNFAIR LABOR PRAC-
12 TICES.—(a) If the Department or labor organization is
13 charged by any person with having engaged in or engaging in
14 an unfair labor practice, the General Counsel shall investi-
15 gate the charge and may issue and cause to be served upon
16 the Department or labor organization a complaint. In any
17 case in which the General Counsel does not issue a complaint
18 because the charge fails to state an unfair labor practice, the
19 General Counsel shall provide the person making the charge
20 a written statement of the reasons for not issuing a com-
21 plaint.

22 (b) Any complaint under subsection (a) shall contain a
23 notice—

24 (1) of the charge;

176

1 (2) that a hearing will be held before the Board
2 (or any member thereof or before an individual em-
3 ployed by the Board and designated for such purpose);
4 and

5 (3) of the time and place fixed for the hearing.

6 (c) The labor organization or Department involved shall
7 have the right to file an answer to the original and any
8 amended complaint and to appear in person or otherwise and
9 give testimony at the time and place fixed in the complaint
10 for the hearing.

11 (d)(1) Except as provided in paragraph (2), no complaint
12 shall be issued based on any alleged unfair labor practice
13 which occurred more than 6 months before the filing of the
14 charge with the Board.

15 (2) If the General Counsel determines that the person
16 filing any charge was prevented from filing the charge during
17 the 6-month period referred to in paragraph (1) by reason
18 of—

19 (A) any failure of the Department or labor organi-
20 zation against which the charge is made to perform a
21 duty owed to the person, or

22 (B) any concealment which prevented discovery of
23 the alleged unfair labor practice during the 6-month
24 period,

1 the General Counsel may issue a complaint based on the
2 charge if the charge was filed during the 6-month period be-
3 ginning on the day of the discovery by the person of the
4 alleged unfair labor practice.

5 (e) The General Counsel may prescribe regulations pro-
6 viding for informal methods by which the alleged unfair labor
7 practice may be resolved prior to the issuance of a complaint.

8 (f) The Board (or any member thereof or any individual
9 employed by the Board and designated for such purpose)
10 shall conduct a hearing on the complaint not earlier than 5
11 days after the date on which the complaint is served. In the
12 discretion of the individual or individuals conducting the
13 hearing, any person involved may be allowed to intervene in
14 the hearing and to present testimony. Any such hearing
15 shall, to the extent practicable, be conducted in accordance
16 with the provisions of subchapter II of chapter 5 of title 5,
17 United States Code, except that the parties shall not be
18 bound by rules of evidence, whether statutory, common law,
19 or adopted by a court. A transcript shall be kept of the hear-
20 ing. After such a hearing the Board, in its discretion, may
21 upon notice receive further evidence or hear argument.

22 (g) If the Board (or any member thereof or any individ-
23 ual employed by the Board and designated for such purpose)
24 determines after any hearing on a complaint under subsection
25 (f) that the preponderance of the evidence received demon-

1 strates that the Department or labor organization named in
2 the complaint has engaged in or is engaging in an unfair
3 labor practice, then the individual or individuals conducting
4 the hearing shall state in writing their findings of fact and
5 shall issue and cause to be served on the Department or labor
6 organization an order—

7 (1) to cease and desist from any such unfair labor
8 practice in which the Department or labor organization
9 is engaged;

10 (2) requiring the parties to renegotiate a collective
11 bargaining agreement in accordance with the order of
12 the Board and requiring that the agreement, as amend-
13 ed, be given retroactive effect;

14 (3) requiring reinstatement of an employee with
15 backpay in accordance with section 5596 of title 5,
16 United States Code; or

17 (4) including any combination of the actions de-
18 scribed in paragraphs (1) through (3) or such other
19 action as will carry out the purpose of this chapter.

20 If any such order requires reinstatement of an employee with
21 backpay, backpay may be required of the Department (as
22 provided in section 5596 of title 5, United States Code) or of
23 the labor organization, as the case may be, which is found to
24 have engaged in the unfair labor practice involved.

179

1 (h) If the individual or individuals conducting the hear-
2 ing determine that the preponderance of the evidence
3 received fails to demonstrate that the Department or labor
4 organization named in the complaint has engaged in or is
5 engaging in an unfair labor practice, the individual or individ-
6 uals shall state in writing their findings of fact and shall issue
7 an order dismissing the complaint.

8 SEC. 1017. STANDARDS OF CONDUCT FOR LABOR OR-
9 GANIZATIONS.—(a) The Department shall accord recognition
10 only to a labor organization that is free from corrupt influ-
11 ences and influences opposed to basic democratic principles.
12 Except as provided in subsection (b), an organization is not
13 required to prove that it is free from such influences if it is
14 subject to a governing requirement adopted by the organiza-
15 tion or by a national or international labor organization or
16 federation of labor organizations with which it is affiliated, or
17 in which it participates, containing explicit and detailed pro-
18 visions to which it subscribes calling for—

19 (1) the maintenance of democratic procedures and
20 practices, including—

21 (A) provisions for periodic elections to be
22 conducted subject to recognized safeguards, and

23 (B) provisions defining and securing the right
24 of individual members to participate in the affairs
25 of the organization, to receive fair and equal

1 treatment under the governing rules of the organi-
2 zation, and to receive fair process in disciplinary
3 proceedings;

4 (2) the exclusion from office in the organization of
5 persons affiliated with Communist or other totalitarian
6 movements and persons identified with corrupt influ-
7 ences;

8 (3) the prohibition of business or financial interests
9 on the part of organization officers and agents which
10 conflict with their duty to the organization and its
11 members; and

12 (4) the maintenance of fiscal integrity in the con-
13 duct of the affairs of the organization, including provi-
14 sions for accounting and financial controls and regular
15 financial reports or summaries to be made available to
16 members.

17 (b) A labor organization may be required to furnish evi-
18 dence of its freedom from corrupt influences opposed to basic
19 democratic principles if there is reasonable cause to believe
20 that—

21 (1) the organization has been suspended or ex-
22 pelled from, or is subject to other sanction by, a parent
23 labor organization, or federation of organizations with
24 which it has been affiliated, because it has demonstrat-
25 ed an unwillingness or inability to comply with govern-

181

1 ing requirements comparable in purpose to those
2 required by subsection (a); or

3 (2) the organization is in fact subject to influences
4 that would preclude recognition under this chapter.

5 (c) A labor organization which has or seeks recognition
6 as a representative of employees under this chapter shall file
7 financial and other reports with the Assistant Secretary of
8 Labor for Labor Management Relations, provide for bonding
9 of officials and others employed by the organization, and
10 comply with trusteeship and election standards.

11 (d) The Assistant Secretary of Labor shall prescribe
12 such regulations as are necessary to carry out this section.
13 Such regulations shall conform generally to the principles ap-
14 plied to labor organizations in the private sector. Complaints
15 of violations of this section shall be filed with the Assistant
16 Secretary. In any matter arising under this section, the As-
17 sistant Secretary may require a labor organization to cease
18 and desist from violations of this section and require it to take
19 such actions as the Assistant Secretary considers appropriate
20 to carry out the policies of this section.

21 (e) This chapter does not authorize participation in the
22 management of a labor organization or acting as a repre-
23 sentative of a labor organization by a management official, a
24 confidential employee, or any other employee if the participa-
25 tion or activity would result in a conflict or apparent conflict

1 of interest or would otherwise be incompatible with law or
2 with the official functions of such management official or such
3 employee.

4 (f) If the Board finds that any labor organization has
5 willfully and intentionally violated section 1015(b)(7) by
6 omission or commission with regard to any strike, work stop-
7 page, slowdown, the Board shall—

8 (1) revoke the exclusive recognition status of the
9 labor organization, which shall then immediately cease
10 to be legally entitled and obligated to represent em-
11 ployees in the unit; or

12 (2) take any other appropriate disciplinary action.

13 SEC. 1018. ADMINISTRATIVE PROVISIONS.—(a) If the
14 Department has received from any individual a written as-
15 signment which authorizes the Department to deduct from
16 the salary of that individual amounts for the payment of regu-
17 lar and periodic dues of the exclusive representative, the De-
18 partment shall honor the assignment. Any such assignment
19 shall be made at no cost to the exclusive representative or
20 the individual. Except as provided in subsection (b), any such
21 assignment may not be revoked for a period of one year from
22 its execution.

23 (b) An assignment for deduction of dues shall terminate
24 when—

1 (1) the labor organization ceases to be the exclu-
2 sive representative;

3 (2) the individual ceases to receive a salary from
4 the Department as a member of the Service; or

5 (3) the individual is suspended or expelled from
6 membership in the exclusive representative.

7 (c) During any period when no labor organization is cer-
8 tified as the exclusive representative of employees in the De-
9 partment, the Department shall have the duty to negotiate
10 with a labor organization which has filed a petition under
11 section 1011(b)(1)(A) alleging that 10 percent of the employ-
12 ees in the Department have membership in the organization
13 if the Board has determined that the petition is valid. Negoti-
14 ations under this subsection shall be concerned solely with
15 the deduction of dues of the labor organization from the
16 salary of the individuals who are members of the labor orga-
17 nization and who make a voluntary allotment for that pur-
18 pose. Any agreement between the Department and a labor
19 organization under this subsection shall terminate upon the
20 certification of an exclusive representative of any employees
21 to whom the agreement applies.

22 (d) The following provisions shall apply to the use of
23 official time:

24 (1) Any employee representing an exclusive repre-
25 sentative in the negotiation of a collective bargaining

1 agreement under this chapter shall be authorized offi-
2 cial time for such purposes, including attendance at im-
3 passe proceedings, during the time the employee other-
4 wise would be in a duty status. The number of employ-
5 ees for whom official time is authorized under this
6 paragraph shall not exceed the number of individuals
7 designated as representing the Department for such
8 purposes.

9 (2) Any activities performed by any employee re-
10 lating to the internal business of the labor organization,
11 including the solicitation of membership, elections of
12 labor organization officials, and collection of dues, shall
13 be performed during the time the employee is in a non-
14 duty status.

15 (3) Except as provided in paragraph (1), the
16 Board shall determine whether any employee partici-
17 pating for, or on behalf of, a labor organization in any
18 phase of proceedings before the Board shall be author-
19 ized official time for such purpose during the time the
20 employee would otherwise be in a duty status.

21 (4) Except as provided in paragraphs (1), (2), and
22 (3), any employee representing an exclusive repre-
23 sentative, or engaged in any other matter covered by
24 this chapter, shall be granted official time in any
25 amount the Department and the exclusive representa-

1 tive agree to be reasonable, necessary, and in the
2 public interest.

3 CHAPTER 11—GRIEVANCES

4 SEC. 1101. DEFINITION OF GRIEVANCE.—(a)(1)

5 Except as provided in subsection (b), for purposes of this
6 chapter, the term “grievance” means any act, omission, or
7 condition subject to the control of the Secretary which is al-
8 leged to deprive a member of the Service who is a citizen of
9 the United States of a right or benefit authorized by law or
10 regulation or which is otherwise a source of concern or dis-
11 satisfaction to the member, including—

12 (A) separation of the member allegedly contrary
13 to laws or regulations, or predicated upon alleged inac-
14 curacy, omission, error, or falsely prejudicial character
15 of information in any part of the official personnel
16 record of the member;

17 (B) other alleged violation, misinterpretation, or
18 misapplication of applicable laws, regulations, or pub-
19 lished policy affecting the terms and conditions of the
20 employment or career status of the member;

21 (C) allegedly wrongful disciplinary action against
22 the member;

23 (D) dissatisfaction with respect to the working en-
24 vironment of the member;

1 (E) alleged inaccuracy, omission, error, or falsely
2 prejudicial character of information in the official per-
3 sonnel record of the member which is or could be prej-
4 udicial to the member;

5 (F) action alleged to be in the nature of reprisal
6 or other interference with freedom of action in connec-
7 tion with participation by the member in procedures
8 under this chapter; and

9 (G) alleged denial of an allowance, premium pay,
10 or other financial benefit to which the member claims
11 entitlement under applicable laws or regulations.

12 (2) The scope of grievances described in paragraph (1)
13 may be modified by written agreement between the Depart-
14 ment and the labor organization accorded recognition as the
15 exclusive representative under chapter 10 (hereinafter in this
16 chapter referred to as the "exclusive representative").

17 (b) For purposes of this chapter, the term "grievance"
18 does not include—

19 (1) an individual assignment of a member under
20 chapter 5, other than an assignment alleged to be con-
21 trary to law or regulation;

22 (2) the judgment of a selection board established
23 under section 602, a tenure board established under
24 section 306(b), or any other equivalent body estab-
25 lished by laws or regulations which similarly evaluates

1 the performance of members of the Service on a com-
2 parative basis;

3 (3) the expiration of a limited appointment, the
4 termination of a limited appointment under section
5 611, or the denial of a limited career extension or of a
6 renewal of a limited career extension under section
7 607(b); or

8 (4) any complaint or appeal where a specific stat-
9 utory hearing procedure exists, except as provided in
10 section 1109(b).

11 (c) This chapter applies only with respect to the Depart-
12 ment of State, the International Communication Agency, the
13 United States International Development Cooperation
14 Agency, the Department of Agriculture, and the Department
15 of Commerce.

16 **SEC. 1102. GRIEVANCES CONCERNING FORMER MEM-**
17 **BERS.**—Within the time limitations of section 1104, a former
18 member of the Service or the surviving spouse (or, if none,
19 another member of the family) of a deceased member or
20 former member of the Service may file a grievance under this
21 chapter only with respect to allegations described in section
22 1101(a)(1)(G).

23 **SEC. 1103. FREEDOM OF ACTION.**—(a) Any individual
24 filing a grievance under this chapter (hereinafter in this chap-
25 ter referred to as the “grievant”), and any witness, labor

1 organization, or other person involved in a grievance pro-
2 ceeding, shall be free from any restraint, interference, coer-
3 cion, harassment, discrimination, or reprisal in those proceed-
4 ings or by virtue of them.

5 (b) Any grievant filing a grievance, and any witness or
6 other person involved in a proceeding before the board, shall
7 be free from any restraint, interference, coercion, discrimina-
8 tion, or reprisal. The grievant has the right to a representa-
9 tive of his or her own choosing at every stage of the proceed-
10 ing. The grievant and his or her representatives who are
11 under the control, supervision, or responsibility of the De-
12 partment shall be granted reasonable periods of administra-
13 tive leave to prepare, to be present, and to present the griev-
14 ance of such grievant. Any witness under the control, super-
15 vision, or responsibility of the Department shall be granted
16 reasonable periods of administrative leave to appear and tes-
17 tify at any such proceeding.

18 (c) Any witness who is a member of the Service or em-
19 ployee of the Department shall be granted reasonable periods
20 of administrative leave to appear and testify at any proceed-
21 ings under this chapter.

22 (d)(1) No record of—

23 (A) a determination by the Secretary to reject a
24 recommendation of the Foreign Service Grievance
25 Board,

1 (B) a finding by the Grievance Board against the
2 grievant, or

3 (C) the fact that a grievance proceeding is pend-
4 ing or has been held,

5 shall be entered in the personnel records of the grievant
6 (except by order of the Grievance Board as a remedy for the
7 grievance) or those of any other individual connected with
8 the grievance.

9 (2) The Department shall maintain records pertaining to
10 grievances under appropriate safeguards to preserve
11 confidentiality.

12 (3) The Foreign Service Grievance Board may enforce
13 compliance with the requirements of paragraphs (1) and (2).

14 (e) The Department will use its best endeavors to expe-
15 dite security clearance procedures whenever necessary to
16 assure a fair and prompt resolution of a grievance.

17 SEC. 1104. TIME LIMITATIONS.—(a) A grievance is
18 forever barred unless it is filed with the Department within a
19 period of 3 years after the occurrence or occurrences giving
20 rise to the grievance or such shorter period as may be agreed
21 to by the Department and the exclusive representative.
22 There shall be excluded from the computation of any such
23 period any time during which, as determined by the Foreign
24 Service Grievance Board, the grievant was unaware of the

1 grounds for the grievance and could not have discovered such
2 grounds through reasonable diligence.

3 (b) If a grievance is not resolved under Department pro-
4 cedures (which have been negotiated with the exclusive rep-
5 resentative, if any) within ninety days after it is filed with the
6 Department, the exclusive representative (on behalf of a
7 grievant who is a member of the bargaining unit) or a griev-
8 ant who is not a member of such bargaining unit or whose
9 grievance is described in section 1101(a)(1)(A) shall be enti-
10 tled to file a grievance with the Foreign Service Grievance
11 Board for its consideration and resolution.

12 SEC. 1105. FOREIGN SERVICE GRIEVANCE BOARD.—

13 (a) There is established the Foreign Service Grievance Board
14 (hereinafter in this chapter referred to as the "Board"). The
15 Board shall consist of no fewer than 5 members who shall be
16 independent, distinguished citizens of the United States, well
17 known for their integrity, who are not employees of the De-
18 partment or members of the Service.

19 (b) The Chairperson and other members of the Board
20 shall be appointed by the Secretary of State, from nominees
21 approved in writing by the agencies to which this chapter
22 applies and the exclusive representative (if any) for each such
23 agency. Each member of the Board shall be appointed for a
24 term of 2 years, subject to renewal with the same written
25 approvals required for initial appointment. In the event of a

1 vacancy on the Board, an appointment for the unexpired
2 term may be made by the Secretary of State in accordance
3 with the procedures specified in this section. In the event of
4 inability to obtain agreement on a nominee, each such agency
5 and exclusive representative shall select 2 nominees and
6 shall, in an order determined by lot, in turn strike a name
7 from a list of such nominees until only one name remains.
8 For purposes of this section, the nominee whose name re-
9 mains shall be deemed to be approved in writing by each
10 such agency head and exclusive representative.

11 (c) Members of the Board who are not employees of the
12 Government shall be paid for each day they are performing
13 their duties (including traveltime) at the daily equivalent of
14 the maximum rate payable for grade GS-18 of the General
15 Schedule under section 5332 of title 5, United States Code.

16 (d) The Secretary of State may, upon written notice,
17 remove a Board member for corruption, neglect of duty, mal-
18 feasance, or demonstrated incapacity to perform his or her
19 functions, established at a hearing (unless the right to a hear-
20 ing is waived in writing by the Board member).

21 (e) The Board may obtain facilities, services, and sup-
22 plies through the general administrative services of the De-
23 partment of State. All expenses of the Board, including nec-
24 essary costs of the travel and travel-related expenses of a
25 grievant, shall be paid out of funds appropriated to the De-

1 partment of State for obligation and expenditure by the
2 Board. At the request of the Board, employees of the Depart-
3 ment and members of the Service may be assigned as staff
4 employees for the Board. Within the limits of appropriated
5 funds, the Board may appoint and fix the compensation of
6 such other employees as the Board considers necessary to
7 carry out its functions. The individuals so appointed or as-
8 signed shall be responsible solely to the Board, and the Board
9 shall prepare the performance evaluation reports for such in-
10 dividuals. The records of the Board shall be maintained by
11 the Board and shall be separate from all other records of the
12 Department of State under appropriate safeguards to
13 preserve confidentiality.

14 SEC. 1106. BOARD PROCEDURES.—The Board may
15 adopt regulations concerning its organization and procedures.
16 Such regulations shall include provision for the following:

17 (1) The Board shall conduct a hearing at the
18 request of a grievant in any case which involves—

19 (A) disciplinary action or the retirement of a
20 grievant from the Service under section 607 or
21 608, or

22 (B) issues which, in the judgment of the
23 Board, can best be resolved by a hearing or pres-
24 entation of oral argument.

1 (2) The grievant, the representatives of the griev-
2 ant, the exclusive representative (if the grievant is a
3 member of the bargaining unit represented by the ex-
4 clusive representative), and the representatives of the
5 Department are entitled to be present at the hearing.
6 The Board may, after considering the views of the par-
7 ties and any other individuals connected with the
8 grievance, decide that a hearing should be open to
9 others. Testimony at a hearing shall be given under
10 oath, which any Board member or individual designat-
11 ed by the Board shall have authority to administer.

12 (3) Each party shall be entitled to examine and
13 cross-examine witnesses at the hearing or by deposi-
14 tion and to serve interrogatories upon another party
15 and have such interrogatories answered by the other
16 party unless the Board finds such interrogatory irrele-
17 vant, immaterial, or unduly repetitive. Upon request of
18 the Board, or upon a request of the grievant deemed
19 relevant and material by the Board, an agency shall
20 promptly make available at the hearing or by deposi-
21 tion any witness under its control, supervision, or re-
22 sponsibility, except that if the Board determines that
23 the presence of such witness at the hearing is required
24 for just resolution of the grievance, then the witness
25 shall be made available at the hearing, with necessary

1 costs and travel expenses paid by the Department of
2 State.

3 (4) During any hearing held by the Board, any
4 oral or documentary evidence may be received, but the
5 Board shall exclude any irrelevant, immaterial, or
6 unduly repetitious evidence, as determined under sec-
7 tion 556 of title 5, United States Code.

8 (5) A verbatim transcript shall be made of any
9 hearing and shall be part of the record of proceedings.

10 (6) In those grievances in which the Board does
11 not hold a hearing, the Board shall afford to each party
12 the opportunity to review and to supplement, by writ-
13 ten submissions, the record of proceedings prior to the
14 decision by the Board. The decision of the Board shall
15 be based exclusively on the record of proceedings.

16 (7) The Board may act by or through panels or
17 individual members designated by the Chairperson,
18 except that hearings within the continental United
19 States shall be held by panels of at least three mem-
20 bers unless the parties agree otherwise. References in
21 this chapter to the Board shall be considered to be ref-
22 erences to a panel or member of the Board where ap-
23 propriate. All members of the Board shall act as im-
24 partial individuals in considering grievances.

1 (8) If the Board determines that the Department
2 is considering the involuntary separation of the griev-
3 ant, disciplinary action against the grievant, or recov-
4 ery from the grievant of alleged overpayment of salary,
5 expenses, or allowances, which is related to a griev-
6 ance pending before the Board and that such action
7 should be suspended, the Department shall suspend
8 such action until the Board has ruled upon the griev-
9 ance. Notwithstanding such suspension of action, the
10 head of the agency concerned or a chief of mission or
11 principal officer may exclude the grievant from official
12 premises or from the performance of specified functions
13 when such exclusion is determined in writing to be es-
14 sential to the functioning of the post or office to which
15 the grievant is assigned.

16 (9) The Board may reconsider any decision upon
17 presentation of newly discovered or previously unavail-
18 able material evidence.

19 SEC. 1107. BOARD DECISIONS.—(a) Upon completion
20 of its proceedings, the Board shall expeditiously decide the
21 grievance on the basis of the record of proceedings. In each
22 case the decision of the Board shall be in writing, and shall
23 include findings of fact and a statement of the reasons for the
24 decision of the Board.

1 (b) If the Board finds that the grievance is meritorious,
2 the Board shall have the authority to direct the
3 Department—

4 (1) to correct any official personnel record relating
5 to the grievant which the Board finds to be inaccurate
6 or erroneous, to have an omission, or to contain infor-
7 mation of a falsely prejudicial character;

8 (2) to reverse a decision denying the grievant
9 compensation or any other perquisite of employment
10 authorized by laws or regulations when the Board finds
11 that such decision was arbitrary, capricious, or con-
12 trary to laws or regulations;

13 (3) to retain in the Service a member whose sepa-
14 ration would be in consequence of the matter by which
15 the member is aggrieved;

16 (4) to reinstate the grievant, and to grant the
17 grievant back pay in accordance with section
18 5596(b)(1) of title 5, United States Code;

19 (5) to pay reasonable attorney fees to the grievant
20 to the same extent and in the same manner as such
21 fees may be required by the Merit Systems Protection
22 Board under section 7701(g) of title 5, United States
23 Code; and

1 (6) to take such other remedial action as may be
2 appropriate under procedures agreed to by the Depart-
3 ment and the exclusive representative (if any).

4 (c) Except as provided in subsection (d), decisions of the
5 Board under this chapter shall be final, subject only to judi-
6 cial review as provided in section 1110.

7 (d) If the Board finds that the grievance is meritorious
8 and that remedial action should be taken that relates directly
9 to promotion or assignment of the grievant or to other
10 remedial action not otherwise provided for in this section, or
11 if the Board finds that the evidence before it warrants disci-
12 plinary action against any employee of the Department or
13 member of the Service, it shall make an appropriate recom-
14 mendation to the Secretary. The Secretary shall make a
15 written decision on the recommendation of the Board within
16 30 days after receiving the recommendation. The Secretary
17 shall implement the recommendation of the Board except to
18 the extent that, in a decision made within that 30-day period,
19 the Secretary rejects the recommendation in whole or in part
20 on the basis of a determination that implementation of the
21 recommendation would be contrary to law or would adverse-
22 ly affect the foreign policy or national security of the United
23 States. If the Secretary rejects the recommendation in whole
24 or in part, the decision shall specify the reasons for such
25 action. Pending the decision of the Secretary, there shall be

1 no ex parte communication concerning the grievance between
2 the Secretary and any person involved in the proceedings of
3 the Board. The Secretary shall, however, have access to the
4 entire record of the proceedings of the Board.

5 SEC. 1108. ACCESS TO RECORDS.—(a) If a grievant is
6 denied access to any agency record prior to or during the
7 consideration of the grievance by the Department, the griev-
8 ant may raise such denial before the Board in connection
9 with the grievance.

10 (b) In considering a grievance, the Board shall have
11 access to any agency record as follows:

12 (1)(A) The Board shall request access to any
13 agency record which the grievant requests to substanti-
14 ate the grievance if the Board determines that such
15 record may be relevant and material to the grievance.

16 (B) The Board may request access to any other
17 agency record which the Board determines may be rel-
18 evant and material to the grievance.

19 (2) Any agency shall make available to the Board
20 any agency record requested under paragraph (1)
21 unless the head or deputy head of such agency person-
22 ally certifies in writing to the Board that disclosure of
23 the record to the Board and the grievant would ad-
24 versely affect the foreign policy or national security of
25 the United States or that such disclosure is prohibited

1 by law. If such a certification is made with respect to
2 any record, the agency shall supply to the Board a
3 summary or extract of such record unless the reasons
4 specified in the preceding sentence preclude such a
5 summary or extract.

6 (c) If the Board determines that an agency record, or a
7 summary or extract of a record, made available to the Board
8 under subsection (b) is relevant and material to the grievance,
9 the agency concerned shall make such record, summary, or
10 extract, as the case may be, available to the grievant.

11 (d) In considering a grievance, the Board may take into
12 account the fact that the grievant or the Board was denied
13 access to an agency record which the Board determines is or
14 may be relevant and material to the grievance.

15 (e) The grievant in any case decided by the Board shall
16 have access to the record of the proceedings and the decision
17 of the Board.

18 SEC. 1109. RELATIONSHIP TO OTHER REMEDIES.—

19 (a) A grievant may not file a grievance with the Board if the
20 grievant has formally requested, prior to filing a grievance,
21 that the matter or matters which are the basis of the griev-
22 ance be considered or resolved and relief be provided under
23 another provision of law, regulation, or Executive order,
24 other than under section 1206 of title 5, United States Code,

1 and the matter has been carried to final decision under such
2 provision on its merits or is still under consideration.

3 (b) If a grievant is not prohibited from filing a grievance
4 under subsection (a), the grievant may file with the Board a
5 grievance which is also eligible for consideration, resolution,
6 and relief under chapter 12 of title 5, United States Code, or
7 a regulation or Executive order other than under this chap-
8 ter. An election of remedies under this section shall be final
9 upon the acceptance of jurisdiction by the Board.

10 SEC. 1110. JUDICIAL REVIEW.—Any aggrieved party
11 may obtain judicial review of a final action of the Secretary
12 or the Board on any grievance in the district courts of the
13 United States in accordance with the standards set forth in
14 chapter 7 of title 5, United States Code. Section 706 of title
15 5, United States Code, shall apply without limitation or
16 exception.

17 TITLE II—TRANSITION, AMENDMENTS TO OTHER
18 LAWS, AND MISCELLANEOUS PROVISIONS

19 CHAPTER 1—TRANSITION

20 SEC. 2101. PAY AND BENEFITS PENDING CONVER-
21 SION.—Except as provided in section 2104(b), until
22 converted under the provisions of this chapter, individuals
23 who are in the Foreign Service immediately before the effec-
24 tive date of this Act and who could be converted under sec-
25 tion 2102 or 2103 shall be treated for purposes of salary,

1 allowances, and all other matters as if they had been convert-
2 ed under section 2102 or 2103, as the case may be, on the
3 effective date of this Act.

4 SEC. 2102. CONVERSION TO THE FOREIGN SERVICE
5 SCHEDULE.—(a) Not later than 120 days after the effective
6 date of this Act, the Secretary shall, in accordance with sec-
7 tion 2106, convert to the appropriate class in the Foreign
8 Service Schedule established under section 403 of this Act
9 those individuals in the Foreign Service who are serving im-
10 mediately before the effective date of this Act under appoint-
11 ments at or below class 3 of the schedule established under
12 section 412 or 414 of the Foreign Service Act of 1946, or at
13 any class in the schedule established under section 415 of
14 such Act, as—

15 (1) Foreign Service officers, or
16 (2) Foreign Service Reserve officers with limited
17 or unlimited tenure, and Foreign Service staff officers
18 or employees, who the Secretary determines are avail-
19 able for worldwide assignment.

20 (b) Not later than 3 years after the effective date of this
21 Act, Foreign Service Reserve officers and staff officers and
22 employees who the Secretary determines under subsection
23 (a)(2) are not available for worldwide assignment shall also be
24 converted, in accordance with section 2106, to the appropri-

1 ate class in the Foreign Service Schedule established under
2 section 403 if—

3 (1) the Secretary certifies that there is a need for
4 their services in the Foreign Service; and

5 (2) they agree in writing to accept availability for
6 worldwide assignment as a condition of continued em-
7 ployment.

8 SEC. 2103. CONVERSION TO THE SENIOR FOREIGN
9 SERVICE.—(a) Foreign Service officers and Foreign Service
10 Reserve officers with limited or unlimited tenure who, imme-
11 diately before the effective date of this Act, are serving under
12 appointments at class 2 or a higher class of the schedule
13 established under section 412 or 414 of the Foreign Service
14 Act of 1946 may at any time within 120 days after such date
15 submit to the Secretary a written request for appointment to
16 the Senior Foreign Service.

17 (b) Except as provided in subsection (d), if a request is
18 submitted under subsection (a) by a Foreign Service Reserve
19 officer with limited tenure, the Secretary shall grant to such
20 officer a limited appointment to the Senior Foreign Service in
21 the appropriate class established under section 402 of this
22 Act.

23 (c) If a request is submitted under subsection (a) by a
24 Foreign Service officer or, except as provided in subsection
25 (d), a Foreign Service Reserve officer with unlimited tenure,

1 the Secretary shall recommend to the President a career ap-
2 pointment of such officer, by and with the advice and consent
3 of the Senate, to the Senior Foreign Service in the appropri-
4 ate class established under section 402 of this Act.

5 (d) If the Secretary determines that a Foreign Service
6 Reserve officer with limited or unlimited tenure who submits
7 a request under subsection (a) is not available for worldwide
8 assignment, an appointment under subsection (b) or a recom-
9 mendation for appointment under subsection (c) shall be made
10 only if—

11 (1) the Secretary certifies that there is a need for
12 the services of such officer in the Senior Foreign Serv-
13 ice; and

14 (2) such officer agrees in writing to accept avail-
15 ability for worldwide assignment as a condition of con-
16 tinued employment.

17 (e) If a Foreign Service officer or a Foreign Service
18 Reserve officer who is eligible to submit a request under sub-
19 section (a) submits a written request for appointment to the
20 Senior Foreign Service to the Secretary more than 120 days
21 after the effective date of this Act and before the end of the
22 3-year period beginning on such effective date, the Secretary
23 (in the case of a Foreign Service Reserve officer with limited
24 tenure) may grant a limited appointment to, or (in the case of
25 a Foreign Service officer or Foreign Service Reserve officer

1 with unlimited tenure) may recommend to the President a
2 career appointment of, the requesting officer to the appropri-
3 ate class established under section 402 of this Act, subject to
4 the conditions specified in subsection (d) and such other con-
5 ditions as the Secretary may prescribe consistent with the
6 provisions of chapter 6 of title I of this Act relating to promo-
7 tion into the Senior Foreign Service.

8 (f) Any officer of the Foreign Service who is eligible to
9 submit a request under subsection (a) and—

10 (1) who does not submit a request under subsec-
11 tion (a), or

12 (2) who submits such a request more than 120
13 days after the effective date of this Act and is not ap-
14 pointed to the Senior Foreign Service for any reason
15 other than failure to meet the conditions specified in
16 subsection (d),

17 may not remain in the Foreign Service for more than 3 years
18 after the effective date of this Act. During such period, the
19 officer shall be subject to the provisions of title I of this Act
20 applicable to members of the Senior Foreign Service, except
21 that such officer shall not be eligible to compete for perform-
22 ance pay under section 405, and shall not be eligible for a
23 limited career extension as described in section 607(b). Upon
24 separation from the Service, any such officer who is a partici-
25 pant in the Foreign Service Retirement and Disability

1 System shall be entitled to retirement benefits determined in
2 accordance with chapter 8 of title I of this Act.

3 SEC. 2104. CONVERSION FROM THE FOREIGN SERV-
4 ICE.—(a) In the case of any individual in the Foreign Service
5 who, immediately before the effective date of this Act, is
6 serving under an appointment described in section 2102(a) or
7 2103(a) and who is not converted under section 2102 or sec-
8 tion 2103 because such individual does not meet the condi-
9 tions specified in section 2102(b) or 2103(d), the Secretary
10 shall, not later than 3 years after the effective date of this
11 Act, provide that—

12 (1) the position such individual holds shall be sub-
13 ject to chapter 51 and subchapter III of chapter 53 of
14 title 5, United States Code;

15 (2) such individual shall be appointed to such posi-
16 tion without competitive examination; and

17 (3) such position shall be considered to be in the
18 competitive service so long as the individual continues
19 to hold that position;

20 except that any such individual who meets the eligibility re-
21 quirements for the Senior Executive Service and who elects
22 to join that Service shall be converted by the Secretary to the
23 Senior Executive Service in the appropriate rate of basic pay
24 established under section 5382 of title 5, United States Code.

1 (b)(1) In the case of individuals in the Foreign Service in
2 the International Communication Agency who immediately
3 before the date of enactment of this Act are covered by a
4 collective bargaining agreement between the Agency and the
5 exclusive representative of those individuals, the 3-year
6 period referred to in subsection (a) shall begin on July 1,
7 1981. Prior to that date, any individual in the Foreign Serv-
8 ice exempted from conversion by this subsection may elect to
9 remain in the Foreign Service and, notwithstanding any
10 other provision of law, the status, promotion, class, and
11 tenure of such individuals shall continue to be governed by
12 the Foreign Service Act of 1946 and Public Law 90-494 (as
13 those Acts were in effect immediately before the effective
14 date of this Act). This Act (except sections 402, 403, 404,
15 and 405) shall also apply to such individuals, and such indi-
16 viduals shall be considered members of the Foreign Service
17 for purposes of sections 103, 406, 501, 502, 503, 504, 610,
18 and 803 of this Act.

19 (2) The President shall prescribe salary rates for the
20 individuals in the Foreign Service who are temporarily
21 excepted from conversion under this subsection in accordance
22 with the salary classes established under sections 414 and
23 415 of the Foreign Service Act of 1946. Salary rates for
24 such individuals shall be adjusted at the same time and to the

1 same extent as rates of basic pay are adjusted for the Gen-
2 eral Schedule.

3 SEC. 2105. CONVERSION OF CERTAIN POSITIONS IN
4 THE DEPARTMENT OF AGRICULTURE.—(a) Not later than
5 15 days after the effective date of this Act, the Secretary of
6 Agriculture shall—

7 (1) designate and classify under section 501 of
8 this Act those positions in the Foreign Agricultural
9 Service under the General Schedule described in sec-
10 tion 5332 of title 5, United States Code, which the
11 Secretary of Agriculture determines are to be occupied
12 by career members of the Foreign Service, and

13 (2) provide written notice to individuals holding
14 those positions of such designation and classification of
15 the personnel category under section 103 which will
16 apply to such individual.

17 (b) Each employee serving in a position at the time it is
18 designated under subsection (a) shall, not later than 120 days
19 after notice of such designation, elect—

20 (1) to accept conversion to the Foreign Service, in
21 which case such employee shall be converted in ac-
22 cordance with the provisions of subsection (c); or

23 (2) to decline conversion to the Foreign Service
24 and have the provisions of subsection (d) apply.

1 (c)(1) The Secretary of Agriculture shall recommend to
2 the President for appointment to the appropriate class (as
3 determined under paragraph (2)), by and with the advice and
4 consent of the Senate, those employees who elect conversion
5 under subsection (a)(1).

6 (2) The Secretary of Agriculture shall appoint as For-
7 eign Service personnel those employees who elect to accept
8 conversion and who are not eligible for appointment under
9 paragraph (1).

10 (d) Any employee who declines conversion under sub-
11 section (b)(2) shall for so long as that employee continues to
12 hold the designated position be deemed to be a member of the
13 Foreign Service for purposes of allowances, differentials, and
14 similar benefits (as determined by the Secretary of
15 Agriculture).

16 SEC. 2106. PRESERVATION OF STATUS AND BENE-
17 FITS.—(a)(1) Every individual who is converted under this
18 chapter shall be converted to the class or grade and pay rate
19 that most closely corresponds to the class or grade and step
20 at which the individual was serving immediately before con-
21 version. No conversion under this chapter shall cause any
22 individual to incur a reduction in his or her class, grade, or
23 basic rate of salary.

24 (2) An individual converted under section 2104 to a po-
25 sition in the competitive service shall be entitled to have that

1 position, or any other position to which the individual is sub-
2 sequently assigned (other than at the request of the individu-
3 al), be considered for all purposes as at the grade which cor-
4 responds to the class in which the individual served immedi-
5 ately before conversion so long as the individual continues to
6 hold that position.

7 (b)(1) Any participant in the Foreign Service Retirement
8 and Disability System who would, but for this paragraph,
9 participate in the Civil Service Retirement and Disability
10 System by virtue of conversion under this chapter shall
11 remain a participant in the Foreign Service Retirement and
12 Disability System for 120 days after participation in the For-
13 eign Service Retirement and Disability System would other-
14 wise cease. During such 120-day period, the individual may
15 elect in writing to continue to participate in the Foreign
16 Service Retirement and Disability System instead of the Civil
17 Service Retirement and Disability System so long as he or
18 she is employed in an agency which is authorized to utilize
19 the Foreign Service personnel system. If such an election is
20 not made, the individual shall then be covered by the Civil
21 Service Retirement and Disability System and contributions
22 made by the participant to the Foreign Service Retirement
23 and Disability Fund shall be transferred to the Civil Service
24 Retirement and Disability Fund.

210

1 (2) Any Foreign Service Reserve officer with limited
2 tenure who has reemployment rights to a personnel category
3 in the Foreign Service in which he or she would be a partici-
4 pant in the Foreign Service Retirement and Disability
5 System and who would, but for this paragraph, continue to
6 participate in the Civil Service Retirement and Disability
7 System by virtue of conversion under section 2104 may
8 elect, during the 120-day period beginning on the date of
9 such conversion, to become a participant in the Foreign Serv-
10 ice Retirement and Disability System so long as he or she is
11 employed in an agency which is authorized to utilize the For-
12 eign Service personnel system. If such an election is made,
13 the individual shall be transferred to the Foreign Service Re-
14 tirement and Disability System and contributions made by
15 that individual to the Civil Service Retirement and Disability
16 Fund shall be transferred to the Foreign Service Retirement
17 and Disability Fund.

18 (c) Individuals who are converted under this chapter
19 shall be converted to the type of appointment which corre-
20 sponds most closely in tenure to the type of appointment
21 under which they were serving immediately prior to such
22 conversion, except that this chapter shall not operate to
23 extend the duration of any limited appointment or previously
24 applicable time in class.

1 (d) Any individual who on the effective date of this Act
2 is serving—

3 (1) under an appointment in the Foreign Service,

4 or

5 (2) in any other office or position continued by
6 this Act,

7 may continue to serve under such appointment, subject to the
8 provisions of this Act, and need not be reappointed by virtue
9 of the enactment of this Act.

10 (e) Any individual in the Foreign Service—

11 (1) who is serving under a career appointment on
12 the date of enactment of this Act, and

13 (2) who was not subject to section 633(a)(2) of the
14 Foreign Service Act of 1946 immediately before the
15 effective date of this Act,

16 may not be retired under section 608 of this Act until 10
17 years after the effective date of this Act or when such indi-
18 vidual first becomes eligible for an immediate annuity under
19 chapter 8 of title I of this Act, whichever occurs first.

20 SEC. 2107. REGULATIONS.—Under the direction of the
21 President, the Secretary shall prescribe regulations for the
22 implementation of this chapter.

23 SEC. 2108. AUTHORITY OF OTHER AGENCIES.—The
24 heads of agencies other than the Department of State which
25 utilize the Foreign Service personnel system shall perform

1 functions under this chapter in accordance with regulations
2 prescribed by the Secretary of State under section 2107.
3 Such agency heads shall consult with the Secretary of State
4 in the exercise of such functions.

5 CHAPTER 2—AMENDMENTS RELATING TO FOREIGN
6 AFFAIRS AGENCIES

7 SEC. 2201. BASIC AUTHORITIES OF THE DEPART-
8 MENT OF STATE.—(a) The Act entitled “An Act to provide
9 certain basic authority for the Department of State”, ap-
10 proved August 1, 1956, is amended by adding at the end
11 thereof the following new sections:

12 “SEC. 25. (a) The Secretary of State may accept on
13 behalf of the United States gifts made unconditionally by will
14 or otherwise for the benefit of the Department of State (in-
15 cluding the Foreign Service) or for the carrying out of any of
16 its functions. Conditional gifts may be so accepted at the dis-
17 cretion of the Secretary, and the principal of and income from
18 any such conditional gift shall be held, invested, reinvested,
19 and used in accordance with its conditions, except that no gift
20 shall be accepted which is conditioned upon any expenditure
21 which will not be met by the gift or the income from the gift
22 unless such expenditure has been approved by Act of
23 Congress.

24 “(b) Any unconditional gift of money accepted under
25 subsection (a), the income from any gift property held under

1 subsection (c) or (d) (except income made available for ex-
2 penditure under subsection (d)(2)), the net proceeds from the
3 liquidation of gift property under subsection (c) or (d), and the
4 proceeds of insurance on any gift property which are not used
5 for its restoration, shall be deposited in the Treasury of the
6 United States. Such funds are hereby appropriated and shall
7 be held in trust by the Secretary of the Treasury for the
8 benefit of the Department of State (including the Foreign
9 Service). The Secretary of the Treasury may invest and rein-
10 vest such funds in interest-bearing obligations of the United
11 States or in obligations guaranteed as to both principal and
12 interest by the United States. Such funds and the income
13 from such investments shall be available for expenditure in
14 the operation of the Department of State (including the For-
15 eign Service) and the performance of its functions, subject to
16 the same examination and audit as is provided for appropri-
17 ations made for the Foreign Service by the Congress.

18 “(c) The evidences of any unconditional gift of intangi-
19 ble personal property (other than money) accepted under sub-
20 section (a), shall be deposited with the Secretary of the
21 Treasury who may hold or liquidate them, except that they
22 shall be liquidated upon the request of the Secretary of State
23 whenever necessary to meet payments required in the oper-
24 ation of the Department of State (including the Foreign Serv-
25 ice) or the performance of its functions.

1 “(d)(1) The Secretary of State shall hold any real prop-
2 erty or any tangible personal property accepted uncondition-
3 ally pursuant to subsection (a) and shall either use such prop-
4 erty for the operation of the Department of State (including
5 the Foreign Service) and the performance of its functions or
6 lease or hire such property, except that any such property
7 not required for the operation of the Department of State
8 (including the Foreign Service) or the performance of its
9 functions may be liquidated by the Secretary of State when-
10 ever in the judgment of the Secretary of State the purposes
11 of the gift will be served thereby. The Secretary of State may
12 insure any property held under this subsection. Except as
13 provided in paragraph (2), the Secretary shall deposit the
14 income from any property held under this subsection with the
15 Secretary of the Treasury as provided in subsection (b).

16 “(2) The income from any real property or tangible per-
17 sonal property held under this subsection shall be available
18 for expenditure at the discretion of the Secretary of State for
19 the maintenance, preservation, or repair and insurance of
20 such property and any proceeds from insurance may be used
21 to restore the property insured.

22 “(e) For the purpose of Federal income, estate, and gift
23 taxes, any gift, devise, or bequest accepted under this section
24 shall be deemed to be a gift, devise, or bequest to and for the
25 use of the United States.

1 “(f) The authorities available to the Secretary of State
2 under this section with respect to the Department of State
3 shall be available to the Director of the International Com-
4 munication Agency and the Director of the United States
5 International Development Cooperation Agency with respect
6 to their respective agencies.

7 “SEC. 26. (a) The Secretary of State may, without
8 regard to section 3106 of title 5, United States Code, author-
9 ize a principal officer of the Foreign Service to procure legal
10 services whenever such services are required for the protec-
11 tion of the interests of the Government or to enable a
12 member of the Service to carry on the member's work
13 efficiently.

14 “(b) The authority available to the Secretary of State
15 under this section shall be available to the Director of the
16 International Communication Agency and the Director of the
17 United States International Development Cooperation
18 Agency with respect to their respective agencies.

19 “SEC. 27. (a) In order to expand employment opportu-
20 nities for family members of United States Government per-
21 sonnel assigned abroad, the Secretary of State shall seek to
22 conclude such bilateral and multilateral agreements as will
23 facilitate the employment of such family members in foreign
24 economies.

1 “(b) Any member of a family of a member of the For-
2 eign Service may accept gainful employment in a foreign
3 country unless such employment—

4 “(1) would violate any law of such country or of
5 the United States; or

6 “(2) could, as certified in writing by the United
7 States chief of mission to such country, damage the in-
8 terests of the United States.

9 “SEC. 28. The Secretary of State may authorize the
10 principal officer of a Foreign Service post to provide for the
11 use of Government owned or leased vehicles located at that
12 post for transportation of United States Government employ-
13 ees and their families when public transportation is unsafe or
14 not available or when such use is advantageous to the
15 Government.

16 “SEC. 29. Whenever the Secretary of State determines
17 that educational facilities are not available, or that existing
18 educational facilities are inadequate, to meet the needs of
19 children of United States citizens stationed outside the
20 United States who are engaged in carrying out Government
21 activities, the Secretary may, in such manner as he deems
22 appropriate and under such regulations as he may prescribe,
23 establish, operate, and maintain primary schools, and school
24 dormitories and related educational facilities for primary and
25 secondary schools, outside the United States, make grants of

1 funds for such purposes, or otherwise provide for such educa-
2 tional facilities. The authorities of the Foreign Service Build-
3 ings Act, 1926, and of paragraphs (h) and (i) of section 3 of
4 this Act, may be utilized by the Secretary in providing assist-
5 ance for educational facilities. Such assistance may include
6 hiring, transporting, and payment of teachers and other nec-
7 essary personnel.

8 "SEC. 30. (a) The remedy—

9 "(1) against the United States provided by sec-
10 tions 1346(b) and 2672 of title 28, United States Code,
11 or

12 "(2) through proceedings for compensation or
13 other benefits from the United States as provided by
14 any other law, where the availability of such benefits
15 precludes a remedy under such sections,
16 for damages for personal injury, including death, allegedly
17 arising from malpractice or negligence of a physician, dentist,
18 nurse, pharmacist, or paramedical (including medical and
19 dental assistants and technicians, nursing assistants, and
20 therapists) or other supporting personnel of the Department
21 of State in furnishing medical care or related services, includ-
22 ing the conducting of clinical studies or investigations, while
23 in the exercise of his or her duties in or for the Department of
24 State or any other Federal department, agency, or instru-
25 mentality shall be exclusive of any other civil action or pro-

1 ceeding by reason of the same subject matter against such
2 physician, dentist, nurse, pharmacist, or paramedical or other
3 supporting personnel (or his or her estate) whose act or omis-
4 sion gave rise to such claim.

5 “(b) The United States Government shall defend any
6 civil action or proceeding brought in any court against any
7 person referred to in subsection (a) of this section (or his or
8 her estate) for any such damage or injury. Any such person
9 against whom such civil action or proceeding is brought shall
10 deliver, within such time after date of service or knowledge
11 of service as may be determined by the Attorney General, all
12 process served upon him or her or an attested true copy
13 thereof to whomever was designated by the Secretary to re-
14 ceive such papers. Such person shall promptly furnish copies
15 of the pleading and process therein to the United States at-
16 torney for the district embracing the place wherein the pro-
17 ceeding is brought, to the Attorney General, and to the
18 Secretary.

19 “(c) Upon a certification by the Attorney General that
20 the defendant was acting within the scope of his or her em-
21 ployment in or for the Department of State or any other Fed-
22 eral department, agency, or instrumentality at the time of the
23 incident out of which the suit arose, any such civil action or
24 proceeding commenced in a State court shall be removed
25 without bond at any time before trial by the Attorney Gener-

1 al to the district court of the United States of the district and
2 division embracing the place wherein it is pending and the
3 proceeding deemed a tort action brought against the United
4 States under the provisions of title 28, United States Code,
5 and all references thereto. Should a United States district
6 court determine on a hearing on a motion to remand held
7 before a trial on the merits that the case so removed is one in
8 which a remedy by suit within the meaning of subsection (a)
9 of this section is not available against the United States, the
10 case shall be remanded to the State court except that where
11 such remedy is precluded because of the availability of a
12 remedy through proceedings for compensation or other bene-
13 fits from the United States as provided by any other law, the
14 case shall be dismissed, but in that event, the running of any
15 limitation of time for commencing, or filing an application or
16 claim in, such proceedings for compensation or other benefits
17 shall be deemed to have been suspended during the pendency
18 of the civil action or proceeding under this section.

19 “(d) The Attorney General may compromise or settle
20 any claim asserted in such civil action or proceeding in the
21 manner provided in section 2677 of title 28, the United
22 States Code, and with the same effect.

23 “(e) For purposes of this section, the provisions of sec-
24 tion 2680(h) of title 28, United States Code, shall not apply
25 to any tort enumerated therein arising out of negligence in

1 the furnishing of medical care or related services, including
2 the conducting of clinical studies or investigations.

3 “(f) The Secretary may, to the extent he deems appro-
4 priate, hold harmless or provide liability insurance for any
5 person to whom the immunity provisions of subsection (a) of
6 this section apply, for damages for personal injury, including
7 death, negligently caused by any such person while acting
8 within the scope of his or her office or employment and as a
9 result of the furnishing of medical care or related services,
10 including the conducting of clinical studies or investigations,
11 if such person is assigned to a foreign area or detailed for
12 service with other than a Federal agency or institution, or if
13 the circumstances are such as are likely to preclude the rem-
14 edies of third persons against the United States provided by
15 sections 1346(b) and 2672 of title 28, United States Code,
16 for such damage or injury.

17 “(g) For purposes of this section, any medical care or
18 related service covered by this section and performed abroad
19 by a covered person at the direction or with the approval of
20 the United States chief of mission or other principal repre-
21 sentative of the United States in the area shall be deemed to
22 be within the scope of employment of the individual perform-
23 ing the service.

24 “SEC. 31. (a) The Secretary of State may authorize and
25 assist in the establishment, maintenance, and operation by

1 civilian officers and employees of the Government of non-
2 Government-operated services and facilities at posts abroad,
3 including the furnishing of space, utilities, and properties
4 owned or leased by the Government for use by its diplomatic,
5 consular, and other missions and posts abroad. The provi-
6 sions of the Foreign Service Buildings Act, 1926 (22 U.S.C.
7 292-300) and section 13 of this Act may be utilized by the
8 Secretary in providing such assistance.

9 “(b) The Secretary may establish and maintain emer-
10 gency commissary or mess services in places abroad where,
11 in the judgment of the Secretary, such services are necessary
12 temporarily to insure the effective and efficient performance
13 of official duties and responsibilities. Reimbursements inci-
14 dent to the maintenance and operation of commissary or
15 mess service under this subsection shall be at not less than
16 cost as determined by the Secretary and shall be used as
17 working funds, except that an amount equal to the amount
18 expended for such services shall be covered into the Treasury
19 as miscellaneous receipts.

20 “(c) Services and facilities established under this section
21 shall be made available, insofar as practicable, to officers and
22 employees of all agencies and their dependents who are sta-
23 tioned in the locality abroad. Such services and facilities shall
24 not be established in localities where another agency oper-
25 ates similar services or facilities unless the Secretary deter-

222

1 mines that additional services or facilities are necessary.
2 Other agencies shall to the extent practicable avoid duplicat-
3 ing the facilities and services provided or assisted by the Sec-
4 retary under this section.

5 “(d) Charges at any post abroad for a service or facility
6 provided, authorized or assisted under this section shall be at
7 the same rate for all civilian personnel of the Government
8 serviced thereby, and all charges for supplies furnished to
9 such a service or facility abroad by any agency shall be at the
10 same rate as that charged by the furnishing agency to its
11 comparable civilian services and facilities.

12 “SEC. 32. The Secretary of State may pay, without
13 regard to section 5702 of title 5, United States Code, subsist-
14 ence expenses of (1) security officers of the Department of
15 State who are on authorized protective missions, and (2)
16 members of the Foreign Service and employees of the De-
17 partment who are required to spend extraordinary amounts of
18 time in travel status.

19 “SEC. 33. This Act may be cited as the ‘State Depart-
20 ment Basic Authorities Act of 1956’.”.

21 (b) Section 13(a) of such Act (22 U.S.C. 2684(a)) is
22 amended by striking out “Foreign Service Act of 1946, as
23 amended” and inserting in lieu thereof “Foreign Service Act
24 of 1980”.

1 SEC. 2202. PEACE CORPS ACT.—(a) Section 5 of the
2 Peace Corps Act (22 U.S.C. 2504) is amended—

3 (1) in subsection (f)(1)—

4 (A) in subparagraph (A) by striking out “sec-
5 tion 852(a)(1) of the Foreign Service Act of 1946,
6 as amended (22 U.S.C. 1092(a)(1)),” and inserting
7 in lieu thereof “section 816(a) of the Foreign
8 Service Act of 1980”, and

9 (B) in subparagraph (B) by striking out “For-
10 eign Service Act of 1946” and inserting in lieu
11 thereof “Foreign Service Act of 1980”; and

12 (2) in subsection (h)—

13 (A) by striking out “section 1091 of the For-
14 eign Service Act of 1946” and inserting in lieu
15 thereof “section 30 of the State Department
16 Basic Authorities Act of 1956”, and

17 (B) by striking out “Director of ACTION”
18 and inserting in lieu thereof “President”.

19 (b)(1) Section 7(a) of the Peace Corps Act (22 U.S.C.
20 2506(a)) is amended—

21 (A) in paragraph (1)—

22 (i) by striking out “, who shall receive com-
23 pensation at any of the rates provided for persons
24 appointed to the Foreign Service Reserve and
25 Staff under the Foreign Service Act of 1946, as

1 amended (22 U.S.C. 801 et seq.)” and inserting
2 in lieu thereof “which are not authorized to utilize
3 the Foreign Service personnel system, who shall
4 receive compensation at any of the rates estab-
5 lished under section 402 or 403 of the Foreign
6 Service Act of 1980”;

7 (ii) by striking out “section 528” and insert-
8 ing in lieu thereof “section 310”; and

9 (iii) by striking out “Reserve” the last place
10 it appears and all that follows and inserting in
11 lieu thereof a period; and

12 (B) by amending paragraph (2) to read as follows:

13 “(2) In order to employ such individuals as may be nec-
14 essary to perform duties that reasonably require availability
15 for worldwide assignment, the President may utilize such au-
16 thority contained in the Foreign Service Act of 1980 relating
17 to members of the Foreign Service and other United States
18 Government officers and employees as the President deems
19 necessary to carry out functions under this Act, except
20 that—

21 “(A) no Foreign Service appointment or assign-
22 ment under this paragraph shall be for a period of
23 more than five years unless the Director of the Peace
24 Corps, under special circumstances, personally ap-

225

1 proves an extension of not more than one year on an
2 individual basis; and

3 “(B) no individual whose Foreign Service appoint-
4 ment or assignment under this paragraph has been ter-
5 minated shall be reappointed or reassigned under this
6 paragraph before the expiration of a period of time
7 equal to the preceding tour of duty of that individual.

8 Such provisions of the Foreign Service Act of 1980 as the
9 President deems appropriate shall apply to individuals ap-
10 pointed or assigned under this paragraph, including in all
11 cases, the provisions of section 310 of that Act, except that
12 (i) the President may by regulation make exceptions to the
13 application of section 310 in cases in which the period of the
14 appointment or assignment exceeds thirty months and (ii)
15 members of the Foreign Service appointed or assigned pursu-
16 ant to this paragraph shall receive within-class salary in-
17 creases in accordance with such regulations as the Presi-
18 dent may prescribe.

19 (2) Section 7(a)(4) of the Peace Corps Act (22 U.S.C.
20 2506(a)(4)) is amended—

21 (A) by striking out “Until” and all that follows
22 through “paragraph or” and inserting in lieu thereof
23 “An individual who has received an appointment or as-
24 signment in the Foreign Service under this subsection

1 may, not later than September 30, 1982, or three
2 years”;

3 (B) by striking out “such person” and inserting in
4 lieu thereof “such individual”; and

5 (C) by striking out “substantially continuous
6 basis” and inserting in lieu thereof “continuous basis
7 without a break in service of more than three days”.

8 (c) Section 13(b) of the Peace Corps Act (22 U.S.C.
9 2512(b)) is amended by striking out “section 872 of the For-
10 eign Service Act of 1946, as amended” and inserting in lieu
11 thereof “section 824 of the Foreign Service Act of 1980,”.

12 (d) Section 14(b) of the Peace Corps Act (22 U.S.C.
13 2513(b)) is amended by striking out “section 901 of the For-
14 eign Service Act of 1946 (22 U.S.C. 1131)” and inserting in
15 lieu thereof “section 905 of the Foreign Service Act of
16 1980”.

17 (e) Section 15(a) of the Peace Corps Act (22 U.S.C.
18 2514) is amended by striking out “Foreign Service person-
19 nel” and inserting in lieu thereof “members of the Foreign
20 Service”.

21 SEC. 2203. FOREIGN ASSISTANCE ACT.—(a) Section
22 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C.
23 2385(d)) is amended to read as follows:

24 “(d) For the purpose of performing functions under this
25 Act outside the United States, the President may employ or

1 assign individuals, or may authorize the employment or as-
2 signment of officers or employees by agencies of the United
3 States Government which are not authorized to utilize the
4 Foreign Service personnel system, who shall receive compen-
5 sation at any of the rates provided for under section 402 or
6 section 403 of the Foreign Service Act of 1980, together
7 with allowances and benefits under that Act. Individuals so
8 employed or assigned shall be entitled, except to the extent
9 that the President may specify otherwise in cases in which
10 the period of employment or assignment exceeds thirty
11 months, to the same benefits as are provided by section 310
12 of that Act for individuals appointed to the Foreign
13 Service.”.

14 (b) Section 629(b) of the Foreign Assistance Act of
15 1961 (22 U.S.C. 2389(b)) is amended by striking out “sec-
16 tion 901 of the Foreign Service Act of 1946, as amended (22
17 U.S.C. 1131)” and inserting in lieu thereof “section 905 of
18 the Foreign Service Act of 1980”.

19 (c) Section 631(b) of such Act (22 U.S.C. 2391(b)) is
20 amended by amending the second sentence to read as follows:
21 “Such chief shall be entitled to receive such compensation
22 and allowances as are authorized by the Foreign Service Act
23 of 1980, not to exceed those authorized for a chief of mission
24 (as defined in section 102(a)(3) of that Act), as the President
25 shall determine to be appropriate.”.

1 (d) Section 631(c) of such Act (22 U.S.C. 2391(c)) is
2 amended by amending the second sentence to read as follows:
3 "Such person may receive such compensation and allowances
4 as are authorized by the Foreign Service Act of 1980, not to
5 exceed those authorized for a chief of mission (as defined in
6 section 102(a)(3) of that Act), as the President shall deter-
7 mine to be appropriate."

8 SEC. 2204. ARMS CONTROL AND DISARMAMENT
9 ACT.—(a) Section 42 of the Arms Control and Disarmament
10 Act (22 U.S.C. 2582) is amended to read as follows:

11 "FOREIGN SERVICE PERSONNEL

12 "SEC. 42. (a) The Secretary of State may authorize the
13 Director to exercise, with respect to members of the Foreign
14 Service appointed or employed for the Agency—

15 "(1) the authority available to the Secretary under
16 the Foreign Service Act of 1980, and

17 "(2) the authority available to the Secretary under
18 any other provisions of law pertaining specifically or
19 applicable generally to members of the Foreign
20 Service.

21 "(b) Limited appointments of members of the Foreign
22 Service for the Agency may be extended or renewed, not-
23 withstanding section 309 of the Foreign Service Act of 1980,
24 so long as the service of the individual under such appoint-

1 ment does not exceed ten consecutive years without a break
2 in service of at least one year.”.

3 (b) Section 48 of the Arms Control and Disarmament
4 Act (22 U.S.C. 2588) is amended by striking out “Foreign
5 Service Act of 1946, as amended” and inserting in lieu
6 thereof “Foreign Service Act of 1980”.

7 SEC. 2205. REPEALED PROVISIONS.—The following
8 are repealed:

9 (1) The Act entitled “An Act to improve,
10 strengthen, and expand the Foreign Service of the
11 United States and to consolidate and revise the laws
12 relating to its administration”, approved August 13,
13 1946, titles I through X of such Act being the Foreign
14 Service Act of 1946 (22 U.S.C. 801–810, 816, 817,
15 821, 826, 827, 841–843, 846, 861, 866–873, 876,
16 877, 881, 882, 886, 889, 890, 896, 900, 901, 902,
17 906–915, 921–924, 926–928, 936–939, 946, 947,
18 951, 961–966, 968, 981, 986, 987, 991–996,
19 1001–1009, 1016, 1017, 1021, 1022, 1026–1028,
20 1031, 1036, 1037–1037c, 1041–1048, 1061–1065,
21 1071, 1076, 1076a, 1081, 1082, 1084, 1086, 1091,
22 1093, 1095, 1101, 1103–1106, 1111, 1112, 1116,
23 1121, 1131, 1136–1138a, 1139, 1148–1151, and
24 1156–1160).

1 (2) Sections 401 and 413 of the Foreign Relations
2 Authorization Act, Fiscal Year 1979 (92 Stat. 981,
3 986).

4 (3) Section 413 of the Foreign Relations Authori-
5 zation Act, Fiscal Year 1978 (91 Stat. 857).

6 (4) Sections 117, 120, and 522 of the Foreign
7 Relations Authorization Act, Fiscal Year 1977 (90
8 Stat. 827, 829, 846).

9 (5) Section 6 of the Department of State Appro-
10 priations Authorization Act of 1973 (87 Stat. 452).

11 (6) The Act entitled "An Act to promote the for-
12 eign policy of the United States by strengthening and
13 improving the Foreign Service personnel system of the
14 International Communication Agency through estab-
15 lishment of a Foreign Service Information Officer
16 Corps", approved August 20, 1968 (22 U.S.C.
17 929-932, 1221-1234).

18 (7) Section 104(c) of the Mutual Educational and
19 Cultural Exchange Act of 1961 (22 U.S.C. 2454(e)).

20 (8) Subsections (e), (g), (j), and (k) of section 625
21 of the Foreign Assistance Act of 1961 (22 U.S.C.
22 2385 (e), (g), (j), and (k)), except that the repeal of
23 subsection (k) shall not become effective until
24 January 1, 1982.

1 (9) Section 7(b) of the Peace Corps Act (22
2 U.S.C. 2506(b)).

3 (10) Sections 14 and 16 of the Act entitled "An
4 Act to provide certain basic authority for the Depart-
5 ment of State", approved August 1, 1956 (22 U.S.C.
6 2679a, 2680a).

7 (11) Section 124(a)(2) of the International Devel-
8 opment and Food Assistance Act of 1977 (91 Stat.
9 542).

10 (12) The Act entitled "An Act to make certain
11 increases in the annuities of annuitants under the
12 Foreign Service retirement and disability system", ap-
13 proved May 21, 1952 (22 U.S.C. 1077, 1078).

14 (13) The Act entitled "An Act to make certain
15 increases in the annuities of annuitants under the
16 Foreign Service retirement and disability system", ap-
17 proved May 1, 1956 (22 U.S.C. 1079-1079f).

18 (14) The Act entitled "An Act to provide for
19 adjustments in the annuities under the Foreign
20 Service retirement and disability system", approved
21 September 2, 1958 (22 U.S.C. 1079g-1079j).

22 (15) The Act entitled "An Act to provide for ad-
23 justments in the annuities under the Foreign Service
24 retirement and disability system", approved July 12,
25 1960 (22 U.S.C. 1079l).

1 (16) The Foreign Service Annuity Adjustment
2 Act of 1965 (22 U.S.C. 1079m-1079s).

3 SEC. 2206. OTHER CONFORMING AMENDMENTS.—

4 (a)(1) Section 3(b) of the Asian Development Bank Act (22
5 U.S.C. 285a(b)) is amended by striking out the “a Chief of
6 Mission, class 2, within the meaning of the Foreign Service
7 Act of 1946, as amended” and inserting in lieu thereof “a
8 chief of mission under the Foreign Service Act of 1980”.

9 (2) The United Nations Participation Act of 1945 is
10 amended—

11 (A) in section 2(g) (22 U.S.C. 287(g)) by striking
12 out “sections 411 and 412 of the Foreign Service Act
13 of 1946 (Public Law 724, Seventy-ninth Congress) for
14 chiefs of mission” and inserting in lieu thereof “sec-
15 tions 401, 402, and 403 of the Foreign Service Act of
16 1980 for chiefs of mission, members of the Senior For-
17 eign Service,”; and

18 (B) in section 8 (22 U.S.C. 287e) by striking out
19 “section 901(3) of the Foreign Service Act of 1946
20 (Public Law 724, Seventy-ninth Congress)” and insert-
21 ing in lieu thereof “section 905 of the Foreign Service
22 Act of 1980”.

23 (3) Section 2 of the joint resolution entitled “Joint Res-
24 olution providing for membership and participation by the
25 United States in the United Nations Educational, Scientific,

1 and Cultural Organization, and authorizing an appropriation
2 therefor", approved July 30, 1946 (22 U.S.C. 287n), is
3 amended by striking out "Foreign Service officers in the
4 schedule contained in section 412 of the Foreign Service Act
5 of 1946, as amended," and inserting in lieu thereof "mem-
6 bers of the Senior Foreign Service under section 402 of the
7 Foreign Service Act of 1980, or provided for Foreign Service
8 officers under section 403 of that Act,".

9 (4) Section 2 of the joint resolution entitled "Joint Res-
10 olution providing for membership and participation by the
11 United States in the World Health Organization and author-
12 izing an appropriation therefor", approved June 14, 1948 (22
13 U.S.C. 290a), is amended by striking out "provided by sec-
14 tion 412 of the Foreign Service Act of 1946, as amended,"
15 and inserting in lieu thereof "established under section 402
16 or 403 of the Foreign Service Act of 1980".

17 (5) Section 203(b) of the African Development Fund Act
18 (22 U.S.C. 290g-1(b)) is amended by striking out "a Chief of
19 Mission, class 2, within the meaning of the Foreign Service
20 Act of 1946, as amended" and inserting in lieu thereof "a
21 chief of mission under the Foreign Service Act of 1980".

22 (6) Section 408 of the Mutual Security Act of 1954 (22
23 U.S.C. 1928) is amended—

24 (A) in subsection (a) by striking out "Foreign
25 Service Act of 1946, as amended (22 U.S.C. 801),"

1 and inserting in lieu thereof "Foreign Service Act of
2 1980";

3 (B) in subsection (b) by striking out "chief of
4 mission, class 1, within the meaning of the Foreign
5 Service Act of 1946, as amended (22 U.S.C. 801)"
6 and inserting in lieu thereof "chief of mission under the
7 Foreign Service Act of 1980"; and

8 (C) in subsection (c) by striking out "section 529
9 of this Act who are appointed as Foreign Service Re-
10 serve officers may serve for periods of more than five
11 years notwithstanding the limitation in section 522 of
12 the Foreign Service Act of 1946, as amended (22
13 U.S.C. 922)" and inserting in lieu thereof "section 628
14 of the Foreign Assistance Act of 1961 who are mem-
15 bers of the Foreign Service serving under limited ap-
16 pointments may serve for periods of more than five
17 years notwithstanding the limitation in section 309 of
18 the Foreign Service Act of 1980".

19 (7) The International Atomic Energy Agency Participa-
20 tion Act of 1957 is amended—

21 (A) in section 2(d) (22 U.S.C. 2021(d))—

22 (i) in the first sentence by striking out "sec-
23 tions 411 and 412 of the Foreign Service Act of
24 1946, as amended (22 U.S.C. 866, 867), for
25 Chiefs of Mission" and inserting in lieu thereof

1 “sections 401, 402, and 403 of the Foreign Serv-
2 ice Act of 1980 for chiefs of mission, members of
3 the Senior Foreign Service,” and

4 (ii) in the second sentence by striking out
5 “by Chiefs of Mission” and inserting in lieu there-
6 of “under the Foreign Service Act of 1980 by
7 chiefs of mission, members of the Senior Foreign
8 Service,”; and

9 (B) in section 5 (22 U.S.C. 2024)—

10 (i) by striking out “Foreign Service Act of
11 1946, as amended,” and inserting in lieu thereof
12 “Foreign Service Act of 1980”, and

13 (ii) by striking “Foreign Service Act of
14 1946, as amended;” and inserting in lieu thereof
15 “Foreign Service Act of 1980;”.

16 (8) Section 704(b) of the Center for Cultural and Tech-
17 nical Interchange Between East and West Act of 1960 (22
18 U.S.C. 2056(b)) is amended by striking out “title X, part C
19 of the Foreign Service Act of 1946, as amended” and insert-
20 ing in lieu thereof “section 25 of the State Department Basic
21 Authorities Act of 1956”.

22 (9) Section 104(d) of the Mutual Educational and Cul-
23 tural Exchange Act of 1961 (22 U.S.C. 2454(d)) is amended
24 by striking out “section 528” and all that follows through
25 “such persons” and inserting in lieu thereof “section 310 of

1 the Foreign Service Act of 1980 for individuals appointed to
2 the Foreign Service”.

3 (10) Section 5(a) of the Migration and Refugee Assist-
4 ance Act of 1962 (22 U.S.C. 2605(a)) is amended—

5 (A) in paragraph (1) by striking out “Foreign
6 Service personnel” and inserting in lieu thereof “mem-
7 bers of the Foreign Service”;

8 (B) in paragraph (2) by striking out “Foreign
9 Service Reserve officers” and inserting in lieu thereof
10 “members of the Foreign Service serving under limited
11 appointments”; and

12 (C) in paragraph (4) by striking out “Foreign
13 Service Act of 1946, as amended (22 U.S.C. 801 et
14 seq.)” and inserting in lieu thereof “Foreign Service
15 Act of 1980”.

16 (11) Section 403(c) of the International Development
17 Cooperation Act of 1979 (22 U.S.C. 3503(c)) is amended by
18 striking out “Foreign Service Act of 1946” and inserting in
19 lieu thereof “Foreign Service Act of 1980”.

20 (b)(1) Section 605A(h) of the Act entitled “An Act to
21 provide for greater stability in agriculture; to augment the
22 marketing and disposal of agricultural products; and for other
23 purposes”, approved August 28, 1954 (7 U.S.C. 1765a(h)),
24 is amended by striking out “Foreign Service personnel” and
25 inserting in lieu thereof “members of the Foreign Service”.

1 (2) Section 606D of such Act (7 U.S.C. 1766c) is
2 amended by striking out "title IX of the Foreign Service Act
3 of 1946" and inserting in lieu thereof "chapter 9 of title I of
4 the Foreign Service Act of 1980".

5 (c)(1) Section 2002(a) of title 10, United States Code, is
6 amended—

7 (A) in the text preceding paragraph (1) by striking
8 out "section 1041 of title 22" and inserting in lieu
9 thereof "section 701(b) of the Foreign Service Act of
10 1980"; and

11 (B) in paragraph (2) by striking out "section 1041
12 of title 22" and inserting in lieu thereof "section
13 701(a) of the Foreign Service Act of 1980".

14 (d) Section 8(a)(1) of the Defense Department Overseas
15 Teachers Pay and Personnel Practices Act (20 U.S.C.
16 906(a)(1)) is amended by striking out "section 901(2) of the
17 Foreign Service Act of 1946 (22 U.S.C. 1131(2))" and in-
18 serting in lieu thereof "section 5924 of title 5, United States
19 Code".

20 (e)(1) Section 104(a)(4) of the Internal Revenue Code of
21 1954 (26 U.S.C. 104(a)(4)) is amended by striking out "sec-
22 tion 831 of the Foreign Service Act of 1946, as amended (22
23 U.S.C. 1081)" and inserting in lieu thereof "section 808 of
24 the Foreign Service Act of 1980".

1 (2) Section 170(i) of the Internal Revenue Code of 1954
2 (26 U.S.C 170(i)) is amended by amending paragraph (6) to
3 read as follows:

“(6) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.”.

4 (3) Section 912(1)(A) of the Internal Revenue Code of
5 1954 (26 U.S.C. 912(1)(A)) is amended to read as follows:

6 “(A) chapter 9 of title I of the Foreign Serv-
7 ice Act of 1980,”.

8 (4) Section 2055(f)(5) of the Internal Revenue Code of
9 1954 (26 U.S.C. 2055(f)(5)) is amended to read as follows:

“(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency as gifts, devises, or bequests to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.”.

10 (f) Section 235 of title 38, United States Code, is
11 amended—

12 (1) in paragraph (1) by striking out “Section 1131
13 of title 22” and inserting in lieu thereof “Section 905
14 of the Foreign Service Act of 1980”;

15 (2) in paragraph (2) by striking out “Section 1136
16 (1), (2), (3), (4), (5), (7), and (11) of title 22” and in-
17 serting in lieu thereof “Sections 901 (1), (2), (3), (4),

1 (7), (8), (9), (11), and (12) of the Foreign Service Act
2 of 1980”;

3 (3) in paragraph (3) by striking out “Section 1138
4 of title 22” and inserting in lieu thereof “Section
5 901(13) of the Foreign Service Act of 1980”;

6 (4) in paragraph (4) by striking out “Section 1148
7 of title 22” and inserting in lieu thereof “Section 903
8 of the Foreign Service Act of 1980”; and

9 (5) in paragraph (5) by striking out “Section 1156
10 of title 22” and inserting in lieu thereof “Section
11 904(d) of the Foreign Service Act of 1980”.

12 (g) Section 415(c) of the Domestic Volunteer Service
13 Act of 1973 (42 U.S.C. 5055(c)) is amended—

14 (1) in paragraph (1) by striking out “section
15 852(a)(1) of the Foreign Service Act of 1946, as
16 amended (22 U.S.C. 1092(a)(1)), and every other” and
17 inserting in lieu thereof “any”; and

18 (2) in paragraph (2) by striking out “Foreign
19 Service Act of 1946” and inserting in lieu thereof
20 “Foreign Service Act of 1980”.

21 **SEC. 2207. RETIREMENT FOR BINATIONAL CENTER**
22 **EMPLOYEES.**—Any person who was appointed as a Bina-
23 tional Center Grantee and who has completed at least five
24 years of satisfactory service as such a grantee or under any
25 other appointment under the Foreign Service Act of 1946

1 may become a participant in the Foreign Service retirement
2 and disability system and may make an appropriate contribu-
3 tion to the Foreign Service retirement and disability fund in
4 accordance with the provisions of this Act.

5 CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES
6 CODE

7 SEC. 2301. REEMPLOYMENT RIGHTS.—(a) Chapter 35
8 of title 5, United States Code, is amended by adding at the
9 end thereof the following new subchapter:

10 “SUBCHAPTER VI—REEMPLOYMENT FOLLOWING
11 LIMITED APPOINTMENT IN THE FOREIGN
12 SERVICE

13 “§ 3597. Reemployment following limited appointment in
14 the Foreign Service

15 “An employee of any agency who accepts, with the con-
16 sent of the head of that agency, a limited appointment in the
17 Foreign Service under section 309 of the Foreign Service
18 Act of 1980 is entitled, upon the expiration of that appoint-
19 ment, to be reemployed in that employee’s former position or
20 in a corresponding or higher position in that agency. Upon
21 reemployment under this section, an employee shall be enti-
22 tled to any within-grade increases in pay which the employee
23 would have received if the employee had remained in the
24 former position in the agency.”.

1 (b) The analysis for chapter 35 of title 5, United States
2 Code, is amended by adding at the end thereof the following:

“SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED
APPOINTMENT IN THE FOREIGN SERVICE

“3597. Reemployment following limited appointment in the Foreign Service.”.

3 SEC. 2302. SALARY FOR AMBASSADORS AT LARGE.—
4 Section 5313 of title 5, United States Code, is amended by
5 adding the following at the end thereof:

6 “Ambassadors at Large.”.

7 SEC. 2303. ADVANCES OF PAY INCIDENT TO DEPART-
8 TURES FROM POSTS ABROAD.—(a) Section 5522(a) of title
9 5, United States Code, is amended—

10 (1) by striking out “evacuation” and inserting in
11 lieu thereof “departure”; and

12 (2) by striking out “is ordered for military or
13 other reasons which create imminent danger to the life
14 or lives of the employee or of his dependents or imme-
15 diate family” and inserting in lieu thereof “is officially
16 authorized or ordered—

17 “(1) from a place outside the United States from
18 which the Secretary of State determines it is in the na-
19 tional interest to require the departure of some or all
20 employees, their dependents, or both; or

21 “(2) from any place where there is imminent
22 danger to the life of the employee or the lives of the
23 dependents or immediate family of the employee.”.

1 (b) Section 5522(b) of title 5, United States Code, is
2 amended by striking out "evacuation" and inserting in lieu
3 thereof "departure".

4 (c) Section 5523(a)(1) of title 5, United States Code, is
5 amended—

6 (1) by amending subparagraph (A) to read as
7 follows:

8 "(A) whose departure is authorized or or-
9 dered under section 5522(a) of this title; and";
10 and

11 (2) in subparagraph (B) by striking out "evacua-
12 tion" and inserting in lieu thereof "departure".

13 (d) Section 5523(b) of title 5, United States Code, is
14 amended by striking out "evacuation" both places it appears
15 and inserting in lieu thereof "departure".

16 (e) Section 405a(a) of title 37, United States Code, is
17 amended by striking out "evacuated" and "evacuation"
18 wherever they appear and inserting in lieu thereof "to
19 depart" and "departure", respectively.

20 SEC. 2304. PREMIUM PAY.— (a) Paragraph (2) of sec-
21 tion 5541 of title 5, United States Code, is amended—

22 After clause (xv), add "(xvi) a member of the
23 Senior Foreign Service; or"

24 (b) Nothing in this Act shall be construed as precluding
25 compensatory time for Foreign Service officers.

1 SEC. 2305. ATTORNEYS FEES IN BACKPAY CASES.—

2 Section 5596(b) of title 5, United States Code, is amended—

3 (1) in paragraph (1)(A)(ii) by inserting “or under
4 chapter 11 of title I of the Foreign Service Act of
5 1980,” immediately after “chapter 71 of this title,”;
6 and

7 (2) in paragraph (3)—

8 (A) by inserting “and (with respect to mem-
9 bers of the Foreign Service) in sections 1101 and
10 1002 of the Foreign Service Act of 1980” imme-
11 diately after “section 7103 of this title”; and

12 (B) by inserting “and (with respect to mem-
13 bers of the Foreign Service) in section 1015 of
14 the Foreign Service Act of 1980” immediately
15 after “section 7116 of this title”.

16 SEC. 2306. SEPARATE MAINTENANCE ALLOW-
17 ANCE.—Section 5924(3) of title 5, United States Code, is
18 amended—

19 (1) by inserting “or authorized” immediately after
20 “compelled”; and

21 (2) by inserting “or who requests such an allow-
22 ance because of special needs or hardship involving the
23 employee or the employee’s spouse or dependents,”
24 immediately after “for the convenience of the
25 Government.”

1 SEC. 2307. EDUCATION ALLOWANCE.—Section
2 5924(4)(B) of title 5, United States Code, is amended by
3 striking out “(i)” and by striking out “of the Department of
4 State” and all that follows through “type of education”.

5 SEC. 2308. POSTS REQUIRING SPECIAL INCEN-
6 TIVES.—Section 5925 of title 5, United States Code, is
7 amended—

8 (1) by striking out “A post” in the first sentence
9 and inserting in lieu thereof “(a) A post”;

10 (2) by inserting “under this subsection” immedi-
11 ately after “differential” in the last sentence; and

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

14 “(b) Any employee granted a differential under subsec-
15 tion (a) of this section may be granted an additional differen-
16 tial for an assignment to a post determined to have especially
17 adverse conditions of environment which warrant additional
18 pay as a recruitment and retention incentive for the filling of
19 positions at that post. An additional differential for any em-
20 ployee under this subsection—

21 “(1) may be paid for each assignment to a post
22 determined to have such conditions;

23 “(2) may be paid periodically or in a lump sum;
24 and

1 “(3) may not exceed 15 percent of the rate of
2 basic pay of that employee for the period served under
3 that assignment.”.

4 SEC. 2309. ADVANCES OF PAY.—(a) Subchapter III of
5 chapter 59 of title 5, United States Code, is amended by
6 adding at the end thereof the following new section:

7 “§ 5927. Advances of pay

8 “Up to three months’ pay may be paid in advance to an
9 employee upon the assignment of the employee to a post in a
10 foreign area.”.

11 (b) The analysis of chapter 59 of title 5, United States
12 Code, is amended by inserting after the item relating to sec-
13 tion 5926 the following:

 “5927. Advances of pay.”.

14 SEC. 2310. DANGER PAY ALLOWANCE.—(a) Sub-
15 chapter III of chapter 59 of title 5, United States Code, as
16 amended by section 2309(a), is further amended by adding at
17 the end thereof the following new section:

18 “§ 5928. Danger pay allowance

19 “An employee serving in a foreign area may be granted
20 a danger pay allowance on the basis of civil insurrection, civil
21 war, terrorism, or wartime conditions which threaten physi-
22 cal harm or imminent danger to the health or well-being of
23 the employee. A danger pay allowance may not exceed
24 twenty-five percent of the basic pay of the employee.”.

1 (b) The analysis for chapter 59 of title 5, United States
2 Code, as amended by section 2309(b), is further amended
3 by inserting after the item relating to section 5927 the
4 following:

“5928. Danger pay allowance.”.

5 SEC. 2311. LEAVE.—(a) Section 6301 of title 5, United
6 States Code, is amended by adding at the end thereof the
7 following new sentence:

8 “Notwithstanding clauses (x)–(xii) of paragraph (2), the term
9 ‘employee’ includes any member of the Senior Foreign Serv-
10 ice or any Foreign Service officer (other than a member or
11 officer serving as chief of mission or in a position in the De-
12 partment of State which requires appointment by and with
13 the advice and consent of the Senate) and any member of the
14 Foreign Service commissioned as a diplomatic or consular
15 officer, or both, under section 312 of the Foreign Service Act
16 of 1980.”.

17 (b) Section 6304 of title 5, United States Code, is
18 amended—

19 (1) in subsection (a) by striking out “and (f)” and
20 inserting in lieu thereof “(f), and (g)”; and

21 (2) by adding at the end thereof the following new
22 subsection:

1 “(g) Annual leave accrued by a member of the Senior
2 Foreign Service shall not be subject to the limitation on accu-
3 mulation otherwise imposed by this section.”.

4 SEC. 2312. RETIREMENT CREDIT FOR IMPRISONED
5 FOREIGN NATIONALS.—Section 8332(b) of title 5, United
6 States Code, is amended by striking out “and” at the end of
7 paragraph (8), by striking out the period at the end of para-
8 graph (9) and inserting in lieu thereof “; and”, and by insert-
9 ing after paragraph (9) the following new paragraph:

10 “(10) periods of imprisonment of a foreign nation-
11 al for which compensation is provided under section
12 410 of the Foreign Service Act of 1980, if the individ-
13 ual (A) was subject to this subchapter during employ-
14 ment with the Government last preceding imprison-
15 ment, or (B) is qualified for an annuity under this
16 subchapter on the basis of other service of the
17 individual.”.

18 SEC. 2313. CONFORMING AMENDMENTS TO TITLE
19 5.—(a) Section 3323(c) of title 5, United States Code, is
20 amended by striking out “Foreign Service officer retired
21 under section 1001 or 1002 of title 22 or a Foreign Service
22 staff officer or employee retired under section 1063 of title
23 22” and inserting in lieu thereof “member of the Foreign
24 Service retired under section 812 of the Foreign Service Act
25 of 1980”.

1 (b) Section 5102(c)(2) of title 5, United States Code, is
2 amended by striking out “employees in the Foreign Service
3 of the United States whose pay is fixed under chapter 14 of
4 title 22” and insert in lieu thereof “members of the Foreign
5 Service whose pay is fixed under the Foreign Service Act of
6 1980”.

7 (c)(1) Section 5301(c) of title 5, United States Code, is
8 amended—

9 (A) by inserting “or” at the end of paragraph (1);

10 (B) by striking out paragraph (2); and

11 (C) by redesignating paragraph (3) as paragraph

12 (2).

13 (2) Section 5303(a) of title 5, United States Code, is
14 amended—

15 (A) by inserting “or” at the end of paragraph (1);

16 (B) by redesignating paragraph (3) as paragraph

17 (2);

18 (C) by striking out “; or” at the end of such re-
19 designated paragraph and inserting in lieu thereof a
20 period; and

21 (D) by striking out paragraph (4).

22 (3) Section 5304 of title 5, United States Code, is
23 amended by striking out “chapter 14 of title 22” and insert-
24 ing in lieu thereof “the Foreign Service Act of 1980”.

1 (d) Section 5724(g) of title 5, United States Code, is
2 amended by striking out "chapter 14 of title 22" and insert-
3 ing in lieu thereof "the Foreign Service Act of 1980".

4 (e) Section 5727(e)(2) of title 5, United States Code, is
5 amended to read as follows:

6 "(2) This section, except subsection (a), does not affect
7 section 403e(4) of title 50."

8 (f)(1) Section 6301(2)(xii) of title 5, United States Code,
9 is amended by striking out "an officer who receives pay
10 under section 866 of title 22" and inserting in lieu thereof "a
11 chief of mission (as defined in section 102(a)(3) of the Foreign
12 Service Act of 1980)".

13 (2) Section 6305(b) of title 5, United States Code, is
14 amended by striking out "an officer" and inserting in lieu
15 thereof "a chief of mission".

16 (g) Section 7103(a)(2)(iv) of title 5, United States Code,
17 is amended by striking out "the Agency for International De-
18 velopment, or" and inserting before the semicolon ", the
19 United States International Development Cooperative
20 Agency, the Department of Agriculture, or the Department
21 of Commerce".

22 (h) Section 8501(1)(C) of title 5, United States Code, is
23 amended by striking out "Foreign Service personnel for
24 whom special separation allowances are provided under
25 chapter 14 of title 22" and inserting in lieu thereof "mem-

1 bers of the Foreign Service for whom payments are provided
2 under section 609(b)(1) of the Foreign Service Act of 1980”.

3 SEC. 2314. RETIREMENT CREDIT FOR “RADIO”
4 SERVICE.—(a) Subsection 8332(b) of title 5, United States
5 Code, is amended by adding the following new paragraph
6 (10) immediately following paragraph (9) thereof to read as
7 follows:

8 “(10) Subject to sections 8334(c) and 8339(i) of this
9 title, service in any capacity of at least 130 working days per
10 year performed after July 1, 1946 for the National Commit-
11 tee for a Free Europe; Free Europe Committee, Inc.; Free
12 Europe, Inc.; Radio Liberation Committee; Radio Liberty
13 Committee; or their subdivisions; Radio Free Europe/Radio
14 Liberty, Inc.; Radio Free Asia; the Asia Foundation; or the
15 American Forces Network, Europe (AFN-E).”.

16 (b) Such subsection 8332(b) is further amended by
17 adding at the very end the following:

18 “The Office of Personnel Management shall accept the
19 certification of the Executive Director of the Board for Inter-
20 national Broadcasting concerning services for the purposes of
21 this subchapter of the type performed by an employee named
22 by paragraph (10) of this subsection.”.

1 CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL
2 OVERSIGHT, AND EFFECTIVE DATE

3 SEC. 2401. SAVING PROVISIONS.—(a) All determina-
4 tions, authorizations, regulations, orders, agreements, exclu-
5 sive recognition of an organization or other actions made,
6 issued, undertaken, entered into, or taken under the authority
7 of the Foreign Service Act of 1946 or any other law re-
8 pealed, modified, or affected by this Act shall continue in full
9 force and effect until modified, revoked, or superseded by ap-
10 propriate authority. Any grievances, claims, or appeals which
11 were filed or made under any such law and are pending reso-
12 lution on the effective date of this Act shall continue to be
13 governed by the provisions repealed, modified, or affected by
14 this Act.

15 (b) This Act shall not affect any increase in annuity or
16 other rights to benefits, which was provided by any provision
17 amended or repealed by this Act, with respect to any individ-
18 ual who became entitled to such benefit prior to the effective
19 date of this Act.

20 (c) References in law to provisions of the Foreign Serv-
21 ice Act of 1946 or other law superseded by this Act shall be
22 deemed to include reference to the corresponding provisions
23 of this Act.

24 SEC. 2402. CONGRESSIONAL OVERSIGHT OF IMPLE-
25 MENTATION.—(a) Within fifteen months after the effective

1 date of this Act, the Secretary of State shall submit to the
2 Speaker of the House of Representatives and to the Commit-
3 tee on Foreign Relations of the Senate a report describing
4 the implementation of this Act during the fiscal year 1981 by
5 the agencies utilizing the Foreign Service personnel system.

6 Such report shall—

7 (1) describe the steps taken and planned in fur-
8 therance of (A) maximum compatibility among such
9 agencies, as provided for in section 203, and (B) the
10 development of uniform policies and procedures and
11 consolidated personnel functions, as provided for in
12 section 204;

13 (2) indicate the progress made by each such
14 agency in the conversion of personnel and position
15 classifications in accordance with chapter 1 of this
16 title; and

17 (3) specify the upper and lower limits planned by
18 each such agency for recruitment, advancement, and
19 retention of members of the Service, as provided for in
20 section 601(c)(2), including with respect to each of the
21 relevant promotion competition groups the projected
22 ranges of rates of appointment, promotion, and attrition
23 over each of the five fiscal years 1981 through 1985.

24 (b) Beginning in 1982, the Secretary of State shall
25 submit each year to the Speaker of the House of Representa-

1 tives and to the Committee on Foreign Relations of the
2 Senate a supplemental report describing any relevant devel-
3 opments with respect to the matters reported on under para-
4 graphs (1) and (2) of subsection (a) and, with respect to para-
5 graph (3) of such subsection, a revised projection of the
6 ranges of rates of appointment, promotion, and attrition over
7 each of the next five years, as well as a comparison of such
8 projections with the projections for the preceding year and
9 with actual rates of appointment, promotion, attrition. The
10 report shall explain fully any deviations from projections re-
11 ported in the preceding year.

12 (c) The Secretary shall consult, in accordance with the
13 procedures set out in section 1013(g), with the exclusive rep-
14 resentative (if any) of members of the Foreign Service in each
15 agency specified in section 1003(a) with respect to steps to
16 be taken in implementing this Act and reported under this
17 section. To that end, each such exclusive representative will
18 have timely access to all relevant information at each stage.
19 Each such report shall include the views of each such exclu-
20 sive representative on any and all aspects of the report and
21 the information contained in such report.

22 SEC. 2403. EFFECTIVE DATE.—(a) Except as other-
23 wise provided, this Act shall take effect on October 1, 1980.

24 (b)(1) Chapter 8 of title I of this Act shall take effect on
25 the later of October 1, 1980, or the 90th day after the date of

1 enactment of this Act. If such effective date is after October
2 1, 1980, the provisions of sections 519, 631, 632, and 636
3 and of title VIII of the Foreign Service Act of 1946, and the
4 provisions of section 8 and 9 of Public Law 90-494, shall
5 remain in effect until such effective date, notwithstanding the
6 repeal of those provisions by section 2205.

7 (2) The provisions of such chapter regarding the rights
8 of former spouses to any annuity under section 814(a) shall
9 apply in the case of any individual who after such effective
10 date becomes a former spouse of an individual who separates
11 from the Service after such date.

12 (3) The provisions of such chapter regarding the rights
13 of former spouses to receive survivor annuities under section
14 814(b) shall apply in the case of participants or former par-
15 ticipants in the Foreign Service Retirement and Disability
16 System who die after such effective date.

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96TH CONGRESS
2D Session

S. 3058

[Report No. 96-913]

A BILL

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

August 22 (legislative day, June 12), 1980

Ordered to be placed on the calendar