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BIPARTISAN COMMITTEE AMENDMENT PROPOSED BY MR. ROTH, MR. STEVENS,
MR. EAGLETON AND MR. GORE TO THE COMMITTEE PRINT OF S. 1527

1 Viz:

2 Strike out all after "Viz:" and insert in lieu thereof
3 the following:
4 That this Act may be cited as the "Federal Retirement Reform
5 Act of 1985".

6 PURPOSES

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

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

11 (2) to assist in building a quality career work force
12 in the Federal Government;

13 (3) to promote financial stability and flexibility
14 for the future of each Federal employee;

15 (4) to ensure a fully funded and financially sound
16 Federal Government retirement benefits plan;

17 (5) to enhance portability of retirement assets
18 between Federal jobs and jobs outside the Federal
19 Government;

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

22 (7) to encourage Federal employees to increase
23 personal savings for retirement;

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1 (8) to include Federal employees in the investment
 2 decisionmaking process with respect to the assets of the
 3 retirement system; and

4 (9) to extend financial protection from disability to
 5 additional Federal employees and to increase such
 6 protection for eligible Federal employees.

7 TITLE I--FEDERAL RETIREMENT SYSTEM

8 ESTABLISHMENT

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

11 ``CHAPTER 84--FEDERAL RETIREMENT SYSTEM

``SUBCHAPTER I--DEFINITIONS; FEDERAL RETIREMENT SYSTEM

``Sec.

- 4 ``8401. Definitions.
 12 ``8402. Federal Retirement System; participation.
 13 ``8403. Relationship to the Social Security Act.

``SUBCHAPTER II--BASIC PLAN

- 17 ``8411. Entitlement to immediate retirement.
 18 ``8412. Entitlement to deferred retirement.
 19 ``8413. Computation of annuity.
 20 ``8414. Reduction for early retirement.
 21 ``8415. Reduction for survivor annuities.
 22 ``8416. Methods of payments.
 23 ``8417. Level benefits option.
 24 ``8418. Contributions.
 25 ``8419. Funding of annuity attributable to military service.
 26 ``8420. Lump-sum benefits; designation of beneficiaries;
 27 order of precedence.

``SUBCHAPTER III--THRIFT SAVINGS PLAN

- 35 ``8421. Contributions.
 40 ``8422. Vesting.
 43 ``8423. Entitlement and elections relating to entitlement.
 45 ``8424. Annuities: methods of payment; election; and
 computation.

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- 111 8425. Administrative provisions relating to payments and elections.
- 118 8426. Thrift Savings Fund.
- 118 8427. Investment of Thrift Savings Fund.
- 118 8428. Accounting.

''SUBCHAPTER IV--SURVIVOR BENEFITS

- 111 8431. Basic plan spousal benefits relating to the death of a participant or former participant other than an annuitant.
- 111 8432. Basic plan spousal and insurable interest benefits relating to the death of an annuitant.
- 111 8433. Survivor benefits under the thrift savings plan.
- 111 8434. Basic and thrift savings plan survivor benefits relating to marriage after commencement of an annuity.
- 111 8435. Survivor benefits for former spouses: entitlements; amount.
- 111 8436. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.
- 111 8437. Termination of entitlement.
- 111 8438. Deposits to the Fund.

''SUBCHAPTER V--DISABILITY BENEFITS

- 111 8441. Definitions.
- 111 8442. Entitlement.
- 111 8443. Computation of benefits.
- 111 8444. Application.
- 111 8445. Medical examinations.
- 111 8446. Offers of alternative employment.
- 111 8447. Recovery or restoration of earning capacity.
- 111 8448. Relationship to workers' compensation.
- 111 8449. Military reserve technicians.
- 111 8450. Administrative provisions.
- 111 8451. Annual accounting; special contingency reserve.
- 111 8452. Federal Employees' Disability Insurance Fund.

''SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- 111 8461. Authority of the Office of Personnel Management.
- 100 8462. Cost-of-living adjustment in basic plan annuities, survivor annuities, and disability benefits.
- 111 8463. Rate of benefits.
- 111 8464. Commencement and termination of annuities.
- 111 8465. Waiver, allotment, and assignment of benefits.
- 111 8466. Application for benefits.
- 111 8467. Court orders.

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- 110 ..8468. Annuities and pay on reemployment.
 112 ..8469. Information.

..SUBCHAPTER VII--TRANSITION PROVISIONS

- 112 ..8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.
 115 ..8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.
 117 ..8473. Participants subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.
 120 ..8474. Reemployed annuitants under a Government retirement system.
 122 ..8475. Exemption from certain offset provisions of the Social Security Act.
 124 ..8476. Regulations.

..SUBCHAPTER VIII--FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

- 126 ..8491. Federal Retirement Thrift Investment Board.
 128 ..8492. Federal Retirement Thrift Advisory Committee.
 130 ..8493. Employee Advisory Committee.
 132 ..8494. Executive Director.
 134 ..8495. Investment policy.
 136 ..8496. Administrative provisions.
 138 ..8497. Fiduciary responsibilities; liability and penalty.
 140 ..8498. Bonding.
 142 ..8499. Exculpatory provisions; insurance.

1 ..SUBCHAPTER I--DEFINITIONS; FEDERAL RETIREMENT SYSTEM

2 § 8401. Definitions

3 ..Except as otherwise provided in this chapter, for the
 4 purposes of this chapter--

5 ..(1) the term 'account', when used with respect to a
 6 participant or annuitant, means an account established
 7 and maintained under section 8428(a) of this title;

8 ..(2) the term 'annuitant' means a former participant
 9 who is entitled to an annuity under this chapter and who

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1 has applied under this chapter for the payment of the
2 annuity to commence;

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

10 "(4) the term 'basic pay', when used with respect to
11 a participant--

12 "(A) means the lesser of--

13 "(1) the basic pay of the participant
14 established pursuant to law, without regard to
15 any provision of law (except sections 5308 and
16 5382(b) of this title) limiting the rate of pay
17 actually payable in any pay period (including any
18 provision of law restricting the use of
19 appropriated funds); or

20 "(ii) the rate of basic pay payable for
21 level I of the Executive Schedule; and

22 "(B) includes the items described in
23 subparagraphs (A) through (D) of paragraph (3) of
24 section 8331 of this title and does not include the
25 items excluded by such paragraph;

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1 “(5) the term ‘Board’ means the Federal Retirement
2 Thrift Investment Board established by section 8491(a) of
3 this title;

4 “(6) the term ‘Civil Service Retirement and
5 Disability Fund’ means the Civil Service Retirement and
6 Disability Fund referred to in section 8348 of this
7 title;

8 “(7) the term ‘court’, when used with respect to a
9 judgment, decree, order, or other judicial action, means
10 any court of the United States, a State, the District of
11 Columbia, the Commonwealth of Puerto Rico, or a territory
12 or possession of the United States, or any Indian court,
13 having jurisdiction to issue such judgment, decree, or
14 order or to take such other judicial action;

15 “(8) the term ‘Director’ means the Director of the
16 Office of Personnel Management;

17 “(9) the term ‘dynamic assumptions’ means economic
18 assumptions that are used in determining actuarial costs
19 and liabilities of a retirement system and in
20 anticipating the effects of long-term future--

21 “(A) investment yields,

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

23 “(C) rates of price inflation;

24 “(10) the term ‘earnings’, when used with respect to
25 the Thrift Savings Fund, means the amount of the gain

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1 experienced or yield received from the investment of sums
2 in such fund;

3 "(11) the term 'eligible former spouse', when used
4 with respect to a participant or former participant,
5 means a former spouse of the participant or former
6 participant who was married to the participant or former
7 participant for at least 9 months;

8 "(12) the term 'employee' means--

9 "(A) each individual referred to in
10 subparagraphs (A), (E), (F), (H), (I), and (J) of
11 section 8331(1) of this title, including an employee
12 of the United States Park Police and an employee of
13 the United States Secret Service; and

14 "(B) a Congressional employee as defined in
15 section 2107 of this title, including a temporary
16 Congressional employee;

17 any of whose employment by the Government after December
18 31, 1983, is employment for the purposes of title II of
19 the Social Security Act and chapter 21 of the Internal
20 Revenue Code of 1954, except that such term does not
21 include any individual referred to in clause (i), (ii),
22 (v), (vi), or (ix) of paragraph (1) of section 8331 of
23 this title or in the undesignated material after clause
24 (ix) of such paragraph, any individual excluded under
25 section 8402(b)(2) of this title, or any individual who

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1 was subject to subchapter III of chapter 83 of this title
2 on December 31, 1983, has not had a break in employment
3 by the Government for a period of more than 1 year
4 beginning after such date, and has not commenced
5 participation in the System pursuant to section 8471 of
6 this title;

7 "(13) the term 'Employee Advisory Committee' means
8 the Employee Advisory Committee established in accordance
9 with section 8493 of this title;

10 "(14) the term 'Executive Director' means the
11 Executive Director appointed under section 8494(a)(1) of
12 this title;

13 "(15) the term 'firefighter' means--

14 (A) an employee the duties of whose position--
15 "(1) are primarily to perform work directly
16 connected with the control and extinguishment of
17 fires; and

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

24 "(B) an employee who is transferred directly to
25 a supervisory or administrative position after

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1 performing duties described in subparagraph (A) of
2 this paragraph for at least 10 years;

3 ``(16) the term 'Fund' means the Civil Service
4 Retirement and Disability Fund;

5 ``(17) the term 'Government' means the Federal
6 Government and Gallaudet College;

7 ``(18) the term 'law enforcement officer' means--

8 ``(A) an employee, the duties of whose position--

9 ``(i) are primarily (I) the investigation,
10 apprehension, or detention of individuals
11 suspected or convicted of offenses against the
12 criminal laws of the United States, or (II) the
13 protection of officials of the United States
14 against threats to personal safety; and

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

21 ``(B) an employee who is transferred directly to
22 a supervisory or administrative position after
23 performing duties described in subparagraph (A) of
24 this paragraph for at least 10 years;

25 ``(19) the term 'loss', when used with respect to the

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1 Thrift Savings Fund, means the amount of the loss
2 experienced from the investment of sums in such fund;

3 ``(20) the term 'lump-sum credit' has the same
4 meaning as provided by section 8331(8) of this title;

5 ``(21) the term 'Member' has the same meaning as
6 provided in section 2106 of this title, except that such
7 term does not include a person who (A) was a Member of
8 Congress on December 31, 1983, and (B) has not commenced
9 participation in the System pursuant to section 8471 of
10 this title;

11 ``(22) the term 'military reserve technician' means a
12 member of one of the reserve components of the Armed
13 Forces specified in section 261(a) of title 10 who--

14 ``(A) is assigned to a civilian position as a
15 technician in the administration and training of such
16 reserve components or in the maintenance and repair
17 of supplies issued to such reserve components; and

18 ``(B) as a condition of employment in such
19 position, is required to be a member of one of such
20 reserve components serving in a specified military
21 grade;

22 ``(23) the term 'net earnings' means the excess of
23 earnings over losses;

24 ``(24) the term 'net losses' means the excess of
25 losses over earnings;

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1 “(25) the term ‘normal cost’ means the entry-age
2 normal cost of the provisions of the System which relate
3 to the Fund, computed by the Office in accordance with
4 generally accepted actuarial practice and standards
5 (using dynamic assumptions) and expressed as a level
6 percentage of aggregate basic pay, and shall be used to
7 value the cost of the System for all purposes in which
8 the cost of the System is required to be determined;

9 “(26) the term ‘Office’ means the Office of
10 Personnel Management;

11 “(27) the term ‘participant’ means an employee or
12 Member or a person who is receiving disability benefits
13 under subchapter V of this chapter;

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

16 “(29) the term ‘service’, when used with respect to
17 a participant or former participant, means--

18 “(A) employment as a participant after December
19 31, 1986;

20 “(B) service which is creditable under section
21 8473 of this title;

22 “(C) subject to section 8419(a) of this title,
23 military service as provided in section 8332(c) of
24 this title;

25 “(D) service that is creditable under subchapter

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1 III of chapter 83 of this title, but only for the
2 purposes provided in section 8472(a) of this title;
3 and
4 "(E) leaves of absence commencing after December
5 31, 1986, under the same conditions and subject to
6 the same limitations as are prescribed in section
7 8332(f) of this title; and
8 is computed as the full years and twelfth parts thereof,
9 excluding from the aggregate the fractional part of a
10 month, if any;
11 "(30) the term 'supplemental liability' means the
12 estimated excess of--
13 "(A) the actuarial present value of all future
14 benefits payable from the Fund under this chapter,
15 over
16 "(B) the sum of--
17 "(i) the actuarial present value of the
18 future contributions to be made on behalf of
19 participants pursuant to section 8418(a) of this
20 title; and
21 "(ii) the balance in the Fund attributable
22 to the System on the date the supplemental
23 liability is determined; and
24 "(31) the term 'System' means the Federal Retirement
25 System described in section 8402(a) of this title.

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1 ``S 8402. Federal Retirement System; participation

2 `` (a) The provisions of this chapter comprise the Federal
3 Retirement System.

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

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

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

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

21 ``S 8403. Relationship to the Social Security Act

22 Except as otherwise provided in this chapter, the
23 benefits payable under the System are in addition to the
24 benefits payable under the Social Security Act.

25 ``SUBCHAPTER II--BASIC PLAN

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1 § 8411. Entitlement to immediate retirement

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

6 “(b) An employee or a Member who is separated from
7 Government employment after becoming 62 years of age and
8 completing 5 years of service is entitled to an immediate
9 annuity.

10 “(c) An employee who is separated from Government
11 employment--

12 “(1) after becoming 50 years of age and completing
13 20 years of service as a law enforcement officer or
14 firefighter, or any combination of such service totaling
15 at least 20 years, or

16 “(2) after completing 25 years of service as a law
17 enforcement officer or firefighter, or any combination of
18 such service totaling at least 25 years,

19 is entitled to an immediate annuity. The provisions of
20 section 8335(b) of this title, relating to mandatory
21 separation, shall apply to a participant who is a law
22 enforcement officer or a firefighter.

23 “(d) An employee who is separated from Government
24 employment--

25 “(1) after becoming 50 years of age and completing

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1 20 years of service as an air traffic controller, or
2 "(2) after completing 25 years as an air traffic
3 controller,

4 is entitled to an immediate annuity. The provisions of
5 section 8335(a) of this title, relating to mandatory
6 separation, shall apply to a participant who is an air
7 traffic controller.

8 "(e)(1) Except as provided in paragraphs (2) and (3) of
9 this subsection, any employee who has completed 25 years of
10 service, or is not less than 50 years of age and has
11 completed 20 years of service, and who--

12 "(A) is separated from Government employment
13 involuntarily, except by removal for cause on charges of
14 misconduct or delinquency, or

15 "(B) while serving in a geographic area designated
16 by the Director, is voluntarily separated from Government
17 employment during a period that (as determined by the
18 Director)--

19 "(i) the agency in which the employee is serving
20 is undergoing a major reorganization, a major
21 reduction in force, or a major transfer of function,
22 and

23 "(ii) a significant percentage of the total
24 number of employees serving in such agency will be
25 separated or subject to an immediate reduction in the

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1 rate of basic pay (without regard to subchapter VI of
2 chapter 53 of this title or comparable provisions),
3 is entitled to an immediate annuity.

4 "(2) An employee described in paragraph (1)(A) of this
5 subsection is not entitled to an annuity under this
6 subsection if the employee has declined a reasonable offer of
7 another position in the employee's agency for which the
8 employee is qualified and the offered position is not lower
9 than 2 grades or pay levels below the employee's grade or pay
10 level and is within the employee's commuting area.

11 "(3) Paragraph (2) of this subsection shall not apply to
12 a firefighter, law enforcement officer, or air traffic
13 controller.

14 "(f) An annuity authorized by this section is computed
15 under sections 8413 through 8415 of this title.

16 "(g) A former employee or Member who is entitled to
17 benefits under subchapter I of chapter 81 of this title is
18 not entitled to an annuity under this section while receiving
19 such benefits.

20 "§ 8412. Entitlement to deferred retirement

21 "(a) A participant who is under 55 years of age and
22 separates from Government employment after completing 10
23 years of service is entitled to an annuity to commence on or
24 after the date the participant becomes 55 years of age but
25 not later than the date the participant becomes 62 years of

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1 age, as elected by the participant under rules prescribed by
2 the Office.

3 "(b) A participant who is under 62 years of age and
4 separates from Government employment after completing 5 years
5 of service and before completing 10 years of service is
6 entitled to an annuity to commence on the date the
7 participant becomes 62 years of age.

8 "(c) An annuity authorized by this section is computed
9 under sections 8413 through 8415 of this title.

10 "(d) A former employee or Member who is entitled to
11 benefits under subchapter I of chapter 81 of this title is
12 not entitled to an annuity under this section while receiving
13 such benefits.

14 "\$ 8413. Computation of annuity

15 "(a)(1) Except as provided in paragraph (2) of this
16 subsection and section 8414 or 8415 of this title--

17 "(A) if an annuitant has not elected to make a
18 contribution under section 8418(c) of this title, the
19 amount of the annuity the annuitant is entitled to
20 receive under this subchapter shall be equal to--

21 "(i) 0.9 percent of the annuitant's average pay
22 multiplied by so much of the annuitant's total
23 service as does not exceed 15 years; and

24 "(ii) 1.1 percent of the annuitant's average pay
25 multiplied by so much of the annuitant's total

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1 service as exceeds 15 years; or

2 "(B) if an annuitant has elected to make a

3 contribution under section 8418(c) of this title and the

4 annuitant has not received a refund of such contributions

5 under section 8420 of this title, the amount of the

6 annuity the annuitant is entitled to receive under this

7 subchapter shall be equal to--

8 "(1) 0.9 percent of the annuitant's average pay

9 multiplied by so much of the annuitant's total

10 service as does not exceed 10 years; and

11 "(11) 1.1 percent of the annuitant's average pay

12 multiplied by so much of the annuitant's total

13 service as exceeds 10 years.

14 "(2) In the case of a participant whose service includes

15 service in the position of a law enforcement officer,

16 firefighter, air traffic controller, or military reserve

17 technician, the percent applicable to the service in such

18 position for the purposes of paragraph (1) of this subsection

19 is 1 percent.

20 "(3) For the purposes of computing the amount of an

21 annuity under paragraphs (1) and (2) of this subsection, the

22 total service of a participant who separates from Government

23 employment entitled to an immediate annuity or who dies

24 leaving a survivor or survivors entitled to a survivor

25 annuity under this chapter includes days of unused sick leave

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1 credited to the participant under a formal leave system to
 2 the same extent that unused sick leave is credited in
 3 computing an annuity of a person who is subject to subchapter
 4 III of chapter 83 of this title, as provided in section
 5 8339(m) of this title.

6 "(b)(1) A former participant who is entitled to receive
 7 an annuity under subsection (c) or (d) of section 8411 of
 8 this title shall also be entitled to receive an annuity
 9 supplement, in addition to the amount of the annuity computed
 10 under subsection (a) of this section, while the former
 11 participant is under 62 years of age.

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12 "(2) The amount of the annuity supplement payable to a
 13 former participant under paragraph (1) of this subsection
 14 shall be equal to the estimated amount of the benefits that--

15 "(A) the former participant would be entitled to
 16 receive under title II of the Social Security Act if the
 17 participant were 62 years of age on the date the annuity
 18 referred to in such paragraph commences; and

19 "(B) is attributable to service referred to in
 20 section 8411(c) or 8411(d) of this title, as the case may
 21 be,

22 computed on the date such annuity commences and increased as
 23 provided in paragraph (3) of this subsection.

24 "(3) Effective on January 1 of each year, the amount of
 25 the annuity supplement payable to a former participant under

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1 this subsection shall be increased by the percentage
2 increase, if any, in the SSA average wage index (as defined
3 in section 215(1)(1)(G) of the Social Security Act) published
4 for November of the immediately preceding year over such
5 index published for November of the year ending immediately
6 before such preceding year.

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

14 “§ 8414. Reduction for early retirement

15 “(a) Except as provided in subsection (b), the annuity
16 computed under section 8413(a) of this title (without regard
17 to this section or section 8415 of this title)--

18 “(1) for an annuitant, other than an annuitant
19 referred to in paragraph (2) or (3) of this section, who
20 is under 62 years of age on the date on which the
21 annuitant's annuity commences shall be reduced by one-
22 sixth of 1 percent for each full month that the annuitant
23 is under such age on such date;

24 “(2) for an annuitant, other than an annuitant
25 entitled to an immediate annuity under section 8411(e) of

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

8 "(3) for an annuitant who separated from Government
 9 employment as a military reserve technician and is under
 10 55 years of age on the date on which the annuitant's
 11 annuity commences shall be reduced by one-sixth of 1
 12 percent for each full month that the annuitant is under
 13 such age on such date. *provision*

14 "(b) Subsection (a) of this section shall not apply in
 15 the case of--

16 "(1) a participant who separates from Government
 17 employment entitled to an immediate annuity under section
 18 8411(c) or 8411(d) of this title; or *see 8411(c), 1962*

19 "(2) an annuitant who has elected to make
 20 contributions under section 8418(c) of this title and has
 21 not received a refund of such contributions under section
 22 8420 of this title, is at least 55 years of age on the
 23 date on which the annuitant's annuity commences, and has
 24 completed 30 years of service.

25 "§ 8415. Reduction for survivor annuities

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1 “(a) The annuity of an annuitant computed under section
2 8413 of this title and, if appropriate, under section 8414 of
3 this title shall be reduced by 10 percent for each survivor
4 annuity which is expected to be payable out of the Fund with
5 respect to the annuitant under this chapter.

6 “(b) A reduction in the annuity of an annuitant pursuant
7 to subsection (a) of this section shall be adjusted, as
8 appropriate to carry out such subsection, to reflect any
9 change in circumstances relating to entitlement to a survivor
10 annuity, including any election made pursuant to section
11 8434(a), 8436(b), or 8436(c) of this title.

12 “§ 8416. Methods of Payment

13 “(a)(1) The Office shall prescribe methods of payment of
14 annuities under this subchapter.

15 “(2) The methods of payment prescribed under paragraph
16 (1) of this subsection shall include, but not be limited to--

17 “(A) a method which provides for the payment of a
18 monthly annuity only to an annuitant during the life of
19 the annuitant;

20 “(B) a method which provides for the payment of a
21 monthly annuity to an annuitant and a monthly survivor
22 annuity equal to 50 percent of the annuitant's annuity on
23 the date of the annuitant's death (computed without
24 regard to sections 8414 and 8415 of this title and any
25 election under section 8417(a) of this title) to the

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1 annuitant's surviving spouse, if any; and

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

10 “(b)(1) Subject to paragraphs (2) and (3) of this
11 subsection--

12 “(A) under such regulations as the Office shall
13 prescribe, a participant or former participant who is
14 applying for an annuity under this subchapter to commence
15 shall elect one of the methods of payment prescribed by
16 the Office under subsection (a) of this section; and

17 “(B) the annuity of an annuitant under this
18 subchapter shall be paid in accordance with the method of
19 payment elected by the annuitant pursuant to subparagraph
20 (A) of this paragraph.

21 “(2)(A) A participant or former participant who is
22 married on the date on which the participant or former
23 participant applies for an annuity under this subchapter to
24 commence may elect a method of payment other than the method
25 described in subsection (a)(2)(B) of this section only if the

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1 participant or former participant and the spouse of the
2 participant or former participant jointly waive a survivor
3 annuity under the method described in such subsection
4 (a)(2)(B).

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

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

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

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

22 “§ 8417. Level benefits option

23 “(a) Under regulations prescribed by the Office, an
24 annuity payable under this subchapter to a participant who is
25 separating from Government employment entitled to an

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1 immediate annuity under subsection (a) of section 8411 of
2 this title and is less than 62 years of age may be adjusted
3 as provided in subsection (b) of this section, if elected by
4 the participant on or before the date of separation.

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

17 “(2) The actuarial present value of the benefits
18 expected to be paid under this subchapter to the annuitant as
19 provided in paragraph (1) of this subsection may not exceed
20 the actuarial present value of the benefits that would be
21 expected to be paid under this subchapter to such participant
22 if the adjustments authorized by such paragraph were not
23 made, as determined under regulations prescribed by the
24 Office.

25 “§ 8418. Contributions

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1 “(a)(1) Each agency of the Government employing a
2 participant shall contribute to the Fund an amount equal to
3 the sum of--

4 “(A) the normal cost, as determined by the Office,
5 of (i) each participant who is employed by the agency,
6 and (ii) each disabled participant who is entitled to
7 benefits under section 8442(a) of this title and was
8 employed by the agency on the date the participant became
9 disabled (computed using average pay as increased in
10 accordance with section 8441(6) of this title); and

11 “(B) the normal cost, as determined by the Office,
12 of the annuity supplement under section 8413(b) of this
13 title for each law enforcement officer, firefighter, and
14 air traffic controller who is employed by the agency.

15 In computing normal cost, the Office shall not take into
16 account normal cost attributable to credit for military
17 service provided in section 8419 of this title.

18 “(2) The contribution required by paragraph (1) of this
19 subsection to be made by an agency shall be made from the
20 appropriation or fund used to pay the agency's participants,
21 or, in the case of an elected participant, from an
22 appropriation or fund available for payment of other salaries
23 of the office or establishment of the participant. In the
24 case of a participant in the legislative branch who is paid
25 by the Clerk of the House of Representatives, contributions

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1 for the benefit of such participant shall be paid from the
2 contingent fund of the House of Representatives.

3 “(b)(1) As of the close of each fiscal year beginning
4 after September 30, 1987, the Office shall compute for such
5 fiscal year--

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

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

14 “(2) The amounts of any supplemental liability--

15 “(A) computed for any fiscal year pursuant to
16 paragraph (1)(A) of this subsection with respect to
17 participants and annuitants referred to in such paragraph
18 (1)(A) of this subsection, and

19 “(B) computed for any fiscal year pursuant to
20 paragraph (1)(B) of this subsection with respect to
21 participants and annuitants referred to in such paragraph
22 (1)(B),

23 shall each be amortized in thirty annual installments.

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

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

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

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

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

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

20 “(A) require the Board of Actuaries of the Civil
21 Service Retirement System to make actuarial
22 determinations and valuations, make recommendations, and
23 maintain records in the same manner as provided in
24 section 8347(f) of this title; and

25 “(B) may use the latest actuarial determinations and

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1 valuations made by such Board of Actuaries.

2 ``(c)(1) Except as provided in paragraph (6) of this
3 subsection, under regulations prescribed by the Office, a
4 participant may elect to contribute to the Fund under this
5 subsection. An election under this paragraph may be made only
6 within 60 days after the date the participant first becomes a
7 participant and shall be irrevocable.

8 ``(2) Each agency of the Government employing a
9 participant who elects under paragraph (1) of this subsection
10 to contribute to the Fund shall deduct and withhold from the
11 basic pay payable to the participant for any pay period the
12 amount equal to the excess of--

13 ``(A) the amount equal to 7 percent of such basic
14 pay, over

15 ``(B) the amount of the tax deducted and withheld
16 from such pay for such period for the purposes of section
17 3101(a) of the Internal Revenue Code of 1954 (relating to
18 old-age, survivor, and disability insurance under the
19 Social Security Act).

20 ``(3) Amounts deducted and withheld under paragraph (2)
21 of this subsection shall be deposited in the Treasury of the
22 United States to the credit of the Fund under such procedures
23 as the Comptroller General of the United States may
24 prescribe.

25 ``(4) Each participant who elects to contribute to the

1 Fund under this subsection shall consent and agree to the
2 deductions required by paragraph (2) of this subsection.
3 Notwithstanding any other provision of law, payment less such
4 deductions is a full and complete discharge and acquittance
5 of all claims and demands for regular services performed
6 during the period covered by the payment.

7 “(5) Section 8334(d) of this title shall apply to
8 refunds of amounts deducted as required by paragraph (2) of
9 this subsection.

10 “(6) A law enforcement officer, firefighter, air traffic
11 controller, and military reserve technician may not make an
12 election under paragraph (1) of this subsection.

13 “(d) Under regulations prescribed by the Office, the
14 head of an agency may request reconsideration of the amount
15 of the normal cost or the supplemental liability computed by
16 the Office for such agency under subsection (a) or (b) of
17 this section. Any such request shall be referred to the Board
18 of Actuaries of the Civil Service Retirement System. The
19 Board of Actuaries shall review the computations of the
20 Office and, if considered appropriate by the Board of
21 Actuaries, recompute such normal cost or such supplemental
22 liability of such agency under this subsection. The
23 ~~determination~~ determination of the Board of Actuaries shall be final.

24 “§ 8419. Funding of annuity attributable to military service

25 “(a) Except in the case of an individual making an

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1 election under section 8471(a)(1)(A) of this title, a
2 participant's or former participant's service shall include
3 credit for military service as provided in section 8332(c) of
4 this title without regard to whether the participant or
5 former participant has made a deposit covering such military
6 service as provided in section 8334(j) of this title.

7 “(b) Before closing the accounts for a fiscal year, the
8 Secretary of the Treasury shall reimburse the Fund for the
9 normal cost relating to the creditable military service of
10 employees and Members who became participants during such
11 fiscal year, actuarially adjusted to the date of payment, as
12 determined by the Office. Reimbursements shall be made under
13 this subsection out of sums appropriated to the Department of
14 Defense for the purpose of making such reimbursements.

15 “(c) At the end of each fiscal year the Office shall
16 compute the amount of the reimbursement required by
17 subsection (b) of this section for the fiscal year and shall
18 notify the Secretary of the Treasury of that amount.

19 “§ 8420. Lump-sum benefits; designation of beneficiary;
20 order of precedence

21 “(a) Subject to subsection (h) of this section, a
22 participant who--

23 “(1) has elected to make contributions to the Fund
24 under section 8418(c) of this title;

25 “(2)(A) is separated from Government employment for

1 at least 31 consecutive days; or

2 "(B) is transferred to a position in which he is not
3 subject to this subchapter and remains in such a position
4 for at least 31 consecutive days;

5 "(3) files an application with the Office for
6 payment of the lump-sum credit;

7 "(4) is not reemployed in a position which he is
8 subject to this subchapter at the time he files the
9 application; and

10 "(5) will not become eligible to receive an annuity
11 within 31 days after filing the application,

12 is entitled to be paid the portion of the lump-sum credit
13 attributable to the contributions referred to in paragraph
14 (1) of this subsection and interest on such portion, computed
15 as provided in subsection (1) of this section.

16 "(b) Under regulations prescribed by the Office, a
17 present or former participant may designate a beneficiary or
18 beneficiaries for the purpose of this subchapter.

19 "(c) Lump-sum benefits authorized by subsections (d)
20 through (f) of this section shall be paid to the person or
21 persons who survive the participant to whom such subsections
22 apply and are alive at the date title to the payment arises.
23 Entitlement to such payment shall be in the same order of
24 precedence as is provided in section 8342(c) of this title.
25 Payment under this subsection bars recovery by any other

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1 person.

2 “(d) If a participant or a former participant not
3 retired dies--

4 “(1) without a survivor, or

5 “(2) with a survivor or survivors and the right of
6 all survivors terminates before a claim for survivor
7 annuity is filed,

8 the portion of the lump-sum credit referred to in subsection
9 (a) of this section and interest on such portion, computed as
10 provided in subsection (1) of this section, shall be paid as
11 provided in subsection (c) of this section.

12 “(e) If all annuity rights under this chapter based on
13 the service of a deceased participant terminate before the
14 total annuity paid equals the portion of the lump-sum credit
15 referred to in subsection (a) of this section, the difference
16 and interest on such difference, computed as provided in
17 subsection (1) of this section, shall be paid as provided in
18 subsection (c) of this section.

19 “(f) If an annuitant dies, annuity accrued and unpaid
20 shall be paid as provided in subsection (c) of this section.

21 “(g) Annuity accrued and unpaid on the termination,
22 except by death, of the annuity of an annuitant or survivor
23 annuitant shall be paid to that individual. Annuity accrued
24 and unpaid on the death of a survivor annuitant shall be paid
25 in the same order of precedence as is provided in section

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1 8342(g) of this title, and the payment bars recovery by any
2 other person.

3 ~~“(h)(1)~~ Payment of a portion of the lump-sum credit
4 under subsection (a) of this section--

5 “(A) may be made only if any current spouse and any
6 former spouse of the participant are notified of the
7 participant's application; and

8 “(B) in any case in which there is a former spouse,
9 shall be subject to the terms of a court order or decree
10 issued with respect to such former spouse if--

11 “(1) the order or decree expressly relates to
12 the portion of the lump-sum credit involved, and

13 “(ii) payment of such portion of the lump-sum
14 credit would extinguish entitlement of the former
15 spouse to a survivor annuity under section 8435 of
16 this title or to any portion of an annuity under
17 section 8467 of this title.

18 “(2)(A) Notification of a spouse or former spouse under
19 this subsection shall be made in accordance with such
20 requirements as the Office shall by regulation prescribe.

21 “(B) Under the regulations, the Office may provide that
22 paragraph (1)(A) of this subsection may be waived with
23 respect to a spouse or former spouse of a participant if the
24 participant establishes to the satisfaction of the Office
25 that the whereabouts of such spouse or former spouse cannot

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1 be determined.

2 “(3) The Office shall prescribe regulations under which
3 this subsection shall be applied in any case in which the
4 Office receives two or more orders or decrees referred to in
5 paragraph (1)(B) of this subsection.

6 “(1) Interest on a portion of the lump-sum credit shall
7 be computed as if the interest had accrued at the end of each
8 year on the portion of the lump-sum credit in the Fund during
9 such year and shall be compounded annually. The rate of
10 interest for any year shall be the rate of interest computed
11 for such year under section 8334(e)(3) of this title.

12 “(j) Payment of the portion of the lump-sum credit
13 referred to in subsection (a) of this section in the case of
14 a participant or former participant voids all rights under
15 this chapter which result from an election to make
16 contributions to the Fund under section 8418(c) of this
17 title.

18 “SUBCHAPTER III--THRIFT SAVINGS PLAN

19 “§ 8421. Contributions

20 “(a)(1) On and after the date a participant makes an
21 election to make contributions to the Fund under section
22 8418(c) of this title or after the last date such an election
23 may be made under such section in the case of a participant
24 who does not make such election, the participant may
25 contribute to the Thrift Savings Fund in any year an amount

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1 not exceeding 10 percent of the participant's annual rate of
2 basic pay.

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

13 “(3)(A) Except as provided in subparagraph (B) of this
14 paragraph, notwithstanding the limitations specified in
15 paragraphs (1) and (2) of this subsection, if, in any period
16 for which a participant is entitled to contribute to the
17 Thrift Savings Fund, the participant contributes less than
18 the maximum amount authorized by paragraph (1) or (2) of this
19 subsection (as applicable), the participant may contribute in
20 a later period for which the participant is entitled to
21 contribute to such fund the amount equal to the excess of
22 such maximum amount authorized for the earlier period over
23 the amount contributed during the earlier period.

24 “(B) The total amount contributed under subparagraph (A)
25 of this paragraph and paragraph (1) or (2) of this subsection

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1 in any period may not exceed the amount equal to 15 percent
2 of the periodic equivalent of the participant's annual rate
3 of basic pay for such period.

4 "(4) Any contribution under this subsection shall be
5 made only pursuant to a program of regular contributions
6 under regulations prescribed by the Executive Director.

7 "(5) At least once each year, a participant may modify
8 the amount contributed pursuant to paragraph (1) or (2) of
9 this subsection, as the case may be, under regulations
10 prescribed by the Executive Director.

11 "(b)(1) The employing agency of a participant who
12 contributes to the Thrift Savings Fund under subsection (a)
13 of this section for any pay period, or, in the case of a
14 disabled participant who contributes to such fund under such
15 subsection for any disability benefits payment period, the
16 employing agency of the participant on the date the
17 participant became disabled (as defined in section 8441(4) of
18 this title), shall make a contribution to the Thrift Savings
19 Fund for the benefit of such participant or disabled
20 participant. The employing agency's contribution shall be
21 made at the end of such period.

22 "(2)(A) Except as provided in subparagraph (B) of this
23 paragraph, the amount contributed under paragraph (1) of this
24 subsection by an employing agency with respect to a
25 contribution of a participant during any period shall be the

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1 amount equal to such portion of the amount of the
2 participant's contribution as (i) does not exceed 5 percent
3 of the amount of the gross pay or gross disability benefits,
4 as the case may be, which is payable for such period, and
5 (ii) is not contributed under subsection (a)(3) of this
6 section.

7 “(B) In the case of a participant who has made an
8 election to make contributions under section 8418(c) of this
9 title and has not received a refund of such contributions
10 under section 8420 of this title, the amount contributed
11 under paragraph (1) of this subsection by an employing agency
12 with respect to a contribution of a participant under
13 subsection (a) of this section during any period shall be the
14 amount equal to the sum of--

15 “(1) such portion of the total amount of the
16 participant's contribution as does not exceed 1 percent
17 of the amount of the gross pay or gross disability
18 benefits, as the case may be, payable for such period,

19 “(2) one-half of such portion of the amount of the
20 participant's contribution as exceeds 1 percent but does
21 not exceed 3 percent of the gross pay or gross disability
22 benefits, as the case may be, payable for such period,
23 and

24 “(3) one-fourth of such portion of the amount of the
25 participant's contribution as exceeds 3 percent but does

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1 not exceed 6 percent of the gross pay or gross disability
2 benefits, as the case may be, payable for such period,
3 without regard to any amount contributed by the participant
4 under subsection (a)(3) of this section.

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

17 "(d)(1) For purposes of the Internal Revenue Code of
18 1954--

19 "(A) the amount of any--

20 "(i) participant contribution, or

21 "(ii) employing agency's matching contribution,
22 to the Thrift Savings Fund shall not be included in the
23 gross income of the participant in the taxable year in
24 which such contributions are made, and

25 "(B) the determination of when, and in what manner,

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1 such contributions and any income allocable to such
2 contributions are included in the gross income of such
3 participant shall be made in the same manner as if the
4 Thrift Savings Fund were a trust which met the
5 requirements of section 401(a) of such Code.

6 "(2) Paragraph (1) shall not apply to any participant
7 contribution described in paragraph (1)(A)(i) in any taxable
8 year with respect to which section 402(a)(8) of such Code
9 does not apply to contributions made to any qualified cash or
10 deferred arrangement (within the meaning of section 401(k) of
11 such Code).

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

18 § 8422. Vesting

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

21 "(A) the total amount of the contributions made
22 under section 8421(a) of this title plus the total amount
23 of the net earnings in the Thrift Savings Fund, or minus
24 the total amount of the net losses, attributable to such
25 contributions; and

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1 “(B) the applicable percentage of the amount equal
 2 to the total amount contributed to the Thrift Savings
 3 Fund for the benefit of the participant under section
 4 8421(b) of this title plus the total amount of the net
 5 earnings in the Thrift Savings Fund, or minus the total
 6 amount of the net losses, attributable to such
 7 contributions, as provided in subsection (b) of this
 8 section.

9 “(2) The amount to which a participant is entitled under
 10 paragraph (1) of this subsection shall be payable in
 11 accordance with the election made by the participant pursuant
 12 to section 8423 of this title.

13 “(b)(1) For the purpose of subsection (a)(1)(B) of this
 14 section, except as provided in paragraph (2) of this
 15 subsection, the applicable percentage for a participant
 16 separating from Government employment after having been a
 17 participant in the System for a period set forth under column
 18 I of the table below is the percentage set forth under column
 19 II of the table below opposite the description of such
 20 period:

<u>Column I</u>	<u>Column II</u>
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

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Not less than 5 years 100.

1 “(2) For the purposes of subsection (a)(1)(B) of this
2 section--

3 “(A) the percentage applicable in the case of any
4 participant who dies while employed by the Government
5 shall be 100 percent; and

6 “(B) in the case of a participant making
7 contributions under section 8421(a)(2) of this title, the
8 period for which the person has been a participant in the
9 System shall include periods for which such contributions
10 were made.

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

14 “(1) the sum of--

15 “(A) the amounts contributed to the Thrift
16 Savings Fund with respect to the participant under
17 section 8421 of this title; and

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

20 “(2) the sum of--

21 “(A) the amount in the Thrift Savings Fund paid
22 or reserved for payment to or with respect to the
23 participant pursuant to section 8423(c) of this
24 title, and

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1 “(B) the amount of the administrative expenses
2 allocated to the account of such participant under
3 section 8428(a)(3) of this title,
4 shall be transferred to the Treasury of the United States for
5 credit to Miscellaneous Receipts.

6 § 8423. Entitlement and elections relating to entitlement

7 “(a)(1) Any participant who separates from Government
8 employment entitled to an immediate annuity under section
9 8411 of this title, any participant who separates from
10 Government employment entitled to benefits under subchapter I
11 of chapter 81 of this title, and, subject to paragraph (2) of
12 this subsection, any participant who is entitled to receive
13 disability benefits under subchapter V of this chapter is
14 entitled and may elect--

15 “(A) to receive an immediate annuity from the Thrift
16 Savings Fund;

17 “(B) to defer the commencement of the payment of an
18 annuity from the Thrift Savings Fund until such date as
19 the participant specifies;

20 “(C) to withdraw, in one or more payments, the
21 amount of the balance credited to the participant's
22 account in the Thrift Savings Fund; or

23 “(D) to transfer the amount of the balance in the
24 account to an individual retirement account or other
25 qualified plan (within the meaning of the Internal

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1 Revenue Code of 1954) of the participant.

2 `` (2) An election may be made by a disabled participant
3 under paragraph (1) of this subsection only within one year
4 after the date the participant is determined to be disabled
5 for the purposes of subchapter V of this chapter. The
6 election is irrevocable.

7 `` (b) Any participant who separates from Government
8 employment entitled to a deferred annuity under section 8412
9 of this title is entitled and may elect--

10 `` (1) to receive an annuity from the Thrift Savings
11 Fund to commence on the first date the participant is
12 entitled to receive the deferred annuity;

13 `` (2) to defer the commencement of the payment of an
14 annuity from the Thrift Savings Fund until a date after
15 the first date the participant is entitled to receive the
16 deferred annuity, as specified by the participant;

17 `` (3) to withdraw in one or more payments, on or
18 after the first date the participant is entitled to
19 receive the deferred annuity, the amount of the balance
20 credited to the participant's account in the Thrift
21 Savings Fund; or

22 `` (4) to transfer the amount of the balance in the
23 account to an individual retirement account or other
24 qualified plan (within the meaning of the Internal
25 Revenue Code of 1954) of the participant.

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1 “(a)(1) The Board shall prescribe methods of payment of
2 annuities under this subchapter.

3 “(2) The methods of payment prescribed under paragraph
4 (1) of this subsection shall include, but not be limited to--

5 “(A) a method which provides for the payment of a
6 monthly annuity only to an annuitant during the life of
7 the annuitant;

8 “(B) a method which provides for the payment of a
9 monthly annuity to an annuitant for the joint lives of
10 the annuitant and the spouse of the annuitant and an
11 appropriate monthly annuity to the one of them who
12 survives the other of them for the life of the survivor;

13 “(C) a method described in subparagraph (A) of this
14 paragraph which provides annual increases in the amount
15 of the annuity payable;

16 “(D) a method described in subparagraph (B) of this
17 paragraph which provides annual increases in the amount
18 of the annuity payable; and

19 “(E) a method providing for the payment of a monthly
20 annuity--

21 “(1) to the annuitant for the joint lives of the
22 annuitant and an individual, designated by the
23 annuitant under regulations prescribed by the
24 Executive Director, who has an insurable interest in
25 the annuitant; and

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1 “(ii) to the one of them who survives the other
2 of them for the life of the survivor.

3 “(b) Subject to subsection (c) of this section, under
4 such regulations as the Executive Director shall prescribe,
5 an annuitant electing under section 8423 of this title to
6 receive an annuity from the Thrift Savings Fund shall elect,
7 on or before the date on which the annuitant's annuity under
8 this subchapter commences, one of the methods of payment
9 prescribed by the Board under subsection (a) of this section.

10 “(c) The amount of an annuity payable under this
11 subchapter pursuant to the method elected under subsection
12 (b) of this section shall be determined on an actuarial basis
13 under regulations prescribed by the Executive Director.

14 § 8425. Administrative provisions relating to payments and
15 elections

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

19 “(b) Any election under section 8423 or 8424(b) of this
20 title shall be in writing and shall be filed with the
21 Executive Director in accordance with regulations prescribed
22 by the Executive Director.

23 “(c) Notwithstanding any other provision of this
24 section, an election or modification of an election under any
25 provision of this subchapter shall not be effective if the

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1 election or modification would result in a violation of the
2 terms of an applicable court decree of divorce, annulment, or
3 legal separation, or the terms of any court order or court-
4 approved property settlement agreement incident to a court
5 decree of divorce, annulment, or legal separation, as
6 determined by the Executive Director.

7 ~~§ 8426.~~ Thrift Savings Fund

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

10 “(b) The Thrift Savings Fund consists of the sum of all
11 amounts contributed under section 8421 of this title and all
12 amounts deposited under section 8499(b) of this title,
13 increased by the total net earnings from investments of sums
14 in the Thrift Savings Fund or reduced by the total net losses
15 from investments of the Thrift Savings Fund, and reduced by
16 the total amount of payments made from the Thrift Savings
17 Fund.

18 “(c) The sums in the Thrift Savings Fund are
19 appropriated and shall remain available without fiscal year
20 limitation--

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

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

23 “(3) to pay the administrative expenses of the

24 Federal Retirement Thrift Investment Management System
25 prescribed in subchapter VIII of this chapter;

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1 “(4) to make loans to participants as authorized
2 under subsection (e) of this section; and
3 “(5) to purchase insurance as provided in section
4 8499(b)(2) of this title.
5 “(d)(1) Except as provided in paragraph (2) of this
6 subsection or section 8465(b) or 8467 of this title, and
7 except as otherwise provided in a Federal law, sums in the
8 Thrift Savings Fund may not be assigned or alienated and are
9 not subject to execution, levy, attachment, garnishment, or
10 other legal process. For purposes of this paragraph, a loan
11 made from such fund to a participant shall not be considered
12 to be an assignment or alienation.
13 “(2) Moneys due or payable from the Thrift Savings Fund
14 to any individual and, in the case of an individual who is a
15 participant, moneys which the individual would be entitled to
16 receive under section 8422 of this title upon separation from
17 Government employment shall be subject to legal process for
18 the enforcement of the individual's legal obligations to
19 provide child support or make alimony payments as provided in
20 section 459 of the Social Security Act (42 U.S.C. 659) or to
21 pay any indebtedness of the individual to the United States.
22 “(e)(1) The Board shall establish a program to make
23 loans from the Thrift Savings Fund to a participant in case
24 of financial hardship. The program shall be subject to the
25 same conditions as are prescribed in section 408(b)(1) of the

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1 Employee Retirement Income Security Act of 1974 (29 U.S.C.
2 1108(b)(1)).

3 '(2) The Executive Director shall prescribe regulations
4 to carry out such program.

5 '(3) Any loan made to a participant under such program
6 shall be made only out of sums contributed to the Thrift
7 Savings Fund by the participant and net earnings attributable
8 to such sums.

9 '(f) The sums in the Thrift Savings Fund shall not be
10 appropriated and may not be used for any purpose other than
11 the purposes specified in this section.

12 ¶ 8427. Investment of Thrift Savings Fund

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

14 '(1) the term 'Common Stock Index Investment Fund'
15 means the Common Stock Investment Fund established under
16 subsection (b)(1)(C) of this section;

17 '(2) the term 'equity capital' means common and
18 preferred stock, surplus, undivided profits, contingency
19 reserves, and other capital reserves;

20 '(3) the term 'Fixed Income Investment Fund' means
21 the Fixed Income Investment Fund established under
22 subsection (b)(1)(B) of this section;

23 '(4) the term 'Government Securities Investment
24 Fund' means the Government Securities Investment Fund
25 established under subsection (b)(1)(A) of this section;

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1 “(5) the term ‘net worth’ means capital, paid-in and
2 contributed surplus, unassigned surplus, contingency
3 reserves, group contingency reserves, and special
4 reserves;

5 “(6) the term ‘plan’ means an employee benefit plan,
6 as defined in section 3(3) of the Employee Retirement
7 Income Security Act of 1974 (29 U.S.C. 1002(3));

8 “(7) the term ‘qualified professional asset manager’
9 means--

10 “(A) a bank, as defined in section 202(a)(2) of
11 the Investment Advisers Act of 1940 (15 U.S.C. 80b-
12 2(a)(2)) which--

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

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

19 “(B) a savings and loan association, the
20 accounts of which are insured by the Federal Savings
21 and Loan Insurance Corporation, which--

22 “(i) has applied for and been granted trust
23 powers to manage, acquire, or dispose of assets
24 of a plan by a State or Government authority
25 having supervision over savings and loan

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1 associations; and

2 "(11) 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,
5 equity capital or net worth in excess of
6 \$1,000,000;

7 "(C) an insurance company which--

8 "(1) is qualified under the laws of more
9 than one State to manage, acquire, or dispose of
10 any assets of a plan;

11 "(11) has, as of the last day of its latest
12 fiscal year ending before the date of a
13 determination for the purpose of this clause, net
14 worth in excess of \$1,000,000; and

15 "(111) is subject to supervision and
16 examination by a State authority having
17 supervision over insurance companies; or

18 "(D) an investment adviser registered under
19 section 203 of the Investment Advisers Act of 1940
20 (15 U.S.C. 80b-3) if the investment adviser has, on
21 the the last day of its latest fiscal year ending
22 before the date of a determination for the purpose of
23 this subparagraph, total client assets under its
24 management and control in excess of \$50,000,000,
25 and--

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1 “(1) the investment adviser has, on such
2 day, shareholder's or partner's equity in excess
3 of \$750,000; or

4 “(11) payment of all of the investment
5 adviser's liabilities, including any liabilities
6 which may arise by reason of a breach or
7 violation of a duty described in section 8497 of
8 this title, is unconditionally guaranteed by--

9 “(I) a person who directly or
10 indirectly, through one or more
11 intermediaries, controls, is controlled by,
12 or is under common control with the
13 investment adviser and who has, on the last
14 day of the person's latest fiscal year ending
15 before the date of a determination for the
16 purpose of this clause, shareholder's or
17 partner's equity in an amount which, when
18 added to the amount of the shareholder's or
19 partner's equity of the investment adviser on
20 such day, exceeds \$750,000;

21 “(II) a qualified professional asset
22 manager described in subparagraph (A), (B),
23 or (C) of this paragraph; or

24 “(III) a broker or dealer registered
25 under section 15 of the Securities Exchange

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1 Act of 1934 (15 U.S.C. 780) that has, on the
2 last day of the broker's or dealer's latest
3 fiscal year ending before the date of a
4 determination for the purpose of this clause,
5 net worth in excess of \$750,000; and

6 "(8) the term 'shareholder's or partner's equity',
7 when used in paragraph (7)(D) of this subsection with
8 respect to an investment adviser or a person who is
9 affiliated with the investment adviser in a manner
10 described in clause (11)(I) of such paragraph (7)(D),
11 means the equity shown in the most recent balance sheet
12 prepared for such investment adviser or affiliated
13 person, in accordance with generally accepted accounting
14 principles, within 2 years before the date on which the
15 investment adviser's status as a qualified professional
16 asset manager is determined for the purposes of this
17 section.

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

19 "(A) a Government Securities Investment Fund under
20 which sums in the Thrift Savings Fund are invested in
21 securities of the United States Government issued as
22 provided in subsection (f) of this section;

23 "(B) a Fixed Income Investment Fund under which sums
24 in the Thrift Savings Fund are invested in insurance
25 contracts, certificates of deposits, or other instruments

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1 or obligations which (i) are selected by qualified
2 professional asset managers, and (ii) return the amount
3 invested and pay interest, at a specified rate or rates,
4 on that amount during a specified period of time;

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

7 "(D) such other investment funds as the Board
8 determines to be appropriate for the purposes of this
9 subchapter.

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

11 "(i) consists of (I) all of the common stocks that
12 are publicly listed and traded on one or more national
13 securities exchanges, and (II) over-the-counter
14 securities quoted publicly on the National Association of
15 Securities Dealers Automated Quotations system or on
16 another automated basis, or

17 "(ii) is a commonly recognized index comprised of
18 common stock the aggregate market value of which is as
19 complete a representation of the United States equity
20 markets as is reasonably practicable.

21 "(B) Except as provided in subparagraph (C) of this
22 paragraph, the Common Stock Index Investment Fund shall be
23 invested in a portfolio designed to replicate the performance
24 of the index defined under subparagraph (A) of this
25 paragraph. The portfolio shall be designed such that--

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1 “(1) to the extent practicable, the percentage of
2 the Common Stock Index Investment Fund that is invested
3 in each stock is the same as the percentage determined by
4 dividing the aggregate market value of all shares of that
5 stock by the aggregate market value of all shares of all
6 stock included in such index, or

7 “(11) a sampling of stocks included in the index is
8 used in the construction of an index fund that minimizes
9 differences between the net portfolio return and the
10 total index return.

11 “(C) The Executive Director may exclude certain stocks
12 from the Common Stock Index Investment Fund and from the
13 index defined in accordance with subparagraph (A) of this
14 paragraph upon the recommendation of the Employee Advisory
15 Committee, notwithstanding the standards for investment
16 decisionmaking set out in section 8495 of this title.

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

24 “(2) Except as provided in subsection (e) of this
25 section, the Executive Director shall invest sums available

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1 in the Thrift Savings Fund for investment as provided in
2 ~~elections~~ made under subsection (d) of this section.

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

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

18 "(e)(1)(A) The Executive Director shall invest a
19 percentage of the total amount that--

20 "(i) is contributed to the Thrift Savings Fund by a
21 participant under section 8421(a) of this title during a
22 year described under column I of the first table of
23 minimum Government securities investments set out in
24 subparagraph (B) of this paragraph, and

25 "(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 first table of minimum Government securities
 6 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	100
1988	80
1989	60
1990	40
1991	20.

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

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

15 "(ii) is available for investment,
 16 in the Government Securities Investment Fund as provided
 17 under column II of the table opposite the description of such

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1 year.

2 “(B) For the purposes of subparagraph (A) of this
3 paragraph, the second table of minimum Government securities
4 investments is as follows:

<u>Column I</u>	<u>Column II</u>
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	40
1996	20

5 “(3) All sums credited to the Thrift Savings Fund
6 pursuant to section 8473(b) of this title shall be invested
7 in the Government Securities Investment Fund.

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

14 “(f) The Secretary of the Treasury is authorized to
15 issue special interest-bearing obligations of the United
16 States for purchase by the Thrift Savings Fund. Obligations
17 issued for the purpose of this subsection shall have

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1 maturities fixed with due regard to the needs of such fund as
2 determined by the Executive Director, and shall bear interest
3 at a rate equal to the average market yield (computed by the
4 Secretary of the Treasury on the basis of market quotations
5 as of the end of the calendar month next preceding the date
6 of issue of such obligations) on all marketable interest-
7 bearing obligations of the United States then forming a part
8 of the public debt which are not due or callable until after
9 the expiration of 4 years from the end of such calendar
10 month. Any such average market yield which is not a multiple
11 of one-eighth of 1 percent, shall be rounded to the nearest
12 multiple of one-eighth of 1 percent.

13 **§ 8428. Accounting**

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

17 “(2) The balance in the account of a participant or
18 former participant at any time is the excess of--

19 “(A) the sum of--

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

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

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1 “(iii) the amounts transferred to such fund with
2 respect to the participant or former participant
3 under section 8473(b) of this title; and

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

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

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

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

23 “(c)(1) For the purposes of this subsection, the term
24 'qualified public accountant' shall have the same meaning as
25 provided in section 103(a)(3)(D) of the Employee Retirement

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1 Income Security Act of 1974 (29 U.S.C. 1024(a)(3)(D)).

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

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

25 “(4) In making a determination under paragraph (3) of

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1 this subsection, the accountant may rely on the correctness
2 of any actuarial matter certified by an enrolled actuary, if
3 the accountant states his reliance in the report transmitted
4 to the Board under such paragraph.

5 ''SUBCHAPTER IV--SURVIVOR BENEFITS

6 ''S 8431. Basic plan spousal benefits relating to the death
7 of a participant or former participant other
8 than an annuitant

9 ''(a)(1) If a participant dies after performing 18 or
10 more months of service and before separating from Government
11 employment, the surviving spouse of a deceased participant
12 shall be entitled to a survivor annuity payable out of the
13 Fund.

14 ''(2) The amount of the survivor annuity payable under
15 paragraph (1) of this subsection to the surviving spouse of a
16 deceased participant shall be equal to 50 percent of the
17 annuity which the participant would have been entitled to
18 receive if the participant had retired from Government
19 employment on the day before the date of death and had
20 elected the method of payment described in section
21 8416(a)(2)(B) of this title, computed as provided in section
22 8413 of this title without regard to sections 8414 and 8415
23 of this title and any election under section 8417(a) of this
24 title.

25 ''(b)(1) If a former participant dies entitled to a

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1 deferred annuity under section 8412 of this title before
2 payment of an annuity under subchapter II of this chapter to
3 the former participant commences, the surviving spouse of the
4 deceased former participant is entitled to a survivor annuity
5 payable out of the Fund.

6 “(2) The amount of the survivor annuity payable under
7 paragraph (1) of this subsection to the surviving spouse of a
8 deceased former participant shall be equal to 50 percent of
9 the annuity which the deceased former participant would have
10 been entitled to receive under such section if the deceased
11 former participant--

12 “(1) had been 55 years of age on the day before the
13 date of death, or

14 “(11) in the case of a former participant who was 55
15 years of age or older on such day and was not receiving
16 such annuity, had commenced to receive such deferred
17 annuity on such day,

18 computed as provided in section 8413 of this title without
19 regard to sections 8414 and 8415 of this title and any
20 election under section 8417(a) of this title.

21 “(c) For the purpose of computing a survivor annuity
22 under subsection (a) or (b) of this section, a deceased
23 participant or former participant who died before completing
24 10 years of service shall be deemed to have completed 10
25 years of service.

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1 **§ 8432.** Basic plan spousal and insurable interest benefits
2 relating to the death of an annuitant

3 "A survivor annuity shall be paid out of the Fund with
4 respect to a deceased annuitant--

5 "(1) in accordance with the method of payment
6 elected by the annuitant under section 8416 of this
7 title;

8 "(2) as provided in subsection (b)(3) of such
9 section; or

10 "(3) in accordance with an election made by the
11 annuitant under section 8434(a) or 8436(c) of this title.

12 **§ 8433.** Survivor benefits under the thrift savings plan

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

21 "(b)(1) Except as provided in subsection (d) of this
22 section, the amount in the account established and maintained
23 for a deceased participant or deceased former participant
24 (other than a deceased annuitant) pursuant to section 8428(a)
25 of this title, determined on the date of an election under

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1 subsection (c) of this section, shall, subject to the limits
2 of the entitlement set out in section 8422(a)(1) of this
3 title (without regard to section 8422(a)(2) of this title),
4 be paid as provided in paragraph (2) of this subsection.

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

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

14 “(1) any individual who has an insurable interest in
15 the participant or former participant and has been
16 designated by the participant for the purpose of such
17 paragraph under regulations prescribed by the Executive
18 Director; or

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

23 “(c) A surviving spouse or another individual who is
24 entitled to payment of benefits under subsection (b) of this
25 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, as the case may be.

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, as the case

24 may be.

25 “(c) An annuitant making an election under subsection

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1 (a) of this section to provide a survivor annuity payable out
2 of the Fund shall, within 2 years after the date of the
3 remarriage referred to in paragraph (1) of such subsection or
4 the date of the marriage referred to in paragraph (2) of such
5 subsection, as the case may be, deposit in the Fund an amount
6 determined by the Office, as nearly as may be
7 administratively feasible, to reflect the amount by which the
8 annuity of such annuitant would have been reduced if the
9 election had been in effect since--

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

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

18 plus interest computed as provided in section 8438(a) of this
19 title.

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

24 “(A) such spouse was married to the annuitant on the
25 date that payment of an annuity to the annuitant under

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1 subchapter II of this chapter commenced; and

2 "(B) rights to survivor benefits for such spouse
3 based on marriage to such annuitant were then waived
4 under section 8416(b)(2) of this title.

5 **§ 8435. Survivor benefits for eligible former spouses:**
6 entitlement; amount

7 "(a) Subject to subsections (b) through (g) of this
8 section, an eligible former spouse of a deceased participant
9 who died after performing 18 or more months of service and an
10 eligible former spouse of a deceased former participant who
11 died entitled to an immediate or deferred annuity under
12 section 8411 or 8412 of this title is entitled to a survivor
13 annuity under this section if and to the extent that--

14 "(1) an election under section 8436 of this title,

15 "(2) any court decree dissolving or annulling the
16 marriage of the participant or former participant and the
17 eligible former spouse, or

18 "(3) any court order or court-approved property
19 settlement agreement incident to such decree,
20 expressly provides for such survivor annuity.

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

25 "(A) the amount applicable in the case of such

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1 eligible former spouse, as determined under paragraph (2)
2 of this subsection, over

3 "(B) the amount of all other survivor annuities
4 payable from the Fund under this section to other
5 eligible former spouses of the participant or former
6 participant based on the order of precedence provided in
7 subsection (d) of this section.

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

12 "(A) computed as provided in section 8416(a)(2)(B)
13 of this title, if the deceased was an annuitant on such
14 day;

15 "(B) computed as provided in paragraph (2) of
16 section 8431(a) of this title in the case of a surviving
17 spouse of the deceased, if the deceased was a participant
18 described in paragraph (1) of such section 8431(a); or

19 "(C) computed as provided in paragraph (2) of
20 section 8431(b) of this title, if the deceased was a
21 former participant described in paragraph (1) of such
22 section 8431(b).

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

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

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

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

25 “(1) shall not commence before--

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1 “(A) the day after the participant or former
2 participant dies, or
3 “(B) the first day of the second month beginning
4 after the date on which the Office receives written
5 notice of the court order, decree, or agreement or
6 the election, as the case may be, together with such
7 additional information or documentation as the Office
8 requires,
9 whichever is later, and
10 “(2) shall terminate not later than the date
11 provided in section 8464(b)(2) of this title.
12 “(f) For the purposes of this section, a court decree,
13 order, or agreement or an election referred to in subsection
14 (a) of this section shall not be effective, in the case of a
15 survivor annuity payable out of the Fund to a former spouse,
16 to the extent that the election is inconsistent with any
17 joint waiver previously executed with respect to such former
18 spouse under section 8416(b)(2) of this title.
19 “(g) Any payment under this section to a person bars
20 recovery by any other person.
21 “§ 8436. Survivor benefits for former spouses: elections,
22 deposits and collections, and administrative
23 provisions
24 “(a)(1) If an annuitant has an eligible former spouse on
25 the date that the annuitant applies for payment of an annuity

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

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

21 “(3) An election under paragraph (1) of this
22 subsection--

23 “(A) shall not be effective to the extent that it
24 conflicts with--

25 “(1) any court decree or order referred to in

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1 subsection (a) of section 8435 of this title, or

2 "(11) any agreement referred to in such

3 subsection,

4 which is received by the Office before the date on which
5 such election is made;

6 "(B) shall not be effective to the extent that the
7 amount of the annuity specified in the election exceeds--

8 "(1) in the case of a survivor annuity payable
9 from the Fund, the amount determined pursuant to
10 subsections (b)(2) and (d) of section 8435 of this
11 title; or

12 "(11) in the case of a survivor annuity payable
13 from the Thrift Savings Fund, the amount determined
14 pursuant to subsections (c) and (d) of section 8435
15 of this title; and

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

20 "(b) An annuitant who has elected to provide a survivor
21 annuity for an eligible former spouse pursuant to subsection
22 (a) of this section or who has an eligible former spouse
23 entitled to receive a survivor annuity with respect to the
24 annuitant under paragraph (2) or (3) of section 8435(a) of
25 this title may make an election to provide or increase a

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

10 “(c)(1) If the entitlement of an eligible former spouse
11 of an annuitant to a survivor annuity under this subchapter
12 is terminated or reduced by reason of the remarriage or death
13 of the former spouse, the annuitant may elect, in a signed
14 writing received by the Office (in the case of a survivor
15 annuity to be paid out of the Fund) or the Executive Director
16 (in the case of a survivor annuity to be paid out of the
17 Thrift Savings Fund) within 2 years after the former spouse's
18 date of death or remarriage, as the case may be, to provide a
19 survivor annuity to the annuitant's spouse.

20 “(2) A survivor annuity elected under paragraph (1) of
21 this subsection shall be paid under the method described in
22 section 8416(a)(2)(B) of this title (in the case of a
23 terminated or reduced entitlement payable out of the Fund) or
24 in subparagraph (P) or (D) of section 8424(a)(2) of this
25 title (in the case of a terminated or reduced entitlement

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1 payable from the Thrift Savings Fund).

2 “(d) If the entitlement of an annuitant’s spouse to a
3 survivor annuity under this subchapter is terminated by
4 reason of the death of the spouse, the annuitant may elect,
5 in a signed writing received by the Office (in the case of a
6 survivor annuity to be paid out of the Fund) or the Executive
7 Director (in the case of a survivor annuity to be paid out of
8 the Thrift Savings Fund) within 2 years after the spouse’s
9 date of death to provide or increase a survivor annuity for a
10 former spouse of the annuitant.

11 “(e) The requirement that the spouse of an annuitant
12 waive a right to a survivor annuity under this subchapter as
13 a condition for an election authorized by subsection
14 (a)(3)(C) of this section shall not apply if the participant
15 or annuitant establishes to the satisfaction of the Office
16 that--

17 “(1) the spouse’s whereabouts cannot reasonably be
18 determined; or

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

22 “§ 8437. Termination of entitlement

23 “An election of an annuitant to provide a survivor
24 annuity to the annuitant’s spouse under this subchapter
25 terminates on the first day of the first month beginning

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1 after--

2 ''(1) the date of the death of the spouse; or

3 ''(2) the date of the dissolution of the spouse's
4 marriage to the annuitant.

5 § 8438. Deposits to the Fund

6 ''(a) For the purposes of section 8434(c) or 8436(a)(2)
7 of this title, the annual rate of interest for each year
8 during which an annuity would have been reduced if the
9 election referred to in such section had been in effect on
10 and after the applicable date referred to in such section
11 shall be the percent determined for such year under section
12 8334(e) of this title.13 ''(b) If an annuitant does not make a deposit required by
14 section 8434(c) or 8436(a)(2) of this title, the Office shall
15 collect such amount by offset against the annuitant's annuity
16 payable from the Fund, up to a maximum of 25 percent of the
17 net annuity otherwise payable to the annuitant. The annuitant
18 is deemed to consent to such offset.19 ''(c) The Office may extend the time limit for making a
20 deposit required by section 8434(c) or 8436(a)(2) of this
21 title in any case for good cause shown.

22 ''SUBCHAPTER V--DISABILITY BENEFITS

23 § 8441. Definitions

24 ''For the purposes of this subchapter--

25 ''(1) the term 'administrator of benefits' means--

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1 “(A) the Office; or

2 “(B) an insurance company or other entity

3 which--

4 “(1) offers claims payment services and
5 related administrative services under benefit
6 plans provided on a self-insured basis by
7 employers in the private sector; and

8 “(11) has entered into a contract with the
9 Office pursuant to section 8450 of this title;

10 “(2) the term ‘disability benefits under the Social
11 Security Act’ means disability insurance benefits payable
12 under section 223 of the Social Security Act or benefits
13 payable under section 202 of such Act by reason of being
14 under a disability;

15 “(3) the term ‘disability date’, when used with
16 respect to an eligible participant, means the date the
17 eligible participant became disabled;

18 “(4) the term ‘disabled’, when used with respect to
19 an eligible participant, means that the eligible
20 participant--

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

23 “(B) is unable, because of disease or injury, to
24 render useful and efficient service in the
25 participant’s position and is not qualified for

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1 reassignment, under procedures prescribed by the
2 Office, to a vacant position--

3 "(i) which is in the participant's employing
4 agency and is in the participant's commuting
5 area;

6 "(ii) which is at the same grade or pay
7 level as the participant's position; and

8 "(iii) in which the participant would be
9 able to render useful and efficient service;

10 "(5) the term 'eligible participant' means an
11 employee or Member whose service exceeds 18 months and--

12 "(A) who--

13 "(i) has applied for disability benefits
14 under the Social Security Act and has been
15 determined to be under a disability for the
16 purposes of title II of the Social Security Act;
17 or

18 "(ii) in the case of an employee or Member
19 who is not entitled to disability benefits under
20 the Social Security Act by reason of insufficient
21 quarters of coverage, has been determined by an
22 administrator of benefits to be disabled within
23 the meaning of paragraph (4)(A) of this section
24 on the basis of a report of examination required
25 by section 8445 of this title; or

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1 “(B) who has been determined by an administrator
2 of benefits to be disabled within the meaning of
3 paragraph (4)(B) of this section on the basis of a
4 report of examination required by section 8445 of
5 this title and the findings of the Office with
6 respect to the reassignment of the employee;

7 “(6) the term ‘onset average pay’, when used with
8 respect to a disabled eligible participant, means the
9 participant’s average pay on the participant’s disability
10 date increased on January 1 of each year after such date
11 by the same percent by which annuities referred to in
12 paragraph (1) of section 8462(b) of this title are
13 increased under such section 8462(b)(2)(D) in December of
14 the preceding year, and compounded; and

15 “(7) the term ‘projected service’, when used with
16 respect to a disabled eligible participant, means the sum
17 of the number of years of service performed by the
18 participant before the participant’s disability date and
19 the number of years, if any, after such date and before
20 the date the participant becomes--

21 “(A) in the case of an eligible participant
22 referred to in subparagraph (5)(A) of this section,
23 62 years of age; or

24 “(B) in the case of an eligible participant
25 referred to in subparagraph (5)(B) of this section,

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1 55 years of age.

2 ~~§ 8442~~. Entitlement

3 "(a)(1) A person who is an eligible participant, is
4 disabled, and has used all sick leave accrued and accumulated
5 under subchapter I of chapter 63 of this title or any other
6 similar applicable provision of law relating to Government
7 employment is entitled to receive disability benefits under
8 this subchapter while--

9 "(A) In the case of a person who is disabled within
10 the meaning of section 8441(4)(A) of this title, such
11 person is under 62 years of age and during the month in
12 which such person becomes such age; and

13 "(B) In the case of a person who is disabled within
14 the meaning of section 8441(4)(B) of this title, such
15 person is under 55 years of age and during the month in
16 which such person becomes such age.

17 "(2) On and after the first day of the first month
18 beginning after the month in which a person referred to in
19 paragraph (1) of this subsection becomes the maximum age
20 prescribed for such person in subparagraph (A) or (B) of such
21 paragraph, the person shall be treated as an eligible
22 participant for the purposes of entitlement to benefits under
23 subsection (b) of this section.

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

25 "(A) is disabled within the meaning of section

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1 8441(4)(A) of this title and is not less than 62 years of
2 age, or

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

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

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

12 "(A) the eligible participant shall be deemed to
13 have separated from Government employment on the day
14 before the date the participant becomes entitled to an
15 annuity pursuant to paragraph (1) of this subsection;

16 "(B) the service of the participant shall include
17 the participant's projected service; and

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

20 "(c) If the condition of an eligible participant who is
21 disabled within the meaning of subparagraph (A) or (B) of
22 section 8441(4) of this title changes such that the
23 participant is disabled within the meaning of the other such
24 subparagraph, the entitlement of such participant to receive
25 disability benefits under this subchapter shall be adjusted

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1 as appropriate to reflect the changed condition.

2 ~~§ 6443~~ Computation of benefits

3 “(a) The annual rate of the disability benefits payable
4 under section 8442(a) of this title to an eligible
5 participant referred to in section 8441(5)(A) of this title
6 shall be equal to the excess of 60 percent of the
7 participant's average pay on the participant's disability
8 date over the amount, if any, which is payable or, on proper
9 application would be payable to the participant as disability
10 benefits under the Social Security Act on such date.

11 “(b) The annual rate of the disability benefits payable
12 under section 8442(a) of this title to an eligible
13 participant referred to in section 8441(5)(B) of this title--

14 “(1) during the period ending 1 year after the
15 eligible participant's disability date, shall be equal to
16 the excess of 60 percent of the participant's average pay
17 on the participant's disability date over the amount, if
18 any, which is payable or, on proper application would be
19 payable to the participant as disability benefits under
20 the Social Security Act on such date; and

21 “(2) after such period, while the participant is
22 under 55 years of age, shall be equal to the excess of--

23 “(A) 40 percent of the participant's average pay
24 on the participant's disability date as such average
25 pay is increased by the same percent by which the

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1 amount of the participant's disability benefits
2 computed under paragraph (1) of this subsection was
3 increased on the first January 1 after such date,
4 under section 8462 of this title, over

5 "(B) the amount of the disability benefits under
6 the Social Security Act computed for the purpose of
7 paragraph (1).

8 "S 8444. Application

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

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

19 "(1) the administrator of benefits determines that
20 the participant was mentally incompetent on the date the
21 participant separated from Government employment or
22 within 1 year after such date; and

23 "(2) the application for disability benefits is
24 filed within 1 year after the date the participant is
25 restored to mental competency or the date a fiduciary is

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1 appointed to manage the financial affairs of the
2 participant, whichever date is earlier.

3 ~~'S 8445~~. Medical examinations

4 "(a) A participant applying for or receiving disability
5 benefits under section 8442(a) of this title shall be
6 examined by a physician under the direction of the
7 appropriate administrator of benefits at such times as such
8 administrator may require.

9 "(b) A physician examining a participant under
10 subsection (a) of this section shall report to the
11 appropriate administrator of benefits the diagnosis and
12 prognosis with respect to such participant.

13 "(c) Notwithstanding any other provision of this
14 subchapter, any participant who fails to submit to the
15 examination required under subsection (a) of this section
16 shall not be entitled to disability benefits.

17 ~~'S 8446~~. Offers of alternative employment

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

24 "(2) A position referred to in paragraph (1) of this
25 subsection is a position which is in the agency of the

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

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

11 “§ 8447. Recovery or restoration of earning capacity

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

24 “(2)(A) Payment of disability benefits to any individual
25 under this chapter that has been terminated pursuant to

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1 paragraph (1) of this subsection shall be resumed if there is
2 a recurrence of the individual's disability, as determined by
3 an administrator of benefits after a medical examination of
4 the individual, and the individual is under 52 years of age
5 (in the case of an individual who is disabled within the
6 meaning of section 8441(4)(A) of this title) or under 55
7 years of age (in the case of an individual who is disabled
8 within the meaning of section 8441(4)(B) of this title).

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

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

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

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

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

23 “(B) A resumption of payment of disability benefits to
24 an individual under subparagraph (A) of this paragraph shall
25 be effective the first day of the first year beginning after

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1 the year in which the individual received the income referred
2 to in such subparagraph.

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

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

14 ~~“S 8448.~~ Relationship to workers' compensation

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

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

24 “(3) Paragraph (1) of this subsection and the provisions
25 of subchapter I of chapter 81 of this title do not deny any

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1 concurrent benefit to an individual under this subchapter and
2 under subchapter I of chapter 81 of this title if the benefit
3 under subchapter I of chapter 81 of this title is based on
4 the death of another individual.

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

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

20 “(A) refund to the Department of Labor the amount
21 representing the commuted compensation payments for the
22 extended period; or

23 “(B) authorize the deduction of the amount from the
24 disability benefits.

25 Deductions from the disability benefits may be made from

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

11 § 8449. Military reserve technicians

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

17 "(A) is separated from employment as a military
18 reserve technician by reason of a disability that
19 disqualifies the individual from membership in a reserve
20 component of the Armed Forces specified in section 261(a)
21 of title 10 or from holding the military grade required
22 for such employment:

23 "(B) is not considered disabled;

24 "(C) is not appointed to another position in the
25 Government (under subsection (b) of this section or

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1 otherwise); and

2 "(D) has not declined an offer of appointment to a
3 position in the Government under subsection (b) of this
4 section.

5 "(2) Payment of disability benefits to an individual
6 under this section terminates--

7 "(A) on the date the individual is appointed to a
8 position in the Government (under subsection (b) of this
9 section or otherwise);

10 "(B) on the date the individual declines an offer of
11 appointment to a position in the Government pursuant to
12 subsection (b) of this section; or

13 "(C) as provided in section 8447(a) or 8447(b) of
14 this title.

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

20 "(1) the position is located within the commuting
21 area of the individual's former position;

22 "(2) the individual is qualified to serve in the
23 vacant position; and

24 "(3) the position is at the same grade or equivalent
25 level as the position from which the individual was

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1 separated.

2 'S 8450. Administrative provisions

3 '(a) For the purpose of this section, the term 'State'
4 means a State of the United States, the District of Columbia,
5 the Commonwealth of Puerto Rico, and a territory or
6 possession of the United States.

7 '(b)(1) In order to provide for the administration of
8 benefits under this subchapter with maximum efficiency and
9 convenience for individuals entitled to such benefits, the
10 Office is authorized to contract with one or more insurance
11 companies or other entities described in section 8441(1)(A)
12 of this title which the Office determines is appropriately
13 qualified to perform some or all of the functions described
14 in paragraph (2) of this subsection (to the extent that the
15 Office is not expressly required by this subchapter to
16 perform any function). The authority under this paragraph
17 shall be exercised in accordance with provisions of this
18 subchapter and applicable regulations issued pursuant to
19 section 8461(c) of this title.

20 '(2) The functions referred to in paragraph (1) of this
21 subsection are as follows:

22 '(A) Receive disability applications and determine
23 benefits entitlements based upon medical evidence and
24 availability of alternative employment.

25 '(B) Compute the amount of a benefits entitlement.

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1 “(C) Receive, disburse, and account for monies from
2 the Federal Employees’ Disability Insurance Fund.

3 “(D) Monitor individual cases for rehabilitation
4 opportunities and determine recovery from disability or
5 restoration to earning capacity.

6 “(E) Serve as a channel of communication of
7 information relating to administration of this
8 subchapter.

9 “(F) Otherwise assist, in such manner as a contract
10 entered into under paragraph (1) of this subsection may
11 provide, in discharging administrative duties necessary
12 to carry out the provisions of this subchapter.

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

16 “(d) Subject to subsection (e) of this section, each
17 contract under this section shall be for a term not to exceed
18 5 years and may be automatically renewable, in the absence of
19 notice by either party of intention to terminate at the end
20 of the then current term, for successive terms of 1 year
21 each.

22 “(e) The Office may terminate any such contract under
23 this section at any time (after such reasonable notice and
24 opportunity for hearing as the Office may prescribe in
25 regulations) if the Office finds that the contractor has

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1 failed substantially to carry out the contract or is carrying
2 out the contract in a manner which is inconsistent with the
3 efficient administration of this subchapter.

4 “(f) Each contract entered into under this section shall
5 provide for advances of monies from the Federal Employees’
6 Disability Insurance Fund to the contractor for purposes of
7 paying disability benefits under this subchapter and the
8 costs of administration, as determined by the Office to be
9 necessary and proper for carrying out the functions covered
10 by the contract.

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

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

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

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1 that the law or regulation is inconsistent with the
2 contractual provisions.

3 “(j) The Secretary of Health and Human Services shall
4 furnish to the Office and an administrator of benefits such
5 information relating to the administration of the Social
6 Security Act, including information on individuals claiming
7 entitlement to benefits under this subchapter, as the Office
8 determines to be necessary to carry out this subchapter.

9 § 8451. Annual accounting; special contingency reserve

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

16 “(1) the total amount of all monies advanced to the
17 contracting entity from the Federal Employees' Disability
18 Insurance Fund during the contract year;

19 “(2) the total of all benefit payments made during
20 the contract year; and

21 “(3) the amounts of the authorized administrative
22 expenses charged for the contract year.

23 “(b) Any excess of the amount described in subsection
24 (a)(1) of this section over the sum of the amounts described
25 in subsections (a)(2) and (a)(3) of this section for a

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1 contract year shall be credited to contract charges in the
2 succeeding contract year or returned to the Federal
3 Employees' Disability Insurance Fund upon termination of the
4 contract, as the Office directs.

5 ~~U.S. 2252~~ Federal Employees' Disability Insurance Fund

6 "(a) There is established in the Treasury of the United
7 States a fund to be known as the 'Federal Employees'
8 Disability Insurance Fund'.

9 "(b)(1) Each agency of the Government employing
10 participants shall make periodic payments to the Federal
11 Employees' Disability Insurance Fund equal to a percentage of
12 the basic pay of each participant which the Office determines
13 is necessary to fund benefits and administrative expenses
14 under this subchapter.

15 "(2) An employing agency shall pay the amounts required
16 by paragraph (1) of this subsection from the appropriation or
17 fund available for payment of the basic pay or salaries of
18 employees of the agency. In the case of a participant in the
19 legislative branch who is paid by the Clerk of the House of
20 Representatives, the amount shall be paid from the contingent
21 fund of the House of Representatives.

22 "(c) Sums in the Federal Employees' Disability Insurance
23 Fund shall be available without fiscal year limitation as the
24 Office determines necessary to pay disability benefits and
25 administrative expenses authorized by this subchapter.

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1 “(d) The Secretary of the Treasury may invest and
2 reinvest any of the money in the Federal Employees’
3 Disability Insurance Fund in interest-bearing obligations of
4 the United States and may sell such obligations for the
5 purposes of such fund. The interest on and the proceeds from
6 the sale of these obligations become a part of such fund.

7 “(e)(1) No tax, fee, or other monetary payment may be
8 imposed or collected by any State or by any political
9 subdivision or other governmental authority thereof on, or
10 with respect to, any funds transferred to contractors under
11 this subchapter for payment and administration of disability
12 benefits under this subchapter.

13 “(2) Paragraph (1) of this subsection shall not be
14 construed to exempt any administrator of benefits from the
15 imposition, payment, or collection of a tax, fee, or other
16 monetary payment on the net income or profit accruing to or
17 realized by the administrator from business conducted under
18 this subchapter, if that tax, fee, or payment is applicable
19 to a broad range of business activity.

20 “SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

21 “§ 8461. Authority of the Office of Personnel Management

22 “(a) The Office shall pay all benefits that are payable
23 under this chapter from the Fund.

24 “(b) The Office shall administer all provisions of this
25 chapter not specifically required to be administered by the

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1 Board, the Executive Director, or any other agency.

2 "(c) The Office may make regulations to carry out the
3 provisions of this chapter administered by the Office.

4 ~~"§ 8462. Cost-of-living adjustment in basic plan annuities,~~
5 survivor annuities, and disability benefits

6 "(a) For the purpose of this section--

7 "(1) the term 'base quarter', when used with respect
8 to a year, means the calendar quarter ending on September
9 30, of such year; and

10 "(2) the price index for a base quarter is the
11 arithmetic mean of such index for the 3 months comprising
12 such quarter.

13 "(b)(1) Except as provided in paragraph (2)(B) of this
14 subsection and subsection (c) of this section, effective
15 December 1 of each year in which the price index for the base
16 quarter of such year exceeds the price index for the base
17 quarter of the preceding year, each annuity which is payable
18 from the Fund under subchapter II or IV of this chapter and
19 commences not later than such December 1 shall be increased
20 by the percentage computed under paragraph (2), (3), (4),
21 (5), or (6) of this subsection, as applicable. This
22 subsection does not apply to an annuity or survivor annuity
23 payable from the Thrift Savings Fund.

24 "(2)(A) Except in the case of an annuitant to whom
25 paragraph (5) of this subsection applies, the annuity of an

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1 annuitant who is authorized to elect to make contributions
2 under section 8418(c) of this title and has not made such an
3 election shall be increased as provided in this paragraph.

4 “(B) An annuity of an annuitant who is under 62 years of
5 age on the effective date of an increase in annuities under
6 paragraph (1) of this subsection shall not be increased under
7 such paragraph.

8 “(C) The percentage by which an annuity is increased
9 under paragraph (1) of this subsection in any year in the
10 case of an annuitant who is at least 62 years of age and is
11 under 67 years of age on the date referred to in subparagraph
12 (B) of this paragraph shall be the excess, if any, of--

13 “(i) the percentage of the increase in the price
14 index for the base quarter of such year over the price
15 index for the base quarter of the preceding year, over

16 “(ii) 2 percent.

17 “(D) The percentage by which an annuity is increased
18 under paragraph (1) of this subsection in any year in the
19 case of an annuitant who is at least 67 years of age on the
20 date referred to in subparagraph (B) of this paragraph shall
21 be the percentage of the increase in the price index for the
22 base quarter of such year over the price index for the base
23 quarter of the preceding year.

24 “(3)(A) Except in the case of an annuitant to whom
25 paragraph (5) of this subsection applies, the annuity of an

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1 annuitant who has elected to make contributions under section
2 8418(c) of this title and has not received a refund of such
3 contributions under section 8420 of this title shall be
4 increased as provided in this paragraph.

5 “(B) The percentage by which an annuity is increased
6 under paragraph (1) of this subsection in any year in the
7 case of an annuitant who is under 62 years of age on the
8 effective date of an increase in annuities under such
9 paragraph shall be the excess, if any, of--

10 “(1) the percentage of the increase in the price
11 index for the base quarter of such year over the price
12 index for the base quarter of the preceding year, over

13 “(11) 2 percent.

14 “(C) The percentage by which an annuity is increased
15 under paragraph (1) of this subsection in any year in the
16 case of an annuitant who is at least 62 years of age on the
17 date referred to in subparagraph (B) of this paragraph shall
18 be the percentage of the increase in the price index for the
19 base quarter of such year over the price index for the base
20 quarter of the preceding year.

21 “(4)(A) Except in the case of an annuitant to whom
22 paragraph (5) of this subsection applies, the annuity which
23 an annuitant who is entitled to receive under section 8411(c)
24 or 8411(d) of this title shall be increased as provided in
25 this paragraph.

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1 “(B) The percentage by which an annuity is increased
2 under paragraph (1) of this subsection in any year in the
3 case of an annuitant who is at least 55 years of age and is
4 under 67 years of age on the effective date of an increase in
5 annuities under paragraph (1) of this subsection shall be the
6 excess, if any, of--

7 “(1) the percentage of the increase in the price
8 index for the base quarter of such year over the price
9 index for the base quarter of the preceding year, over
10 “(11) 2 percent.

11 “(C) The percentage by which an annuity is increased
12 under paragraph (1) of this subsection in any year in the
13 case of an annuitant who is at least 67 years of age on the
14 date referred to in subparagraph (B) of this paragraph shall
15 be the percentage of the increase in the price index for the
16 base quarter of such year over the price index for the base
17 quarter of the preceding year.

18 “(5)(A) The annuity of an annuitant who is entitled to
19 an annuity under subchapter II of this chapter by reason of
20 section 8442^{Pres. 521}(b) of this title, was authorized to elect to
21 make contributions under section 8418(c) of this title, did
22 not make such an election, and is under 67 years of age on
23 the effective date of an increase in annuities under
24 paragraph (1) of this subsection shall be increased under
25 such paragraph in any year by the percentage equal to the

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1 excess, if any, of--

2 “(1) the percentage of the increase in the price
3 index for the base quarter of such year over the price
4 index for the base quarter of the preceding year, over

5 “(11) 2 percent.

6 “(B) The annuity of an annuitant who is entitled to an
7 annuity under subchapter II of this chapter by reason of
8 section 8442(b) of this title, has elected to make
9 contributions under section 8418(c) of this title, and has
10 not received a refund of such contributions under section
11 8420 of this title shall be increased under paragraph (1) of
12 this subsection in any year by the percentage of the increase
13 in the price index for the base quarter of such year over the
14 price index for the base quarter of the preceding year.

15 “(6) The percentage by which an annuity is increased
16 under paragraph (1) of this subsection in any year in the
17 case of a survivor annuitant under subchapter IV of this
18 chapter shall be the percentage of the increase in the price
19 index for the base quarter of such year over the price index
20 for the base quarter of the preceding year.

21 “(c)(1) The first increase (if any) made under
22 subsection (b) of this section to an annuity payable to a
23 participant who retires, to the surviving spouse or surviving
24 former spouse of a deceased participant, or to the surviving
25 spouse or surviving former spouse of a deceased annuitant

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1 whose annuity has never been increased under this subsection
2 or subsection (b) of this section shall be equal to the
3 product (adjusted to the nearest one-tenth of 1 percent) of--

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

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

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

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

24 “(d)(1) Except as provided in paragraph (3) of this
25 subsection and subsection (e) of this section, effective

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1 December 1 of each year in which the price index for the base
2 quarter of such year exceeds the price index for the base
3 quarter of the preceding year, the amount of each disability
4 benefit which is payable under subchapter V of this chapter
5 and commences not later than such December 1 shall be
6 increased by the percentage computed under paragraph (2) or
7 (3) of this subsection, as applicable.

8 “(2) The amount of the disability benefit of a
9 participant who was authorized to elect to make contributions
10 under section 8418(c) of this title and did not make such an
11 election shall be increased under paragraph (1) of this
12 subsection in any year by the percentage equal to the excess,
13 if any, of--

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

17 “(B) 2 percent.

18 “(3) The amount of the disability benefit of a
19 participant who has elected to make contributions under
20 section 8418(c) of this title and has not received a refund
21 of such contributions under section 8420 of this title shall
22 be increased under paragraph (1) of this subsection in any
23 year by the percentage of the increase in the price index for
24 the base quarter of such year over the price index for the
25 base quarter of the preceding year.

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1 “(e) The first increase (if any) made under subsection
2 (d) of this section in a disability benefit which is payable
3 to a participant and has never been increased under this
4 subsection or subsection (d) of this section shall be equal
5 to the product (adjusted to the nearest one-tenth of 1
6 percent) of--

7 “(1) one-twelfth of the applicable percentage of the
8 adjustment computed under subsection (d) of this section,
9 multiplied by

10 “(2) the number of months (counting any portion of a
11 month as a month) for which the disability benefit was
12 payable before the effective date of the increase.

13 “(f) The monthly installment of an annuity or disability
14 benefit payable after adjustment under this section shall be
15 rounded to the next lowest dollar, but the increase in the
16 monthly installment under this section shall be at least \$1.

17 “§ 8463. Rate of benefits

18 “Each annuity and disability benefit is stated as an
19 annual amount, one-twelfth of which, fixed at the next lowest
20 dollar, constitutes the monthly rate payable on the first
21 business day of the first month beginning after the last day
22 of the month for which the annuity or disability benefit has
23 accrued.

24 “§ 8464. Commencement and termination of annuities

25 “(a)(1) Except as otherwise provided in this chapter,

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1 the annuity of a participant under subchapter II of this
2 chapter shall commence on the first day of the first month
3 beginning after--

4 “(A) the date the participant separates from
5 Government employment entitled to an immediate annuity
6 under section 8411 of this title, or

7 “(B) in the case of a participant who is entitled to
8 a deferred annuity under section 8412 of this title and
9 is not entitled to an immediate annuity under section
10 8411 of this title, the date elected by the participant
11 under section 8412(a) of this title or the date the
12 participant becomes 62 years of age, whichever is
13 earlier,

14 as the case may be.

15 “(2) The annuity of an annuitant under this chapter
16 terminates on the date of death or other terminating event
17 provided by law.

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

23 “(2) A survivor annuity payable to a surviving spouse or
24 an eligible former spouse of a deceased participant or
25 deceased former participant under this chapter terminates on

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1 the last day of the last month ending before the surviving
2 spouse or former spouse dies or, if the surviving spouse or
3 former spouse is less than 55 years of age, remarries.

4 § 8465. Waiver, allotment, and assignment of benefits

5 “(a) An individual entitled to receive payment of
6 benefits under subchapter II of this chapter may decline to
7 accept all or any part of the amount of the benefits by a
8 waiver signed and filed with the Office. The waiver may be
9 revoked in writing at any time. Payment of the benefits
10 waived may not be made for the period during which the waiver
11 is in effect.

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

16 § 8466. Application for benefits

17 “(a) No payment of benefits based on the service of a
18 former participant shall be made under this chapter unless an
19 application for payment of the benefits is received by the
20 Office before the one hundred and fifteenth anniversary of
21 the former participant's birth.

22 “(b) Notwithstanding subsection (a) of this section,
23 after the death of a participant or former participant, a
24 benefit based on the participant's or former participant's
25 service shall not be paid under subchapter IV of this chapter

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1 unless an application therefor is received by the Office
2 within 30 years after the death or other event which
3 establishes the entitlement to the benefit.

4 ~~§ 8467~~. Court orders

5 “(a) Payments under this chapter which would otherwise
6 be made to a participant or former participant based upon the
7 service of the participant or former participant shall be
8 paid (in whole or in part) by the Office or the Executive
9 Director, as the case may be, to another person if and to the
10 extent that the terms of any court decree of divorce,
11 annulment, or legal separation, or the terms of any court
12 order or court-approved property settlement agreement
13 incident to any court decree of divorce, annulment, or legal
14 separation expressly provide. Any payment under this
15 paragraph to a person bars recovery by any other person.

16 “(b) Subsection (a) of this section shall apply only to
17 payments made by the Office or the Executive Director under
18 this chapter after the date on which the Office or the
19 Executive Director, as the case may be, receives written
20 notice of such decree, order, or agreement, and such
21 additional information and documentation as the Office or the
22 Executive Director may require.

23 ~~§ 8468~~ Annuities and pay on reemployment

24 “(a)(1) Except in the case of an annuitant who has made
25 an election under subsection (b) of this section, if an

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1 annuitant becomes employed in an appointive or elective
2 position in the Government, payment of any annuity under
3 subchapter II of this chapter to the annuitant terminates
4 effective on the date of the employment, and the annuitant's
5 service on and after the date the annuitant becomes so
6 employed is covered by this chapter. Upon termination of the
7 employment, the rights of the annuitant under subchapter II
8 of this chapter shall be redetermined. If the annuitant dies
9 while still so employed, a survivor annuity payable with
10 respect to the deceased annuitant shall be redetermined as if
11 the employment had otherwise terminated on the date of death.

12 “(2) The amount of an annuity resulting from a
13 redetermination of rights under this chapter pursuant to
14 paragraph (1) of this subsection shall not be less than the
15 amount of the terminated annuity plus any increases under
16 section 8462 of this title occurring after the termination of
17 the annuity and before the commencement of the redetermined
18 annuity.

19 “(b)(1) Under regulations prescribed by the Office,
20 subject to paragraph (2) of this subsection, an annuitant who
21 becomes employed in an appointive or elective position in the
22 Government on a part-time basis may elect to continue to
23 receive an annuity under subchapter II of this chapter.

24 “(2) The sum of--

25 “(A) the amount of an annuity payable under

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1 subchapter II of this chapter to an annuitant making an
2 election under paragraph (1) of this subsection, and

3 "(B) the annual rate of pay payable to the
4 annuitant,

5 during the part-time employment referred to in such paragraph
6 may not exceed the annual rate of pay which is payable for
7 full-time employment in the position in which the annuitant
8 is employed.

9 § 8469. Information

10 "The Office shall make available to each individual who
11 is required or eligible to be a participant such information
12 as may be necessary to enable the individual to understand
13 the rights and benefits, including options, which the
14 individual has under the provisions of this chapter.

15 "SUBCHAPTER VII--TRANSITION PROVISIONS

16 § 8471. Treatment of certain individuals subject to the
17 Civil Service Retirement and Disability System

18 "(a)(1)(A) Any individual--

19 "(1) who is subject to subchapter III of chapter 83
20 of this title as an employee (as defined in section
21 8331(1) of this title, other than an individual employed
22 by the government of the District of Columbia), whose
23 employment by the Federal Government is not employment
24 for the purposes of title II of the Social Security Act
25 and chapter 21 of the Internal Revenue Code of 1954, and

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1 who is not required by section 8402 of this title to be a
2 participant,

3 "(11) who is subject to subchapter III of chapter 83
4 of this title as an employee (as defined in section
5 8331(1) of this title, other than an individual employed
6 by the government of the District of Columbia), whose
7 employment by the Federal Government before January 1,
8 1984, is employment for the purposes of title II of the
9 Social Security Act and chapter 21 of the Internal
10 Revenue Code of 1954, and who is not required by section
11 8402 of this title to be a participant, or

12 "(111) who is a Member of Congress (as defined in
13 section 2106 of this title) and who is not required by
14 section 8402 of this title to be a participant,

15 may elect to commence participation in the System.

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

23 "(2) Except as provided in section 8472(d) of this
24 title, any individual who makes the election authorized by
25 paragraph (1) of this subsection shall retain accrued credit

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1 for entitlement to benefits under subchapter III of chapter
2 83 of title 5, United States Code, for service performed
3 while subject to such subchapter.

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

10 "(b) Except as provided in section 8472(d) of this
11 title, any individual who--

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

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

16 "(3) is not a participant referred to in section
17 8473(a) of this title,

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

21 "(c) Except as provided in section 8472(d) of this
22 title, any individual who--

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

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

3 “(3) is not a participant referred to in section
4 8473(a) of this title,

5 may make deposits under section 8334 of this title for
6 service performed before January 1, 1987, while subject to
7 subchapter III of chapter 83 of this title and shall, upon
8 making such deposits, be entitled to credit under such
9 subchapter for service covered by the deposits.

10 “(d) Survivor benefits shall be payable as provided in
11 subchapter III of chapter 83 of this title and this chapter
12 to the extent of the service creditable under such subchapter
13 (pursuant to this section) and this chapter in the case of a
14 participant referred to in subsection (a), (b), or (c) of
15 this section.

16 “§ 8472. Special rules for participants retaining

17 entitlement in the Civil Service Retirement and
18 Disability System

19 “(a) Service that is creditable under subchapter III of
20 chapter 83 of this title in the case of an individual who
21 elects to be a participant or who retains entitlement in the
22 Civil Service Retirement and Disability System under section
23 8471 of this title shall be credited as service under this
24 chapter only--

25 “(1) for the purposes of determining eligibility to

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1 retire entitled to an annuity under section 8411 or 8412
2 of this title and entitlement for disability benefits
3 under subchapter V of this chapter;

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

8 "(3) for the purpose of determining the percent to
9 apply under the applicable formula prescribed in section
10 8413(a)(1) of this title with respect to service which is
11 creditable for all purposes under this chapter.

12 "(b) Service performed as a participant in the System by
13 an individual referred to in subsection (a) of this section
14 shall be credited under subchapter III of chapter 83 of this
15 title only for the purpose of determining eligibility to
16 retire entitled to an annuity under section 8335, 8336, or
17 8338 of this title.

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

25 "(2) The rates of basic pay in effect for an individual

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1 referred to in subsection (a) of this section before the date
2 the individual begins to participate in the System shall be
3 taken into account in computing the individual's average pay
4 for the purposes of this chapter.

5 "(d) Section 8337 of this title (relating to disability
6 retirement) shall not apply in the case of a participant
7 referred to in subsection (a).

8 "§ 8473. Participants subject to the Federal Employees'

9 Retirement Contribution Temporary Adjustment
10 Act of 1983

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

18 "(2) Paragraph (1) of this subsection shall not apply to
19 a Member of Congress (as defined in section 2106 of this
20 title) or to an individual described in section
21 8471(a)(1)(A)(ii) of this title.

22 "(b)(1) On January 1, 1987, the amount computed under
23 paragraph (2) of this subsection shall be transferred from
24 the Fund to the Thrift Savings Fund in the case of a
25 participant to whom subsection (a)(1) of this section

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1 applies. The amount transferred shall be credited to an
2 account established for the individual pursuant to section
3 8428(a) of this title.

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

7 `` (1) two times the total amount deducted and
8 withheld from the basic pay of the participant pursuant
9 to section 204(a) of the Federal Employees' Retirement
10 Contribution Temporary Adjustment Act of 1983 (97 Stat.
11 1107; 5 U.S.C. 8331 note); and

12 `` (ii) interest on the amount referred to in clause
13 (i) of this subparagraph computed at the annual rate
14 determined under the second sentence of this subparagraph
15 and compounded annually, as if a fraction of such amount
16 (determined as provided in subparagraph (B) of this
17 paragraph) had been deposited to the credit of the Fund
18 at the end of each month for which amounts were deducted
19 and withheld from the basic pay of the participant as
20 described in clause (i) of this subparagraph.

21 The annual rate referred to in clause (ii) for an amount
22 transferred from the Fund in any calendar year shall be equal
23 to the interest rate determined for such calendar year under
24 section 8334(e) of this title.

25 `` (B) In the case of any participant to whom paragraph

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1 (1) of this subsection applies--

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

4 “(11) the denominator of the fraction is the number
5 of months for which amounts were deducted and withheld
6 from the basic pay of the participant as described in
7 subparagraph (A)(1) of this paragraph.

8 “(3) For the purposes of section 8422 of this title--

9 “(A) one-half of the amount computed in the case of
10 a participant referred to in subsection (a) of this
11 section pursuant to paragraph (2) of this subsection
12 shall be treated as a contribution made under section
13 8421(a) of this title; and

14 “(B) one-half of such amount shall be treated as a
15 contribution made by the employing agency of the
16 participant pursuant to section 8421(b) of this title.

17 “(4) All amounts transferred from the Fund pursuant to
18 paragraph (1) of this subsection shall be invested in the
19 Government Securities Investment Fund established under
20 section 8427(b)(1)(A) of this title.

21 “(c) The total amount of any deposit made to the Fund
22 under section 8334(j) of this title (relating to deposits
23 covering periods of military service) in the case of a
24 participant referred to in subsection (a)(1) of this section
25 shall be refunded to the participant. The refund shall be

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1 paid out of sums in the Fund.

2 ~~§ 8474.~~ Reemployed annuitants under a Government retirement
3 system.

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

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

6 "(A) in the case of the Civil Service Retirement
7 and Disability System, shall have the same meaning
8 provided in section 8331(9) of this title;

9 "(B) in the case of the Foreign Service
10 Retirement and Disability System, shall have the same
11 meaning provided in section 804(1) of the Foreign
12 Service Act of 1980 (22 U.S.C. 4044(1)), except that
13 such term does not include a survivor; and

14 "(C) in the case of the Central Intelligence
15 Agency Retirement and Disability System, means--

16 "(1) any participant who is referred to in
17 section 203 of the Central Intelligence Agency
18 Retirement Act of 1964 for Certain Employees, and

19 "(11) any individual who formerly was such a
20 participant,

21 entitled to an annuity from the Central Intelligence
22 Agency Retirement and Disability Fund;

23 "(2) the term 'Government retirement system' means--

24 "(A) the Civil Service Retirement and Disability
25 System under subchapter III of chapter 83 of this

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1 title;

2 "(B) the Foreign Service Retirement and
3 Disability System under chapter 8 of the Foreign
4 Service Act of 1980 (22 U.S.C. 4041 et seq.); and

5 "(C) the Central Intelligence Agency Retirement
6 and Disability System under the Central Intelligence
7 Agency Retirement Act of 1964 for Certain Employees
8 (50 U.S.C. 403 note); and

9 "(3) the term 'reemployed annuitant' means an
10 annuitant who becomes employed by the Government after
11 the effective date of the Federal Retirement Reform Act
12 of 1985 and is required by section 8402 of this title to
13 be a participant.

14 "(b) A reemployed annuitant shall retain entitlement in
15 the Government retirement system under which the annuitant
16 was receiving an annuity.

17 "(c)(1) Service that is creditable under the Government
18 retirement system of a reemployed annuitant shall be credited
19 under this chapter only for the purpose of determining
20 eligibility to retire entitled to an annuity under section
21 8411 of this title.

22 "(2) Service performed as a reemployed annuitant shall
23 not be creditable service for the purposes of the Government
24 retirement system of the reemployed annuitant.

25 "(d)(1) The rates of basic pay in effect for a

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1 “(b)(1) The Board shall be composed of--

2 “(A) the Chairman of the Federal Reserve Board;

3 “(B) the Secretary of the Treasury;

4 “(C) the Director; and

5 “(D) two representatives of Federal employee

6 organizations appointed by the President, one of whom

7 shall be a representative from a labor organization (as

8 defined in section 7103(a)(4) of this title) and one of

9 whom shall be a representative from an organization for

10 employees who are managers.

11 “(2) If an office referred to in paragraph (1)(A),

12 (1)(B), or (1)(C) of this subsection is vacant, the person

13 acting as the officer in such office shall be a member of the

14 Board while acting as such officer.

15 “(3) The Chairman of the Federal Reserve Board shall be

16 the Chairman of the Board.

17 “(4) The members of the Board appointed under paragraph

18 (1)(D) of this subsection shall serve until replaced by the

19 President.

20 “(c) The Board shall--

21 “(1) establish policies for--

22 “(A) the investment and management of the Thrift

23 Savings Fund; and

24 “(B) the administration of subchapter III of

25 this chapter and the provisions of subchapter IV of

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1 this chapter which relate to survivor annuities
2 payable out of the Thrift Savings Fund;
3 “(2) review the performance of investments made for
4 the Thrift Savings Fund;
5 “(3) without regard to civil service and
6 classification laws, fix the rate of pay of the Executive
7 Director;
8 “(4) supervise the Executive Director; and
9 “(5) review and approve the budget of the Board.
10 “(d)(1) The Board may--
11 “(A) adopt, alter, and use a seal;
12 “(B) except as provided in paragraph (2) of this
13 subsection, direct the Executive Director to take such
14 action as the Board considers appropriate to carry out
15 the provisions of this subchapter and subchapter III of
16 this chapter, the provisions of subchapter IV of this
17 chapter which relate to survivor annuities payable out of
18 the Thrift Savings Fund, and the policies of the Board;
19 “(C) upon the concurring votes of four members,
20 remove the Executive Director from office for good cause
21 shown after investigation by the Comptroller General of
22 the United States and after considering any
23 recommendations made by the Comptroller General with
24 respect to the removal; and
25 “(D) take such other action as may be necessary to

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1 carry out the functions of the Board.

2 "(2) Except in the case of investments required by
3 section 8427 of this title to be invested in securities of
4 the Government, the Board may not direct the Executive
5 Director or any contractor under a contract awarded under
6 section 8494(c)(2) this title to invest or to cause to be
7 invested any sums in the Thrift Savings Fund in a specific
8 asset or to dispose of or cause to be disposed any specific
9 asset of such Fund.

10 "(e) The members of the Board shall discharge their
11 responsibilities solely in the interest of participants and
12 beneficiaries under this chapter.

13 § 8492. Federal Retirement Thrift Advisory Committee

14 "(a)(1) The Board shall establish a Federal Retirement
15 Thrift Advisory Committee (hereafter in this section referred
16 to as the 'Advisory Committee').

17 "(2)(A) The Advisory Committee shall be composed of 6
18 members appointed as provided in subparagraph (B) of this
19 paragraph.

20 "(B) The members of the Advisory Committee shall be
21 appointed by action agreed to by a majority of the members
22 the Board. Three of the members of the Advisory Committee
23 shall be appointed from among investment asset managers not
24 employed by the Government and three of the members of the
25 Advisory Committee shall be appointed from among

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1 administrators of thrift savings plans established for
2 employees of private sector enterprises.

3 “(3) The Board shall prescribe the terms and conditions
4 of service of the members of the Advisory Committee.

5 “(b) The Advisory Committee shall--

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

8 “(A)(i) investment policy for the Thrift Savings
9 Fund;

10 “(ii) selection of the types of investment funds
11 which are appropriate for investment of sums in the
12 Thrift Savings Fund; and

13 “(iii) selection of investment managers for the
14 purpose of contracting for the administration of
15 investment funds under section 8494(c)(2) of this
16 title; and

17 “(B)(i) the performance of the duties of the
18 Board and the Executive Director under the provisions
19 of this subchapter and subchapter III of this chapter
20 and the provisions of subchapter IV of this chapter
21 which relate to survivor annuities payable out of the
22 Thrift Savings Fund; and

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

24 “(2) review the performance of investments made for
25 the Thrift Savings Fund.

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1 § 8493. Employee Advisory Committee

2 "(a) The Board shall establish an Employee Advisory
3 Committee. The Employee Advisory Committee shall be composed
4 of 5 members, elected in accordance with subsection (b) of
5 this section, each of whom is a participant and has an
6 account balance in the Thrift Savings Fund.

7 "(b)(1) For the purposes of this subsection, the term
8 'voting participant' means a participant who has an account
9 balance in the Thrift Savings Fund.

10 "(2) The members of the Employee Advisory Committee
11 shall be elected by majority vote of the voting participants
12 that vote in accordance with this subsection and the
13 regulations prescribed by the Executive Director.

14 "(3) Each voting participant shall have one vote for
15 each vacancy on the Employee Advisory Committee. For each
16 election, a voting participant shall be entitled to cast only
17 one vote for an individual nominee.

18 "(4) Nominations for the election of members to the
19 Employee Advisory Committee shall be solicited from voting
20 participants. Each nominee shall have the opportunity, in
21 accordance with the regulations prescribed by the Executive
22 Director, to submit a brief statement to voting participants
23 in connection with the election.

24 "(5) Run-off elections shall be held in accordance with
25 the regulations prescribed by the Executive Director

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1 “(6) Each member of the Employee Advisory Committee
2 shall serve for a term of 2 years, except that, in accordance
3 with regulations prescribed by the Executive Director, 3 of
4 the first 5 members shall serve for a term of 3 years. In the
5 event that a member, for any reason, fails to complete his or
6 her term, an election will be held, in accordance with
7 regulations prescribed by the Executive Director, to fill
8 that vacancy for the remainder of the member's term.

9 “(c) The Employee Advisory Committee shall act by
10 resolution of a majority of the members.

11 “(d) The Employee Advisory Committee shall--

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

14 “(A) investment policies for the Thrift Savings
15 Fund, and

16 “(B) selection of the types of investment funds
17 that are appropriate for investment of sums in the
18 Thrift Savings Fund;

19 “(2) advise the Executive Director regarding
20 exclusion of stocks from the Common Stock Index
21 Investment Fund for the purposes of section 8427(b)(2)(C)
22 of this title;

23 “(3) exercise all rights as shareholders with
24 respect to stocks purchased for investments of the Common
25 Stock Index Investment Fund; and

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1 “(4) perform such other duties, as the Board may
2 direct, with respect to investment funds established in
3 accordance with section 8427(b)(1)(D) of this title.

4 ~~8494~~ 8494. Executive Director

5 “(a)(1) The Board shall appoint an Executive Director by
6 action agreed to by a majority of the members of the Board.
7 The Executive Director shall have substantial experience,
8 training, or expertise in the management of financial
9 investments.

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

12 “(b) The Executive Director shall--

13 “(1) carry out the policies established by the
14 Board;

15 “(2) invest and manage the Thrift Savings Fund in
16 accordance with the investment and other policies
17 established by the Board;

18 “(3) provide for payment of annuities and other
19 authorized distributions from the Thrift Savings Fund
20 under this chapter, by the Office or otherwise; and

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

25 “(c) The Executive Director, may--

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1 “(1) prescribe regulations to carry out the
2 responsibilities of the Executive Director under this
3 section, other than regulations relating to fiduciary
4 responsibilities;

5 “(2) without regard to civil service and
6 classification laws, appoint, employ, and fix the
7 compensation of such personnel as may be necessary to
8 carry out the provisions of this subchapter and
9 subchapter III of this chapter and the provisions of
10 subchapter IV of this chapter which relate to survivor
11 annuities payable out of the Thrift Savings Fund;

12 “(3) enter into such contracts or other arrangements
13 (including contracts for the performance of
14 administrative services), and make such modifications
15 thereof, as may be appropriate to carry out the
16 provisions of this subchapter and section 8427 of this
17 title and the policies of the Board;

18 “(4) except as provided in section 552a of this
19 title, obtain from any Federal agency, including any
20 independent establishment or instrumentality of the
21 United States, advice, information, estimates,
22 statistics, and such other assistance as the Executive
23 Director considers necessary to carry out the provisions
24 of this subchapter and subchapter III of this chapter,
25 the provisions of subchapter IV of this chapter which

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1 relate to survivor annuities payable out of the Thrift
2 Savings Fund, and the policies of the Board;

3 "(5) make such payments out of sums in the Thrift
4 Savings Fund as the Executive Director determines are
5 necessary to carry out the provisions of this subchapter,
6 subchapter III of this chapter, the provisions of
7 subchapter IV of this chapter which relate to survivor
8 annuities payable out of the Thrift Savings Fund, and the
9 policies of the Board;

10 "(6) pay the compensation, per diem, and travel
11 expenses of personnel from the Thrift Savings Fund;

12 "(7) accept and utilize the services of individuals
13 employed intermittently in the Government service and
14 reimburse such individuals for travel expenses, as
15 authorized by section 5703 of this title, including per
16 diem as authorized by section 5702 of this title;

17 "(8) except as otherwise expressly prohibited by law
18 or the policies of the Board, delegate any of the
19 Executive Director's functions to such officers and
20 employees under the Board as the Executive Director may
21 designate and authorize such successive redelegations of
22 such functions to such officers and employees under the
23 Board as the Executive Director may consider to be
24 necessary or appropriate; and

25 "(9) take such other actions as are appropriate to

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1 carry out the functions of the Executive Director.

2 § 8495. Investment policy

3 "The Board shall develop investment policies under
4 section 8491(c)(1) of this title which provide for--

5 "(1) prudent investments suitable for accumulating
6 funds for payment of retirement income;

7 "(2) low administrative costs; and

8 "(3) investments likely to receive broad acceptance
9 by participants and the public, taking into consideration
10 the views of the Employee Advisory Committee.

11 § 8496. Administrative provisions

12 "(a) The Board shall meet--

13 "(1) not less than once during each fiscal year; and

14 "(2) at additional times at the call of the
15 Chairman.

16 "(b)(1) Except as provided in section 8491(d)(1)(C) of
17 this title, the Board shall perform the functions and
18 exercise the powers of the Board on a majority vote of a
19 quorum of the Board.

20 "(2) A vacancy on the Board shall not impair the
21 authority of a quorum of the Board to perform the functions
22 and exercise the powers of the Board.

23 "(c) Three members of the Board shall constitute a
24 quorum for the transaction of business.

25 "(d)(1) Each member of the Board who is not an officer

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1 or employee of the Federal Government and each member of the
2 Federal Retirement Thrift Advisory Committee shall be
3 compensated at the daily rate of basic pay payable for grade
4 GS-18 under the General Schedule for each day or part thereof
5 during which such member is engaged in performing a function
6 of the Board or the Federal Retirement Thrift Advisory
7 Committee, as the case may be.

8 “(2) A member of the Board, the Federal Retirement
9 ~~Thrift~~ Advisory Committee, or the Employee Advisory Committee
10 shall be paid travel, per diem, and other necessary expenses
11 under subchapter I of chapter 57 of this title while
12 traveling away from his home or regular place of business in
13 the performance of the duties of the Board, the Federal
14 Retirement Thrift Advisory Committee, or the Employee
15 Advisory Committee, as the case may be.

16 “(e) The accrued annual leave of any employee who is a
17 member of the Board or the Employee Advisory Committee shall
18 not be charged for any time used in performing service for
19 the Board or such committee during any work period.

20 “(f) Section 14(a)(2) of the Federal Advisory Committee
21 Act (86 Stat. 776; 5 U.S.C. App.) shall not apply to the
22 Federal Retirement Thrift Advisory Committee or the Employee
23 Advisory Committee.

24 “§ 8497. Fiduciary responsibilities; liability and penalty

25 “(a) For the purposes of this section--

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1 “(1) the term ‘fiduciary’ means--

2 “(A) each member of the Federal Retirement

3 Thrift Advisory Committee and the Executive Director;

4 “(B) any person who has or exercises

5 discretionary authority or discretionary control over

6 the management or disposition of the assets of the

7 Thrift Savings Fund;

8 “(C) each member of the Employee Advisory

9 Committee with respect to the member’s duties in

10 connection with the Common Stock Index Investment

11 Fund, except with respect to the performance of the

12 function referred to in section 8427(b)(2)(C) of this

13 title; and

14 “(D) any person who, with respect to the Thrift

15 Savings Fund, is described in section 3(21)(A) of the

16 Employee Retirement Income Security Act of 1974 (29

17 U.S.C. 1002(21)(A));

18 except that, such term does not include the members of

19 the Board;

20 “(2) the term ‘party in interest’ includes--

21 “(A) any fiduciary;

22 “(B) any counsel to a person who is a fiduciary,

23 with respect to the actions of such person as a

24 fiduciary;

25 “(C) any participant;

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1 “(D) any person providing services to the Board
2 and any person providing services to the Executive
3 Director, with respect to the actions of the
4 Executive Director as a fiduciary;

5 “(E) a labor organization the members of which
6 are participants;

7 “(F) a spouse, sibling, ancestor, lineal
8 descendant, or spouse of a lineal descendant of a
9 person described in subclause (A), (B), or (D) of
10 this clause;

11 “(G) a corporation, partnership, or trust or
12 estate of which, or in which, 50 percent or more of--
13 “(i) the combined voting power of all
14 classes of stock entitled to vote or the total
15 value of shares of all classes of stock of such
16 corporation;

17 “(ii) the capital interest or profits
18 interest of such partnership; or
19 “(iii) the beneficial interest of such trust
20 or estate,
21 is owned directly or indirectly, or held by a person
22 described in subclause (A), (B), (D), or (E) of this
23 clause;

24 “(H) an employee, officer, director, or an
25 individual having powers or responsibilities similar

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1 to those of an officer and director, or a holder
2 (directly or indirectly) of 10 percent or more of the
3 shares of a corporation referred to in subclause (G)
4 of this clause; and

5 "(I) an employee, officer, director, or an
6 individual having powers or responsibilities similar
7 to those of an officer and director, or a person who,
8 directly or indirectly, is at least a 10 percent
9 partner or joint venturer (measured in capital or
10 profits) in a person described in subclause (A), (B),
11 (D), (E), or (G) of this clause;

12 "(3) the term 'person' means an individual,
13 partnership, joint venture, corporation, mutual company,
14 joint-stock company, trust, estate, unincorporated
15 organization, association, or labor organization; and

16 "(4) the term 'adequate consideration' means--

17 "(A) in the case of a security for which there
18 is a generally recognized market--

19 "(i) the price of the security prevailing on
20 a national securities exchange which is
21 registered under section 6 of the Securities
22 Exchange Act of 1934; or

23 "(ii) if the security is not traded on such
24 a national securities exchange, a price not less
25 favorable to the Thrift Savings Fund than the

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1 offering price for the security as established by
2 the current bid and asked prices quoted by
3 persons independent of the issuer and of any
4 party in interest; and

5 "(B) in the case of an asset other than a
6 security for which there is a generally recognized
7 market, the fair market value of the asset as
8 determined in good faith by the fiduciary or
9 fiduciaries in accordance with regulations prescribed
10 by the Secretary of Labor.

11 "(b)(1) To the extent not inconsistent with the
12 provisions of this chapter and the policies prescribed by the
13 Board, a fiduciary shall discharge his responsibilities with
14 respect to the Thrift Savings Fund or applicable portion
15 thereof solely in the interest of the participants and
16 beneficiaries and--

17 "(A) for the exclusive purpose of--

18 "(i) providing benefits to participants and
19 their beneficiaries; and

20 "(ii) defraying reasonable expenses of
21 administering the Thrift Savings Fund or applicable
22 portions thereof;

23 "(B) with the care, skill, prudence, and diligence
24 under the circumstances then prevailing that a prudent
25 individual acting in a like capacity and familiar with

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1 such matters would use in the conduct of an enterprise of
2 a like character and with like objectives; and

3 "(C) to the extent permitted by section 8427 of this
4 title, by diversifying the investments of the Thrift
5 Savings Fund or applicable portions thereof so as to
6 minimize the risk of large losses, unless under the
7 circumstances it is clearly prudent not to do so.

8 "(2) No fiduciary may maintain the indicia of ownership
9 of any assets of the Thrift Savings Fund outside the
10 jurisdiction of the district courts of the United States.

11 "(c)(1) A fiduciary shall not permit the Thrift Savings
12 Fund to engage in any of the following transactions, except
13 in exchange for adequate consideration:

14 "(A) A transfer of any assets of the Thrift Savings
15 Fund to any person the fiduciary knows or should know to
16 be a party in interest or the use of such assets by any
17 such person.

18 "(B) An acquisition of any property from or sale of
19 any property to the Thrift Savings Fund by any person the
20 fiduciary knows or should know to be a party in interest.

21 "(C) A transfer or exchange of services between the
22 Thrift Savings Fund and any person the fiduciary knows or
23 should know to be a party in interest.

24 "(2) Notwithstanding paragraph (1) of this subsection, a
25 fiduciary with respect to the Thrift Savings Fund shall not--

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1 “(A) deal with any assets of the Thrift Savings Fund
2 in his own interest or for his own account;

3 “(B) act, in an individual capacity or any other
4 capacity, in any transaction involving the Thrift Savings
5 Fund on behalf of a party, or representing a party, whose
6 interests are adverse to the interests of the Thrift
7 Savings Fund or the interests of its participants or
8 beneficiaries;

9 “(C) receive any consideration for his own personal
10 account from any party dealing with sums credited to the
11 Thrift Savings Fund in connection with a transaction
12 involving assets of the Thrift Savings Fund.

13 “(d) This section does not prohibit any fiduciary from--

14 “(1) receiving any benefit which the fiduciary is
15 entitled to receive under this chapter as a participant,
16 a former participant, or a beneficiary of a participant
17 or former participant;

18 “(2) receiving any reasonable compensation
19 authorized by this title for services rendered, or for
20 reimbursement of expenses properly and actually incurred,
21 in the performance of the fiduciary's duties under this
22 chapter; or

23 “(3) serving as a fiduciary in addition to being an
24 officer, employee, agent, or other representative of a
25 party in interest.

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1 “(e)(1)(A) Any fiduciary that breaches the
2 responsibilities, duties, and obligations set out in
3 subsection (b) of this section or violates subsection (c) of
4 this section shall be liable to the Thrift Savings Fund for
5 any losses to such fund resulting from each such breach or
6 violation and to restore to such fund any profits made by the
7 fiduciary through use of assets of such fund by the
8 fiduciary, and shall be subject to such other equitable or
9 remedial relief as a court considers appropriate. A fiduciary
10 may be removed for a breach referred to in the preceding
11 sentence.

12 “(B) The Secretary of Labor may assess a civil penalty
13 against a party in interest with respect to each transaction
14 which is engaged in by the party in interest and is
15 prohibited by subsection (c) of this section. The amount of
16 such penalty shall be equal to 5 percent of the amount
17 involved in each such transaction (as defined in section
18 4975(f)(4) of the Internal Revenue Code of 1954) for each
19 year or part thereof during which the prohibited transaction
20 continues; except that, if the transaction is not corrected
21 (in such manner as the Secretary of Labor shall prescribe by
22 regulation consistent with section 4975(f)(5) of the Internal
23 Revenue Code of 1954) within 90 days after the date the
24 Secretary of Labor transmits notice to the party in interest
25 (or such longer period as the Secretary of Labor may permit),

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1 such penalty may be in an amount not more than 100 percent of
2 the amount involved.

3 "(C) A fiduciary shall not be liable under subparagraph
4 (A) of this paragraph with respect to a breach of fiduciary
5 duty under subsection (b) of this section committed before
6 becoming a fiduciary or after ceasing to be a fiduciary.

7 "(D) A fiduciary shall be jointly and severally liable
8 under subparagraph (A) of this paragraph for a breach of
9 fiduciary duty under subsection (b) of this section by
10 another fiduciary if--

11 "(i) the fiduciary participates knowingly in, or
12 knowingly undertakes to conceal, an act or omission of
13 such other fiduciary, knowing such act or omission is
14 such a breach;

15 "(ii) by the fiduciary's failure to comply with
16 subsection (b) of this section in the administration of
17 the fiduciary's specific responsibilities which give rise
18 to the fiduciary status, the fiduciary has enabled such
19 other fiduciary to commit such a breach; or

20 "(iii) the fiduciary has knowledge of a breach by
21 such other fiduciary, unless the fiduciary makes
22 reasonable efforts under the circumstances to remedy the
23 breach.

24 "(E) The Secretary of Labor shall prescribe, in
25 regulations, procedures for allocating fiduciary

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1 responsibilities among fiduciaries, including investment
2 managers. Any fiduciary who, pursuant to such procedures,
3 allocates to a person or persons any fiduciary responsibility
4 shall not be liable for an act or omission of such person or
5 persons unless--

6 “(1) such fiduciary violated subsection (b) of this
7 section with respect to the allocation, with respect to
8 the implementation of the procedures prescribed by the
9 Board, or in continuing such allocation; or

10 “(11) such fiduciary would otherwise be liable in
11 accordance with subparagraph (D) of this paragraph.

12 “(2) A civil action may be brought in the district
13 courts of the United States--

14 “(A) by the Secretary of Labor--

15 “(1) to determine and enforce a liability under
16 paragraph (1)(A) of this subsection;

17 “(11) to collect any civil penalty under
18 paragraph (1)(B) of this subsection; or

19 “(111) to enjoin any act or practice which
20 violates subsection (d)(2) or (e) of section 8491 of
21 this title;

22 “(B) by the Secretary of Labor, any participant,
23 annuitant, former participant who is entitled to a
24 deferred annuity under section 8412 of this title, other
25 beneficiary, or fiduciary--

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1 “(1) to enjoin any act or practice which
2 violates any provision of subsection (b) or (c) of
3 this section; or

4 “(11) to obtain any other appropriate equitable
5 relief to redress a violation of any such provision;
6 or

7 “(C) by any participant, annuitant, former
8 participant entitled to a deferred annuity under section
9 8412 of this title, or other beneficiary to recover
10 benefits due to him or her under the provisions of this
11 chapter, to enforce his or her rights under such
12 provisions, or to clarify his or her rights to future
13 benefits under such provisions.

14 “(3) An action may not be commenced under paragraph (2)
15 of this subsection with respect to a fiduciary's breach of
16 any responsibility, duty, or obligation under subsection (b)
17 of this section or a violation of subsection (c) of this
18 section after the earlier of--

19 “(A) 6 years after (i) the date of the last action
20 which constituted a part of the breach or violation, or
21 (ii) in the case of an omission, the latest date on which
22 the fiduciary could have cured the breach or violation;
23 or

24 “(B) 3 years after the earliest date on which the
25 plaintiff had actual knowledge of the breach or

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1 violation; except that, in the case of fraud or
2 concealment, such action may be commenced not later than
3 6 years after the date of discovery of such breach or
4 violation.

5 "(4)(A) Except for actions under paragraph (2)(C) of
6 this subsection, the district courts of the United States
7 shall have exclusive jurisdiction of civil actions under this
8 subsection. State courts of competent jurisdiction and
9 district courts of the United States shall have concurrent
10 jurisdiction of actions under paragraph (2)(C) of this
11 subsection.

12 "(B) An action under this subsection may be brought in
13 the District Court of the United States for the District of
14 Columbia or a district court of the United States in the
15 district where the breach alleged in the complaint or
16 petition filed in the action took place or in the district
17 where a defendant resides or may be found. Process may be
18 served in any other district where a defendant resides or may
19 be found.

20 "(5)(A) A copy of the complaint or petition filed in any
21 action brought under this subsection (other than by the
22 Secretary of Labor) shall be served on the Director, the
23 Executive Director, the Secretary of Labor, and the Secretary
24 of the Treasury by certified mail.

25 "(B) Any officer referred to in subparagraph (A) of this



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1 paragraph shall have the right in his discretion to intervene
2 in any action. If the Secretary of Labor brings an action
3 under paragraph (2) of this subsection on behalf of a
4 participant or beneficiary, he shall notify the Director, the
5 Executive Director, and the Secretary of the Treasury.

6 “(f) The Secretary of Labor may prescribe regulations to
7 carry out this section.

8 “(g) The Secretary of Labor, in consultation with the
9 Comptroller General of the United States, shall establish a
10 program to carry out regular audits to determine the level of
11 compliance with the requirements of this section relating to
12 fiduciary responsibilities and prohibited activities of
13 fiduciaries.

14 **§ 8498. Bonding**

15 “(a)(1) Except as provided in paragraph (2) of this
16 subsection, each fiduciary and each person who handles funds
17 or property of the Thrift Savings Fund shall be bonded as
18 provided in this section.

19 “(2)(A) Bond shall not be required of a fiduciary (or of
20 any director, officer, or employee of such fiduciary) if such
21 fiduciary--

22 “(1) is a corporation organized and doing business
23 under the laws of the United States or of any State;

24 “(11) is authorized under such laws to exercise
25 trust powers or to conduct an insurance business;

1 “(iii) is subject to supervision or examination by
2 Federal or State authority; and

3 “(iv) has at all times a combined capital and
4 surplus in excess of such minimum amount (not less than
5 \$1,000,000) as the Secretary of Labor prescribes in
6 regulations.

7 “(B) If--

8 “(1) a bank or other financial institution would,
9 but for this subparagraph, not be required to be bonded
10 under this section by reason of the application of the
11 exception provided in subparagraph (A) of this paragraph,

12 “(ii) the bank or financial institution is
13 authorized to exercise trust powers, and

14 “(iii) the deposits of the bank or financial
15 institution are not insured by the Federal Deposit
16 Insurance Corporation or the Federal Savings and Loan
17 Insurance Corporation,

18 such exception shall apply to such bank or financial
19 institution only if the bank or institution meets bonding
20 requirements under State law which the Secretary of Labor
21 determines are at least equivalent to those imposed on banks
22 by Federal law.

23 “(b)(1) The Secretary of Labor shall prescribe the
24 amount of a bond under this section at the beginning of each
25 fiscal year. Except as otherwise provided in this paragraph,

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1 such amount shall not be less than 10 per centum of the
2 amount of funds handled. In no case shall such bond be less
3 than \$1,000 nor more than \$500,000, except that the Secretary
4 of Labor, after due notice and opportunity for hearing to all
5 interested parties, and other consideration of the record,
6 may prescribe an amount in excess of \$500,000.

7 “(2) For the purpose of prescribing the amount of a bond
8 under paragraph (1) of this subsection, the amount of funds
9 handled shall be determined by reference to the amount of the
10 funds handled by the person, group, or class to be covered by
11 such bond or by their predecessor or predecessors, if any,
12 during the preceding fiscal year, or to the amount of funds
13 to be handled during the current fiscal year by such person,
14 group, or class, estimated as provided in regulations
15 prescribed by the Secretary of Labor.

16 “(c) A bond required by subsection (a) of this section--

17 “(1) shall include such terms and conditions as the
18 Secretary of Labor considers necessary to protect the
19 Thrift Savings Fund against loss by reason of acts of
20 fraud or dishonesty on the part of the bonded person
21 directly or through connivance with others;

22 “(2) shall have as surety thereon a corporate surety
23 company which is an acceptable surety on Federal bonds
24 under authority granted by the Secretary of the Treasury
25 pursuant to sections 6 through 13 of title 6, United

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1 States Code; and

2 “(3) shall be in a form or of a type approved by the
3 Secretary of Labor, including individual bonds or
4 schedule or blanket forms of bonds which cover a group or
5 class.

6 “(d)(1) It shall be unlawful for any person to whom
7 subsection (a) of this section applies, to receive, handle,
8 disburse, or otherwise exercise custody or control of any of
9 the funds or other property of the Thrift Savings Fund
10 without being bonded as required by this section.

11 “(2) It shall be unlawful for any fiduciary, or any
12 other person having authority to direct the performance of
13 functions described in paragraph (1) of this subsection, to
14 permit any such function to be performed by any person to
15 whom subsection (a) of this section applies unless such
16 person has met the requirements of such subsection.

17 “(e) Notwithstanding any other provision of law, any
18 person who is required to be bonded as provided in subsection
19 (a) of this section shall be exempt from any other provision
20 of law which would, but for this subsection, require such
21 person to be bonded for the handling of the funds or other
22 property of the Thrift Savings Fund:

23 “(f) The Secretary of Labor shall prescribe such
24 regulations as may be necessary to carry out the provisions
25 of this section, including exempting a person or class of

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1 persons from the requirements of this section.

2 ``§ 8499. Exculpatory provisions; insurance

3 ``(a) Any provision in an agreement or instrument which
4 purports to relieve a fiduciary from responsibility or
5 liability for any responsibility, obligation, or duty under
6 this subchapter shall be void.

7 ``(b)(1) The Executive Director may require employing
8 agencies to contribute an amount not to exceed 1 percent of
9 the amount such agencies are required to contribute in
10 accordance with section 8421(b) of this title to the Thrift
11 Savings Fund.

12 ``(2) The sums credited to the Thrift Savings Fund under
13 paragraph (1) of this subsection shall be available and may
14 be used at the discretion of the Executive Director to
15 purchase insurance to cover potential liability of persons
16 who serve in a fiduciary capacity with respect to the Thrift
17 Savings Fund, without regard to whether a policy of insurance
18 permits recourse by the insurer against the fiduciary in the
19 case of a breach of a fiduciary obligation.``.

20 (b) The table of chapters at the beginning of part III of
21 such title is amended by inserting after the item relating to
22 chapter 83 the following new item:

``84. Federal Retirement System..... 8421.``.

23 TITLE II--AMENDMENTS RELATING TO SOCIAL SECURITY

24 AMENDMENTS TO THE SOCIAL SECURITY ACT

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1 Sec. 201. Section 210(a)(5) of the Social Security Act is
2 amended--

3 (1) by striking out "or" at the end of subparagraph
4 (F);

5 (2) by striking out the semicolon at the end of
6 subparagraph (G) and inserting in lieu thereof ", or";
7 and

8 (3) by adding at the end thereof the following new
9 subparagraph:

10 "(H) service performed by an individual after
11 such individual has commenced participation in the
12 Federal Retirement System pursuant to section 8471 of
13 title 5, United States Code;"

14 AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

15 Sec. 202. Section 3121(b)(5) of the Internal Revenue Code
16 of 1954 is amended--

17 (1) by striking out "or" at the end of subparagraph
18 (F);

19 (2) by striking out the semicolon at the end of
20 subparagraph (G) and inserting in lieu thereof ", or";

21 and

22 (3) by adding at the end thereof the following new
23 subparagraph:

24 "(H) service performed by an individual after
25 such individual has commenced participation in the

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1 Federal Retirement System pursuant to section 8471 of
2 title 5, United States Code;''.

3 TITLE III--MISCELLANEOUS AND CONFORMING AMENDMENTS
4 EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT CONTRIBUTION
5 TEMPORARY ADJUSTMENT ACT OF 1983

6 Sec. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A),
7 203(a)(4)(B), 204(a), 206(b)(2)(A)(1), and 206(c)(3) of the
8 Federal Employees' Retirement Contribution Temporary
9 Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note)
10 are amended by striking out ''January 1, 1986'' each place it
11 appears and inserting in lieu thereof ''January 1, 1987''.

12 (b) Section 205 of such Act is amended by striking out
13 ''and 1986'' in subsections (b) and (c) and inserting in lieu
14 thereof ''1986, and 1987''.

15 MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED
16 STATES CODE

17 Sec. 302. (a) Section 8331(1)(G) of title 5, United
18 States Code, is amended to read as follows:

19 ''(G) an individual first employed by the
20 government of the District of Columbia before January
21 1, 1987;''.

22 (b) Section 8332 of such title is amended by adding at
23 the end thereof the following new subsection:

24 ''(n) Except as provided in section 8472(b) of this
25 title, service performed while a participant in the Federal

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1 Retirement System under chapter 84 of this title is not
2 creditable under this section.''.

3 (c)(1) The first sentence of section 8333(b) of such
4 title is amended by inserting ``or chapter 84 of this title``
5 after ``subject to this subchapter``.

6 (2) Section 8333(c) of such title is amended by adding at
7 the end thereof the following new sentence: ``The
8 requirements of the first sentence shall apply only with
9 respect to the civilian service performed by a Member while
10 not a participant in the Federal Retirement System under
11 chapter 84 of this title.'`.

12 (d) Subsection (a) of section 8334 of such title is
13 amended--

14 (1) in the first sentence of paragraph (1), by
15 striking out ``The employing`` and inserting in lieu
16 thereof ``Except as provided in paragraph (3) of this
17 subsection, the employing``; and

18 (2) by adding at the end thereof the following new
19 paragraph:

20 ``(3)(A) In the case of an employee or Member who was
21 subject to this subchapter before January 1, 1984, and whose
22 service--

23 ``(1) is employment for the purposes of title II of
24 the Social Security Act and chapter 21 of the Internal
25 Revenue Code of 1954; and

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1 “(11) is not creditable service for any purpose
2 under chapter 84 of this title,
3 an employing agency shall deduct and withhold from the basic
4 pay of the employee or Member under paragraph (1) of this
5 subsection during any pay period only the amount computed
6 pursuant to subparagraph (B) of this paragraph.

7 “(B) The amount deducted and withheld from basic pay
8 during any pay period pursuant to subparagraph (A) of this
9 paragraph in the case of an employee or Member referred to in
10 such subparagraph shall be the excess of--

11 “(i) the amount determined by multiplying the
12 percent applicable to the employee or Member under
13 paragraph (1) of this subsection by the basic pay payable
14 for such pay period, over

15 “(ii) the amount of the taxes deducted and withheld
16 from such basic pay under section 3101(a) of the Internal
17 Revenue Code of 1954 for such pay period.”.

18 (e) Section 8339 of such title is amended by adding at
19 the end thereof the following new subsection:

20 “(o)(1) Effective on the first day of the month in which
21 an annuitant or a survivor annuitant becomes 62 years of age,
22 the annuity or survivor annuity computed under the other
23 subsections of this section and payable to the annuitant or a
24 survivor annuitant shall be reduced (but not below zero) by
25 the amount determined by multiplying the amount of the old-

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1 age and survivors insurance benefits which the annuitant or
2 survivor annuitant is entitled to receive under section 202
3 of the Social Security Act for the such month, if any, by a
4 fraction--

5 “(A) the numerator of which is the total of the
6 wages (within the meaning of section 209 of the Social
7 Security Act) for service which is referred to in
8 paragraph (2) of this subsection for years before the
9 calendar year in which such month occurs, and

10 “(B) the denominator of which is the total of all
11 wages (within the meaning of section 209 of the Social
12 Security Act) and all self-employment income (within the
13 meaning of section 211(b) of the Social Security Act)--

14 “(1) of such annuitant, or

15 “(ii) in the case of a survivor annuitant, of
16 the employee or Member on whose service the survivor
17 annuity is based,
18 credited for years after 1936 and before the calendar
19 year in which such month occurs.

20 “(2) The service referred to in paragraph (1)(A) of this
21 subsection is service which is covered by amounts deducted
22 and withheld as provided in section 8334(a)(3) of this title,
23 is service described in subparagraphs (C) through (G) of
24 section 210(a)(5) of the Social Security Act, and is taken
25 into account for the purpose of computing the annuity or

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1 survivor annuity to which paragraph (1) of this subsection
2 applies.".

3 (f) Section 8348(a) of such title is amended--

4 (1) in paragraph (1)(A), by inserting "or the
5 provisions of chapter 84 of this title which relate to
6 benefits payable out of the Fund" after "subchapter";
7 and

8 (2) in paragraph (2), by inserting ", chapter 84 of
9 this title," after "chapter".

10 CONFORMING PROVISIONS FOR THE POSTAL SERVICE RETIREMENT
11 SYSTEM

12 Sec. 303. Section 1005(d) of title 39, United States
13 Code, is amended to read as follows:

14 "(d) Officers and employees of the Postal Service (other
15 than the Governors) shall be covered by chapters 83 and 84 of
16 title 5 according to the provisions of such chapters. The
17 Postal Service shall withhold from pay and shall pay into the

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1 Civil Service Retirement and Disability Fund the amounts
 2 specified in or determined under such chapter 83. The Postal
 3 Service shall pay into the Civil Service Retirement and
 4 Disability Fund the amounts specified or determined under
 5 subchapters II and V of such chapter 84. The Postal Service
 6 shall pay into the Federal Retirement Thrift Savings Fund the
 7 amounts specified in or determined under subchapter III of
 8 such chapter 84.''.
 9

HEALTH BENEFIT PLAN AMENDMENTS

10 Sec. 304. (a) Section 8901(1)(E) of title 5, United
 11 States Code, is amended to read as follows:

12 ''(E) an individual first employed by the
 13 government of the District of Columbia before January
 14 1, 1987;''.

15 (b) Section 8901(10) of such title is amended--

16 (1) in subparagraph (C)(i)--

17 (A) by inserting ''or 8467'' after ''8345(j)'';

18 and

19 (B) by inserting ''or 8434'' after ''8341(h)'';

20 and

21 (2) in subparagraph (C)(ii)--

22 (A) by inserting ''or 8434'' after ''8341(h)'';

23 and

24 (B) by inserting ''or 8467'' after ''8345(j)''.

25 (c)(1) Subsection (b) of section 8905 of such title is

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1 amended--

2 (A) by redesignating subparagraphs (A), (B), and (C)
3 of paragraph (1) as clauses (i), (ii), and (iii),
4 respectively;

5 (B) by redesignating paragraphs (1) and (2) as
6 subparagraphs (A) and (B), respectively;

7 (C) by inserting "(1)" after "(b)"; and

8 (D) by adding at the end thereof the following new
9 paragraph (2):

10 "(2) A member of family of a deceased employee or
11 annuitant who was enrolled in a health benefit plan under
12 this chapter on the date of death of the employee or
13 annuitant may continue the enrollment under the conditions of
14 eligibility prescribed in regulations issued by the
15 Office."

16 (2) Subsection (c)(1) of such section is amended--

17 (A) in subparagraph (B), by inserting "or
18 8435(a)(1)"; and

19 (B) in the second sentence--

20 (i) by inserting "or 8434" after "8341(h)";

21 and

22 (ii) by inserting "or 8457" after "8345(j)".

23 EMPLOYEES OF CERTAIN NONAPPROPRIATED FUND INSTRUMENTALITIES
24 Sec. 305. Section 2105(c) of title 5, United States Code,
25 is amended by inserting ", chapter 84," after "chapter

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1 81'' in clause (2) of the first sentence.

2 DISCLOSURE OF EARNINGS INFORMATION OF DISABLED FEDERAL
3 EMPLOYEES

4 Sec. 306. (a) Paragraph (7)(D) of section 6103(1) of the
5 Internal Revenue Code of 1954 (relating to disclosure of
6 returns and return information for purposes other than tax
7 administration) is amended--

8 (1) by striking out ``and'' at the end of clause
9 (vi);

10 (2) by striking out the period at the end of clause
11 (vii) and inserting in lieu thereof a semicolon and
12 ``and''; and

13 (3) by adding at the end thereof the following new
14 clause:

15 ``(vii) disability benefits provided under
16 subchapter III of chapter 83 of title 5, United
17 States Code, or subchapter V of chapter 84 of
18 such title.''

19 (b) The heading of paragraph (7) of section 6103(1) of
20 such Code is amended to read as follows:

21 ``(7) Disclosure of return information to Federal,
22 State, and local agencies administering certain programs
23 under the Social Security Act or the Food Stamp Act of
24 1977 or certain civil service disability benefits
25 programs.--''.

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1 COMPENSATION FOR WORK INJURIES

2 Sec. 307. Section 8113 of title 5, United States Code, is
3 amended by adding at the end thereof the following new
4 subsection:

5 “(c) The monthly basic compensation payable under this
6 subchapter to an employee or former employee who is a
7 participant or former participant in the Federal Retirement
8 System under chapter 84 of this title shall be reduced by the
9 amount of the benefits which are payable or, upon proper
10 application, would be payable for the month to such employee
11 or former employee under title II of the Social Security Act
12 based on the service of such employee or former employee.”.

13 GROUP LIFE INSURANCE FOR CERTAIN PARTICIPANTS IN THE FEDERAL
14 RETIREMENT SYSTEM

15 Sec. 308. (a) Section 8704(a)(2) of such title is amended
16 by striking out “(2) the” and inserting in lieu thereof the
17 following:

18 “(2)(A) two, in the case of a participant in the
19 Federal Retirement System under chapter 84 of this title
20 who dies before retiring under such system; or

21 “(B) in the case of an employee other than a
22 participant to which subparagraph (A) of this paragraph
23 applies, the”.

24 (b) Section 8705 of such title is amended by adding at
25 the end thereof the following new subsection (e):

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1 “(e)(1) Under regulations prescribed by the Office of
2 Personnel Management, any person entitled to receive payment
3 of insurance under this section by reason of the death of a
4 participant in the Federal Retirement System under chapter 84
5 of this title may elect to receive such payment in monthly
6 payments payable for a period of 2 years.

7 “(2) Insurance shall be paid in accordance with an
8 election made under paragraph (1) of this subsection.”.

9 JUDICIAL SURVIVORS' ANNUITIES

10 Sec. 309. (a) Section 376 of title 28, United States
11 Code, is amended--

12 (1) in subsections (b) and (d) by striking out “4.5
13 percent” each place it appears and inserting in lieu
14 thereof “5 percent”;

15 (2) by striking out subsection (c) and inserting in
16 lieu thereof the following:

17 “(c)(1) There shall also be deposited to the credit of
18 the Judicial Survivors' Annuities Fund, in accordance with
19 such procedures as the Comptroller General of the United
20 States may prescribe, amounts required to reduce to zero the
21 unfunded liability of the Judicial Survivors' Annuities Fund.
22 Such deposits shall be taken from the fund used to pay the
23 compensation of the judicial official, and shall immediately
24 become an integrated part of the Judicial Survivors'
25 Annuities Fund for any use required under this section.

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1 “(2) For purposes of paragraph (1), the term ‘unfunded
2 liability’ means the estimated excess, determined by the
3 Comptroller General on an annual basis, of the present value
4 of all benefits payable from the Judicial Survivors’
5 Annuities Fund, over the sum of--

6 “(A) the present value of deductions to be withheld
7 from the future basic pay of judicial officials; plus

8 “(B) the balance in such fund as of the date the
9 unfunded liability is determined.

10 In making any determination under this paragraph, the
11 Comptroller General shall use the applicable information
12 contained in the reports filed pursuant to section 9503 of
13 title 31 with respect to the judicial survivors’ annuities
14 plan established by this section.”;

15 (3) in subsection (h)--

16 (A) by striking out clauses (i) and (ii) in
17 paragraph (1)(B) and inserting in lieu thereof the
18 following:

19 “(i) 10 percent of the average annual salary
20 determined under subsection (1)(1) of this
21 section; or

22 “(ii) 20 percent of such average annual
23 salary, divided by the number of children;”;

24 (B) by striking out clauses (ii) and (iii) in
25 paragraph (1)(C) and inserting in lieu thereof the

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1 following:

2 “(ii) 20 percent of the average annual
3 salary determined under subsection (1)(1) of this
4 section; or

5 “(iii) 40 percent of such average annual
6 salary amount, divided by the number of
7 children;” and

8 (C) by inserting immediately after “remarriage”
9 in paragraph (2) the following: “before attaining 55
10 years of age”;

11 (4) in subsection (1)--

12 (A) by striking out “1 1/4 percent” and
13 inserting in lieu thereof “1.5 percent”;

14 (B) by striking out the colon after
15 “subsection” in paragraph (2) and inserting in lieu
16 thereof a semicolon; and

17 (C) by striking out the proviso and inserting in
18 lieu thereof the following: “except that such
19 annuity shall not exceed an amount equal to 50
20 percent of such average annual salary, nor be less
21 than an amount equal to 30 percent of such average
22 annual salary. Any annuity determined in accordance
23 with the provisions of this subsection shall be
24 reduced to the extent required by subsection (d) of
25 this section, if applicable.”.

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1 (b) Section 7448 of the Internal Revenue Code of 1954 is
2 amended--

3 (1) in subsection (c)--

4 (A) by striking out `` (c) Salary Deductions.--

5 There'' and inserting in lieu thereof:

6 `` (c) Survivors Annuity Fund.--

7 `` (1) Salary deductions.--There'',

8 (B) by striking out `` 3 percent'' and inserting

9 in lieu thereof `` 3.5 percent''; and

10 (C) by inserting at the end thereof the following

11 new paragraph (2):

12 `` (2) Unfunded liability deposits.--

13 `` (A) In general.--There shall also be deposited
14 to the credit of the survivors annuity fund, in
15 accordance with such procedures as the Comptroller
16 General of the United States may prescribe, amounts
17 required to reduce to zero the unfunded liability of
18 the survivors annuity fund. Such deposits shall be
19 taken from the fund used to pay the compensation of
20 the judge, and shall immediately become an integrated
21 part of the survivors annuity fund for any use
22 required under this section.

23 `` (B) Unfunded liability defined.--For purposes
24 of subparagraph (A), the term 'unfunded liability'
25 means the estimated excess, determined by the

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1 Comptroller General on an annual basis, of the
2 present value of all benefits payable from the
3 survivors annuity fund, over the sum of--

4 "(1) the present value of deductions to be
5 withheld from the future basic pay of judges;
6 plus

7 "(11) the balance in such fund as of the
8 date the unfunded liability is determined.

9 In making any determination under this subparagraph,
10 the Comptroller General shall use the applicable
11 information contained in the reports filed pursuant
12 to section 9503 of title 31, United States Code, with
13 respect to the Tax Court judges survivors annuity
14 plan established by this section.";

15 (2) in subsection (d) by striking out "3 percent"
16 the second place it appears and inserting in lieu thereof
17 "3.5 percent";

18 (3) in subsection (h)--

19 (A) by striking out "subsection (c)" and
20 inserting in lieu thereof "subsection (c)(1)";

21 (B) by striking out all after the words "equal
22 to" in paragraph (2) and inserting in lieu thereof
23 "the lesser of:

24 "(A) 10 percent of the average annual salary
25 amount determined in accordance with the provisions

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1 of subsection (m); or

2 "(B) 20 percent of such average annual salary

3 amount, divided by the number of children; or";

4 (C) by striking out all after the words "equal

5 to" in paragraph (3) and inserting in lieu thereof

6 "the lesser of:

7 "(A) 20 percent of the average annual salary

8 amount determined in accordance with the provisions

9 of subsection (m); or

10 "(B) 40 percent of such average annual salary

11 amount, divided by the number of children."; and

12 (D) by inserting "before attaining fifty-five

13 years of age" immediately after "remarriage" in

14 the first sentence in the matter after paragraph (3);

15 and

16 (4) in subsection (m)--

17 (A) by striking out "1 1/4 percent" and

18 inserting in lieu thereof "1.5 percent"; and

19 (B) by striking out the comma and all other

20 matter after "other prior allowable service" where

21 it last appears and inserting in lieu thereof ",

22 except that such annuity shall not exceed an amount

23 equal to 50 percent of such average annual salary,

24 nor be less than an amount equal to 30 percent of

25 such average annual salary, and that any amount

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1 determined in accordance with the provisions of this
2 subsection shall be reduced to the extent required by
3 subsection (d), if applicable.''.

4 (c)(1) Subsections (a) and (b) of section 1567 of title
5 11 of the District of Columbia Code are amended by striking
6 out ``3 per centum'' each place it appears and inserting in
7 lieu thereof ``3.5 percent''.

8 (2)(A) Subsection (a) of section 1568 of title 11 of the
9 District of Columbia Code is amended by striking out
10 ``computing a survivor annuity'' and inserting in lieu
11 thereof ``any provision of this subchapter which refers to
12 this subsection''.

13 (B) Subsection (c) of section 1568 of title 11 of the
14 District of Columbia Code is amended--

15 (i) in paragraph (2)(B), by striking out ``the lesser
16 of (i) \$2,700 per year divided by the number of such
17 children or (ii) \$900'' and inserting in lieu thereof
18 ``the lesser of (i) \$8,424 per year divided by the number
19 of such children or (ii) \$2,808'';

20 (ii) in paragraph (3), by striking out ``the lesser
21 of (A) \$3,240 per year divided by the number of such
22 children or (B) \$1,080'' and inserting in lieu thereof
23 ``the lesser of (A) \$10,110 per year divided by the
24 number of such children or (B) \$3,370'';

25 (iii) by inserting before the first sentence of the

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1 matter following paragraph (3) the following:

2 ``For the purpose of computing, under this paragraph, the
3 annuity of a child that commences on or after January 1,
4 1987, the figures \$8,424, \$2,808, \$10,110, and \$3,370 shall
5 be increased by the total percent increases allowed and in
6 force with respect to retirement salaries of judges under
7 section 11-1571(a) of this title on or after such date``; and

8 (iv) in the first sentence of the matter following
9 paragraph (3) by inserting before the period the
10 following: ``prior to the attainment of fifty-five years
11 of age``.

12 (C) Subsection (e) of section 1568 of title 11 of the
13 District of Columbia Code is amended to read as follows:

14 ``(e) The annuity of a widow or widower of a judge
15 electing survivor annuity shall be equal to--

16 ``(1) in the case of a judge who dies while in active
17 regular service as a judge, the greater of--

18 ``(A) 60 percent of the retirement salary the
19 judge would have been entitled to receive if the
20 judge had retired on the day before the date of death
21 (without regard to the age requirements prescribed in
22 section 11-1562(b)), or

23 ``(B) 60 percent of the retirement salary the
24 judge would have been entitled to receive if the
25 judge had retired on the day before the date of death

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1 with 15 years of service for the purposes of this
2 subchapter (without regard to the age requirements
3 prescribed in section 11-1562(b)), or
4 computed under section 11-1564; and

5 "(2) in the case of a retired judge, 60 percent of
6 the retirement salary payable to such judge on the day
7 before the date of the judge's death."

8 (d) The benefits conferred by section 376 of title 28,
9 United States Code, section 7448 of the Internal Revenue Code
10 of 1954, and section 1568 of title 11 of the District of
11 Columbia Code by reason of the amendments made by this
12 section shall apply only to individuals who first become
13 eligible for annuities under such sections on or after the
14 effective date of this Act, except that--

15 (1) such annuities shall be computed in accordance
16 with the provisions of such sections, as amended by this
17 section, notwithstanding contributions or deposits made
18 in accordance with applicable law at lower rates; and

19 (2) no additional liability shall be created with
20 respect to deposits made in accordance with applicable
21 law before the effective date of this Act, or after such
22 effective date pursuant to an installment payment
23 election made under section 376(d) of title 28, United
24 States Code, section 7448(d) of the Internal Revenue Code
25 of 1954, or section 1567(b) of title 11 of the District

1 of Columbia Code before such effective date.

2 TITLE IV--AUTHORIZATION AND EFFECTIVE DATES
3 FIRST YEAR EXPENSES OF THE FEDERAL RETIREMENT THRIFT
4 INVESTMENT MANAGEMENT SYSTEM

5 Sec. 401. (a) Notwithstanding section 8426(c)(3) of title
6 5, United States Code, as added by section 101 of this Act,
7 the expenses incurred in the administration of the Federal
8 Retirement Thrift Investment Management System prescribed in
9 subchapter VIII of chapter 84 of such title, as added by
10 section 101 of this Act, during fiscal years 1986 and 1987
11 shall be paid from sums appropriated pursuant to subsection
12 (b).

13 (b) There are authorized to be appropriated to the
14 Federal Retirement Thrift Investment Board, for fiscal years
15 1986 and 1987, such sums as may be necessary to pay the
16 expenses incurred in the administration of the Federal
17 Retirement Thrift Investment Management System prescribed in
18 subchapter VIII of chapter 84 of title 5, United States Code,
19 as added by section 101 of this Act, during such fiscal
20 years.

21 AUTHORIZATION TO CARRY OUT INFORMATION PROGRAM

22 Sec. 402. (a) The Office of Personnel Management shall
23 take appropriate action during fiscal years 1986 and 1987, to
24 make available on or before January 1, 1987, the information
25 described in section 8469 of title 5, United States Code, as

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1 added by section 101(a) of this Act.

2 (b) There are authorized to be appropriated \$1,000,000 to
3 the Office of Personnel Management for fiscal year 1986 to
4 carry out subsection (a). Sums appropriated pursuant to this
5 authorization shall remain available until expended or until
6 October 1, 1987, whichever is earlier.

7

EFFECTIVE DATES

8 Sec. 403. (a) Except as provided in subsections (b) and
9 (c), this Act and the amendments made by this Act shall take
10 effect January 1, 1987.

11 (b) Subchapter VIII of chapter 84 of title 5, United
12 States Code (relating to the Federal Retirement Thrift
13 Investment Management System), as added by section 101, shall
14 take effect on the date of enactment of this Act.

15 (c) The amendments made by section 301 shall take effect
16 on the date of enactment of this Act.

17 (d) The program required by section 8426(e) of title 5,
18 United States Code, as added by section 101(a) of this Act,
19 shall be established not later than January 1, 1988.