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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

General Counsel

83-05049

June 13, 1983

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of Justice  
Department of State  
Department of Defense  
Central Intelligence Agency

SUBJECT: OPM draft bill, "To amend section 8312 of title 5, United States Code, to provide that an individual may not be paid an annuity under the civil service retirement system or other retirement system of the Government of the United States for service as a Federal employee if convicted of any felony which occurred in connection with his employment as a Federal employee and is punishable by imprisonment for two or more years, and for other purposes."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than July 8, 1983.

Questions should be referred to Frank White ( 395-6156 ) or to Hilda Schreiber ( 395-4650 ), the legislative analyst in this office.

Jeffrey A. Weinberg for  
Assistant Director for  
Legislative Reference

Enclosures



United States  
**Office of  
Personnel Management**

Washington, D.C. 20415

In Reply Refer To.

Your Reference:

The Honorable George Bush  
President  
United States Senate  
Washington, D.C. 20510

Dear Mr. President:

The Office of Personnel Management submits herewith a legislative proposal "To amend section 8312 of title 5, United States Code, to provide that an individual may not be paid an annuity under the civil service retirement system or other retirement system of the Government of the United States for service as a Federal employee if convicted of any felony which occurred in connection with his employment as a Federal employee and is punishable by imprisonment for two or more years, and for other purposes."

As the title of the bill indicates, its purpose is to preclude the payment of an annuity of the Government of the United States to an individual (or his survivor or beneficiary) if the individual has been convicted of a job-connected felony under State or Federal law which is punishable by at least two years imprisonment. The bill amends section 8312 of title 5, United States Code which presently denies Government annuities to individuals convicted of national security related offenses.

In addition the bill amends section 8318 of title 5, which presently provides for restoration of annuity or retired pay withheld under section 8312 after Presidential pardon. The amendment would provide for restoration on the basis of a pardon by the Governor in the case of a conviction of a felony under State law.

We believe that the withholding of a Government annuity is fully justified where the Federal employee breaks faith with the American people by using his office to engage in felonious conduct. By limiting the application of this legislation to felonies which are punishable by imprisonment for at least two years, we eliminate the less serious offenses where denial of an annuity might not be justified.

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The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposal to the Congress. A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

Donald J. Devine  
Director

A BILL

To amend section 8312 of title 5, United States Code, to provide that an individual may not be paid an annuity under the civil service retirement system or other retirement system of the Government of the United States for service as a Federal employee if convicted of any felony which occurred in connection with his employment as a Federal employee and is punishable by imprisonment for two or more years, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8312 of title 5, United States Code, relating to denial of annuities for conviction of certain offenses, is amended by adding at the end thereof the following:

"(d) An individual, or his survivor or beneficiary, may not be paid an annuity on the basis of service as an employee if the individual is convicted of any felony under State or Federal law which -

"(1) occurred in connection with the individual's employment by the United States;

"(2) is punishable by imprisonment for two or more years; and

"(3) was committed on or after the date of the enactment of this subsection."

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(b) Section 8318 of title 5, United States Code, relating to restoration of annuity or retired pay, is amended by inserting after "is pardoned by the President" the following: "(or by the Governor of a State, in the case of a felony under the law of that State as described in section 8312(d) of this title)".

Section Analysis of Bill "To amend section 8312 of title 5, United States Code, to provide that an individual may not be paid an annuity under the civil service retirement system or other retirement system of the Government of the United States for service as a Federal employee if convicted of any felony which occurred in connection with his employment as a Federal employee and is punishable by imprisonment for two or more years, and for other purposes."

Subsection (a) of the bill amends sections 8312 of title 5, United States Code, which provides for denial of United States Government annuities for conviction of certain national security-related offenses, to add a subsection (d). The new subsection would prohibit the payment of an annuity to an individual or his survivor or beneficiary on the basis of his service as an employee if the individual is convicted of a job-related felony under State or Federal law which is punishable by imprisonment for two or more years. Existing section 8311 of title 5 defines for purposes of the subchapter, including section 8312, "employee" to include Federal employees and Members of Congress and "annuity" as a retirement benefit payable by an agency of the Government of the United States on the basis of service as a civilian employee and other creditable service. Existing section 8316, which provides for refund of contributions and deposits when annuity or retired pay is denied, would apply in cases covered by this proposed legislation.