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SENATE RETIREMENT PROPOSAL
for new federal employees
and comparison with current
Civil Service Retirement System

1. BASIC PENSION PLAN

	Current CSRS	Senate bill (July 30, 1985)
Eligibility	Federal employees who are not covered by social security.	Federal employees who are covered by social security.
Required employee contributions	7% of total pay.	None, except for social security.
Vesting of retirement benefits	5 years service, provided employee does not withdraw his own contributions.	5 years service.
Salary base	Average of high-3 yrs salary.	Average of high-5 yrs salary.
Retirement benefit formula (accrual rate)	1.5% x first 5 yrs. service, 1.75% x next 5 yrs. service, 2.0% x yrs. of svc. over 10; all times salary base.	1.0% times years of service.
Eligibility for retirement		
1. Unreduced	Age 55 & 30 years service, Age 60 & 20 years service, Age 62 & 5 years service.	Age 62 & 5 years service.
2. Reduced	No provisions.	Age 55 & 10 years service.
3. Involuntary	Age 50 & 20 yrs. service. Any age & 25 yrs. service.	Age 50 & 20 yrs. service. Any age & 25 yrs. service.
4. Deferred vested	At least 5 yrs. service, and does not withdraw employee contributions.	At least 5 yrs. service when employment terminates.
Amount of retirement benefits		
1. Unreduced	Based on accrual rate, without reduction.	Based on accrual rate, without reduction.
2. Reduced	No provisions.	(A) Age 55 & 30 yrs. service, benefit reduced 2% for each year under age 62. (B) Age 55 & 10 yrs. service, benefit reduced 5% for each year under age 62.
3. Involuntary	Reduced 2% for each year under age 55.	Reduced 2% for each year under age 62.
4. Deferred vested	Accrued benefit payable at age 62.	Full accrued benefit payable at age 62. Reduced benefit can be elected when former employee attains age 55 with the service needed for early retirement (10 years or 30 years), with reductions at 5% or 2% per year under 62.
Refunds	Option to withdraw at separation sums contributed with benefits forfeited.	No contributions, thus no refund.
Cost-of-living adjustments (COLAs)	Annually, 100% of rate of inflation as measured by increase in Consumer Price Index (CPI).	Annually, equal to rate of increase in CPI, minus 2 percentage points.
Optional forms of benefits	Joint-&-survivor annuity. (Survivor annuity is 55% of employee's unreduced annuity. If spouse dies first, annuity to employee is restored to unreduced amount.) Subsidized (less than full actuarial reduction).	1. Joint-&-survivor annuity. (Survivor annuity is 50% of employee's reduced annuity. If spouse dies first, annuity to employee is restored to unreduced amount.) 2. Social security leveling option. (Benefits are higher at age 55-62, lower after 62.) Full actuarial reduction.
Suspension of benefits during re-employment	Applies only to involuntary retirement cases.	Applies to all retirements.

2. THRIFT-SAVINGS PLAN

	Current CSRS	Senate bill (July 30, 1985)																																						
Contributions (excluded from gross income for tax purposes before account is paid out):																																								
1. Paid by employee and matched by employer	N/A	Up to 5% of pay, with employer matching at \$1 for each \$1.																																						
2. Additional voluntary employee contributions, not matched by employer	N/A	Up to 5% of pay.																																						
Vesting	N/A	Employee is immediately vested for own contributions, employer contributions vested at 20% after 1 year of service, increasing to 100% after 5th year, with any investment gains/losses.																																						
Investments																																								
1. Employee may elect investment of own account in:	N/A	<p>Fund A--Government securities.</p> <p>Fund B--Fixed-income securities, using insurance company Guaranteed Investment Contracts (GICs) or other private-sector assets.</p> <p>Fund C--Equities, using an index fund (invested in proportion to a diversified common stock portfolio such as Standard & Poor's 500 Stock Index).</p>																																						
2. Phase-in of private-sector investment option after thrift plan contributions begin:		<table border="1"> <thead> <tr> <th rowspan="2">Contributions in cal. year</th> <th colspan="2">Required to be in gov't securities</th> </tr> <tr> <th>Employee</th> <th>Employer</th> </tr> </thead> <tbody> <tr><td>1986</td><td>N/A</td><td>N/A</td></tr> <tr><td>1987</td><td>100%</td><td>100%</td></tr> <tr><td>1988</td><td>80</td><td>100</td></tr> <tr><td>1989</td><td>60</td><td>100</td></tr> <tr><td>1990</td><td>40</td><td>100</td></tr> <tr><td>1991</td><td>20</td><td>100</td></tr> <tr><td>1992</td><td>0</td><td>100</td></tr> <tr><td>1993</td><td>0</td><td>80</td></tr> <tr><td>1994</td><td>0</td><td>60</td></tr> <tr><td>1995</td><td>0</td><td>40</td></tr> <tr><td>1996</td><td>0</td><td>20</td></tr> </tbody> </table>	Contributions in cal. year	Required to be in gov't securities		Employee	Employer	1986	N/A	N/A	1987	100%	100%	1988	80	100	1989	60	100	1990	40	100	1991	20	100	1992	0	100	1993	0	80	1994	0	60	1995	0	40	1996	0	20
Contributions in cal. year	Required to be in gov't securities																																							
	Employee	Employer																																						
1986	N/A	N/A																																						
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Payout of employee retirement accounts	N/A	<p>Employee may elect payout of vested account balance:</p> <ol style="list-style-type: none"> As annuity. In cash (at retirement age or death). As rollover to IRA (at termination of employment or death). <p>Active employees may not withdraw funds.</p> <p>Hardship loans to employees are to be allowed on or after January 1, 1988.</p>																																						

3. SURVIVOR BENEFITS

	Current CSRS	Senate bill (July 30, 1985)
Preretirement death benefit, spouse or former spouse.	<p>At death of active employee with 18 months service, surviving spouse gets 55% of:</p> <p>(A) annuity earned at death, or, if larger, the lesser of (B) or (C).</p> <p>(B) 40% of salary base, or</p> <p>(C) annuity earned with service projected to age 60 at same salary base.</p> <p>Group life insurance benefits also are payable, if employee elects to contribute part of cost.</p>	<p>Surviving spouse may get:</p> <p>(A) Any social security benefits payable.</p> <p>(B) Group life. Employer pays the full cost of basic group life amount equal to the basic amount under current law. (This is one times annual pay rounded to next higher \$1,000, plus \$2,000, at ages 45 and over, and is higher for those under age 45.)</p> <p>(C) At death of individual who is eligible to retire, lifetime pension equal to 50% of pension, reduced for early retirement and for election of 50% joint-and-survivor annuity.</p> <p>(D) At death of individual who is vested but not eligible to retire, lifetime benefit (commencing when the individual first would have been eligible to retire) equal to 50% of pension, reduced for early retirement and for election of 50% joint-and-survivor annuity.</p> <p>(E) Thrift plan account.</p>
Preretirement death benefit, children	Unrelated to annuity; annually adjusted dollar amount varied by number of children, and whether or not orphaned.	None from plan; benefits provided by social security.
Optional post-retirement death benefit, spouse or former spouse	55% of earned retirement annuity unless choice jointly rejected; option results in 2.5% reduction to first \$3,600 of annuity and 10% reduction to annuity over \$3,600.	Annuity to married retiree is automatically reduced actuarially as in a 50% joint-and-survivor option to provide spouse a survivor annuity. (Automatic unless choice is jointly rejected.)
Children	Same as for pre-retirement death benefit.	None from plan; benefits provided from social security.
Special provisions for surviving former spouses, or new spouses due to marriage after retirement.	Benefits are the same as for surviving spouses, subject to elections and deposits in certain cases.	Benefits are the same as for surviving spouses, subject to elections and deposits in certain cases.

4. DISABILITY BENEFITS

	Current CSRS	Senate bill (July 30, 1985)
Administration and eligibility	Provided from CSRS, if employee has 5 years of service for eligibility. Customarily paid after sick leave is used up.	Provided under separate Long-Term Disability (LTD) plan with third-party administrator. Disability benefits are paid first from unused sick leave, then after no further waiting period from LTD plan, if employee has 18 months of service for LTD eligibility.
Definition of disability	Unable to do any job for which the employee is qualified in the same agency at the same grade level.	Employee must meet one of two definitions of disability-- 1. Social Security definition: Unable to work in substantial gainful activity. 2. Occupational definition: Unable to do any job for which the employee is qualified in the same agency and commuting area, at the same grade level. During disability, total income from work may not exceed 60% of pay level for former job, and employee may be given physical exams.
Disability benefit amounts	Annuity earned at onset, or if greater, the lesser of: (a) 40% of salary base, or (b) annuity based on service projected to age 60 at the same salary base.	60 percent of high-5, offset after 5-month waiting period by 100% of social security primary benefit, if any, payable to age 62. If employee meets only the occupational definition of disability, benefits are reduced one year after they begin to 40 percent of high-5, payable to age 55. Disability benefit amounts have annual cost-of-living adjustments (COLAs) that are the same as under the basic pension plan.
Retirement benefits after disability	Disability pension continues for life if no recovery before normal retirement age.	During LTD benefit period, employee's service continues to be credited toward basic retirement benefit formula, high-5 goes up by the same COLA used for the basic pen-

5. OTHER PROVISIONS

	Current CSRS	Senate bill (July 30, 1985)
Retirement ages for law enforcement, firefighters, air traffic controllers, etc.	<p>Law enforcement officers and firefighters may retire at age 50 & 20 years service. Benefit is 2.5% of high-3 times first 20 years of service, plus 2% times service beyond 20 years.</p> <p>Air traffic controllers may retire after 25 years, or at age 50 & 20 years, with unreduced benefits under the regular formula, but not less than 50% of high-3.</p> <p>Other groups have special contributions, benefits.</p>	<p>Law enforcement, firefighters, and air traffic controllers may retire at age 55 with 25 years of service. Supplement equal to social security payable between ages 55-62.</p> <p>National guard technicians may retire at age 55 with 30 years service, with no supplement payable.</p> <p>These classes may retire before age 55, if they have 25 years of service, with reduction of 5% per year below age 55, and with no supplement payable before 55.</p> <p>Other groups get the regular benefits of the plan.</p>
Treatment of non-federal employees as federal employees for purposes of retirement	Certain groups are included.	Newly hired employees of the D.C. government are excluded from this program. Other non-federal employees retain current coverage.
Transfers of current employees to new program	N/A	<p>Current employees may elect to join social security and new program through Dec. 31, 1987.</p> <p>Credit in current program stops, except that the high-3 pay continues to run. Employee retains survivor coverage from current plan, but not disability coverage. All service counts toward both programs' eligibility for retirement and vesting.</p> <p>Employee is given credit for prior federal service toward eligibility for long-term disability coverage, and the social security windfall-benefit reduction and public-pension spouse offset are waived.</p>
Effective date and transition from interim plan		<p>Effective date is Jan. 1, 1987.</p> <p>Participants who contributed toward interim plan after 1983 receive credit toward thrift plan for these contributions and matching employer contributions plus interest.</p>

Section-by-Section Analysis

The opening section (section 2) provides for the purpose of the legislation. The purposes delineated include providing a stable and flexible retirement plan which is comparable to good private sector retirement benefits plans, enhancing portability of retirement assets between Federal jobs and jobs outside the Federal government, and ensuring a fully funded and financially sound federal retirement program.

TITLE I - CIVIL SERVICE PENSION SYSTEM

Section 101(a) amends title 5, United States Code, by inserting a new chapter 84, entitled "Civil Service Pension System" (CSPS).

Subchapter I of this chapter provides definitions for administration of the CSPS, many of which are the same as or similar to those used in chapter 83 of title 5. New or modified definitions include average pay (highest 5 years) and basic pay (rate established pursuant to law, without regard to any limits on authority to pay). Definitions of firefighter and law enforcement officer are more specific than those used in chapter 83. The subchapter also identifies the participants in the new CSPS and specifies its relationship to the Social Security Act. Employees of the District of Columbia are specifically excluded. Employees of the current Civil Service Retirement System (CSRS) are included if they so choose pursuant to Section 8471.

Subchapter II describes the basic retirement plan, which is a defined benefits plan applicable to all permanent employees covered by the Social Security System on or after January 1, 1984 and any employees subject to the CSRS who elect to join the CSPS.

Section 8411 lists the combinations of age and service which establish entitlement to an immediate annuity.

Subsections (a) and (b) provide for an immediate annuity at age 55 with 10 years of service and age 62 with 5 years of service.

Subsections (c) and (d) provide for an immediate annuity to the special retirement classes (law enforcement officer, firefighter, or air traffic controller) after 25 years of service in the occupation.

Subsection (e) provides for an immediate annuity to an employee who is separated from the service involuntarily and who has completed 25 years of service or is not less than age 50 with 20 years of service.

Subsection (f) provides that the annuity authorized by this section is computed under sections 8413 through 8415 of this title.

Section 8412 provides for deferred retirement at age 62 to a participant who is under age 62 and separates from Federal employment after completing 5 years of service or at age 55 to a participant who is under age 55 and separates from Federal employment after completing 10 years of service.

Section 8413 provides the formula for computing the annuity a participant is entitled to receive. The formula is one percent of the average pay over the five highest consecutive years multiplied by the number of years of service. For the special retirement classes, an annuity supplement equal to the estimated amount of Social Security benefits payable at age 62 will be paid to annuitants from age 55 until age 62. This supplement will be increased annually by the percent increase in the Social Security Act average wage index. A pro rata formula for part time service is also specified.

Section 8414 provides for reduction of an immediate annuity that begins before age 62. The reduction is two percent for each year the participant is under age 62 on the date of a voluntary retirement at age 55 with 30 years of service or an involuntary retirement under section 8411(e). The annuity is reduced by five percent for each year the participant is under age 62 for a participant who elects to receive an annuity after age 55 but before completing 30 years of service. A five percent reduction for each year the participant is under age 55 applies to law enforcement officers, firefighters, air traffic controllers, and military reserve technicians.

Section 8415 provides for actuarially reducing an annuity to provide for one or more survivor annuities.

Subsection (a) provides for an automatic annuity reduction to provide a survivor annuity to the spouse of a married participant unless the participant and his or her spouse jointly waive the spouse's right to a survivor annuity as provided in section 8416.

Subsection (b) provides for an automatic annuity reduction when the participant has elected to provide a survivor annuity to a former spouse.

Section 8416 provides that OPM shall prescribe methods of payment of annuities and participant election of the method preferred. Included in those methods are a single life annuity and a joint-and-survivor annuity. An individual designated as having an insurable interest in the annuitant may receive an survivor annuity under this provision.

An individual who is married on the date he or she applies for payment of the annuity to begin may elect a method of payment other than a joint-and-survivor method only if the individual and his or her spouse jointly waive an annuity under this method.

Section 8417 provides that a participant who retires voluntarily prior to age 62 may elect to have his or her annuity payments adjusted in such a way that the total amount received before and after receipt of Social Security benefits begin is approximately the same. This does not apply to deferred retirement or to the special retirement classes.

Section 8418 provides that each Federal agency shall contribute an amount equal to the normal cost of the benefits for the agency's employees, as determined by OPM. It also provides for a yearly determination of the Fund's supplemental liability which is to be amortized over 30 years by payments from the Secretary of the Treasury or the Postmaster General of the United States, as appropriate. OPM may use the current CSRS Board of Actuaries for making actuarial determinations and valuations for the CSRS.

Section 8419 provides that military service is creditable service and that the Department of Defense Military Retirement Fund shall reimburse the fund annually for the normal cost relating to the military service of employees and members who become participants during the fiscal year. This excludes employees covered by the CSRS who elect under section 8471(a) to join the CSRS.

Subchapter III describes the thrift savings plan, which is an optional plan permitting participants to contribute a percentage of their basic pay or disability benefits to a selected investment vehicle and have those contributions matched by the government.

Section 8421 allows participants to contribute up to 10 percent of their basic pay to the thrift plan. Those participants who are receiving disability benefits may contribute up to 10 percent of the disability benefits payable. An opportunity to change the contribution amount will be provided at least annually. Employing agencies are

required to match the participant's contribution, up to five percent of the participant's annual rate of basic pay or the disabled participant's disability benefits. Amounts contributed to the thrift fund are not included in the employee's current gross income for income tax purposes.

Section 8422 provides a vesting schedule for the thrift plan. A participant immediately vests in his contributions and their earnings. Beginning after one year of service, the participant vests in 20 percent of the employer's contribution. This increases by 20 percent for each additional year of participation up to five years and beyond, when the entire share contributed by the employer, plus interest, is vested. A participant who dies while employed by the government immediately vests in 100 percent of the employer's contribution and the earnings on it. For a participant who separates from employment before becoming entitled to an immediate annuity, any employer contributions which he has not vested in are transferred to the Treasury for credit to Miscellaneous Receipts.

Section 8423 describes the optional ways an employee may choose from to receive thrift account payments from the thrift plan at separation from employment, depending on his or her status under the basic pension plan.

Subsection (a) permits a participant who is entitled to an immediate annuity to elect one of the four methods below:

- (1) An immediate annuity
- (2) A deferred annuity
- (3) A lump sum or installment withdrawal
- (4) Transfer to an individual retirement account
or other qualified retirement plan

Subsection (b) permits a participant who is entitled to a deferred annuity to elect one of the methods described above. For the first three methods, the money is not payable until the date of the participant's eligibility for retirement.

Subsection (c) permits a participant who is not eligible for any pension to elect one of the three methods below:

- (1) An annuity at age 62
- (2) A lump sum or installment withdrawal at age 62
- (3) Transfer to an individual retirement account
or other qualified retirement plan

Subsection (d) permits a participant who elected to defer an annuity payment to modify the date specified in that election.

Section 8424 describes how annuities available from the thrift plan will be computed and paid. The Thrift Investment Board will prescribe methods of payment which must include a single life annuity and a joint-and-survivor annuity. An individual designated as having an insurable interest in the annuitant is also covered under this provision. The amounts will be determined actuarially. Methods for providing

annual increases in the annuity payable must also be prescribed.

Section 8425 provides rules for elections by participants entitled to payments or transfers from the thrift plan.

Section 8426 establishes the Thrift Savings Fund and prescribes how monies in the Fund may be used. Included in these uses is a requirement for the Board to establish a program to make loans to participants in cases of hardship.

Section 8427 describes how employee and employer money will be invested.

Subsection (a) defines terms used in application of this section.

Subsection (b) requires the Board to establish three funds under which sums in the Thrift Savings Fund may be invested and provides an option to establish other funds. The funds are:

(1) A Government Securities Investment Fund which is invested in special issues of the Treasury.

(2) A Fixed Income Investment Fund which is invested in insurance contracts, certificates of deposits, or other instruments.

(3) A Common Stock Index Investment Fund which is invested in common stock issues included in a commonly recognized stock index, with the percentage invested in a given stock to be the same as the percentage of that stock's market value included in the index.

Subsection (c) specifies that sums in the Thrift Fund which are not designated or available to be invested in one of the other investment funds will be invested in the Government Securities Investment Fund.

Subsection (d) states that participants may elect, at least once each year, the investment funds into which they wish to have their Thrift Savings Fund invested or reinvested.

Subsection (e) specifies that, during the implementation phase of the Thrift Savings Fund, a certain percentage of the contributions made by and for the participant must be invested in the Government Securities Investment Fund. For participant contributions, the initial amount is 100%, reduced by 20% each year over a five year period, beginning in 1988. For agency contributions, the same phasing schedule applies, beginning in 1993. All amounts earned on these contributions must be reinvested in the Government Securities Investment Fund. Participants hired during the temporary adjustment period will have contributions for that period, as described in section 8475(b), invested in the Government Securities Fund.

Subsection (f) provides for the Secretary of the Treasury to issue, as needed by the Fund, two year notes bearing an interest rate equal to the average market yield of all such notes as of the end of the month preceding the date of issue.

Section 8428 prescribes how the Executive Director is to account for the funds of each participant in the System and requires that the participant be provided an annual statement of his or her account. An annual audit report by an independent qualified public accountant is also required.

Subchapter IV describes the benefits available to survivors of deceased participants and former participants from the basic plan and the thrift plan.

Section 8431 provides for payment of death benefits from the basic plan to the surviving spouse of a participant or a former participant other than an annuitant if the deceased had five or more years of service. If the participant or former participant was eligible to retire, the survivor gets 50 percent of the accrued annuity (computed as if he or she had retired the day before death, with any applicable reductions for early retirement and for election of a survivor benefit). If he or she was not eligible to retire, the benefit is computed as described above but payment is delayed until the date he or she would have been eligible to retire.

Section 8432 provides for payment of death benefits from the basic plan to the survivor of an annuitant in accordance with an election under section 8416, 8434(a), or 8436(c).

Section 8433 provides for survivor benefits from the thrift savings plan. If the deceased participant or former participant is not survived by a spouse, payment is made to an individual designated as having an insurable interest or,

if no such designation was made, to the deceased individual's estate. A surviving spouse entitled to payment of benefits may elect to receive the money under one of three methods.

These are:

- (1) An annuity
- (2) Transfer of the money to an individual retirement account
- (3) Lump sum or installment withdrawal

Section 8434 provides for basic and thrift savings plan survivor benefits to a spouse acquired after payment of the annuity begins. The election is effective the first day of the second month beginning after the election is received but not earlier than nine months after the date of the marriage. A deposit to retroactively fund this election is required as needed. An election of a annuity reduction to provide this benefit is not permitted if the spouse acquired after retirement was married to the annuitant when payment of the annuity began and the annuitant and spouse had jointly waived the right to a survivor benefit.

Section 8435 states the entitlement of eligible former spouses to receive survivor benefits from the basic plan and the thrift plan. The benefits from the basic plan are the same as for a surviving spouse under sections 8416, 8431, or 8432. Benefits from the thrift fund are determined actuarially.

Section 8436 provides for an annuitant to elect a survivor benefit from the basic plan and the thrift plan for an eligible former spouse.

Subsection (a) permits an annuitant who has a former spouse to elect an annuity reduction in order to provide a survivor annuity to such former spouse. The election must be made on or before the date the annuitant applies for payment of an annuity from the basic plan or, if later, within two years after the date on which the marriage of the former spouse to the annuitant is dissolved. A deposit, computed to reflect the amount by which the annuity would have been reduced if it had been continuously in effect since the date the annuity commenced, is required. An election of an annuity reduction to provide a survivor benefit to a former spouse shall not be effective if it:

- (1) conflicts with a court order or decree,
- (2) exceeds the funds available to pay it, or
- (3) is made without the written consent of the annuitant's spouse.

Subsection (b) provides that an annuitant whose annuity is being reduced to provide a survivor benefit to a former spouse may elect to provide or increase a survivor annuity for any other former spouse. This election must occur within two years after the former spouse's date of death or remarriage before age 55.

Subsection (c) provides for an annuitant to elect to provide a survivor annuity to his or her spouse if the entitlement of an eligible former spouse is terminated or reduced due to remarriage or death.

Subsection (d) provides for a waiver of the requirement that the spouse of a retiree waive a right to a survivor benefit in certain situation.

Section 8437 provides for termination of a survivor annuity on death of the spouse or former spouse, dissolution of the marriage, or remarriage of the former spouse before reaching age 55.

Section 8438 covers deposits to the Fund.

Subsection (a) requires a market rate of interest payment on any deposit needed to fund an annuity election under section 8434(c) or 8436.

Subsection (b) provides for offsetting the retiree's annuity if the required deposit is not made.

Subsection (c) permits OPM to extend the time limit for making the required deposit.

Subchapter V describes the disability benefits available to a participant who has at least 18 months of service.

Section 8441 provides definitions for the administration of this benefit.

Section 8442 provides that an eligible participant is entitled to receive benefits under this subchapter if disabled based on the Social Security definition and under 62 or if unable to work in his current position, not qualified for reassignment, and under 55. At age 62/55, the annuity is payable under the basic plan provisions of subchapter II based on at least 5 years actual service plus projected service through age 62/55. Average pay for the purpose of

converting the disabled person from the disability rolls to the retirement rolls at age 62/55 is the average pay on the date of disability, increased each time after that date by the Consumer Price Index minus two percentage points.

Section 8443 provides the following methods for computing disability benefits:

- (1) If eligible for Social Security or ineligible for Social Security only as a result of insufficient quarters of coverage, 60 percent of average pay minus 100 percent of the Social Security benefit while the participant is under age 62.
- (2) If occupationally disabled, 60 percent of average pay for the first year. After the first year, 40 percent of average pay minus Social Security benefits, if any, while the participant is under 55 years of age.

Section 8444 requires a claim for disability benefits to be filed before the date the participant separates from employment by the Federal Government or within 1 year after. This time limit may be waived by the administrator of benefits.

Section 8445 requires the administrator to direct medical examinations for disability retirement applicants or benefit recipients.

Section 8446 requires that an applicant who is determined able to perform the work required in any position offered by

his employing agency for which he is qualified, is at the same grade or level as his current position, and is within his commuting area, must be considered for appointment to such position. The applicant is entitled to appeal a determination that he is able to perform the work required of such position.

Section 8447 provides for termination of disability benefits to an individual who recovers from the disability before reaching age 62 or, in the case of an employee who is occupationally disabled, age 55. Recovery is presumed to occur when income for one year equals 60 percent of the current pay for the individual's former grade. These benefits may be resumed if there is a recurrence of disability. In the case of an individual whose benefits were terminated due to restored earning capacity, benefits are resumed if he is not reemployed within one year, his disability continues, and his income for one year is less than the amount establishing his restored earning capacity.

Section 8448 establishes that an individual is not entitled to receive both disability benefits under this chapter and injury compensation benefits under subchapter I of chapter 81 of this title for the same period of time.

Section 8449 provides for disability benefits for a military reserve technician who is separated from employment as a technician due to a disability which disqualifies him from membership in the National Guard or other reserve component, as the case may be, or from holding the military grade required for such employment and who is not placed in another position.

Section 8450 provides that OPM will contract with one or more insurance companies or other firms to serve as a third party administrator for the disability program provisions which OPM is not specifically required to administer. Each contract awarded may not exceed 5 years and may include a provision authorizing extensions for 1 year at a time.

Section 8451 provides requirements for an annual accounting by the third party administrator to OPM.

Section 8452 provides for the establishment of an Employees' Disability Insurance Fund in the U.S. Treasury and requires agencies to make payments to the fund from their salary appropriations.

Subchapter VI describes general provisions applicable to the administration of the basic plan.

Section 8461 provides that OPM shall pay all benefits payable under the basic plan from the Fund and shall administer all provisions not specifically required to be administered by the Board or any other agency. OPM is also authorized to contract for the performance of any of these functions.

Section 8462 provides for an annual adjustment to the basic pension as a result of an increase in the Consumer Price Index (CPI). The increase will be the percentage increase in CPI minus 2 percentage points. The adjustment is made in December (payable in January), and is based on the change from September to September. A pro rata share of the increase is payable to retirees or survivor annuitants for whom this is the first increase.

Section 8463 provides that each annuity and disability benefit is stated as an annual amount, one-twelfth of which is the monthly rate payable.

Section 8464 provides that a participant's annuity under the basic pension commences on the first day of the first month after the participant separates from government employment or such later date as he or she elects. It terminates on the date of death or other terminating event provided by law. It further provides that a survivor annuity commences on the first day of the first month after the date of death of the participant or retiree on whom the annuity is based and terminates on the last day of the last month ending before the surviving spouse dies or remarries before age 55, unless another date is specified in accordance with this chapter.

Section 8465 provides that an individual entitled to receive a basic pension may waive receipt of all or part of the benefits. An individual may also make allotments from the benefit payment.

Section 8466 provides that an application for benefits must be received before the former participant's 115th birthday; for survivor benefits, the application must be received within 30 years after the death or other event which establishes entitlement to the benefit.

Section 8467 requires compliance with the terms of a court order requiring payment of an annuity, in whole or in part, to another person.

Section 8468 provides for termination of an annuity when an annuitant is reemployed by the Government. Upon termination of the employment, his annuity rights are redetermined. The amount of the annuity resulting from a redetermination may not be less than the amount of the terminated annuity plus any COLA increases.

Subchapter VII outlines the transition provisions for individuals covered by the CSRS who choose to participate in the CSPA.

Section 8471 permits participants in the current system (CSRS), other than District of Columbia government employees, to elect to participate in the new system (CSPA) during the first year it is in effect and to retain accrued credit for entitlement to benefits under the CSRS for service subject to that system. It also provides that rehires who are required to participate in the CSPA retain credit earned under CSRS and are permitted to deposit to the CSRS fund any amount previously refunded. Survivor benefits may be payable based on conditions of eligibility and service under both CSRS and CSPA.

Section 8472 provides that CSRS participants who elect to participate in the CSPA are allowed credit for service under both systems for purposes of determining eligibility to retire in both systems and of vesting in the thrift plan. Pay for such individuals subsequent to beginning participation in the CSPA is taken into account in computing average pay under both systems. Disability benefits are provided only under the CSPA.

Section 8473 provides that service by a participant during the temporary adjustment period will be recognized as years of participation for the purpose of vesting in the employer's contributions to the Thrift Savings Fund under section 8422. For such participants, monies will be transferred from the Fund to the Thrift Savings Fund in an amount which equals twice his or her contributions plus interest for any calendar year at the rate determined under section 8334(e) of title 5. The amount transferred will be in the form of interest-bearing securities of the United States. For vesting purposes, half of the amount will be treated as a contribution from the participant and half as a contribution by the employing agency. Participants hired during the interim period who made a deposit to cover military service will receive a refund of the deposit.

Section 8474 defines "reemployed annuitant" for various Government retirement systems. This section provides that a reemployed annuitant retains entitlement to the Government retirement system under which he/she retired. It further provides that service performed as a reemployed annuitant under CSPA shall be credited only for eligibility to retire under CSPA and cannot be considered creditable service for the annuitant's previous retirement system. Also, pay earned as an employee before and after reemployment is considered in computing average pay under both the CSPA and the annuitant's Government retirement system.

Section 8475 excludes former CSRS participants who join the CSRS from the windfall reduction and the public pension offset provisions of the Social Security Act.

Section 8476 authorizes OPM to prescribe regulations to carry out this subchapter.

Subchapter VIII describes the Civil Service Thrift Investment Management System.

Section 8491 establishes a Civil Service Thrift Investment Board, composed of the Chairman of the Federal Reserve Board, the Secretary of the Treasury, the Director of OPM, and two representatives of Federal employee organizations appointed by the President, one of whom must be from a labor organization and one of whom must be from a Federal employee management organization. The Chairman of the Federal Reserve Board will chair the Board. Specific responsibilities of the Board are detailed here.

Section 8492 provides for the establishment of a Civil Service Thrift Advisory Committee, composed of six members appointed by the Board. Three are to be investment asset managers and three are to be administrators of thrift savings plans.

Section 8493 provides for the Board to appoint an Executive Director to carry out the policies of the Board in administering the Thrift Savings Fund. The Executive Director is authorized to enter into contracts as necessary to carry out these policies.

Section 8494 states the investment policy governing the Thrift Savings Fund. This includes a provision that investments chosen are likely to receive broad acceptance by participants and the public, and a provision that the two funds which specifically provide for private sector investments should not require a significant level of active investment decision-making.

Section 8495 provides rules of administration for the Board.

Section 8496 identifies fiduciaries and their responsibilities, defines "party in interest," states basic standards of fiduciary conduct, lists prohibited practices by fiduciaries, and describes penalties for committing a prohibited practice.

TITLE II - AMENDMENTS RELATING TO SOCIAL SECURITY.

Section 201 amends section 210(a)(5) of the Social Security Act to cover service performed by an individual who commences participation in the CSPA.

Section 202 amends section 3121(b)(5) of the Internal Revenue Code of 1954 to tax the wages of an individual who commences participation in the CSPA.

TITLE III - MISCELLANEOUS AND CONFORMING AMENDMENTS

Section 301 extends the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 from January 1, 1986 until January 1, 1987.

Section 502(a) amends section 8331 of title 5, United States Code, to limit coverage under the CSRS for District of Columbia government employees to those first employed before January 1, 1987.

Section 502(b) amends section 8332 of title 5, United States Code, by adding a new subsection excluding participants in the CSRS from receiving service credit under the CSRS, except in certain limited situations affecting participants retaining entitlement in the CSRS under section 8472.

Section 502(c) amends section 8333(b) of title 5, United States Codes to modify the requirement that an employee or Member must complete at least one year of creditable service as a participant in the CSRS out of the last two years before separation to include service under the CSRS. It also amends section 8333(c) by making the contribution requirements applicable only to service performed while not a participant in the CSRS.

Section 502(d) amends section 8334(a) of title 5, United States Code, relating to deductions from an employee's pay for both CSRS and Social Security coverage. An employee who was covered by the CSRS on December 31, 1983 and who was subsequently covered by Social Security will continue in the CSRS at a reduced contribution. The contribution to CSRS will be equal to the excess of the employee's normal CSRS contribution over the OASDI portion of the Social Security tax.

Section 302(e) amends section 8339 of title 5, United States Code, to specify that the CSRS benefit received by those covered under subsection (d) will be offset by 100% of the Social Security benefit attributable to federal service.

Section 302(f) amends section 8347(a) of title 5, United States Code, to permit OPM to contract for the performance of administrative services necessary to carry out its responsibilities under subchapter 83.

Section 302(g) amends section 8348(a) of title 5, United States Code, to clarify that the Civil Service Retirement and Disability Fund is available to pay benefits and administrative expenses for both chapters 83 and 84 of such title.

Section 303 amends section 1005(d) of title 39, United States Code, to include officers and employees of the Postal Service for coverage under the provisions of chapters 83 and 84 of title 5.

Section 304 requires agencies to pay all group life insurance basic plan costs for CSPS participants from salary appropriations.

Section 305 amends sections 8901(10) and 8905(c) of title 5, United States Code, to incorporate health benefit plan eligibility requirements for former spouses as a result of P.L. 98-615. It also amends section 8905(b) to permit a family member of a deceased employee or annuitant who was enrolled in a health benefits plan to continue that enrollment.

Section 506 amends section 2105(c) of title 5 to provide that chapter 84 does not apply to employees of certain non-appropriated fund instrumentalities.

TITLE IV - AUTHORIZATION AND EFFECTIVE DATES.

Section 401 provides for payment of the fiscal year 1986 and 1987 expenses of the Civil Service Thrift Investment Board from appropriations.

Section 402 provides that this act takes effect January 1, 1987, except for subchapter VIII of chapter 84 (relating to the Civil Service Thrift Investment Board), which takes effect on the date of enactment, and the loan program required by section 8426(e) which must be established not later than January 1, 1988.

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99th CONGRESS
1st Session

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. Stevens (for himself and Mr. Roth) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled,
3 That this Act may be cited as the "Civil Service Pension
4 Reform Act of 1985".

5 PURPOSES

6 Sec. 2. The purposes of this Act are--

7 (1) to provide Federal employees with a retirement
8 benefits plan which is comparable to good private sector
9 retirement benefits plans;

10 (2) to promote financial stability and flexibility
11 for the future of each Federal employee;

12 (3) to ensure a fully funded and financially sound

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1 Federal Government retirement benefits plan;

2 (4) to enhance portability of retirement assets
3 between Federal jobs and jobs outside the Federal
4 Government;

5 (5) to increase the options of each Federal employee
6 with respect to retirement benefits plans;

7 (6) to encourage Federal employees to increase
8 personal savings for retirement;

9 (7) to include Federal employees in the investment
10 decisionmaking process with respect to the assets of the
11 retirement system; and

12 (8) to extend financial protection from disability to
13 additional Federal employees and to increase such
14 protection for eligible Federal employees.

15 TITLE I--CIVIL SERVICE PENSION SYSTEM

16 ESTABLISHMENT

17 Sec. 101. (a) Title 5, United States Code, is amended by
18 inserting after chapter 83 the following new chapter:

19 ``CHAPTER 84--CIVIL SERVICE PENSION SYSTEM

``SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

``Sec.

``8401. Definitions.

``8402. Civil Service Pension System; participation.

``8403. Relationship to the Social Security Act.

``SUBCHAPTER II--BASIC PLAN

``8411. Entitlement to immediate retirement.

``8412. Entitlement to deferred retirement.

``8413. Computation of annuity.

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- ``8414. Reduction for early retirement.
- ``8415. Reduction for survivor annuities.
- ``8416. Methods of payments.
- ``8417. Level benefits option.
- ``8418. Funding.
- ``8419. Funding of annuity attributable to military service.

``SUBCHAPTER III--THRIFT SAVINGS PLAN

- ``8421. Contributions.
- ``8422. Vesting.
- ``8423. Entitlement and elections relating to entitlement.
- ``8424. Annuities: methods of payment; election; and computation.
- ``8425. Administrative provisions relating to payments and elections.
- ``8426. Thrift Savings Fund.
- ``8427. Investment of Thrift Savings Fund.
- ``8428. Accounting.

``SUBCHAPTER IV--SURVIVOR BENEFITS

- ``8431. Basic plan spousal benefits relating to the death of a participant or former participant other than an annuitant.
- ``8432. Basic plan spousal and insurable interest benefits relating to the death of an annuitant.
- ``8433. Survivor benefits under the thrift savings plan.
- ``8434. Basic and thrift savings plan survivor benefits relating to marriage after commencement of an annuity.
- ``8435. Survivor benefits for former spouses: entitlements; amount.
- ``8436. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.
- ``8437. Termination of entitlement.
- ``8438. Deposits to the Fund.

``SUBCHAPTER V--DISABILITY BENEFITS

- ``8441. Definitions.
- ``8442. Entitlement.
- ``8443. Computation of benefits.
- ``8444. Application.
- ``8445. Medical examinations.
- ``8446. Offers of alternative employment.
- ``8447. Recovery or restoration of earning capacity.
- ``8448. Relationship to workers' compensation.
- ``8449. Military reserve technicians.

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- ``8450. Administrative provisions.
- ``8451. Annual accounting; special contingency reserve.
- ``8452. Federal Employees' Disability Insurance Fund.

``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- ``8461. Authority of the Office of Personnel Management.
- ``8462. Cost-of-living adjustment in basic plan annuities and survivor annuities.
- ``8463. Rate of benefits.
- ``8464. Commencement and termination of annuities.
- ``8465. Waiver, allotment, and assignment of benefits.
- ``8466. Application for benefits.
- ``8467. Court orders.
- ``8468. Annuities and pay on reemployment.

``SUBCHAPTER VII--TRANSITION PROVISIONS

- ``8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.
- ``8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.
- ``8473. Participants subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.
- ``8474. Reemployed annuitants under the Civil Service Retirement and Disability System.
- ``8475. Exemption from certain offset provisions of the Social Security Act.
- ``8476. Regulations.

``SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT SYSTEM

- ``8491. Civil Service Thrift Investment Board.
- ``8492. Civil Service Thrift Advisory Committee.
- ``8493. Executive Director.
- ``8494. Investment policy.
- ``8495. Administrative provisions.
- ``8496. Fiduciary responsibilities; liability and penalty.

1 ``SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

2 ``§ 8401. Definitions

3 ``Except as otherwise provided in this chapter, for the

4 purposes of this chapter--

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1 “(1) the term ‘account’, when used with respect to a
2 participant or annuitant, means an account established
3 and maintained under section 8428(a) of this title;

4 “(2) the term ‘annuitant’ means a former participant
5 who is entitled to an annuity under this chapter and who
6 has applied under this chapter for the payment of the
7 annuity to commence;

8 “(3) the term ‘average pay’, when used with respect
9 to a participant, means the largest annual rate resulting
10 from averaging the participant’s rates of basic pay in
11 effect over any 5 consecutive years of creditable service
12 or, in the case of an annuity under this chapter based on
13 service of less than 5 years, over the total service,
14 with each rate weighted by the period it was in effect;

15 “(4) the term ‘basic pay’, when used with respect to
16 a participant--

17 “(A) means the lesser of--

18 “(1) the basic pay of the participant
19 established pursuant to law, without regard to
20 any provision of law (except sections 5308 and
21 5302(b) of this title) limiting the rate of pay
22 actually payable in any pay period (including any
23 provision of law restricting the use of
24 appropriated funds); or

25 “(ii) the rate of basic pay payable for

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1 level I of the Executive Schedule; and

2 "(B) includes the items described in

3 subparagraphs (A) through (D) of paragraph (3) of

4 section 8331 of this title and does not include the

5 items excluded by such paragraph;

6 "(5) the term 'Board' means the Civil Service Thrift

7 Investment Board established by section 8491(a) of this

8 title;

9 "(6) the term 'Civil Service Retirement and

10 Disability Fund' means the Civil Service Retirement and

11 Disability Fund referred to in section 8348 of this

12 title;

13 "(7) the term 'court', when used with respect to a

14 judgment, decree, order, or other judicial action, means

15 any court of the United States, a State, the District of

16 Columbia, the Commonwealth of Puerto Rico, or a territory

17 or possession of the United States, or any Indian court,

18 having jurisdiction to issue such judgment, decree, or

19 order or to take such other judicial action;

20 "(8) the term 'Director' means the Director of the

21 Office of Personnel Management;

22 "(9) the term 'dynamic assumptions' means economic

23 assumptions that are used in determining actuarial costs

24 and liabilities of a retirement system and in

25 anticipating the effects of long-term future--

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1 “(A) investment yields,

2 “(B) increases in rates of basic pay, and

3 “(C) rates of price inflation;

4 “(10) the term ‘earnings’, when used with respect to
5 the Thrift Savings Fund, means the amount of the gain
6 realized or yield received from the investment of sums in
7 such fund;

8 “(11) the term ‘eligible former spouse’, when used
9 with respect to a participant or former participant,
10 means a former spouse of the participant or former
11 participant who was married to the participant or former
12 participant for at least 9 months;

13 “(12) the term ‘employee’ means--

14 “(A) each individual referred to in
15 subparagraphs (A), (E), (F), (H), (I), and (J) of
16 section 8331(1) of this title, including an employee
17 of the United States Park Police and an employee of
18 the United States Secret Service; and

19 “(B) a Congressional employee as defined in
20 section 2107 of this title, including a temporary
21 Congressional employee;

22 any of whose service after December 31, 1983, is
23 employment for the purposes of title II of the Social
24 Security Act and chapter 21 of the Internal Revenue Code
25 of 1954, except that such term does not include any

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1 individual referred to in clause (i), (ii), (v), (vi), or
2 (ix) of paragraph (1) of section 8331 of this title or in
3 the undesignated material after clause (ix) of such
4 paragraph, any individual excluded under section
5 8402(b)(2) of this title, or any individual who was
6 subject to subchapter III of chapter 83 of this title on
7 December 31, 1983, and has not commenced participation in
8 the System pursuant to section 8471 of this title;

9 “(13) the term ‘Executive Director’ means the
10 Executive Director appointed under section 8493(a)(1) of
11 this title;

12 “(14) the term ‘firefighter’ means an employee the
13 duties of whose position--

14 “(A) are primarily to perform work directly
15 connected with the control and extinguishment of
16 fires; and

17 “(B) are sufficiently rigorous that employment
18 opportunities are required to be limited to young and
19 physically vigorous individuals, as determined by the
20 Director considering the recommendation of the
21 employing agency;

22 “(15) the term ‘Fund’ means the Civil Service
23 Retirement and Disability Fund;

24 “(16) the term ‘Government’ means the Federal
25 Government and Gallaudet College;

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1 “(17) the term ‘law enforcement officer’ means an
2 employee, the duties of whose position--

3 “(A) are primarily (i) the investigation,
4 apprehension, or detention of individuals suspected
5 or convicted of offenses against the criminal laws of
6 the United States, or (ii) the protection of
7 officials of the United States against threats to
8 personal safety; and

9 “(B) are sufficiently rigorous that employment
10 opportunities are required to be limited to young and
11 physically vigorous individuals, as determined by the
12 Director considering the recommendation of the
13 employing agency;

14 “(18) the term ‘loss’, when used with respect to the
15 Thrift Savings Fund, means the amount of the loss
16 realized from the investment of sums in such fund;

17 “(19) the term ‘lump-sum credit’ has the same
18 meaning as provided by section 8331(8) of this title;

19 “(20) the term ‘Member’ has the same meaning as
20 provided in section 2106 of this title, except that such
21 term does not include a person who (A) was a Member of
22 Congress on December 31, 1983, and (B) has not commenced
23 participation in the System pursuant to section 8471 of
24 this title;

25 “(21) the term ‘military reserve technician’ means a

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1 member of one of the reserve components of the Armed
2 Forces specified in section 261(a) of title 10 who--

3 "(A) is assigned to a civilian position as a
4 technician in the administration and training of such
5 reserve components or in the maintenance and repair
6 of supplies issued to such reserve components; and

7 "(B) as a condition of employment in such
8 position, is required to be a member of one of such
9 reserve components serving in a specified military
10 grade;

11 "(22) the term 'net earnings' means the excess of
12 earnings over losses;

13 "(23) the term 'net losses' means the excess of
14 losses over earnings;

15 "(24) the term 'normal cost' means the entry-age
16 normal cost of the provisions of the System which relate
17 to the Fund, computed by the Office in accordance with
18 generally accepted actuarial practice and standards
19 (using dynamic assumptions) and expressed as a level
20 percentage of aggregate basic pay;

21 "(25) the term 'Office' means the Office of
22 Personnel Management;

23 "(26) the term 'participant' means an employee or
24 Member or a person who is receiving disability benefits
25 under subchapter V of this chapter;

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1 “(27) the term ‘price index’ has the same meaning as
2 provided in section 8331(15) of this title;

3 “(28) the term ‘service’, when used with respect to
4 a participant or former participant, means--

5 “(A) employment as a participant;

6 “(B) subject to section 8419(a) of this title,
7 military service as provided in section 8332(c) of
8 this title; and

9 “(C) service that is creditable under subchapter
10 III of chapter 83 of this title, but only to the
11 extent provided in section 8472(a) of this title;

12 “(29) the term ‘supplemental liability’ means the
13 estimated excess of--

14 “(A) the actuarial present value of all future
15 benefits payable from the Fund under this chapter,
16 over

17 “(B) the sum of--

18 “(i) the actuarial present value of the
19 future contributions to be made on behalf of
20 participants pursuant to section 8418(a) of this
21 title; and

22 “(ii) the balance in the Fund attributable
23 to the System on the date the supplemental
24 liability is determined; and

25 “(30) the term ‘System’ means the Civil Service

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1 Pension System described in section 8402(a) of this
2 title.

3 ``§ 8402. Civil Service Pension System; participation

4 `` (a) The provisions of this chapter comprise the Civil
5 Service Pension System.

6 `` (b)(1) Except as provided in paragraph (2) of this
7 subsection, each employee and Member shall be a participant
8 in the System.

9 `` (2)(A) The Office may exclude from the operation of
10 this chapter an employee or group of employees in or under an
11 Executive agency whose employment is temporary or
12 intermittent, except an employee whose employment is part-
13 time career employment (as defined in section 3401(2) of this
14 title).

15 `` (B) The Architect of the Capitol may exclude from the
16 operation of this chapter an employee under the Office of the
17 Architect of the Capitol whose employment is temporary or of
18 uncertain duration.

19 `` (C) The Librarian of Congress may exclude from the
20 operation of this chapter an employee under the Library of
21 Congress whose employment is temporary or of uncertain
22 duration.

23 ``§ 8403. Relationship to the Social Security Act

24 `` Except as otherwise provided in this chapter, the
25 benefits payable under the System are in addition to the

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1 benefits payable under the Social Security Act.

2 ``SUBCHAPTER II--BASIC PLAN

3 ``§ 8411. Entitlement to immediate retirement

4 ``(a) An employee or a Member who is separated from
5 Government employment after becoming 55 years of age and
6 completing 10 years of service is entitled to an immediate
7 annuity.

8 ``(b) An employee or a Member who is separated from
9 Government employment after becoming 52 years of age and
10 completing 5 years of service is entitled to an immediate
11 annuity.

12 ``(c) An employee who is separated from Government
13 employment after completing 25 years of service as a law
14 enforcement officer or firefighter, or any combination of
15 such service totaling at least 25 years, is entitled to an
16 immediate annuity.

17 ``(d) An employee who is separated from Government
18 employment after completing 25 years as an air traffic
19 controller is entitled to an immediate annuity.

20 ``(e)(1) Except as provided in paragraphs (2) and (3) of
21 this subsection, any employee who has completed 25 years of
22 service, or is not less than 50 years of age and has
23 completed 27 years of service, and who--

24 ``(A) is separated from Government employment
25 involuntarily, except by removal for cause on charges of

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1 misconduct or delinquency, or

2 “(B) while serving in a geographic area designated
3 by the Director, is voluntarily separated from Government
4 employment during a period that (as determined by the
5 Director)--

6 “(1) the agency in which the employee is serving
7 is undergoing a major reorganization, a major
8 reduction in force, or a major transfer of function,
9 and

10 “(1i) a significant percentage of the total
11 number of employees serving in such agency will be
12 separated or subject to an immediate reduction in the
13 rate of basic pay (without regard to subchapter VI of
14 chapter 53 of this title or comparable provisions),
15 is entitled to an immediate annuity.

16 “(2) An employee described in paragraph (1)(A) of this
17 subsection is not entitled to an annuity under this
18 subsection if the employee has declined a reasonable offer of
19 another position in the employee's agency for which the
20 employee is qualified and the offered position is not lower
21 than 2 grades or pay levels below the employee's grade or pay
22 level and is within the employee's commuting area.

23 “(3) Paragraph (1) of this subsection shall not apply to
24 a firefighter, law enforcement officer, or air traffic
25 controller who has completed 25 years of service.

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1 “(f) An annuity authorized by this section is computed
2 under sections 8413 through 8415 of this title.

3 “§ 8412. Entitlement to deferred retirement

4 “(a) A participant who is under 55 years of age and
5 separates from Government employment after completing 10
6 years of service is entitled to an annuity to commence on or
7 after the date the participant becomes 55 years of age but
8 not later than the date the participant becomes 62 years of
9 age, as elected by the participant under rules prescribed by
10 the Office.

11 “(b) A participant who is under 62 years of age and
12 separates from Government employment after completing 5 years
13 of service and before completing 10 years of service is
14 entitled to an annuity to commence on the date the
15 participant becomes 62 years of age.

16 “(c) An annuity authorized by this section is computed
17 under sections 8413 through 8415 of this title.

18 “§ 8413. Computation of annuity

19 “(a)(1) Except as provided in section 8414 or 8415 of
20 this title, the amount of the annuity an annuitant is
21 entitled to receive under this subchapter shall be equal to
22 the product of 1 percent of the former participant's average
23 pay (while serving as an employee or Member) multiplied by
24 the participant's total service.

25 “(2) For the purposes of computing the amount of an

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1 annuity under paragraph (1) of this subsection, the total
2 service of a participant who separates from Government
3 employment entitled to an immediate annuity or who dies
4 leaving a survivor or survivors entitled to a survivor
5 annuity under this chapter includes days of unused sick leave
6 credited to the participant under a formal leave system to
7 the same extent that unused sick leave is credited in
8 computing an annuity of a person who is subject to subchapter
9 III of chapter 83 of this title, as provided in section
10 8339(m) of this title.

11 “(b)(1) A former participant who is entitled to receive
12 an annuity under subsection (c) or (d) of section 8411 of
13 this title and is at least 55 years of age and not more than
14 62 years of age shall be entitled to receive an annuity
15 supplement, in addition to the amount of the annuity computed
16 under subsection (a) of this section, while the former
17 participant is under 62 years of age.

18 “(2) The amount of the annuity supplement payable to a
19 former participant under paragraph (1) of this subsection
20 shall be equal to the estimated amount of the benefits that--

21 “(A) the former participant would be entitled to
22 receive under title II of the Social Security Act if the
23 participant were 62 years of age on the date the annuity
24 referred to in such paragraph commences; and

25 “(B) is attributable to service referred to in

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1 section 8411(c) or 8411(d) of this title, as the case may
2 be,
3 computed on the date such annuity commences and increased as
4 provided in paragraph (3) of this subsection.

5 `` (3) Effective on January 1 of each year, the amount of
6 the annuity supplement payable to a former participant under
7 this subsection shall be increased by the percentage
8 increase, if any, in the SSA average wage index (as defined
9 in section 215(1)(1)(G) of the Social Security Act) published
10 for November of the preceding year over such index published
11 for November of the next preceding year.

12 `` (c) In computing under this section the annuity of an
13 individual who has performed service on less than a full-time
14 basis, such service shall be credited on a proportional basis
15 equal to the fraction that such service is of full-time
16 service, and the annual rate of basic pay that would be
17 payable for full-time service in the position shall be deemed
18 to be the rate of basic pay.

19 `` § 8414. Reduction for early retirement

20 `` The annuity computed under section 8413(a) of this
21 title (without regard to this section or section 8415 of this
22 title)--

23 `` (1) for an annuitant, other than an annuitant
24 referred to in paragraph (2) or (3) of this section, who
25 is under 62 years of age on the date on which the

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1 annuitant's annuity commences shall be reduced by one-
2 sixth of 1 percent for each month that the annuitant is
3 under such age on such date;

4 "(2) for an annuitant, other than an annuitant
5 entitled to an immediate annuity under section 8411(e) of
6 this title and an annuitant referred to in paragraph (3)
7 of this subsection, who is at least 55 years of age and
8 is under 62 years of age on the date on which the
9 annuitant's annuity commences and has not completed 30
10 years of service shall be reduced by five-twelfths of 1
11 percent for each month that the annuitant is under 62
12 years of age on such date; and

13 "(3) for an annuitant who is entitled to an
14 immediate annuity under subsection (c) or (d) of section
15 8411 of this title or who separated from Government
16 employment as a military reserve technician shall be
17 reduced by five-twelfths of 1 percent for each month that
18 the annuitant is under 55 years of age on the date on
19 which the annuitant's annuity commences.

20 "§ 8415. Reduction for survivor annuities

21 "(a) The annuity of an annuitant computed under section
22 8413 of this title and, if appropriate, under section 8414 of

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1 this title shall be reduced by an estimated amount such that
2 the actuarial present value of the retirement benefits
3 expected to be payable to the annuitant under this subchapter
4 and all survivor benefits expected to be payable out of the
5 Fund with respect to the annuitant is equal to the actuarial
6 present value of the retirement benefits that would be
7 expected to be payable under this subchapter to the annuitant
8 pursuant to the method referred to in section 8416(a)(2)(A)
9 of this title, as determined under regulations prescribed by
10 the Office.

11 "(b) A reduction in the annuity of an annuitant pursuant
12 to subsection (a) of this section shall be adjusted, as
13 appropriate to carry out such subsection, to reflect any
14 change in circumstances relating to entitlement to a survivor
15 annuity, including any election made pursuant to section
16 8434(a), 8435(b), or 8435(c) of this title.

17 "§ 8416. Methods of Payment

18 "(a)(1) The Office shall prescribe methods of payment of
19 annuities under this subchapter.

20 "(2) The methods of payment prescribed under paragraph
21 (1) of this subsection shall include, but not be limited to--

22 "(A) a method which provides for the payment of a
23 monthly annuity only to an annuitant during the life of
24 the annuitant;

25 "(B) a method which provides for the payment of a

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1 monthly annuity to an annuitant and a monthly survivor
2 annuity equal to 50 percent of the annuitant's annuity on
3 the date of the annuitant's death (computed without
4 regard to an election under section 8417(a) of this
5 title) to the annuitant's surviving spouse, if any; and

6 "(C) a method which provides for the payment of a
7 monthly annuity to an annuitant and a monthly survivor
8 annuity equal to 50 percent of the annuitant's annuity on
9 the date of the annuitant's death (computed without
10 regard to an election under section 8417(a) of this
11 title) to an individual who is designated by the
12 annuitant and who has an insurable interest in the
13 annuitant.

14 "(b)(1) Subject to paragraphs (2) and (3) of this
15 subsection--

16 "(A) under such regulations as the Office shall
17 prescribe, a participant or former participant who is
18 applying for an annuity under this subchapter to commence
19 shall elect one of the methods of payment prescribed by
20 the Office under subsection (a) of this section; and

21 "(B) the annuity of an annuitant under this
22 subchapter shall be paid in accordance with the method of
23 payment elected by the annuitant pursuant to subparagraph
24 (A) of this paragraph.

25 "(2)(A) A participant or former participant who is

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1 married on the date on which the participant or former
2 participant applies for an annuity under this subchapter to
3 commence may elect a method of payment other than the method
4 described in subsection (a)(2)(B) of this section only if the
5 participant or former participant and the spouse of the
6 participant or former participant jointly waive a survivor
7 annuity under the method described in such subsection
8 (a)(2)(B).

9 “(B) A waiver shall not be effective for the purpose of
10 subparagraph (A) of this paragraph unless the waiver is made
11 in writing, is notarized, and is filed with the Office on or
12 before the date the annuity to which the waiver relates
13 commences.

14 “(C) A waiver made in accordance with this paragraph
15 shall be irrevocable.

16 “(3) In the case of an annuitant who is subject to
17 paragraph (2)(A) of this subsection and fails to make an
18 election under paragraph (1) of this subsection, an annuity
19 and survivor annuity shall be paid under the method of
20 payment described in subsection (a)(2)(B) of this section.

21 “(4) A participant or former participant may elect the
22 method prescribed under subsection (a)(2)(C) of this section
23 only if the participant or former participant is in good
24 health on the date the election is made, as determined by the
25 Office.

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1 ``§ 8417. Level benefits option

2 `` (a) Under regulations prescribed by the Office, an
3 annuity payable under this subchapter to a participant who is
4 separating from Government employment entitled to an
5 immediate annuity under subsection (a) of section 8411 of
6 this title and is less than 62 years of age may be adjusted
7 as provided in subsection (b) of this section, if elected by
8 the participant on or before the date of separation.

9 `` (b)(1) Subject to paragraph (2) of this subsection, an
10 annuity payable under this subchapter to an annuitant who has
11 made an election authorized by subsection (a) of this section
12 may be increased during the period the annuitant is not less
13 than 55 years of age and is less than 62 years of age and may
14 be reduced on and after the date the annuitant is not less
15 than 62 years of age as appropriate to provide the annuitant
16 an annuity under this subchapter, during each month of such
17 period, in an amount which approximately equals the total
18 amount of the monthly benefits payable to the annuitant under
19 this subchapter and section 202(a) of the Social Security Act
20 after such date.

21 `` (2) The actuarial present value of the benefits
22 expected to be paid under this subchapter to the annuitant as
23 provided in paragraph (1) of this subsection on and after the
24 date the annuitant becomes 55 years of age may not exceed the
25 actuarial present value of the benefits that would be

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1 expected to be paid under this subchapter to such participant
2 on and after such date if the adjustments authorized by such
3 paragraph were not made, as determined under regulations
4 prescribed by the Office.

5 ``§ 8418. Funding

6 `` (a)(1) Each agency of the Government employing a
7 participant shall contribute to the Fund an amount equal to
8 the sum of--

9 `` (A) the normal cost, as determined by the Office,
10 of (i) each participant who is employed by the agency,
11 and (ii) each disabled participant who is entitled to
12 benefits under section 8442(a) of this title and was
13 employed by the agency on the date the participant became
14 disabled (computed using average pay as increased in
15 accordance with section 8442(b)(2)(C) of this title); and

16 `` (B) the normal cost, as determined by the Office,
17 of the annuity supplement under section 8413(b) of this
18 title for each law enforcement officer, firefighter, and
19 air traffic controller who is employed by the agency.

20 `` (2) The contribution required by paragraph (1) of
21 this subsection to be made by an agency shall be made
22 from the appropriation or fund used to pay the agency's
23 participants, or, in the case of an elected participant,
24 from an appropriation or fund available for payment of
25 other salaries of the office or establishment of the

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1 participant. In the case of a participant in the
2 legislative branch who is paid by the Clerk of the House
3 of Representatives, contributions for the benefit of such
4 participant shall be paid from the contingent fund of the
5 House of Representatives.

6 "(b)(1) The Office shall compute--

7 "(A) the amount of the supplemental liability of the
8 Fund relating to participants and annuitants other than
9 participants and annuitants referred to in subparagraph
10 (B) of this paragraph, and

11 "(B) the amount of the supplemental liability of the
12 Fund relating to participants and annuitants who are
13 active or retired officers or employees of the United
14 States Postal Service,

15 as of the close of each fiscal year beginning after September
16 30, 1987.

17 "(2) The amounts of any supplemental liability--

18 "(A) computed pursuant to paragraph (1)(A) of this
19 subsection with respect to participants and annuitants
20 referred to in such paragraph (1)(A) of this subsection,
21 and

22 "(B) computed pursuant to paragraph (1)(B) of this
23 subsection with respect to participants and annuitants
24 referred to in such paragraph (1)(B),
25 shall each be amortized in thirty annual installments.

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1 “(3) At the end of each fiscal year, the Office shall
2 notify--

3 “(A) the Secretary of the Treasury of the amount of
4 the annual installment computed under paragraph (2)(A) of
5 this subsection for such fiscal year, and

6 “(B) the Postmaster General of the United States of
7 the amount of the annual installment computed pursuant to
8 paragraph (2)(B) of this subsection for such fiscal year.

9 “(4)(A) Before closing the accounts for a fiscal year,
10 the Secretary of the Treasury shall credit the amount of the
11 annual installment computed for such fiscal year pursuant to
12 paragraph (2)(A) to the Fund, as a Government contribution,
13 out of any money in the Treasury of the United States not
14 otherwise appropriated.

15 “(B) Upon receiving a notice required by paragraph
16 (3)(B) of this subsection, the United States Postal Service
17 shall pay to the Fund the amount of the annual installment
18 specified in the notice.

19 “(5) For the purpose of carrying out paragraph (1) of
20 this subsection with respect to any fiscal year, the Office
21 may--

22 “(A) require the Board of Actuaries of the Civil
23 Service Retirement System to make actuarial
24 determinations and valuations, make recommendations, and
25 maintain records in the same manner as provided in

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1 section 8347(f) of this title; and

2 (B) may use the latest actuarial determinations and
3 valuations made by such Board of Actuaries.

4 S 8419. Funding of annuity attributable to military service

5 (a) Except in the case of an individual making an
6 election under section 8471(a)(1)(A) of this title, a
7 participant's or former participant's service shall include
8 credit for military service as provided in section 8332(c) of
9 this title without regard to whether the participant or
10 former participant has made a deposit covering such military
11 service as provided in section 8334(j) of this title.

12 (b) Before closing the accounts for a fiscal year, the
13 Secretary of the Treasury shall reimburse the Fund from sums
14 in the Department of Defense Military Retirement Fund
15 (established by section 1461(a) of title 10), which are
16 hereby made available to pay the reimbursement, for the
17 normal cost relating to the creditable military service of
18 employees and Members who became participants during such
19 fiscal year, actuarially adjusted to the date of payment, as
20 determined by the Office.

21 (c) At the end of each fiscal year the Office shall
22 compute the amount of the reimbursement required by
23 subsection (b) of this section for the fiscal year and shall
24 notify the Secretary of the Treasury of that amount.

25 SUBCHAPTER III--THRIFT SAVINGS PLAN

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1 ``§ 8421. Contributions

2 `` (a)(1) Each participant may contribute to the Thrift
3 Savings Fund in any year an amount not exceeding 10 percent
4 of the participant's annual rate of basic pay.

5 `` (2) Each participant receiving disability benefits
6 under subchapter V of this chapter may, until becoming 62
7 years of age (in the case of a person who is disabled within
8 the meaning of section 8441(4)(A) of this title) or until
9 becoming 55 years of age (in the case of a person who is
10 disabled within the meaning of section 8441(4)(B) of this
11 title), contribute to the Thrift Savings Fund in any year an
12 amount not exceeding 10 percent of the amount of the former
13 participant's disability benefits payable under such
14 subchapter during such year.

15 `` (3) Any contribution under this subsection shall be
16 made only pursuant to a program of regular contributions
17 under regulations prescribed by the Board.

18 `` (4) At least once each year, a participant may modify
19 the amount contributed pursuant to paragraph (1) or (2) of
20 this subsection, as the case may be, under regulations
21 prescribed by the Board.

22 `` (b) The employing agency of a participant who
23 contributes to the Thrift Savings Fund under subsection (a)
24 of this section for any pay period, or, in the case of a
25 disabled participant who contributes to such fund under such

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1 subsection for any disability benefits payment period, the
2 employing agency of the participant on the date the
3 participant became disabled (as defined in section 8441(4) of
4 this title), shall contribute to the Thrift Savings Fund for
5 the benefit of such participant or disabled participant at
6 the end of such period an amount equal to such portion of the
7 amount of the participant's contribution as does not exceed 5
8 percent of the amount of the gross pay or gross disability
9 benefits, as the case may be, payable for such period.

10 “(c) The sums required to be contributed to the Thrift
11 Savings Fund by an employing agency under subsection (b) of
12 this section for the benefit of a participant shall be paid
13 from the appropriations or funds available to such agency to
14 pay the basic pay of participants or, in the case of an
15 elected participant, from an appropriation or fund available
16 for payment of other salaries of the participant's office or
17 establishment. In the case of a participant in the
18 legislative branch who is paid by the Clerk of the House of
19 Representatives, contributions for the benefit of such
20 participant shall be paid from the contingent fund of the
21 House of Representatives.

22 “(d) For purposes of the Internal Revenue Code of 1954--

23 “(1) any amount of the participant's pay which is
24 contributed to the Thrift Savings Fund, and the amount of
25 the employing agency's matching contributions, shall not

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1 be included in the gross income of the participant; and
2 "(2) the Thrift Savings Fund shall be treated, for
3 purposes of determining when amounts in such Fund are
4 included in the income of any participant, as described
5 in section 401(a) of such Code.

6 "(e) Subsection (d)(1) of this section shall not be
7 construed to provide that any amount of the participant's pay
8 which is contributed to the Thrift Savings Fund shall not be
9 included in the term 'wages' for purposes of section 209 of
10 the Social Security Act or section 3121(a) of the Internal
11 Revenue Code of 1954.

12 "§ 8422. Vesting

13 "(a)(1) A participant who separates from Government
14 employment shall be entitled to an amount equal to--

15 "(A) the total amount of the contributions made
16 under section 8421(a) of this title plus the total amount
17 of the net earnings in the Thrift Savings Fund, or minus
18 the total amount of the net losses, attributable to such
19 contributions; and

20 "(B) the applicable percentage of the amount equal
21 to the total amount contributed to the Thrift Savings
22 Fund for the benefit of the participant under section
23 8421(b) of this title plus the total amount of the net
24 earnings in the Thrift Savings Fund, or minus the total
25 amount of the net losses, attributable to such

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1 contributions, as provided in subsection (b) of this
2 section.

3 "(2) The amount to which a participant is entitled under
4 paragraph (1) of this subsection shall be payable in
5 accordance with the election made by the participant pursuant
6 to section 8423 of this title.

7 "(b)(1) For the purpose of subsection (a)(1)(B) of this
8 section, except as provided in paragraph (2) of this
9 subsection, the applicable percentage for a participant
10 separating from Government employment after having been a
11 participant in the System for a period set forth under column
12 I of the table below is the percentage set forth under column
13 II of the table below opposite the description of such
14 period:

"Column I	Column II
Period for which the participant has been a participant in the System:	Applicable percentage:
Less than 1 year.	0
Not less than 1 year, but less than 2 years	20
Not less than 2 years, but less than 3 years.	40
Not less than 3 years, but less than 4 years.	60
Not less than 4 years, but less than 5 years.	80
Not less than 5 years	100.

15 "(2) For the purposes of subsection (a)(1)(B) of this
16 section--

17 "(A) the percentage applicable in the case of any
18 participant who dies while employed by the Government
19 shall be 100 percent; and

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1 “(B) in the case of a participant making
2 contributions under section 8421(a)(2) of this title, the
3 period for which the person has been a participant in the
4 System shall include periods for which such contributions
5 were made.

6 “(c) When an election is made by a participant under
7 section 8423(c) of this title, the amount equal to the excess
8 of--

9 “(1) the sum of--

10 “(A) the amounts contributed to the Thrift
11 Savings Fund with respect to the participant under
12 section 8421 of this title; and

13 “(B) the net earnings in the Thrift Savings Fund
14 attributable to such contributions, over

15 “(2) the amount in the Thrift Savings Fund paid or
16 reserved for payment to or with respect to the
17 participant pursuant to section 8423(c) of this title,
18 shall be transferred to the Treasury of the United States for
19 credit to Miscellaneous Receipts.

20 “§ 8423. Entitlement and elections relating to entitlement

21 “(a) Any participant who separates from Government
22 employment entitled to an immediate annuity under section
23 8411 of this title is entitled and may elect--

24 “(1) to receive an immediate annuity from the Thrift
25 Savings Fund;

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1 “(2) to defer the commencement of the payment of an
2 annuity from the Thrift Savings Fund until such date as
3 the participant specifies;

4 “(3) to withdraw, in one or more payments, the
5 amount of the balance credited to the participant's
6 account in the Thrift Savings Fund; or

7 “(4) to transfer the amount of the balance in the
8 account to an individual retirement account or other
9 qualified plan (within the meaning of the Internal
10 Revenue Code of 1954) of the participant.

11 “(D) Any participant who separates from Government
12 employment entitled to a deferred annuity under section 3412
13 of this title is entitled and may elect--

14 “(1) to receive an annuity from the Thrift Savings
15 Fund to commence on the first date the participant is
16 entitled to receive the deferred annuity;

17 “(2) to defer the commencement of the payment of an
18 annuity from the Thrift Savings Fund until a date after
19 the first date the participant is entitled to receive the
20 deferred annuity, as specified by the participant;

21 “(3) to withdraw in one or more payments, on or
22 after the first date the participant is entitled to
23 receive the deferred annuity, the amount of the balance
24 credited to the participant's account in the Thrift
25 Savings Fund; or

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1 “(4) to transfer the amount of the balance in the
2 account to an individual retirement account or other
3 qualified plan (within the meaning of the Internal
4 Revenue Code of 1954) of the participant.

5 “(c) Any participant who separates from Government
6 employment before becoming entitled to an annuity under
7 section 8411 or 9412 of this title is entitled and may
8 elect--

9 “(1) to receive an annuity from the Thrift Savings
10 Fund to commence when the participant becomes 62 years of
11 age;

12 “(2) to withdraw, in one or more payments, the
13 amount computed under section 8422(a)(1) of this title,
14 payable when the participant becomes 62 years of age; or

15 “(3) to transfer such amount to an individual
16 retirement account or other qualified plan (within the
17 meaning of the Internal Revenue Code of 1954) of the
18 participant.

19 “(d)(1) Subject to paragraph (2) of this subsection, any
20 participant making an election pursuant to subsection (a)(2)
21 or (b)(2) of this section may modify the date specified in
22 the election or in a previous modification under this
23 subsection.

24 “(2) Any modification of an election under paragraph (1)
25 of this subsection may not be made on or after the date

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1 specified in the election or the latest modification made
2 under such paragraph and may not specify a date for the
3 commencement of annuity payments earlier than one month after
4 the date the modification is filed with the Executive
5 Director.

6 ``§ 8424. Annuities: methods of payment; election; and
7 computation

8 ``(a)(1) The Board shall prescribe methods of payment of
9 annuities under this subchapter.

10 ``(2) The methods of payment prescribed under paragraph
11 (1) of this subsection shall include, but not be limited to--

12 ``(A) a method which provides for the payment of a
13 monthly annuity only to an annuitant during the life of
14 the annuitant;

15 ``(B) a method which provides for the payment of a
16 monthly annuity to an annuitant for the joint lives of
17 the annuitant and the spouse of the annuitant and an
18 appropriate monthly annuity to the one of them who
19 survives the other of them for the life of the survivor;

20 ``(C) a method described in subparagraph (A) of this
21 paragraph which provides annual increases in the amount
22 of the annuity payable;

23 ``(D) a method described in subparagraph (B) of this
24 paragraph which provides annual increases in the amount
25 of the annuity payable; and

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1 “(E) a method providing for the payment of a monthly
2 annuity--

3 “(I) to the annuitant for the joint lives of the
4 annuitant and an individual, designated by the
5 annuitant under regulations prescribed by the Board,
6 who has an insurable interest in the annuitant; and

7 “(II) to the one of them who survives the other
8 of them for the life of the survivor.

9 “(b) Subject to paragraph (2) of this subsection, under
10 such regulations as the Board shall prescribe, an annuitant
11 electing under section 8423 of this title to receive an
12 annuity from the Thrift Savings Fund shall elect, on or
13 before the date on which the annuitant's annuity under this
14 subchapter commences, one of the methods of payment
15 prescribed by the Board under subsection (a) of this section.

16 “(c) The amount of an annuity payable under this
17 subchapter pursuant to the method elected under subsection
18 (b) of this section shall be determined on an actuarial basis
19 under regulations prescribed by the Board.

20 “§ 8425. Administrative provisions relating to payments and
21 elections

22 “(a) The Executive Director shall make or provide for
23 payments and transfers in accordance with an election of a
24 participant under section 8423 or 8424(b) of this title.

25 “(b) Any election under section 8423 or 8424(b) of this

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1 title shall be in writing and shall be filed with the
2 Executive Director in accordance with regulations prescribed
3 by the Board.

4 “(c) Notwithstanding any other provision of this
5 section, an election or modification of an election under any
6 provision of this subchapter shall not be effective if the
7 election or modification would result in a violation of the
8 terms of an applicable court decree of divorce, annulment, or
9 legal separation, or the terms of any court order or court-
10 approved property settlement agreement incident to a court
11 decree of divorce, annulment, or legal separation, as
12 determined by the Executive Director.

13 “§ 8426. Thrift Savings Fund

14 “(a) There is established in the Treasury of the United
15 States a Thrift Savings Fund.

16 “(b) The Thrift Savings Fund consists of the sum of all
17 amounts contributed under section 8421 of this title
18 increased by the total net earnings from investments of sums
19 in the Thrift Savings Fund or reduced by the total net losses
20 from investments of the Thrift Savings Fund.

21 “(c) The sums in the Thrift Savings Fund are
22 appropriated and shall remain available without fiscal year
23 limitation--

24 “(1) to invest under section 8427 of this title;

25 “(2) to pay benefits under this subchapter;

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1 “(3) to pay the administrative expenses of the Civil
2 Service Thrift Investment Management System prescribed in
3 subchapter VIII of this chapter; and

4 “(4) to make loans to participants as authorized
5 under subsection (e) of this section.

6 “(d)(1) Except as provided in paragraph (2) of this
7 subsection, sums in the Thrift Savings Fund are not subject
8 to execution, levy, attachment, garnishment, or other legal
9 process.

10 “(2) Moneys due or payable from the Thrift Savings Fund
11 to any individual and, in the case of an individual who is a
12 participant, moneys which the individual would be entitled to
13 receive under section 8422 of this title upon separation from
14 Government employment shall be subject to legal process for
15 the enforcement of the individual's legal obligations to
16 provide child support or make alimony payments as provided in
17 section 459 of the Social Security Act (42 U.S.C. 659) or to
18 pay any indebtedness of the individual to the United States.

19 “(e) The Board shall establish a program to make loans
20 from the Thrift Savings Fund to a participant in case of
21 financial hardship and shall prescribe regulations to carry
22 out such program. Any such loan shall be made only out of
23 sums contributed to the Thrift Savings Fund by the
24 participant and net earnings attributable to such sums.

25 “(f) The sums in the Thrift Savings Fund shall not be

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1 appropriated and may not be used for any purpose other than
2 the purposes specified in this section.

3 ``§ 8427. Investment of Thrift Savings Fund

4 ``(a) For the purposes of this section--

5 ``(1) the term 'Common Stock Index Investment Fund'
6 means the Common Stock Investment Fund established under
7 subsection (c)(1)(C) of this section;

8 ``(2) the term 'equity capital' means common and
9 preferred stock, surplus, undivided profits, contingency
10 reserves, and other capital reserves;

11 ``(3) the term 'Fixed Income Investment Fund' means
12 the Fixed Income Investment Fund established under
13 subsection (b)(1)(3) of this section;

14 ``(4) the term 'Government Securities Investment
15 Fund' means the Government Securities Investment Fund
16 established under subsection (b)(1)(A) of this section;

17 ``(5) the term 'net worth' means capital, paid-in and
18 contributed surplus, unassigned surplus, contingency
19 reserves, group contingency reserves, and special
20 reserves;

21 ``(6) the term 'plan' means an employee benefit plan,
22 as defined in section 3(3) of the Employee Retirement
23 Income Security Act of 1974 (29 U.S.C. 1002(3));

24 ``(7) the term 'qualified professional asset manager'
25 means--

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1 “(A) a bank, as defined in section 202(a)(2) of
2 the Investment Advisers Act of 1940 (15 U.S.C. 82b-
3 2(a)(2)) which--

4 “(i) has the power to manage, acquire, or
5 dispose of assets of a plan; and

6 “(ii) has, as of the last day of its latest
7 fiscal year ending before the date of a
8 determination for the purpose of this clause,
9 equity capital in excess of \$1,000,000;

10 “(B) a savings and loan association, the
11 accounts of which are insured by the Federal Savings
12 and Loan Insurance Corporation, which--

13 “(i) has applied for and been granted trust
14 powers to manage, acquire, or dispose of assets
15 of a plan by a State or Government authority
16 having supervision over savings and loan
17 associations; and

18 “(ii) has, as of the last day of its latest
19 fiscal year ending before the date of a
20 determination for the purpose of this clause,
21 equity capital or net worth in excess of
22 \$1,000,000;

23 “(C) an insurance company which--

24 “(i) is qualified under the laws of more
25 than one State to manage, acquire, or dispose of

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1 any assets of a plan;

2 "(ii) has, as of the last day of its latest
3 fiscal year ending before the date of a
4 determination for the purpose of this clause, net
5 worth in excess of \$1,000,000; and

6 "(iii) is subject to supervision and
7 examination by a State authority having
8 supervision over insurance companies; or

9 "(D) an investment adviser registered under
10 section 203 of the Investment Advisers Act of 1940
11 (15 U.S.C. 87b-3) if the investment adviser has, on
12 the the last day of its latest fiscal year ending
13 before the date of a determination for the purpose of
14 this subparagraph, total client assets under its
15 management and control in excess of \$50,000,000,
16 and--

17 "(i) the investment adviser has, on such
18 day, shareholder's or partner's equity in excess
19 of \$750,000; or

20 "(ii) payment of all of the investment
21 adviser's liabilities, including any liabilities
22 which may arise by reason of a breach or
23 violation of a duty described in section 8497 of
24 this title, is unconditionally guaranteed by--

25 "(I) a person who directly or

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1 indirectly, through one or more
2 intermediaries, controls, is controlled by,
3 or is under common control with the
4 investment adviser and who has, on the last
5 day of the person's latest fiscal year ending
6 before the date of a determination for the
7 purpose of this clause, shareholder's or
8 partner's equity in an amount which, when
9 added to the amount of the shareholder's or
12 partner's equity of the investment adviser on
11 such day, exceeds \$750,000;

12 "(II) a qualified professional asset
13 manager described in subparagraph (A), (B),
14 or (C) of this paragraph; or

15 "(III) a broker or dealer registered
16 under section 15 of the Securities Exchange
17 Act of 1934 (15 U.S.C. 78o) that has, on the
18 last day of the broker's or dealer's latest
19 fiscal year ending before the date of a
20 determination for the purpose of this clause,
21 net worth in excess of \$750,000; and

22 "(8) the term 'shareholder's or partner's equity',
23 when used in paragraph (7)(D) of this subsection with
24 respect to an investment adviser or a person who is
25 affiliated with the investment adviser in a manner

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1 described in clause (ii)(I) of such paragraph (7)(D),
2 means the equity shown in the most recent balance sheet
3 prepared for such investment adviser or affiliated
4 person, in accordance with generally accepted accounting
5 principles, within 2 years before the date on which the
6 investment adviser's status as a qualified professional
7 asset manager is determined for the purposes of this
8 section.

9 "(b)(1) The Board shall establish--

10 "(A) a Government Securities Investment Fund under
11 which sums in the Thrift Savings Fund are invested in
12 securities of the United States Government issued as
13 provided in subsection (g) of this section;

14 "(B) a Fixed Income Investment Fund under which sums
15 in the Thrift Savings Fund are invested in insurance
16 contracts, certificates of deposits, or other instruments
17 or obligations which (i) are issued or selected by
18 qualified professional asset managers, and (ii) return
19 the amount invested and pay interest, at a specified rate
20 or rates, on that amount during a specified period of
21 time;

22 "(C) a Common Stock Index Investment Fund as
23 provided in paragraph (2) of this subsection; and

24 "(D) such other investment funds as the Board
25 determines to be appropriate for the purposes of this

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1 subchapter.

2 "(2)(A) The Board shall define an index which--

3 "(1) consists of all of the common stocks that are
4 publicly listed and traded on one or more national
5 securities exchanges, or

6 "(11) is a commonly recognized index comprised of
7 common stock the aggregate market value of which is at
8 least 50 percent of the aggregate market value of all
9 common stocks that are publicly listed and traded on one
10 or more national securities exchanges.

11 "(B) The Common Stock Investment Fund shall be invested
12 in each stock that is included in the index defined under
13 subparagraph (A) of this paragraph such that, to the extent
14 practicable, the percentage of the Common Stock Investment
15 Fund that is invested in that stock is the same as the
16 percentage determined by dividing the aggregate market value
17 of all shares of that stock by the aggregate market value of
18 all shares of all stock included in such index.

19 "(C)(1) The Executive Director shall invest in the
20 Government Securities Investment Fund the sums which are in
21 the Thrift Savings Fund, are available for investment, and
22 are not to be invested in an investment fund referred to in
23 subsection (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this section
24 pursuant to an election made under subsection (d) of this
25 section.

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1 “(2) Except as provided in subsection (e) of this
2 section, the Executive Director shall invest sums available
3 in the Thrift Savings Fund for investment as provided in
4 elections made under subsection (d) of this section.

5 “(d)(1) Except as provided in subsection (e) of this
6 section, at least once each year, a participant or former
7 participant may elect the investment funds referred to in
8 subsection (b) of this section into which the sums in the
9 Thrift Savings Fund credited to the account of such
10 participant or former participant are to be invested or
11 reinvested.

12 “(2) The election may be made by a participant or former
13 participant under paragraph (1) of this subsection only in
14 accordance with regulations prescribed by the Board and
15 within such period after the date the participant's or former
16 participant's annual statement is transmitted to the
17 participant or former participant pursuant to section 8428(b)
18 of this title as the Board shall prescribe in such
19 regulations.

20 “(e)(1)(A) The Executive Director shall invest a
21 percentage of the total amount that--

22 “(1) is contributed to the Thrift Savings Fund by a
23 participant under section 8421(a) of this title during a
24 year described under column I of the first table of
25 minimum Government securities investments set out in

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1 subparagraph (B) of this paragraph, and

2 "(ii) is available for investment,

3 in the Government Securities Investment Fund as provided

4 under column II of the table opposite the description of such

5 year.

6 "(B) For the purposes of subparagraph (A) of this

7 paragraph, the first table of minimum Government securities

8 investments is as follows:

<u>Column I</u>	<u>Column II</u>
Year:	Minimum percentage of the amounts contributed by a participant for each month of such year to be invested in the Government Securities Investment Fund:
1987	10%
1988	3%
1989	6%
1990	4%
1991	2%.

9 "(2)(A) The Executive Director shall invest a percentage
10 of the total amount that--

11 "(i) is contributed to the Thrift Savings Fund by
12 the Government for the benefit of a participant pursuant
13 to section 8421(b) of this title during a year described
14 under column I of the second table of minimum Government
15 securities investments set out in subparagraph (B) of
16 this paragraph, and

17 "(ii) is available for investment,

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1 in the Government Securities Investment Fund as provided
 2 under column II of the table opposite the description of such
 3 year.

4 `` (B) For the purposes of subparagraph (A) of this
 5 paragraph, the second table of minimum Government securities
 6 investments is as follows:

`` Column I	Column II
Year:	Minimum percentage of the amounts contributed for the benefit of a participant for each month of such year to be invested in the Government Securities Investment Fund:
1987-1992	100
1993	80
1994	60
1995	42
1996	20

7 `` (3) All sums credited to the Thrift Savings Fund
 8 pursuant to section 6473(b) of this title shall be invested
 9 in the Government Securities Investment Fund.

10 `` (4) The sums which are invested in the Government
 11 Securities Investment Fund as required by this subsection and
 12 are returned to the Thrift Savings Fund after maturity of the
 13 securities purchased with such sums, and the amounts earned
 14 on the investment of such sums, shall be reinvested in the
 15 Government Securities Investment Fund.

16 `` (f) The Secretary of the Treasury shall issue notes
 17 under section 3103 of title 31 as appropriate to meet the

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1 investment needs of the Thrift Savings Fund under this
2 section. The notes shall have a 2-year maturity, shall be
3 redeemable at par, and shall bear interest at a rate equal to
4 the average market yield, computed as of the end of the
5 calendar month next preceding the date of the issue, of all
6 2-year notes then forming a part of the public debt of the
7 United States. If the average market yield is not a multiple
8 of 1/8 of 1 percent, the rate of interest on the obligations
9 shall be the multiple of 1/8 of 1 percent nearest the average
10 market yield.

11 ``§ 8428. Accounting

12 `` (a)(1) The Executive Director shall establish and
13 maintain an account for each participant making contributions
14 under section 8421(a) of this title.

15 `` (2) The balance in the account of a participant or
16 former participant at any time is the excess of--

17 `` (A) the sum of--

18 `` (i) all contributions made to the Thrift
19 Savings Fund by the participant or former participant
20 under section 8421(a) of this title;

21 `` (ii) all contributions made to such fund for
22 the benefit of the participant or former participant
23 under section 8421(b) of this title;

24 `` (iii) the amounts transferred to such fund with
25 respect to the participant or former participant

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1 under section 8473(b) of this title; and

2 "(iv) the total amount of the allocations made
3 to and reductions made in the account pursuant to
4 paragraph (3) of this section, over

5 "(B) the amounts paid out of the Thrift Savings Fund
6 with respect to such participant or former participant
7 under this subchapter and subchapter IV of this title.

8 "(3) Pursuant to regulations prescribed by the Board,
9 the Executive Director shall allocate to the account of each
10 participant or former participant an amount equal to a pro
11 rata share of the net earnings and net losses from each
12 investment of sums in the Thrift Savings Fund attributable to
13 sums credited to the account of such participant, reduced by
14 an appropriate share of the administrative expenses of the
15 Civil Service Thrift Investment Management System prescribed
16 in subchapter VIII of this chapter, as determined by the
17 Executive Director.

18 "(b) The Executive Director shall provide each
19 participant and former participant an annual statement of the
20 balance in the participant's or former participant's account.

21 "(c)(1) For the purposes of this subsection, the term
22 'qualified public accountant' shall have the same meaning as
23 provided in section 103(a)(3)(D) of the Employee Retirement
24 Income Security Act of 1974 (29 U.S.C. 1024(a)(3)(D)).

25 "(2) The Executive Director shall annually engage, on

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1 behalf of all participants, an independent qualified public
2 accountant, who shall conduct an examination of any accounts
3 established under subsection (a) of this section and of other
4 books and records maintained in the administration of this
5 subchapter as the accountant considers necessary to enable
6 the accountant to make the determination required by
7 paragraph (3) of this subsection. The examination shall be
8 conducted in accordance with generally accepted auditing
9 standards and shall involve such tests of the accounts,
10 books, and records as the independent qualified public
11 accountant considers necessary.

12 “(3) The independent qualified public accountant
13 conducting an examination under paragraph (2) of this
14 subsection shall determine whether the accounts, books, and
15 records referred to in such paragraph have been maintained in
16 conformity with generally accepted accounting principles
17 applied on a basis consistent with the application of such
18 principles during the examination conducted under such
19 paragraph during the preceding year. The accountant shall
20 transmit to the Board a report on his examination, including
21 his determination under this paragraph.

22 “(4) In making a determination under paragraph (3) of
23 this subsection, the accountant may rely on the correctness
24 of any actuarial matter certified by an enrolled actuary, if
25 the accountant states his reliance in the report transmitted

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1 to the Board under such paragraph.

2 ``SUBCHAPTER IV--SURVIVOR BENEFITS

3 ``S 8431. Basic plan spousal benefits relating to the death
4 of a participant or former participant other
5 than an annuitant

6 ``(a)(1) If a participant dies after performing 5 or more
7 years of service and before separating from Government
8 employment and the participant has satisfied the age and
9 service requirements for retirement entitled to an immediate
10 annuity under section 8411 of this title before the date of
11 death, the surviving spouse of a deceased participant shall
12 be entitled to a survivor annuity payable out of the Fund.

13 ``(2) If a participant dies after performing 5 or more
14 years of service and before separating from Government
15 employment and the participant has not satisfied the age and
16 service requirements for retirement entitled to an immediate
17 annuity under section 8411 of this title before the date of
18 death, the surviving spouse of a deceased participant shall
19 be entitled to a survivor annuity payable out of the Fund.
20 The survivor annuity shall commence on the first date the
21 participant could have retired entitled to an immediate
22 annuity under section 8411 of this title if the participant
23 had continued to live and had continued to be a participant
24 until such date.

25 ``(3) The amount of the survivor annuity payable under

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1 paragraph (1) or (2) of this subsection to the surviving
2 spouse of a deceased participant shall be equal to 50 percent
3 of the annuity computed with respect to the deceased
4 participant pursuant to sections 8413, 8414, and 8415 of this
5 title as if the participant had retired from Government
6 employment on the day before the date of death and had
7 elected the method of payment described in section
8 8416(a)(2)(B) of this title.

9 “(b)(1) If a former participant dies entitled to a
10 deferred annuity under section 8412 of this title before
11 payment of an annuity under subchapter II of this chapter to
12 the former participant commences, the surviving spouse of the
13 deceased former participant is entitled to a survivor annuity
14 payable out of the Fund.

15 “(2) The amount of the survivor annuity payable under
16 paragraph (1) of this subsection to the surviving spouse of a
17 deceased former participant shall be equal to 50 percent of
18 the annuity which the deceased former participant would have
19 been entitled to receive under such section if the deceased
20 former participant--

21 “(A) had been 55 years of age on the day before the
22 date of death, or

23 “(B) in the case of a former participant who was 55
24 years of age or older on such day and was not receiving
25 such annuity, had commenced to receive such deferred

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1 annuity on such day,
2 computed under sections 8413, 8414, and 8415 of this title.
3 ``S 8432. Basic plan spousal and insurable interest benefits
4 relating to the death of an annuitant

5 ``A survivor annuity shall be paid out of the Fund with
6 respect to a deceased annuitant--

7 ``(1) in accordance with the method of payment
8 elected by the annuitant under section 8416 of this
9 title;

10 ``(2) as provided in subsection (b)(3) of such
11 section; or

12 ``(3) in accordance with an election made by the
13 annuitant under section 8434(a) or 8436(c) of this title.

14 ``S 8433. Survivor benefits under the thrift savings plan

15 ``(a) A survivor annuity shall be paid out of the Thrift
16 Savings Fund with respect to a deceased annuitant as provided
17 under a method of payment of annuities elected by the
18 annuitant under section 8424(b) of this title or in
19 accordance with an election made by the annuitant under
20 section 8434(a) or 8436(c) of this title. The amount of the
21 survivor annuity shall be determined on an actuarial basis
22 under regulations prescribed by the Board.

23 ``(b)(1) Except as provided in subsection (d) of this
24 section, the amount in the account established and maintained
25 for a deceased participant or deceased former participant

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1 (other than a deceased annuitant) pursuant to section 8428(a)
2 of this title, determined on the date of an election under
3 subsection (c) of this section, shall, subject to the limits
4 of the entitlement set out in section 8422(a)(1) of this
5 title (without regard to section 8422(a)(2) of this title),
6 be paid as provided in paragraph (2) of this subsection.

7 “(2)(A) Except as provided in subparagraph (B) of this
8 paragraph, payment under paragraph (1) of this subsection
9 shall be made to the surviving spouse of the deceased
10 participant or former participant pursuant to the method
11 elected under subsection (c) of this section.

12 “(B) If a deceased participant or former participant
13 referred to in paragraph (1) of this subsection is not
14 survived by a spouse, payment under such paragraph shall be
15 made to--

16 “(i) any individual who has an insurable interest in
17 the participant or former participant and has been
18 designated by the participant for the purpose of such
19 paragraph under regulations prescribed by the Board; or

20 “(ii) if the deceased participant or former
21 participant did not make a designation as provided in
22 clause (i) of this subparagraph, to the estate of the
23 deceased participant or former participant.

24 “(c) A surviving spouse entitled to payment of benefits
25 under subsection (b) of this section may elect--

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1 “(1) to receive an annuity from the Fund payable
2 monthly for life;

3 “(2) to transfer the amount referred to in such
4 subsection to an individual retirement account (within
5 the meaning of the Internal Revenue Code of 1954) of the
6 surviving spouse; or

7 “(3) to withdraw such amount in one or more
8 payments.

9 “(d) Any amount required for the payment of a survivor
10 annuity with respect to a deceased participant or deceased
11 former participant out of the Thrift Savings Fund pursuant to
12 section 8435 of this title shall be deducted and withheld
13 from a distribution made with respect to the deceased
14 participant or deceased former participant pursuant to
15 subsection (b) of this section. The amount deducted and
16 withheld shall be maintained in the Thrift Savings Fund until
17 expended in payment of the survivor annuity or until the
18 survivor annuity terminates. Any sums remaining from the
19 amount deducted and withheld after the termination of the
20 survivor annuity, plus net earnings realized from investment
21 of such amount, shall be distributed as provided in
22 subsection (b) of this section.

23 “§ 8434. Basic and thrift savings plan survivor benefits
24 relating to marriage after commencement of an
25 annuity

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1 “(a) If an annuitant--

2 “(1) is married on the date that the annuitant
3 applies for payment of an annuity under subchapter II of
4 this chapter to commence, the marriage terminates, and
5 the annuitant remarries, or

6 “(2) is not married on such date and marries after
7 such date,

8 the annuitant may irrevocably elect during the later marriage
9 to provide an annuity for such annuitant's spouse under the
10 method of payment described in section 8416(a)(2)(B) or
11 subparagraph (B) or (D) of section 8424(a)(2) of this title.
12 An election under this subparagraph shall be made in a signed
13 writing received by the Office within 2 years after the date
14 of the remarriage or marriage, as the case may be.

15 “(b) An election under subsection (a) of this section
16 shall be effective the first day of the second month
17 beginning after the election is received by the Office (in
18 the case of a survivor annuity payable out of the Fund) or
19 the Executive Director (in the case of a survivor annuity
20 payable out of the Thrift Savings Fund), but not earlier than
21 9 months after the date of the remarriage referred to in
22 paragraph (1) of such subsection or the date of the marriage
23 referred to in paragraph (2) of such subsection.

24 “(c) An annuitant making an election under subsection
25 (a) of this section to provide a survivor annuity payable out
26 of the Fund shall, within 2 years after the date of the

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1 remarriage referred to in paragraph (1) of such subsection or
2 the date of the marriage referred to in paragraph (2) of such
3 subsection, deposit in the Fund an amount determined by the
4 Office, as nearly as may be administratively feasible, to
5 reflect the amount by which the annuity of such annuitant
6 would have been reduced if the election had been in effect
7 since--

8 “(1) the date that payment of an annuity to the
9 annuitant under subchapter II of this chapter commenced,
10 or

11 “(2) if the annuity had previously been reduced to
12 provide for a survivor annuity under section 8432 of this
13 title, the date the previous reduction in such
14 annuitant's annuity was terminated under section 8415(b)
15 of this title,

16 plus interest computed as provided in section 8438(a) of this
17 title.

18 “(d) Notwithstanding any other provision of this
19 section, an election under this section may not be made for
20 the purpose of providing a survivor annuity payable from the
21 Fund to a spouse of an annuitant by remarriage if--

22 “(A) such spouse was married to the annuitant on the
23 date that payment of an annuity to the annuitant under
24 subchapter II of this chapter commenced; and

25 “(B) rights to survivor benefits for such spouse

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1 based on marriage to such annuitant were then waived
2 under section 8416(b)(2) of this title.

3 ``§ 8435. Survivor benefits for eligible former spouses:
4 entitlement; amount

5 ``(a) Subject to subsections (b) through (g) of this
6 section, an eligible former spouse of a deceased participant
7 or deceased former participant who dies entitled to an
8 immediate or deferred annuity under section 8411 or 8412 of
9 this title is entitled to a survivor annuity under this
10 section if and to the extent that--

11 ``(1) an election under section 8436 of this title,

12 ``(2) any court decree dissolving or annulling the
13 marriage of the participant or former participant and the
14 eligible former spouse, or

15 ``(3) any court order or court-approved property
16 settlement agreement incident to such decree,
17 expressly provides for such survivor annuity.

18 ``(b)(1) The amount of the survivor annuity payable from
19 the Fund to an eligible former spouse of a deceased
20 participant or deceased former participant under this section
21 may not exceed the excess, if any, of--

22 ``(A) the amount applicable in the case of such
23 eligible former spouse, as determined under paragraph (2)
24 of this subsection, over

25 ``(B) the amount of all other survivor annuities

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1 payable from the Fund under this section to other
2 eligible former spouses of the participant or former
3 participant based on the order of precedence provided in
4 subsection (d) of this section.

5 "(2) For the purposes of paragraph (1)(A) of this
6 subsection, the amount applicable in the case of an eligible
7 former spouse of a deceased participant or deceased former
8 participant is the amount--

9 "(A) which is equal to 50 percent of the amount of
10 the deceased former participant's annuity payable to the
11 former participant on the day before the date of the
12 former participant's death, if the deceased former
13 participant was an annuitant on such day;

14 "(B) which would be applicable under paragraph (3)
15 of section 8431(a) of this title in the case of a
16 surviving spouse of the deceased, if the deceased was a
17 participant described in paragraph (1) or (2) of such
18 section 8431(a); or

19 "(C) which would be applicable under paragraph (2)
20 of section 8431(b) of this title in the case of a
21 surviving spouse of the deceased, if the deceased was a
22 former participant described in paragraph (1) of such
23 section 8431(b).

24 "(c) The total amount of all survivor annuities payable
25 from the Thrift Savings Fund to eligible former spouses of a

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1 deceased participant or deceased former participant pursuant
2 to this section may not exceed the amount of the survivor
3 annuities that would be payable to the former spouses out of
4 100 percent of the balance in the account of the deceased
5 participant or deceased former participant, plus anticipated
6 net earnings from investments allocable to such account,
7 determined on an actuarial basis in accordance with
8 regulations prescribed by the Board.

9 “(d) If more than one eligible former spouse is entitled
10 to a survivor annuity pursuant to this section, the amount of
11 each such survivor annuity shall be limited appropriately to
12 carry out subsection (b) or (c) of this section on a first-
13 come, first-served basis determined by reference to the date
14 an election is properly made pursuant to section 8436 of this
15 title or the date the Director or Executive Director, as the
16 case may be, properly receives a copy of the court decree,
17 order, or court-approved agreement applicable to the
18 entitlement.

19 “(e) The commencement and termination dates of a
20 survivor annuity payable under this section to an eligible
21 former spouse of a deceased participant or deceased former
22 participant shall be the commencement and termination dates
23 determined under the provisions of the applicable court
24 order, decree, or agreement or an election, as the case may
25 be (if provided in such order, decree, agreement, or

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1 election), except that any such survivor annuity--

2 “(1) shall not commence before--

3 “(A) the day after the participant or former
4 participant dies, or

5 “(B) the first day of the second month beginning
6 after the date on which the Office receives written
7 notice of the court order, decree, or agreement or
8 the election, as the case may be, together with such
9 additional information or documentation as the Office
10 may prescribe,

11 whichever is later, and

12 “(2) shall terminate not later than the date
13 provided in section 8464(b)(2) of this title.

14 “(f) For the purposes of this section, a court decree,
15 order, or agreement or an election referred to in subsection
16 (a) of this section shall not be effective, in the case of a
17 survivor annuity payable out of the Fund to a former spouse,
18 to the extent that the election is inconsistent with any
19 joint waiver previously executed with respect to such former
20 spouse under section 8416(b)(2) of this title.

21 “(g) Any payment under this section to a person bars
22 recovery by any other person.

23 “§ 8436. Survivor benefits for former spouses: elections,
24 deposits and collections, and administrative
25 provisions

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1 “(a)(1) If an annuitant has an eligible former spouse on
2 the date that the annuitant applies for payment of an annuity
3 to the annuitant under subchapter II of this chapter to
4 commence, the annuitant may elect, under procedures
5 prescribed by the Office, to provide a survivor annuity for
6 such former spouse under section 8435 of this title. An
7 election under this paragraph shall be made on such date or,
8 if later, within 2 years after the date on which the marriage
9 of the former spouse to the annuitant was dissolved or
10 annulled. The election shall specify the amount of the
11 survivor annuity to be provided under this paragraph.

12 “(2) If an annuitant makes an election under paragraph
13 (1) of this subsection to provide a survivor annuity payable
14 out of the Fund and the annuitant makes the election during
15 the 2-year period referred to in such paragraph, the
16 annuitant shall deposit in the Fund, within such period, an
17 amount determined by the Office, as nearly as may be
18 administratively feasible, to reflect the amount by which the
19 annuity of such an annuitant would have been reduced if the
20 election had been continuously in effect since the date the
21 annuity commenced, plus interest computed as provided in
22 section 8438(a) of this title.

23 “(3) An election under paragraph (1) of this
24 subsection--

25 “(A) shall not be effective to the extent that it

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1 conflicts with--

2 “(1) any court decree or order referred to in
3 subsection (a) of section 8435 of this title, or

4 “(11) any agreement referred to in such
5 subsection,

6 which is received by the Office before the date on which
7 such election is made;

8 “(9) shall not be effective to the extent that the
9 amount of the annuity specified in the election exceeds--

10 “(i) in the case of a survivor annuity payable
11 from the Fund, the amount determined pursuant to
12 subsections (b)(2) and (d) of section 8435 of this
13 title; or

14 “(ii) in the case of a survivor annuity payable
15 from the Thrift Savings Fund, the amount determined
16 pursuant to subsections (c) and (d) of section 8435
17 of this title; and

18 “(C) shall not be effective, in the case of an
19 annuitant who is married on the date of the election,
20 unless the election is made with the written consent of
21 the annuitant's spouse.

22 “(b) An annuitant who has elected to provide a survivor
23 annuity for an eligible former spouse pursuant to subsection
24 (a) of this section may make an election to provide or
25 increase a survivor annuity for any other eligible former

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1 spouse of the annuitant within the same period that, and
2 subject to the same conditions under which, an election could
3 be made under subsection (c) of this section for a spouse of
4 the annuitant (subject to the provisions of subsection
5 (a)(3)(C) of this section relating to the consent of a
6 spouse, if the annuitant is then married). The opportunity to
7 make an election under the preceding sentence is in addition
8 to any opportunity otherwise provided under this subsection.

9 “(c) If the entitlement of an eligible former spouse of
10 an annuitant to a survivor annuity under this subchapter is
11 terminated or reduced by reason of the remarriage or death of
12 the former spouse, the annuitant may elect, in a signed
13 writing received by the Office (in the case of a survivor
14 annuity to be paid out of the Fund) or the Executive Director
15 (in the case of a survivor annuity to be paid out of the
16 Thrift Savings Fund) within 2 years after the former spouse's
17 date of death or remarriage, as the case may be, to provide a
18 survivor annuity under the method described in section
19 8416(a)(2)(B) of this title (in the case of a terminated or
20 reduced entitlement payable out of the Fund) or in
21 subparagraph (B) or (D) of section 8424(a)(2) of this title
22 (in the case of a terminated or reduced entitlement payable
23 from the Thrift Savings Fund).

24 “(d) The requirement that the spouse of an annuitant
25 waive a right to a survivor annuity under this subchapter as

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1 a condition for an election authorized by subsection
2 (a)(3)(C) of this section shall not apply if the participant
3 or annuitant establishes to the satisfaction of the Office
4 that--

5 “(1) the spouse’s whereabouts cannot reasonably be
6 determined; or

7 “(2) due to exceptional circumstances, it would be
8 inappropriate to require the participant or annuitant to
9 obtain the spouse’s consent.

10 “§ 8437. Termination of entitlement

11 “(a) An election of an annuitant to provide a survivor
12 annuity to the annuitant’s spouse under this subchapter
13 terminates on the first day of the first month beginning
14 after--

15 “(1) the date of the death of the spouse; or

16 “(2) the date of the dissolution of the spouse’s
17 marriage to the annuitant.

18 “(b) The entitlement of an eligible former spouse of a
19 former participant to a survivor annuity under section
20 8435(a) of this title terminates on the first day of the
21 first month beginning after--

22 “(1) the date of the death of the former spouse; or

23 “(2) the date the former spouse remarries before
24 becoming 55 years of age.

25 “§ 8438. Deposits to the Fund

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1 “(a) For the purposes of section 8434(c) or 8436(a)(2)
2 of this title, the annual rate of interest for each year
3 during which an annuity would have been reduced if the
4 election referred to in such section had been in effect on
5 and after the applicable date referred to in such section
6 shall be the percent determined for such year under section
7 8334(e) of this title.

8 “(b) If an annuitant does not make a deposit required by
9 section 8434(c) or 8436(a)(2) of this title, the Office shall
10 collect such amount by offset against the annuitant's annuity
11 payable from the Fund, up to a maximum of 25 percent of the
12 net annuity otherwise payable to the annuitant. The annuitant
13 is deemed to consent to such offset.

14 “(c) The Office may extend the time limit for making a
15 deposit required by section 8434(c) or 8436(a)(2) of this
16 title in any case for good cause shown.

17 “SUBCHAPTER V--DISABILITY BENEFITS

18 “§ 8441. Definitions

19 “For the purposes of this subchapter--

20 “(1) the term ‘administrator of benefits’ means an
21 insurance company or other entity which--

22 “(A) offers claims payment services and related
23 administrative services under benefit plans provided
24 by employers in the private sector; and

25 “(B) has entered into a contract with the Office

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1 pursuant to section 8452 of this title;

2 “(2) the term ‘disability benefits under the Social
3 Security Act’ means disability insurance benefits payable
4 under section 223 of the Social Security Act or benefits
5 payable under section 202 of such Act by reason of being
6 under a disability;

7 “(3) the term ‘disability date’, when used with
8 respect to an eligible participant, means the date the
9 eligible participant became disabled;

10 “(4) the term ‘disabled’, when used with respect to
11 an eligible participant, means that the eligible
12 participant--

13 “(A) is under a disability within the meaning of
14 section 223 of the Social Security Act; or

15 “(B) is unable, because of disease or injury, to
16 render useful and efficient service in the
17 participant’s position and is not qualified for
18 reassignment, under procedures prescribed by the
19 Office, to a vacant position--

20 “(i) which is in the participant’s employing
21 agency and is in the participant’s commuting
22 area;

23 “(ii) which is at the same grade or pay
24 level as the participant’s position; and

25 “(iii) in which the participant would be

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1 able to render useful and efficient service;

2 "(5) the term 'eligible participant' means an
3 employee or member whose service exceeds 18 months and--

4 "(A) who--

5 "(i) has applied for disability benefits
6 under the Social Security Act and has been
7 determined to be under a disability for the
8 purposes of title II of the Social Security Act;
9 or

10 "(ii) in the case of an employee or member
11 who is not entitled to disability benefits under
12 the Social Security Act by reason of insufficient
13 quarters of coverage, has been determined by an
14 administrator of benefits to be disabled within
15 the meaning of paragraph (4)(B) of this section
16 on the basis of a report of examination required
17 by section 8445 of this title; or

18 "(B) who has been determined by an administrator
19 of benefits to be disabled within the meaning of
20 paragraph (4)(B) of this section on the basis of a
21 report of examination required by section 8445 of
22 this title;

23 "(6) the term 'onset average pay', when used with
24 respect to a disabled eligible participant, means the
25 participant's average pay on the participant's disability

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1 date increased on January 1 of each year after such date
2 by the same percent by which annuities referred to in
3 paragraph (1) of section 8462(b) of this title are
4 increased under such section 8462(b) in December of the
5 preceding year, and compounded; and

6 "(7) the term 'projected service', when used with
7 respect to a disabled eligible participant, means the sum
8 of the number of years of service performed by the
9 participant before the participant's disability date and
10 the number of years, if any, after such date and before
11 the date the participant becomes--

12 "(A) in the case of an eligible participant
13 referred to in subparagraph (5)(A) of this section,
14 62 years of age; or

15 "(B) in the case of an eligible participant
16 referred to in subparagraph (5)(B) of this section,
17 55 years of age.

18 "§ 8442. Entitlement

19 "(a)(1) A person who is an eligible participant, is
20 disabled, and has used all sick leave accrued and accumulated
21 under subchapter I of chapter 63 of this title or any other
22 similar applicable provision of law relating to Government
23 employment is entitled to receive disability benefits under
24 this subchapter while--

25 "(A) in the case of a person who is disabled within

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1 the meaning of section 8441(4)(A) of this title, such
2 person is under 62 years of age; and

3 "(B) in the case of a person who is disabled within
4 the meaning of section 8441(4)(B) of this title, such
5 person is under 55 years of age.

6 "(2) When a person referred to in paragraph (1) of this
7 subsection exceeds the maximum age at which the person is
8 qualified for benefits under such paragraph, the person shall
9 be treated as an eligible participant for the purposes of
10 entitlement to benefits under subsection (b) of this section.

11 "(b)(1) An eligible participant who--

12 "(A) is disabled within the meaning of section
13 8441(4)(A) of this title and is not less than 62 years of
14 age, or

15 "(B) is disabled within the meaning of section
16 8441(4)(B) of this title and is not less than 55 years of
17 age,

18 and who has 5 or more years of service and projected service
19 shall be entitled to an annuity as provided in subchapter II
20 of this title.

21 "(2) For the purposes of applying the provisions of
22 subchapter II of this title in the case of an eligible
23 participant pursuant to paragraph (1) of this subsection--

24 "(A) the eligible participant shall be deemed to
25 have separated from Government employment on the day

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1 before the date the participant became entitled to an
2 annuity pursuant to paragraph (1) of this subsection;

3 "(B) the service of the participant shall include
4 the participant's projected service; and

5 "(C) the participant's average pay shall be equal to
6 the participant's onset average pay.

7 "§ 8443. Computation of benefits

8 "(a) The annual rate of the disability benefits payable
9 under section 8442(a) of this title to an eligible
10 participant referred to in section 8441(5)(A) of this title
11 shall be equal to the excess of 67 percent of the
12 participant's onset average pay over the amount, if any,
13 payable to the participant as disability benefits under the
14 Social Security Act.

15 "(b) The annual rate of the disability benefits payable
16 under section 8442(a) of this title to an eligible
17 participant referred to in section 8441(5)(B) of this title--

18 "(1) during the period ending 1 year after the
19 eligible participant's disability date, shall be equal to
20 the excess of 67 percent of the participant's onset
21 average pay over the amount, if any, payable to the
22 participant as disability benefits under the Social
23 Security Act; and

24 "(2) after such period, while the participant is
25 under 55 years of age, shall be equal to the excess of 47

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1 percent of the participant's onset average pay over the
2 amount, if any, payable to the participant as disability
3 benefits under the Social Security Act.

4 "§ 8444. Application

5 "(a) Except as provided in subsection (b) of this
6 section, a claim of a participant for disability benefits
7 under this subchapter may be allowed only if the participant
8 files with the appropriate administrator of benefits an
9 application for the disability benefits before the date the
10 participant separates from Government employment or within 1
11 year after such date.

12 "(b) An appropriate administrator of benefits may waive
13 the time limitation set out in subsection (a) of this section
14 in the case of a participant if--

15 "(1) the administrator of benefits determines that
16 the participant was mentally incompetent on the date the
17 participant separated from Government employment or
18 within 1 year after such date; and

19 "(2) the application for disability benefits is
20 filed within 1 year after the date the participant is
21 restored to mental competency or the date a fiduciary is
22 appointed to manage the financial affairs of the
23 participant, whichever date is earlier.

24 "§ 8445. Medical examinations

25 "(a) A participant applying for or receiving disability

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1 benefits under section 8442(a) of this title shall be
2 examined by a physician under the direction of the
3 appropriate administrator of benefits at such times as such
4 administrator may require.

5 “(b) A physician examining a participant under
6 subsection (a) of this section shall report to the
7 appropriate administrator of benefits the diagnosis and
8 prognosis with respect to such participant.

9 “(c) Notwithstanding any other provision of this
10 subchapter, any participant who fails to submit to the
11 examination required under subsection (a) of this section
12 shall not be entitled to disability benefits.

13 “§ 8446. Offers of alternative employment

14 “(a)(1) Any participant who is applying for disability
15 benefits under this subchapter, is examined pursuant to
16 section 8445 of this title, and is determined on the basis of
17 the examination to be able to perform the work required in
18 any position described in paragraph (2) of this subsection
19 shall be considered for appointment to such position.

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1 “(2) A position referred to in paragraph (1) of this
2 subsection is a position which is in the agency of the
3 Government employing the participant referred to in such
4 paragraph, is a position for which the participant is
5 qualified, is not lower than the grade or pay level of the
6 participant's position, and is within the participant's
7 commuting area.

8 “(b) Any participant who is appointed to or offered a
9 position under subsection (a) of this section is entitled to
10 appeal to the Merit Systems Protection Board under section
11 7701 of this title any determination that the participant is
12 able to perform the work required of such position.

13 “§ 8447. Recovery or restoration of earning capacity

14 “(a)(1) If an administrator of benefits determines that
15 an individual who is receiving disability benefits under this
16 subchapter has recovered from the disability before becoming
17 62 years of age (in the case of an individual who is disabled
18 within the meaning of section 8441(4)(A) of this title) or 55
19 years of age (in the case of an individual who is disabled
20 within the meaning of section 8441(4)(B) of this title),
21 payment of the benefits shall terminate on the date the
22 individual is reemployed by the Government or 1 year after
23 the date of the medical examination on which such
24 administrator's determination is based, whichever date is
25 earlier.

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1 “(2)(A) Payment of disability benefits to any individual
2 under this chapter that has been terminated pursuant to
3 paragraph (1) of this subsection shall be resumed if there is
4 a recurrence of the individual's disability, as determined by
5 an administrator of benefits after a medical examination of
6 the individual, and the individual is under 62 years of age
7 (in the case of an individual who is disabled within the
8 meaning of section 8441(4)(A) of this title) or under 55
9 years of age (in the case of an individual who is disabled
10 within the meaning of section 8441(4)(B) of this title).

11 “(B) A resumption of payment of disability benefits
12 under subparagraph (A) of this paragraph shall be effective
13 on the date the medical examination referred to in such
14 paragraph was completed.

15 “(C) The annual rate of the disability benefits payable
16 to an individual upon resumption of payment under
17 subparagraph (A) of this paragraph shall be the annual rate
18 that would have been payable to the individual if payment of
19 disability benefits had not been terminated pursuant to
20 paragraph (1) of this subsection.

21 “(b)(1) If the administrator of benefits determines that
22 an individual who is receiving disability benefits under this
23 subchapter has received, during the latest calendar year,
24 income from wages or self-employment or both totalling the
25 amount equal to 60 percent of the rate of pay payable for the

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1 individual's position of Government employment on the
2 individual's disability date determined for the purposes of
3 this subchapter (increased as if such rate of pay had been
4 increased, by the same percent as the overall percent
5 increase in the rates of pay under the General Schedule, each
6 time such rates had been increased pursuant to section 5305
7 of this title since such date), payment of the benefits shall
8 terminate on the date 60 days after the end of such calendar
9 year.

10 “(2)(A) If payment of disability benefits under this
11 subchapter has been terminated pursuant to paragraph (1) of
12 this subsection in the case of an individual who is not
13 reemployed in a position subject to this chapter, who
14 continues to be disabled, who is under 62 years of age (in
15 the case of an individual who is disabled within the meaning
16 of section 8441(4)(A) of this title) or under 55 years of age
17 (in the case of an individual who is disabled within the
18 meaning of section 8441(4)(B) of this title), and who
19 receives in the calendar year in which the disability
20 benefits were terminated, or any calendar year after such
21 year, income from wages or self-employment or both totalling
22 less than the amount computed in such case as provided in
23 such paragraph, payment of disability benefits to the
24 individual under this subchapter shall be resumed.

25 “(B) A resumption of payment of disability benefits to

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1 an individual under subparagraph (A) of this paragraph shall
2 be effective the first day of the first year beginning after
3 the year in which the individual received the income referred
4 to in such subparagraph.

5 “(C) The annual rate of the disability benefits payable
6 to an individual upon resumption of payment of disability
7 benefits under subparagraph (A) of this paragraph shall be
8 the annual rate that would have been payable to the
9 individual if payment had not been terminated pursuant to
10 paragraph (1) of this subsection.

11 “(c) Any determination under this section may be
12 appealed to the Office. A determination of the Office in such
13 an appeal may be appealed to the Merit Systems Protection
14 Board under section 7701 of this title. The Merit Systems
15 Protection Board may hear and adjudicate any such appeal.

16 “§ 8448. Relationship to workers' compensation

17 “(a)(1) An individual is not entitled to receive
18 disability benefits under this subchapter and compensation
19 for injury to or disability of the individual under
20 subchapter I of chapter 81 of this title covering the same
21 period of time.

22 “(2) Paragraph (1) of this subsection does not bar the
23 right of a claimant to the greater benefit conferred by
24 either subchapter referred to in such paragraph for any part
25 of the period referred to in such paragraph.

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1 “(3) Paragraph (1) of this subsection and the provisions
2 of subchapter I of chapter 81 of this title do not deny an
3 individual an annuity which the individual is entitled to
4 receive under this chapter on account of service performed by
5 the individual and do not deny any concurrent benefit to the
6 individual under subchapter I of chapter 81 of this title on
7 account of the death of another individual.

8 “(b)(1) Subject to paragraph (2) of this subsection, an
9 individual's receipt of a lump-sum payment for compensation
10 under section 8135 of this title shall not affect the
11 individual's entitlement to disability benefits under this
12 subchapter.

13 “(2) If disability benefits are payable under this
14 subchapter by reason of the same disability for which a lump-
15 sum payment of compensation referred to in paragraph (1) of
16 this subsection has been made, so much of the compensation as
17 has been paid for a period extended beyond the date payment
18 of the disability benefits commences, as determined by the
19 Department of Labor, shall be refunded to that Department for
20 credit to the Employees' Compensation Fund. Before the
21 individual may receive the disability benefits, the
22 individual shall--

23 “(A) refund to the Department of Labor the amount
24 representing the commuted compensation payments for the
25 extended period; or

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1 “(B) authorize the deduction of the amount from the
2 disability benefits.

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

14 “§ 8449. Military reserve technicians

15 “(a)(1) Except as provided in paragraph (2) of this
16 subsection, a participant shall be entitled to disability
17 benefits under this subchapter in the same manner as an
18 eligible participant described in section 8441(5)(B) of this
19 title if the participant--

20 “(A) is separated from employment as a military
21 reserve technician by reason of a disability that
22 disqualifies the individual from membership in a reserve
23 component of the Armed Forces specified in section 251(a)
24 of title 10 or from holding the military grade required
25 for such employment:

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1 “(B) is not considered disabled;

2 “(C) is not appointed to another position in the
3 Government (under subsection (b) of this section or
4 otherwise); and

5 “(D) has not declined an offer of appointment to a
6 position in the Government under subsection (b) of this
7 section.

8 “(2) Payment of disability benefits to an individual
9 under this section terminates--

10 “(A) on the date the individual is appointed to a
11 position in the Government (under subsection (b) of this
12 section or otherwise);

13 “(B) on the date the individual declines an offer of
14 appointment to a position in the Government pursuant to
15 subsection (b) of this section; or

16 “(C) as provided in section 8447(a) or 8447(b) of
17 this title.

18 “(b) Any individual applying for or receiving disability
19 benefits pursuant to this section shall, in accordance with
20 regulations prescribed by the Office, be considered by any
21 agency of the Government before any vacant position in the
22 agency is filled if--

23 “(1) the position is located within the commuting
24 area of the individual's former position;

25 “(2) the individual is qualified to serve in the

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1 vacant position; and

2 "(3) the position is at the same grade or equivalent
3 level as the position from which the individual was
4 separated.

5 "§ 8450. Administrative provisions

6 "(a) For the purpose of this section, the term 'State'
7 means a State of the United States, the District of Columbia,
8 the Commonwealth of Puerto Rico, and a territory or
9 possession of the United States.

10 "(b) The Office shall enter into a contract with one or
11 more insurance companies or other entities described in
12 section 8441(1)(A) of this title to provide long-term group
13 disability insurance benefits under this subchapter and to
14 administer the provisions of this subchapter which the Office
15 is not specifically required by this chapter to administer.
16 Each such company or other entity shall meet the following
17 requirements:

18 "(1) It must be licensed to transact insurance under
19 the laws of a State.

20 "(2) It must have in effect, on the most recent
21 December 31 for which information is available to the
22 Office, an amount of employee group disability insurance
23 equal to at least 1 percent of the total amount of
24 employee group disability insurance in the United States
25 in all insurance companies.

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1 “(c) A contractor under a contract awarded under
2 subsection (b) of this section shall establish an
3 administrative office under a name approved by the Office.

4 “(d) Each contract awarded by the Office under
5 subsection (b) of this section may remain in effect for a
6 period not exceeding 5 years and may include a provision
7 authorizing extension of the contract, with the consent of
8 the contractor, for successive periods of 1 year each.

9 “(e) The Director may include in contracts awarded under
10 subsection (b) of this section such terms and conditions as
11 he considers appropriate to protect the interests of
12 participants and the United States.

13 “(f) All records established or maintained by an
14 administrator of benefits in the administration of this
15 subchapter shall be the property of the United States. The
16 administrator of benefits shall deliver such records to the
17 Office whenever requested by the Office.

18 “(g) The provisions of any contract under this
19 subchapter which relate to the nature or extent of coverage
20 or benefits (including payments with respect to benefits)
21 shall supersede and preempt any law of any State or political
22 subdivision thereof, or any regulation issued thereunder,
23 which relates to group disability insurance to the extent
24 that the law or regulation is inconsistent with the
25 contractual provisions.

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1 “(h) The Secretary of Health and Human Services shall
2 furnish to the Office and an administrator of benefits such
3 information, including information on individuals claiming
4 entitlement to benefits under this subchapter, as the Office
5 determines to be necessary to carry out this subchapter.

6 “§ 8451. Annual accounting; special contingency reserve

7 “‘A contract awarded under section 8450 of this title
8 shall include a provision requiring the administrator of
9 benefits under the contract to transmit an accounting to the
10 Office not later than 90 days after the end of each policy
11 year. The accounting shall set forth, in a form approved by
12 the Office--

13 “(1) the total of all claim charges incurred for the
14 contract year; and

15 “(2) the amounts of the expenses of the
16 administrator of benefits charged for the contract year.

17 “§ 8452. Federal Employees' Disability Insurance Fund

18 “(a) There is established in the Treasury of the United
19 States a fund to be known as the 'Federal Employees'
20 Disability Insurance Fund'.

21 “(b)(1) Each agency of the Government employing
22 participants shall make periodic payments to the Federal
23 Employees' Disability Insurance Fund in the amount of the
24 portion of the premium payable for the applicable period (as
25 determined by the Office) which is attributable to such

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1 participants, as determined by the Office and the appropriate
2 administrator of benefits.

3 “(2) An employing agency shall pay the amounts required
4 by paragraph (1) of this subsection from the appropriation or
5 fund available for payment of the basic pay or salaries of
6 employees of the agency. In the case of a participant in the
7 legislative branch who is paid by the Clerk of the House of
8 Representatives, the amount shall be paid from the contingent
9 fund of the House of Representatives.

10 “(c) Sums in the Federal Employees' Disability Insurance
11 Fund shall be available without fiscal year limitation for
12 the payment of premiums for long-term group disability
13 insurance under this subchapter.

14 “(d) The Secretary of the Treasury may invest and
15 reinvest any of the money in the Federal Employees'
16 Disability Insurance Fund in interest-bearing obligations of
17 the United States and may sell such obligations for the
18 purposes of such fund. The interest on and the proceeds from
19 the sale of these obligations, and the income derived from
20 premium rate adjustments, become a part of such fund.

21 “(e)(1) No tax, fee, or other monetary payment may be
22 imposed or collected by any State or by any political
23 subdivision or other governmental authority thereof on or
24 with respect to any premium paid for long-term group
25 disability insurance under this subchapter.

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1 “(2) the price index for a base quarter is the
2 arithmetic mean of such index for the 3 months comprising
3 such quarter.

4 “(b)(1) Except as provided in subsection (c) of this
5 section, effective December 1 of each year in which the price
6 index for the base quarter of such year exceeds the price
7 index for the base quarter of the preceding year, each
8 annuity which is payable from the Fund under subchapter II or
9 IV of this chapter and commences not later than such December
10 1 shall be increased by the percentage computed under
11 paragraph (2) of this subsection.

12 “(2) The percentage by which an annuity is increased
13 under paragraph (1) of this subsection in any year shall be
14 the excess, if any, of--

15 “(A) the percentage of the increase in the price
16 index for the base quarter of such year over the price
17 index of the preceding year, over

18 “(B) 2 percent.

19 “(c)(1) The first increase (if any) made under
20 subsection (b) of this section to an annuity payable to a
21 participant who retires, to the surviving spouse or surviving
22 former spouse of a deceased participant, or to the surviving
23 spouse or surviving former spouse of a deceased annuitant
24 whose annuity has never been increased under this subsection
25 or subsection (b) of this section shall be equal to the

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1 product (adjusted to the nearest one-tenth of 1 percent) of--

2 “(A) one-twelfth of the applicable percentage of the
3 adjustment computed under subsection (b) of this section,
4 multiplied by

5 “(B)(1) the number of months (counting any portion
6 of a month as a month) for which the annuity was payable
7 before the effective date of the increase, or

8 “(11) in the case of a survivor annuity payable to a
9 surviving spouse or surviving former spouse of a deceased
10 annuitant whose annuity has never been so increased, the
11 number of months (counting any portion of a month as a
12 month) since the annuity was first payable to the
13 deceased annuitant.

14 “(2) Effective on its commencing date, an annuity
15 referred to in subsection (b) of this section and payable to
16 an annuitant's surviving spouse or surviving former spouse
17 shall be increased by the total percentage by which the
18 deceased annuitant's annuity had been increased under this
19 section during the period beginning on the date the deceased
20 annuitant's annuity commenced and ending on the date of the
21 deceased annuitant's death.

22 “(d) The monthly installment of an annuity payable after
23 adjustment under this section shall be rounded to the next
24 lowest dollar, but the increase in the monthly installment
25 under this section shall be at least \$1.

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1 ``§ 8463. Rate of benefits

2 ``Each annuity and disability benefit is stated as an
3 annual amount, one-twelfth of which, fixed at the next lowest
4 dollar, constitutes the monthly rate payable on the first
5 business day of the first month beginning after the last day
6 of the month for which the annuity or disability benefit has
7 accrued.

8 ``§ 8464. Commencement and termination of annuities

9 ``(a)(1) Except as otherwise provided in this subchapter,
10 the annuity of a participant under subchapter II of this
11 chapter shall commence on the first day of the first month
12 beginning after--

13 ``(A) the date the participant separates from
14 Government employment entitled to an immediate annuity
15 under section 8411 of this title, or

16 ``(B) in the case of a participant who is entitled to
17 a deferred annuity under section 8412 of this title and
18 is not entitled to an immediate annuity under section
19 8411 of this title, the date elected by the participant
20 under section 8412(a) of this title or the date the
21 participant becomes 52 years of age, whichever is
22 earlier,
23 as the case may be.

24 ``(2) The annuity of an annuitant under this chapter
25 terminates on the date of death or other terminating event

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1 provided by law.

2 “(b)(1) Except as otherwise provided in this chapter, a
3 survivor annuity payable to an individual under this chapter
4 shall commence on the first day of the first month beginning
5 after the date of the death of the deceased participant or
6 former participant on whose death such annuity is based.

7 “(2) A survivor annuity payable to a surviving spouse or
8 an eligible former spouse of a deceased participant or
9 deceased former participant under this chapter terminates on
10 the last day of the last month ending before the surviving
11 spouse or former spouse dies or, if the surviving spouse or
12 former spouse is less than 55 years of age, remarries.

13 “§ 8465. Waiver, allotment, and assignment of benefits

14 “(a) An individual entitled to receive payment of
15 benefits under subchapter II of this chapter may decline to
16 accept all or any part of the amount of the benefits by a
17 waiver signed and filed with the Office. The waiver may be
18 revoked in writing at any time. Payment of the benefits
19 waived may not be made for the period during which the waiver
20 is in effect.

21 “(b) An individual entitled to receive payment of
22 benefits under subchapter II of this chapter may make
23 allotments or assignments of amounts from the benefits for
24 such purposes as the Office considers appropriate.

25 “§ 8466. Application for benefits

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1 “(a) No payment of benefits based on the service of a
2 former participant shall be made under this chapter unless an
3 application for payment of the benefits is received by the
4 Office before the one hundred and fifteenth anniversary of
5 the former participant's birth.

6 “(b) Notwithstanding subsection (a) of this section,
7 after the death of a participant or former participant, a
8 benefit based on the participant's or former participant's
9 service shall not be paid under subchapter IV of this chapter
10 unless an application therefor is received by the Office
11 within 30 years after the death or other event which
12 establishes the entitlement to the benefit.

13 “§ 8467. Court orders

14 “(a) Payments under this chapter which would otherwise
15 be made to a participant or former participant based upon the
16 service of the participant or former participant shall be
17 paid (in whole or in part) by the Office or the Executive
18 Director, as the case may be, to another person if and to the
19 extent that the terms of any court decree of divorce,
20 annulment, or legal separation, or the terms of any court
21 order or court-approved property settlement agreement
22 incident to any court decree of divorce, annulment, or legal
23 separation expressly provide. Any payment under this
24 paragraph to a person bars recovery by any other person.

25 “(b) Subsection (a) of this section shall apply only to

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1 payments made by the Office or the Executive Director under
2 this chapter after the date on which the Office or the
3 Executive Director, as the case may be, receives written
4 notice of such decree, order, or agreement, and such
5 additional information and documentation as the Office or the
6 Executive Director may require.

7 ``\$ 8468. Annuities and pay on reemployment

8 `` (a) If an annuitant becomes employed in an appointive
9 or elective position in the Government, payment of any
10 annuity under subchapter II of this chapter to the annuitant
11 terminates effective on the date of the employment, and the
12 annuitant's service on and after the date the annuitant
13 becomes so employed is covered by this chapter. Upon
14 termination of the employment, the rights of the annuitant
15 under subchapter II of this chapter shall be redetermined. If
16 the annuitant dies while still so employed, a survivor
17 annuity payable with respect to the deceased annuitant shall
18 be redetermined as if the employment had otherwise terminated
19 on the date of death.

20 `` (b) The amount of an annuity resulting from a
21 redetermination of rights under this chapter pursuant to
22 subsection (a) of this section shall not be less than the
23 amount of the terminated annuity plus any increases under
24 section 8462 of this title occurring after the termination of
25 the annuity and before the commencement of the redetermined

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1 annuity.

2 "SUBCHAPTER VII--TRANSITION PROVISIONS

3 "§ 8471. Treatment of certain individuals subject to the
4 Civil Service Retirement and Disability System

5 "(a)(1)(A) Any individual who is subject to subchapter
6 III of chapter 83 of this title as an employee (as defined in
7 section 8331(1) of this title, other than an individual
8 employed by the government of the District of Columbia) or a
9 Member (as defined in section 8331(2) of this title), whose
10 service is not employment for the purposes of title II of the
11 Social Security Act and chapter 21 of the Internal Revenue
12 Code of 1954, and who is not required by section 8402 of this
13 title to be a participant may elect to commence participation
14 in the System.

15 "(B) An election made under subparagraph (A) of this
16 paragraph shall be made in writing, in accordance with such
17 regulations as the Office may prescribe, and not later than
18 December 31, 1987, or, in the case of an individual who
19 becomes an employee or Member after a break in service for a
20 period that includes January 1, 1987, not later than 1 year
21 after the date on which the individual resumes service.

22 "(2) Except as provided in section 8472(d) of this
23 title, any individual who makes the election authorized by
24 paragraph (1) of this subsection shall retain accrued credit
25 for entitlement to benefits under subchapter III of chapter

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1 83 of title 5, United States Code, for service performed
2 while subject to such subchapter.

3 “(3) An individual referred to in paragraph (1) of this
4 subsection who becomes an employee or Member after a break in
5 service for a period that includes January 1, 1987, may make
6 deposits under section 8334 of this title for service
7 performed before such date while subject to subchapter III of
8 chapter 83 of this title.

9 “(b) Except as provided in section 6472(d) of this
10 title, any individual who--

11 “(1) has an unrefunded lump-sum credit in the Fund
12 under subchapter III of chapter 83 of this title,

13 “(2) is required by section 8402 of this title to be
14 a participant, and

15 “(3) is not a participant referred to in section
16 8473(a) of this title,

17 shall retain accrued credit for entitlement to benefits under
18 such subchapter for service performed while subject to such
19 subchapter.

20 “(c) Except as provided in section 6472(d) of this
21 title, any individual who--

22 “(1) has received a refund of a lump-sum credit in
23 the Fund under subchapter III of chapter 83 of this
24 title,

25 “(2) is required by section 8402 of this title to be

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1 a participant, and

2 "(3) is not a participant referred to in section

3 8473(a) of this title,

4 may make deposits under section 8334 of this title for

5 service performed before January 1, 1987, while subject to

6 subchapter III of chapter 83 of this title and shall, upon

7 making such deposits, be entitled to credit under such

8 subchapter for service covered by the deposits.

9 "(d) Survivor benefits shall be payable as provided in

10 subchapter III of chapter 83 of this title and this chapter

11 to the extent of the service creditable under such subchapter

12 (pursuant to this section) and this chapter in the case of a

13 participant referred to in subsection (a), (b), or (c) of

14 this section.

15 "§ 8472. Special rules for participants retaining

16 entitlement in the Civil Service Retirement and

17 Disability System

18 "(a) Service that is creditable under subchapter III of

19 chapter 83 of this title in the case of an individual who

20 retains entitlement in the Civil Service Retirement and

21 Disability System under section 8471 of this title shall be

22 credited as service under this chapter only--

23 "(1) for the purposes of determining eligibility to

24 retire entitled to an annuity under section 8411 or 8412

25 of this title and entitlement for disability benefits

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1 under subchapter V of this chapter; and

2 "(2) for the purpose of considering such service as
3 years of participation in the System for the purposes of
4 section 8422 of this title (relating to vesting under the
5 thrift savings plan).

6 "(b) Service performed as a participant in the System by
7 an individual referred to in subsection (a) of this section
8 shall be credited under subchapter III of chapter 83 of this
9 title only for the purpose of determining eligibility to
10 retire entitled to an annuity under section 8335, 8336, or
11 8338 of this title.

12 "(c)(1) The rates of basic pay in effect for an
13 individual referred to in subsection (a) of this section on
14 and after the date the individual begins to participate in
15 the System shall be taken into account in computing the
16 individual's average pay (as defined in section 8331(4) of
17 this title) for the purposes of subchapter III of chapter 83
18 of this title.

19 "(2) The rates of basic pay in effect for an individual
20 referred to in subsection (a) of this section before the date
21 the individual begins to participate in the System shall be
22 taken into account in computing the individual's average pay
23 for the purposes of this chapter.

24 "(d) Section 8337 of this title (relating to disability
25 retirement) shall not apply in the case of a participant

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1 referred to in subsection (a).

2 ``§ 8473. Participants subject to the Federal Employees'
3 Retirement Contribution Temporary Adjustment
4 Act of 1983

5 ``(a)(1) The service of a participant with respect to
6 which a reduced contribution is made under section 204(a) of
7 the Federal Employees' Retirement Contribution Temporary
8 Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note)
9 shall be credited as service for the purposes of this chapter
10 and shall be considered years of participation in the System
11 for the purposes of section 8422(b)(1) of this title.

12 ``(2) Paragraph (1) of this subsection shall not apply to
13 an individual who serves continuously as a Member of Congress
14 during the period beginning December 31, 1983, and ending
15 January 1, 1987.

16 ``(b)(1) On January 1, 1987, the amount computed under
17 paragraph (2) of this subsection shall be transferred from
18 the Fund to the Thrift Savings Fund in the case of a
19 participant to whom subsection (a)(1) of this section
20 applies. The amount transferred shall be credited to an
21 account established for the individual pursuant to section
22 8428(a) of this title.

23 ``(2)(A) The amount transferred from the Fund in the case
24 of a participant pursuant to paragraph (1) of this subsection
25 shall be equal to the sum of--

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1 “(1) two times the total amount deducted and
2 withheld from the basic pay of the participant pursuant
3 to section 224(a) of the Federal Employees' Retirement
4 Contribution Temporary Adjustment Act of 1983 (97 Stat.
5 1107; 5 U.S.C. 8331 note); and

6 “(11) interest on the amount referred to in clause
7 (1) of this subparagraph computed at the annual rate
8 determined under the second sentence of this subparagraph
9 and compounded annually, as if a fraction of such amount
10 (determined as provided in subparagraph (B) of this
11 paragraph) had been deposited to the credit of the Fund
12 at the end of each month for which amounts were deducted
13 and withheld from the basic pay of the participant as
14 described in clause (1) of this subparagraph.

15 The annual rate referred to in clause (11) for an amount
16 transferred from the Fund in any calendar year shall be equal
17 to the interest rate determined for such calendar year under
18 section 8334(e) of this title.

19 “(B) In the case of any participant to whom paragraph
20 (1) of this subsection applies--

21 “(1) the numerator of the fraction referred to in
22 subparagraph (A)(11) of this paragraph is one; and

23 “(11) the denominator of the fraction is the number
24 of months for which amounts were deducted and withheld
25 from the basic pay of the participant as described in

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1 subparagraph (A)(1) of this paragraph.

2 "(3) For the purposes of section 8422 of this title--

3 "(A) one-half of the amount computed in the case of
4 a participant referred to in subsection (a) of this
5 section pursuant to paragraph (2) of this subsection
6 shall be treated as a contribution made under section
7 8421(a) of this title; and

8 "(B) one-half of such amount shall be treated as a
9 contribution made by the employing agency of the
10 participant pursuant to section 8421(b) of this title.

11 "(4) All amounts transferred from the Fund pursuant to
12 paragraph (1) of this subsection shall be transferred in the
13 form of interest-bearing securities of the United States.

14 "(c) The total amount of any deposit made to the Fund
15 under section 8334(j) of this title (relating to deposits
16 covering periods of military service) in the case of a
17 participant referred to in paragraph (1) of this subsection
18 shall be refunded to the participant. The refund shall be
19 paid out of sums in the Fund.

20 "§ 8474. Reemployed annuitants under a Government retirement
21 system.

22 "(a) For the purposes of this section--

23 "(1) the term 'annuitant'--

24 "(A) in the case of the Civil Service Retirement
25 and Disability System, shall have the same meaning

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1 provided in section 8331(9) of this title;

2 “(5) in the case of the Foreign Service
3 Retirement and Disability System, shall have the same
4 meaning provided in section 804(1) of the Foreign
5 Service Act of 1980 (22 U.S.C. 4044(1)), except that
6 such term does not include a survivor; and

7 “(C) in the case of the Central Intelligence
8 Agency Retirement and Disability System, means--

9 “(1) any participant who is referred to in
10 section 203 of the Central Intelligence Agency
11 Retirement Act of 1964 for Certain Employees, and

12 “(ii) any individual who formerly was such a
13 participant,

14 entitled to an annuity from the Central Intelligence
15 Agency Retirement and Disability Fund;

16 “(2) the term ‘Government retirement system’ means--

17 “(A) the Civil Service Retirement and Disability
18 System under subchapter III of chapter 83 of this
19 title;

20 “(B) the Foreign Service Retirement and
21 Disability System under chapter 8 of the Foreign
22 Service Act of 1980 (22 U.S.C. 4041 et seq.); and

23 “(C) the Central Intelligence Agency Retirement
24 and Disability System under the Central Intelligence
25 Agency Retirement Act of 1964 for Certain Employees

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1 (50 U.S.C. 423 note); and

2 "(3) the term 'reemployed annuitant' means an
3 annuitant who becomes employed by the Government after
4 the effective date of the Civil Service Pension Reform
5 Act of 1985 and is required by section 8402 of this title
6 to be a participant.

7 "(b) A reemployed annuitant shall retain entitlement in
8 the Government retirement system under which the annuitant is
9 receiving an annuity.

10 "(c)(1) Service that is creditable under the Government
11 retirement system of a reemployed annuitant shall be credited
12 under this chapter only for the purpose of determining
13 eligibility to retire entitled to an annuity under section
14 8411 of this title.

15 "(2) Service performed as a reemployed annuitant shall
16 not be creditable service for the purposes of the Government
17 retirement system of the reemployed annuitant.

18 "(d)(1) The rates of basic pay in effect for a
19 reemployed annuitant on and after the date the annuitant
20 begins to participate in the System shall be taken into
21 account in computing the annuitant's average pay for the
22 purposes of the Government retirement system under which the
23 annuitant was receiving an annuity when the reemployment
24 commenced.

25 "(2) The rates of basic pay in effect for a reemployed

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1 “(D) two representatives of Federal employee
2 organizations appointed by the President, one of whom
3 shall be a representative from a labor organization (as
4 defined in section 71Ø3(a)(4) of this title) and one of
5 whom shall be a representative from an organization for
6 employees who are managers.

7 “(2) If an office referred to in paragraph (1)(A),
8 (1)(B), or (1)(C) of this subsection is vacant, the person
9 acting as the officer in such office shall be a member of the
10 Board while acting as such officer.

11 “(3) The Chairman of the Federal Reserve Board shall be
12 the Chairman of the Board.

13 “(4) The members of the Board appointed under paragraph
14 (1)(D) of this subsection shall serve until replaced by the
15 President.

16 “(c) The Board shall--

17 “(1) establish policies and prescribe regulations
18 for--

19 “(A) the investment and management of the Thrift
20 Savings Fund; and

21 “(B) the administration of subchapter III of
22 this chapter and the provisions of subchapter IV of
23 this chapter which relate to survivor annuities
24 payable out of the Thrift Savings Fund;

25 “(2) review the performance of investments made for

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1 the Thrift Savings Fund;

2 "(3) without regard to civil service and
3 classification laws, fix the rate of pay of the Executive
4 Director;

5 "(4) supervise the Executive Director; and

6 "(5) review and approve the budget of the Board.

7 "(d)(1) The Board may--

8 "(A) adopt, alter, and use a seal;

9 "(B) adopt, amend, and repeal regulations to carry
10 out its functions;

11 "(C) disapprove any action of the Executive
12 Director;

13 "(D) except as provided in paragraph (2) of this
14 subsection, direct the Executive Director to take such
15 action as the Board considers appropriate to carry out
16 the provisions of this subchapter and subchapter III of
17 this chapter, the provisions of subchapter IV of this
18 chapter which relate to survivor annuities payable out of
19 the Thrift Savings Fund, and the policies of the Board;

20 "(E) upon the concurring votes of four members,
21 remove the Executive Director from office for good cause
22 shown; and

23 "(F) take such other action as may be necessary to
24 carry out the functions of the Board.

25 "(2) Except in the case of investments required by

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1 section 8427 of this title to be invested in securities of
2 the Government, the Board may not direct the Executive
3 Director or any contractor under a contract awarded under
4 section 8493(c)(2) this title to invest or to cause to be
5 invested any sums in the Thrift Savings Fund in a specific
6 asset or to dispose of or cause to be disposed any specific
7 asset of such Fund.

8 ``§ 8492. Civil Service Thrift Advisory Committee

9 `` (a)(1) The Board shall establish a Civil Service Thrift
10 Advisory Committee (hereafter in this subchapter referred to
11 as the 'Advisory Committee').

12 `` (2)(A) The Advisory Committee shall be composed of 6
13 members appointed as provided in subparagraph (B) of this
14 paragraph.

15 `` (B) The members of the Advisory Committee shall be
16 appointed by action agreed to by a majority of the members
17 the Board. Three of the members of the Advisory Committee
18 shall be appointed from among investment asset managers not
19 employed by the Government and three of the members of the
20 Advisory Committee shall be appointed from among
21 administrators of thrift savings plans established for
22 employees of private sector enterprises.

23 `` (3) The Board shall prescribe the terms and conditions
24 of service of the members of the Advisory Committee.

25 `` (b) The Advisory Committee shall--

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1 “(1) advise the Board and the Executive Director on
2 matters relating to--

3 “(A)(i) investment policy for the Thrift Savings
4 Fund;

5 “(ii) selection of the types of investment funds
6 which are appropriate for investment of sums in the
7 Thrift Savings Fund; and

8 “(iii) selection of investment managers for the
9 purpose of contracting for the administration of
10 investment funds under section 8493(c)(2) of this
11 title; and

12 “(B)(i) the performance of the duties of the
13 Board and the Executive Director under the provisions
14 of this subchapter and subchapter III of this chapter
15 and the provisions of subchapter IV of this chapter
16 which relate to survivor annuities payable out of the
17 Thrift Savings Fund; and

18 “(ii) the administration of such provisions; and

19 “(2) review the performance of investments made for
20 the Thrift Savings Fund.

21 “§ 8493. Executive Director

22 “(a)(1) The Board shall appoint an Executive Director by
23 action agreed to by a majority of the members of the Board.

24 The Executive Director shall have substantial experience,
25 training, or expertise in the management of financial

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1 Investments.

2 “(2) The Board shall prescribe the terms and conditions
3 of service of the Executive Director.

4 “(b) The Executive Director shall--

5 “(1) carry out the policies established by the
6 Board;

7 “(2) invest and manage the Thrift Savings Fund in
8 accordance with the investment and other policies
9 established by the Board;

10 “(3) provide for payment of annuities and other
11 authorized distributions from the Thrift Savings Fund
12 under this chapter; and

13 “(4) administer the provisions of this subchapter,
14 subchapter III of this chapter, the provisions of
15 subchapter IV of this chapter which relate to survivor
16 annuities payable out of the Thrift Savings Fund, and the
17 regulations prescribed by the Board.

18 “(c) The Executive Director, may--

19 “(1) without regard to civil service and
20 classification laws, appoint, employ, and fix the
21 compensation of such personnel as may be necessary to
22 carry out the provisions of this subchapter and
23 subchapter III of this chapter and the provisions of
24 subchapter IV of this chapter which relate to survivor
25 annuities payable out of the Thrift Savings Fund;

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1 “(2) enter into such contracts or other arrangements
2 (including contracts for the performance of
3 administrative services), and make such modifications
4 thereof, as may be appropriate to carry out the
5 provisions of this subchapter and section 8427 of this
6 title and the policies of the Board;

7 “(3) except as provided in section 552a of this
8 title, obtain from any Federal agency, including any
9 independent establishment or instrumentality of the
10 United States, advice, information, estimates,
11 statistics, and such other assistance as the Executive
12 Director considers necessary to carry out the provisions
13 of this subchapter and subchapter III of this chapter,
14 the provisions of subchapter IV of this chapter which
15 relate to survivor annuities payable out of the Thrift
16 Savings Fund, and the policies of the Board;

17 “(4) make such payments out of sums in the Thrift
18 Savings Fund as the Executive Director determines are
19 necessary to carry out the provisions of this subchapter,
20 subchapter III of this chapter, the provisions of
21 subchapter IV of this chapter which relate to survivor
22 annuities payable out of the Thrift Savings Fund, and the
23 policies of the Board;

24 “(5) pay the compensation, per diem, and travel
25 expenses of personnel from the Thrift Savings Fund;

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1 “(6) accept and utilize the services of individuals
2 employed intermittently in the Government service and
3 reimburse such individuals for travel expenses, as
4 authorized by section 5703 of this title, including per
5 diem as authorized by section 5702 of this title;

6 “(7) except as otherwise expressly prohibited by law
7 or the policies of the Board, delegate any of the
8 Executive Director's functions to such officers and
9 employees under the Board as the Executive Director may
10 designate and authorize such successive redelegations of
11 such functions to such officers and employees under the
12 Board as the Executive Director may consider to be
13 necessary or appropriate; and

14 “(8) take such other actions as are appropriate to
15 carry out the functions of the Executive Director.

16 “§ 8494. Investment policy

17 “The Board shall develop investment policies under
18 section 8491(c)(1) of this title which provide for--

19 “(1) prudent investments suitable for accumulating
20 funds for payment of retirement income;

21 “(2) investment strategies which do not require a
22 significant level of active investment decisionmaking in
23 the case of the investment funds established under
24 subparagraphs (B) and (C) of section 8427(b)(1) of this
25 title;

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1 ''(3) low administrative costs; and

2 ''(4) investments likely to receive broad acceptance
3 by participants and the public.

4 ''§ 8495. Administrative provisions

5 ''(a) The Board shall meet--

6 ''(1) not less than once during each fiscal year; and

7 ''(2) at additional times at the call of the
8 Chairman.

9 ''(b)(1) Except as provided in section 8491(d)(1)(E) of
10 this title, the Board shall perform the functions and
11 exercise the powers of the Board on a majority vote of a
12 quorum of the Board.

13 ''(2) A vacancy on the Board shall not impair the
14 authority of a quorum of the Board to perform the functions
15 and exercise the powers of the Board.

16 ''(c) Three members of the Board shall constitute a
17 quorum for the transaction of business.

18 ''(d)(1) Each member of the Board who is not a Federal
19 employee and each member of the Advisory Committee shall be
20 compensated at the daily rate of basic pay payable for grade
21 GS-18 under the General Schedule for each day or part thereof
22 during which such member is engaged in performing a function
23 of the Board or Advisory Committee, as the case may be.

24 ''(2) Each member of the Board who is not a Federal
25 employee and each member of the Advisory Committee shall be

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1 paid travel, per diem, and other necessary expenses under
2 subchapter I of chapter 57 of this title while traveling away
3 from his home or regular place of business in the performance
4 of the duties of the Commission or Advisory Board, as the
5 case may be.

6 "(e) The accrued annual leave of any employee who is a
7 member of the Board shall not be charged for any time used in
8 performing service for the Board during any work period.

9 "(f) Section 14(a)(2) of the Federal Advisory Committee
10 Act (86 Stat. 776; 5 U.S.C. App.) shall not apply to the
11 Advisory Committee.

12 "§ 8496. Fiduciary responsibilities; liability and penalty

13 "(a) For the purposes of this section--

14 "(1) the term 'fiduciary' means--

15 "(A) with respect to the Thrift Savings Fund,
16 each member of the Board and the Executive Director;
17 and

18 "(B) any person who, with respect to the Thrift
19 Savings Fund, is described in section 3(21)(A) of the
20 Employee Retirement Income Security Act of 1974 (29
21 U.S.C. 1002(21)(A));

22 "(2) the term 'party in interest' includes--

23 "(A) any fiduciary;

24 "(B) any counsel to a fiduciary;

25 "(C) any person providing services to the Board

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1 or the Executive Director;

2 "(D) a labor organization the members of which
3 are participants;

4 "(E) a spouse, ancestor, lineal descendant, or
5 spouse of a lineal descendant of a person described
6 in subclause (A), (B), or (C) of this clause; and

7 "(F) a corporation, partnership, or trust or
8 estate of which, or in which, 50 percent or more of--

9 "(i) the combined voting power of all
10 classes of stock entitled to vote or the total
11 value of shares of all classes of stock of such
12 corporation;

13 "(ii) the capital interest or profits
14 interest of such partnership; or

15 "(iii) the beneficial interest of such trust
16 or estate,

17 is owned directly or indirectly, or held by a person
18 described in subclause (A), (B), (C), or (E) of this
19 clause; and

20 "(3) the term 'person' means an individual,
21 partnership, joint venture, corporation, mutual company,
22 joint-stock company, trust, estate, unincorporated
23 organization, association, or labor organization.

24 "(b)(1) A fiduciary shall discharge his responsibilities
25 with respect to the Thrift Savings Fund or applicable portion

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1 thereof solely in the interest of the participants and
2 beneficiaries and--

3 “(A) for the exclusive purpose of--

4 “(i) providing benefits to participants and
5 their beneficiaries; and

6 “(ii) defraying reasonable expenses of
7 administering the Thrift Savings Fund or applicable
8 portions thereof;

9 “(B) with the care, skill, prudence, and diligence
10 under the circumstances then prevailing that a prudent
11 individual acting in a like capacity and familiar with
12 such matters would use in the conduct of an enterprise of
13 a like character and with like objectives; and

14 “(C) to the extent permitted by section 8427 of this
15 title, by diversifying the investments of the Thrift
16 Savings Fund or applicable portions thereof so as to
17 minimize the risk of large losses, unless under the
18 circumstances it is clearly prudent not to do so.

19 “(2) No fiduciary may maintain the indicia of ownership
20 of any assets of the Thrift Savings Fund outside the
21 jurisdiction of the district courts of the United States.

22 “(c) A fiduciary shall not--

23 “(1) deal with any assets of the Thrift Savings Fund
24 for his own account;

25 “(2) act, in his individual or any other capacity,

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1 in any transaction involving the Thrift Savings Fund on
2 behalf of a party whose interests are adverse to the
3 interests of the Thrift Savings Fund or the interests of
4 its participants or beneficiaries;

5 "(3) receive any consideration for his own personal
6 account from any party dealing with sums credited to the
7 Thrift Savings Fund in connection with a transaction
8 involving assets of the Thrift Savings Fund, except fees
9 which the fiduciary is entitled to receive as provided in
10 a contract awarded under section 8493(c)(2) of this
11 title;

12 "(4) permit the transfer of any assets of the Thrift
13 Savings Fund to or the use of such assets by any person
14 known to be a party in interest, except in return for
15 adequate consideration; or

16 "(5) permit the acquisition of any property from or
17 services by any person known to be a party in interest,
18 except in exchange for adequate consideration.

19 "(d) This section does not prohibit any fiduciary from--

20 "(1) receiving any benefit which the fiduciary is
21 entitled to receive under this chapter as a participant,
22 a former participant, or a beneficiary of a participant
23 or former participant;

24 "(2) receiving any reasonable compensation
25 authorized by this title for services rendered, or for

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1 reimbursement of expenses properly and actually incurred,
2 in the performance of the fiduciary's duties under this
3 chapter; or

4 "(3) serving as a fiduciary in addition to being an
5 officer, employee, agent, or other representative of a
6 party in interest.

7 "(e)(1)(A) Any fiduciary that breaches the
8 responsibilities, duties, and obligations set out in
9 subsection (b) of this section or violates subsection (c) of
10 this section shall be liable to the Thrift Savings Fund for
11 any losses to such fund resulting from each such breach or
12 violation and to restore to such fund any profits made by the
13 fiduciary through use of assets of such fund by the
14 fiduciary, and shall be subject to such other equitable or
15 remedial relief as a court considers appropriate. A fiduciary
16 may be removed for a breach referred to in the preceding
17 sentence.

18 "(B) The Attorney General of the United States may
19 assess a civil penalty against a party in interest engaging
20 in a transaction prohibited by subsection (c) of this
21 section. The amount of such penalty may not exceed 5 percent
22 of the amount involved (as defined in section 4975(f)(4) of
23 the Internal Revenue Code of 1954); except that, if the
24 transaction is not corrected (in such manner as the Attorney
25 General shall prescribe by regulation consistent with section

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1 4975(f)(5) of the Internal Revenue Code of 1954) within 90
2 days after the date the Attorney General transmits notice to
3 the party in interest (or such longer period as the Attorney
4 General may permit), such penalty may be in an amount not
5 more than 100 percent of the amount involved.

6 "(C) A fiduciary shall not be liable under subparagraph
7 (A) of this paragraph with respect to a breach of fiduciary
8 duty under subsection (b) of this section committed before
9 becoming a fiduciary or after ceasing to be a fiduciary.

10 "(2) A civil action may be brought in the district
11 courts of the United States--

12 "(A) by the Attorney General of the United States--

13 "(i) to determine and enforce a liability under
14 paragraph (1)(4) of this subsection; or

15 "(ii) to collect any civil penalty under
16 paragraph (1)(3) of this subsection; or

17 "(B) by the Attorney General of the United States,
18 any participant, annuitant, former participant who is
19 entitled to a deferred annuity under section 9412 of this
20 title, other beneficiary, or fiduciary--

21 "(i) to enjoin any act or practice which
22 violates any provision of subsection (b) or (c) of
23 this section; or

24 "(ii) to obtain any other appropriate equitable
25 relief to redress a violation of any such provision.

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1 “(3) An action may not be commenced under paragraph (2)
2 of this subsection with respect to a fiduciary’s breach of
3 any responsibility, duty, or obligation under subsection (b)
4 of this section or a violation of subsection (c) of this
5 section after the earlier of--

6 “(A) 6 years after (i) the date of the last action
7 which constituted a part of the breach or violation, or
8 (ii) in the case of an omission, the latest date on which
9 the fiduciary could have cured the breach or violation;
10 or

11 “(B) 3 years after the earliest date on which the
12 plaintiff had actual knowledge of the breach or
13 violation; except that, in the case of fraud or
14 concealment, such action may be commenced not later than
15 6 years after the date of discovery of such breach or
16 violation.”.

17 (b) The table of chapters at the beginning of part III of
18 such title is amended by inserting after the item relating to
19 chapter 83 the following new item:

“84. Civil Service Pension System..... 8401.”.

20 TITLE II--AMENDMENTS RELATING TO SOCIAL SECURITY

21 AMENDMENTS TO THE SOCIAL SECURITY ACT

22 Sec. 221. Section 210(a)(5) of the Social Security Act is
23 amended--

24 (1) by striking out “or” at the end of subparagraph

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1 (F);

2 (2) by striking out the semicolon at the end of
3 subparagraph (G) and inserting in lieu thereof `` , or ``;
4 and

5 (3) by adding at the end thereof the following new
6 subparagraph:

7 `` (H) service performed by an individual after
8 such individual has commenced participation in the
9 Civil Service Pension System pursuant to section 8471
10 of title 5, United States Code; ``.

11 AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

12 Sec. 202. Section 3121(b)(5) of the Internal Revenue Code
13 of 1954 is amended--

14 (1) by striking out `` or `` at the end of subparagraph
15 (F);

16 (2) by striking out the semicolon at the end of
17 subparagraph (G) and inserting in lieu thereof `` , or ``;
18 and

19 (3) by adding at the end thereof the following new
20 subparagraph:

21 `` (H) service performed by an individual after
22 such individual has commenced participation in the
23 Civil Service Pension System pursuant to section 8471
24 of title 5, United States Code; ``.

25 TITLE III--MISCELLANEOUS AND CONFORMING AMENDMENTS

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1 EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT CONTRIBUTION
2 TEMPORARY ADJUSTMENT ACT OF 1983

3 Sec. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A),
4 203(a)(4)(B), 204(a), 206(b)(2)(A)(1), and 206(c)(3) of the
5 Federal Employees' Retirement Contribution Temporary
6 Adjustment Act of 1983 (97 Stat. 1176; 5 U.S.C. 6331 note)
7 are amended by striking out "January 1, 1985" each place it
8 appears and inserting in lieu thereof "January 1, 1987".

9 (b) Section 205 of such Act is amended by striking out
10 "and 1986" in subsections (b) and (c) and inserting in lieu
11 thereof "1986, and 1987".

12 MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED
13 STATES CODE

14 Sec. 302. (a) Section 8331(1)(G) of title 5, United
15 States Code, is amended to read as follows:

16 "(G) an individual first employed by the
17 government of the District of Columbia before January
18 1, 1987;"

19 (b) Section 8332 of such title is amended by adding at
20 the end thereof the following new subsection:

21 "(n) Except as provided in section 8472(b) of this
22 title, service performed while a participant in the Civil
23 Service Pension System under chapter 84 of this title is not
24 creditable under this section."

25 (c)(1) The first sentence of section 8333(b) of such

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1 title is amended by inserting "or chapter 84 of this title"
2 after "subject to this subchapter".

3 (2) Section 8333(c) of such title is amended by adding at
4 the end thereof the following new sentence: "The
5 requirements of the first sentence shall apply only with
6 respect to the civilian service performed by a Member while
7 not a participant in the Civil Service Pension System under
8 chapter 84 of this title."

9 (d) Subsection (a) of section 8334 of such title is
10 amended--

11 (1) in the first sentence of paragraph (1), by
12 striking out "The employing" and inserting in lieu
13 thereof "Except as provided in paragraph (3) of this
14 subsection, the employing"; and

15 (2) by adding at the end thereof the following new
16 paragraph:

17 "(3)(A) In the case of an employee or Member who was
18 subject to this subchapter before January 1, 1984, and whose
19 service--

20 "(i) is employment for the purposes of title II of
21 the Social Security Act and chapter 21 of the Internal
22 Revenue Code of 1954; and

23 "(ii) is not creditable service for any purpose
24 under chapter 84 of this title,

25 an employing agency shall deduct and withhold from the basic

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1 pay of the employee or Member under paragraph (1) of this
2 subsection during any pay period only the amount computed
3 pursuant to subparagraph (B) of this paragraph.

4 “(B) The amount deducted and withheld from basic pay
5 during any pay period pursuant to subparagraph (A) of this
6 paragraph in the case of an employee or Member referred to in
7 such subparagraph shall be the excess of--

8 “(1) the amount determined by multiplying the
9 percent applicable to the employee or Member under
10 paragraph (1) of this subsection by the basic pay payable
11 for such pay period, over

12 “(ii) the amount of the taxes deducted and withheld
13 from such basic pay under section 3101(a) of the Internal
14 Revenue Code of 1954 for such pay period.”.

15 (e) Section 8339 of such title is amended by adding at
16 the end thereof the following new subsection:

17 “(o)(1) Effective on the first day of the month in which
18 an annuitant or a survivor becomes 62 years of age, the
19 annuity or survivor annuity computed under the other
20 subsections of this section shall be reduced by an amount
21 equal to the amount (if any) by which the annuitant's or
22 survivor annuitant's benefit under title II of the Social
23 Security Act exceeds the amount of such benefit to which he
24 would be entitled if the service described in paragraph (2)
25 of this subsection were not taken into account.

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1 Postal Service shall withhold from pay and shall pay into the
2 Civil Service Retirement and Disability Fund the amounts
3 specified in or determined under such chapter 83. The Postal
4 Service shall pay into the Civil Service Retirement and
5 Disability Fund the amounts specified or determined under
6 subchapters II and V of such chapter 84. The Postal Service
7 shall pay into the Civil Service Thrift Savings Fund the
8 amounts specified in or determined under subchapter III of
9 such chapter 84.''.

12 GROUP LIFE INSURANCE FOR CERTAIN PARTICIPANTS IN THE CIVIL
11 SERVICE PENSION SYSTEM

12 Sec. 324. (a) Subsection (b) of section 3702 of title 5,
13 United States Code, is amended--

14 (1) by inserting ``(1)'' after ``(b)''; and

15 (2) by adding at the end thereof the following new
16 paragraph:

17 ``(2) Paragraph (1) of this subsection shall not apply to
18 an employee who is required by section 8402 of this title to
19 be a participant in the Civil Service Pension System.''.

20 (b) Subsection (a) of section 8707 of such title is
21 amended--

22 (1) by striking out ``(a) During'' and inserting in
23 lieu thereof ``(a)(1) Except as provided in paragraph (2)
24 of this subsection, during''; and

25 (2) by adding at the end thereof the following new

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1 paragraph:

2 '(2) Paragraph (1) of this subsection shall not apply to
3 an employee who is required by section 8402 of this title to
4 be a participant in the Civil Service Pension System.'

5 (c) Subsection (a) of section 8728 of such title is
6 amended--

7 (1) by striking out '(a) For' and inserting in lieu
8 thereof '(a)(1) Except as provided in paragraph (2) of
9 this subsection, for'; and

10 (2) by adding at the end thereof the following new
11 paragraph:

12 '(2) For each period for which an employee referred to
13 in section 8727(a)(2) of this title is insured under a policy
14 of insurance referred to in paragraph (1) of this subsection,
15 a sum equal to one and one-half times the amount which, but
16 for such section 8727(a)(2), would be withheld from the pay
17 of the employee under section 8727(a)(1) of this title shall
18 be contributed from the appropriation or fund which is used
19 to pay the employee.'

20 HEALTH BENEFIT PLAN ELIGIBILITY FOR FORMER SPOUSES

21 Sec. 305. (a) Section 8901(12) of title 5, United States
22 Code, is amended--

23 (1) in subparagraph (C)(1)--

24 (A) by inserting 'or 8467' after '8345(j)';

25 and

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1 (B) by inserting ``or 8434`` after ``8341(h)``;

2 and

3 (2) in subparagraph (C)(ii)--

4 (A) by inserting ``or 8434`` after ``8341(h)``;

5 and

6 (B) by inserting ``or 8467`` after ``8345(j)``.

7 (b)(1) Subsection (b) of section 8905 of such title is

8 amended--

9 (A) by redesignating subparagraphs (A), (B), and (C)

10 of paragraph (1) as clauses (i), (ii), and (iii),

11 respectively;

12 (B) by redesignating paragraphs (1) and (2) as

13 subparagraphs (A) and (B), respectively;

14 (C) by inserting ``(1)`` after ``(b)``; and

15 (D) by adding at the end thereof the following new

16 paragraph (2):

17 ``(2) A member of family of a deceased employee or

18 annuitant who was enrolled in a health benefit plan under

19 this chapter on the date of death of the employee or

20 annuitant may continue the enrollment under the conditions of

21 eligibility prescribed in regulations issued by the

22 Office.''.

23 (2) Subsection (c)(1) of such section is amended--

24 (A) in subparagraph (B), by inserting ``or

25 8435(a)(1)``; and

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1 (B) in the second sentence--

2 (i) by inserting ``or 8434`` after ``8341(r)``;

3 and

4 (ii) by inserting ``or 8467`` after ``8345(j)``.

5 EMPLOYEES OF CERTAIN NONAPPROPRIATED FUND INSTRUMENTALITIES

6 Sec. 3Ø6. Section 21Ø5(c) of title 5, United States Code,
7 is amended by inserting `` , chapter 84, `` after ``chapter
8 81`` in clause (2) of the first sentence.

9 TITLE IV--AUTHORIZATION AND EFFECTIVE DATES

10 FIRST YEAR EXPENSES OF THE CIVIL SERVICE THRIFT INVESTMENT

11 MANAGEMENT SYSTEM

12 Sec. 4Ø1. (a) Notwithstanding section 8425(c)(3) of title
13 5, United States Code, as added by section 1Ø1 of this Act,
14 the expenses incurred in the administration of the Civil
15 Service Thrift Investment Management System prescribed in
16 subchapter VIII of chapter 84 of such title, as added by
17 section 1Ø1 of this Act, during fiscal years 1986 and 1987
18 shall be paid from sums appropriated pursuant to subsection
19 (b).

20 (b) There are authorized to be appropriated to the Civil
21 Service Thrift Investment Board, for fiscal years 1986 and
22 1987, such sums as may be necessary to pay the expenses
23 incurred in the administration of the Civil Service Thrift
24 Investment Management System prescribed in subchapter VIII of
25 chapter 84 of title 5, United States Code, as added by

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1 section 101 of this Act, during such fiscal years.

2 EFFECTIVE DATES

3 Sec. 402. (a) Except as provided in subsection (b), this
4 Act and the amendments made by this Act shall take effect
5 January 1, 1987.

6 (b) Subchapter VIII of chapter 84 of title 5, United
7 States Code (relating to the Civil Service Thrift Investment
8 Management System), as added by section 101, shall take
9 effect on the date of enactment.

10 (c) The program required by section 8426(e) of title 5,
11 United States Code, as added by section 101(a) of this Act,
12 shall be established not later than January 1, 1988.