

LEG

21 January 1987
OCA 87-0229

NOTE FOR: Director, Office of Personnel
FROM: [Redacted]
Legislation Division
Office of Congressional Affairs
SUBJECT: State Authorization Bill

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Attached for your information is the draft State Department Authorization Bill for Fiscal Years 1988 and 1989. OMB has requested that the Agency review the bill and provide comments by 28 January.

The bill provides funds for operation of the State Department and also makes significant changes to their personnel system and benefits for former spouses. I do not believe the proposed bill would impact adversely on CIA.

Unless we hear from you otherwise, we will inform OMB that the Agency has no objection to the draft bill.

[Redacted]

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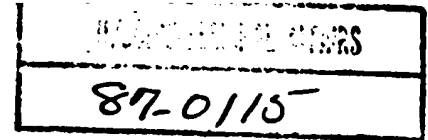
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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503



January 2, 1987

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-

National Security Council - Pearson - 456-6534
U.S. Information Agency - Marilyn Dexheimer - 485-7976
Agency for International Devel. - Lester - 647-8404
Office for Personnel Management - Woodruff - 632-5524
Department of Justice - Perkins 633-2113 (17)
General Services Administration - Vicchiolla - 566-1250
Department of the Treasury - Carro - 566-8323 (28)
Department of Commerce - Levitt - 377-3151 (04)
Department of Agriculture - Clemans - 447-7095 (30)
Smithsonian Institute - Margaret Hird - 357-2962
Central Intelligence Agency -
Department of Defense - Windus - 697-1305 (06)
Department of Labor - Zinman - 523-8201 (18)
Equal Employment Opportunity Comm. - Phyllis Berry -
634-6931
Department of Health and Human Services - Frances White
- 245-7750
Office of Federal Procurement Policy - Bill Coleman

STAT

SUBJECT: State's proposal entitled the "Department of State
Authorization Act for fiscal years 1988 and 1989".

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

A response to this request for your views is needed no later than C.O.B. THURSDAY, JANUARY 15, 1987 -- we will assumed that your agency has no substantive comments on this legislation if it does not respond within the stipulated deadline - telephone comments are acceptable.

Questions should be referred to Annette Rooney/Sue Thau (395-7300), the legislative analyst in this office or to Mike Margeson (395-4580).

Ronald K. Peterson
RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

Enclosures

cc: E. Rea
H. Schreiber
F. Seidl
D. Haun
T. Morgan

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

December 31, 1986

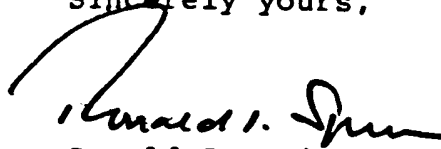
Dear Mr. Miller:

Attached is the Department of State's draft authorization act for new authorization of appropriations totalling for FY 1988 and for FY 1989 and a Section-by-Section analysis (Tab 1). Tab 2 contains a summary of proposed changes to the Department Authorization Act and other legislation. As we have discussed with your staff, we jointly will need to decide during the review process whether Titles III and IV should be submitted with this bill, or as separate legislation. Also attached are draft letters to the President of the Senate and to the Speaker of the House outlining the primary purpose of the proposed legislation (Tab 3).

On a related matter, we are currently reviewing budgetary reform actions recently taken by the United Nations, which we believe provide a case for seeking modification of section 143 of P.L. 99-93, the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. This section, known as the Kassebaum Amendment, limits U.S. contributions to the United Nations and its specialized agencies until corrective action with respect to voting procedures is taken. In order to avoid delaying submission of the rest of the draft authorization bill, we will be communicating separately with respect to a possible amendment in this area in the very near future.

I would appreciate OMB's earliest attention to this matter, since the House Foreign Affairs Committee has indicated its desire to consider this legislation on an accelerated schedule early next year.

Sincerely yours,


Ronald I. Spiers

The Honorable
James C. Miller, III, Director,
Office of Management and Budget.

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Attachments:

- Tab 1 - Department of State Authorization of Appropriation, Fiscal Years 1988 and 1989 and a Section-by-Section Analysis of the Act.**
- Tab 2 - Summary of Changes to State Department Authorization.**
- Tab 3 - Draft letters to President of the Senate and to the Speaker of the House.**

AN ACT

**To authorize appropriations for fiscal years 1988 and 1989 for
the Department of State, and for other purposes.**

**Be it enacted by the Senate and the House of Representatives
of the United States of America in Congress assembled,**

TITLE I - AUTHORIZATION OF APPROPRIATIONS

SECTION 101. SHORT TITLE

This Title may be cited as the "Department of State
Authorization Act for fiscal years 1988 and 1989."

SECTION 102. AUTHORIZATION OF APPROPRIATIONS

In addition to amounts otherwise authorized for such
purposes, the following amounts are authorized to be
appropriated for the Department of State to carry out the
authorities, functions, duties and responsibilities in the
conduct of the foreign affairs of the United States and other
purposes authorized by law:

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- (1) For "Administration of Foreign Affairs",
\$2,737,192,000 for the fiscal year 1988 and such sums
as may be necessary for the fiscal year 1989.

- (2) For "International Organizations and Conferences",
\$607,927,000 for the fiscal year 1988 and such sums as
may be necessary for the fiscal year 1989.

- (3) For "International Commissions", \$32,706,000 for the
fiscal year 1988 and such sums as may be necessary for
the fiscal year 1989.

- (4) "For Other Activities", \$333,921,000 for the fiscal
year 1988 and such sums as may be necessary for the
fiscal year 1989.

TITLE II - MISCELLANEOUS PROVISIONS

SEC. 201. INSURANCE ABROAD

Section 5913 of title 5 of the United States Code is amended by inserting "(including cost of liability insurance)" after "unusual expenses".

SEC. 202. TERMINATION OF EXTRA CREDIT FOR SERVICE AT UNHEALTHFUL POSTS

Section 817 of the Foreign Service Act of 1980 is amended

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by adding at the end thereof the following:

"No extra credit for service at unhealthful posts shall be given under this section for any service as part of a tour of duty, or extension thereof, commencing on or after January 1, 1988."

SEC. 203. AUTHORITY OF DIPLOMATIC SECURITY SERVICE

Subsection (5) (A) of Section 37 of the State Department Basic Authorities Act (22 U.S.C. 2709(5)(A)) is amended by revising it to read as follows:

"(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person has committed or is committing such violation; or"

SEC. 204. PASSPORT AND VISA FEES

Notwithstanding sections 1 and 2 of the Act of June 4, 1920, as amended (41 Stat. 750; 22 U.S.C. 214 and 215), fees collected:

- (1) by the Secretary of State for issuance of passports and for execution of applications for passports,
- (2) by consular officers for issuance of visas and for execution of applications for visas, and
- (3) by consular officers for performance of notarial functions;

may be credited to a Department of State account which shall be

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available without fiscal year limitation only for the payment of the expenses of research, development, and equipment for automation of passport and visa functions, including related software. Such account shall be established at a level of \$20 million, and replenished annually to maintain that level.

**SEC. 205. MINIMUM ANNUITY UNDER THE CIVIL SERVICE
RETIREMENT AND DISABILITY SYSTEM**

(a) Section 8345 of Title 5, United States Code, is amended by inserting a new subsection (f) to read as follows:

"(f) (1) Notwithstanding any other provision of this subchapter, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to persons who are not citizens or nationals of the United States based on service at posts abroad shall be the lesser of:

(a) the smallest primary insurance amount, including any cost of living increases added to that amount, authorized to be paid from time to time under Title II of the Social Security Act, or

(b) the monthly rate of annuity which would be payable if the annuity were equal to 80 percent of the annuitant's average pay, plus any cost of living increases added to that amount, authorized to be paid from time to time under this subchapter,

provided that such annuity first becomes payable within five years from February 27, 1986.

"(2) The minimum annuity established by this subsection shall be used as the basis for calculating any survivor annuity for a spouse, former spouse, widow or widower under this subchapter, but any survivor annuity for a surviving child or other dependent shall be calculated without regard to this subsection.

"(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof, is equal to or greater to the minimum amount of annuity determined under paragraph (1) of this subsection, nor shall they apply to an annuitant who receives or has received payment from a local plan to which the U.S. Government contributes under the authority of section 408 of the Foreign Service Act of 1980 (22 U.S.C. 3968), or to a survivor thereof."

(b) The amendment made by subsection (a) shall be effective as of February 27, 1986.

SEC. 206. CARRY-OVER OF SENIOR FOREIGN SERVICE PERFORMANCE PAY

Section 405(b) of the Foreign Service Act of 1980 (P.L. 96-965, 22 U.S.C. 3965(b)(4)) is amended --

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(1) in paragraph (4), by inserting at the end thereof the following:

"Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year." and

(2) by adding at the end thereof the following:

"(5) The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, United States Code, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection."

SEC. 207. COMPENSATION OF FASCELL FELLOWS.

Section 605(b) of P.L. 99-399 is amended by revising it to read as follows:

"(b) Authorities. Fellows shall be deemed to be federal employees for the purposes of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), Title 5 of the United States Code, and all other laws governing federal employment, except to the extent otherwise provided by a contractual agreement under the provisions of Section 2(c) of the State Department Basic Authorities Act of 1956, as amended."

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SEC. 208. OVERSEAS CONSTRUCTION HAZARD INSURANCE

Section 16 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680a) is hereby amended as follows:

(1) by designating the existing text as subsection "a"; and

(2) by adding the following new subsection:

"(b) With respect to any contract or other work performed at a diplomatic or consular mission of the United States, the term "war-risk hazard" shall include for purposes of the Act of December 2, 1942 (commonly known as the War-Risk Hazards Act) any hazard arising from terrorist activity, whether or not such hazard is otherwise included within the definition of "war-risk hazard" contained in section 201 of that Act."

SEC. 209. AUTHORITY TO DESIGNATE FOREIGN DEPOSITARIES

Section 3303(b) of title 31 of the United States Code is amended by adding at the end thereof the following new sentence: "The Secretary may delegate to the Secretary of State any of the authority set forth in this subsection with respect to depositaries in foreign countries."

SEC. 210. AUTHORITY TO TRANSFER RETIREMENT CONTRIBUTIONS FOR FSN'S TO LOCAL PLANS

Subsection 408(a) of the Foreign Service Act of 1980 is

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amended by inserting at the end thereof the following new subparagraph:

"(3) At the direction of the Secretary of State, and where a foreign national employee so elects during a one-year period established by the Secretary of State with respect to each post abroad, the Secretary of the Treasury shall transfer such employee's interest in the Civil Service Retirement and Disability Fund to a trust or other local retirement plan established by the U.S. Government for foreign material employees (excluding local social security plans). For purposes of this paragraph, an employee's "interest in the Civil Service Retirement and Disability Fund" shall mean the lump sum credit and the total of government contributions with respect to such employee, pursuant to subsections 8331(8) and 8334(a)(1) of title 5, United States Code, respectively, plus interest at the rate provided in subsection 8334(e)(3) of such title. Any such transfer shall void any annuity rights or entitlement to lump sum credit under subchapter III of chapter 83 of such title."

**SEC. 211. PRESERVATION OF MUSEUM CHARACTER OF PORTIONS OF
DEPARTMENT OF STATE BUILDING**

(a) The areas of the Department of State Building, located at 2201 C Street, N.W., Washington, D.C., known as the Diplomatic Reception Rooms (8th Floor), Secretary of State's

offices (7th Floor), Deputy Secretary of State's offices (7th Floor), and 7th Floor Reception Area, respectively, shall be administered pursuant to this section.

(b) The Secretary of State shall administer and regulate the areas described in subsection (a) (hereafter "the museum areas") by such means and measures as conform to the fundamental purpose of the museum areas, which purpose is to conserve the architecture, furnishings, and historic objects therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the use and enjoyment of future generations. In carrying out this section primary attention shall be given to the preservation and interpretation of their present museum character, but nothing done under this section shall conflict with the administration of the Department of State or with the use of the museum areas for official purposes of the Department of State.

(c) Articles of furniture, fixtures, and decorative objectives of the museum areas, when declared by the Secretary of State to be of historic or artistic interest, together with such similar articles, fixtures, and objects as are acquired by the Secretary of State in the future when similarly so declared, shall thereafter be considered to be the property of the Secretary of State in official capacity and shall be subject to disposition solely in accordance with this section.

(d) When the Secretary of State determines that any of the articles described in subsection (c) are no longer needed for use or display in the museum areas or may better be used to upgrade the museum areas, the Secretary is authorized, under such terms and conditions as the Secretary may deem advisable, to sell the articles at fair market value or to trade them without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended. The proceeds of sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this section. The Secretary of State may also lend such articles, when not needed for use or display in the above described areas, to the Smithsonian Institution, or similar institutions, for care, repair, study, storage or exhibition.

(e) There shall be in the Department of State the position of Curator for the Diplomatic Reception Rooms, with responsibilities to be determined by the Secretary of State. After the effective date of this Act, any person appointed to this position shall receive compensation at a rate determined by the Secretary of State upon the basis of duties to be performed, but not in excess of the annual rate for positions authorized by section 5315 of title 5 of the United States Code, and shall serve at the pleasure of the Secretary of State.

**SEC. 212. AUTHORITY TO INSURE CONTENTS OF STATE DEPARTMENT
DIPLOMATIC RECEPTION ROOMS**

Section 3 of the State Department Basic Authorities Act of

1956 (22 U.S.C. 2670) is amended:

(1) by striking "and" after subsection (i) and changing the period at the end of subsection (j) to "; and"; and

(2) by adding at the end thereof the following:

"(k) obtain insurance on the furnishings, including works of art and antiques, which may from time to time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department."

SEC. 213. OFFICIAL RESIDENCE FOR THE SECRETARY OF STATE

(a) The State Department Basic Authorities Act of 1956 is amended --

(1) by redesignating section 39 as section 301 and moving that section to the appropriate place in the Act; and

(2) by adding immediately after section 38 the following new section:

"OFFICIAL RESIDENCE

"Sec. 39. (a) The Department of State may construct, or acquire by purchase or gift, a suitable permanent residence within the Washington, D.C. area for future Secretaries of State. The Department shall not use any appropriated funds to finance such construction or acquisition, but instead shall make use of funds and other property obtained pursuant to section 25 of the State Department Basic Authorities Act of 1956. The Department may insure this residence and its related

real and personal property. In carrying out the purposes of this section, the Department may use the authorities contained in 22 U.S.C. 4308(d).

"(b) The Department shall periodically advise Congress on activities undertaken pursuant to this section."

(b) Section 130 of Public Law 99-93 is repealed.

SEC. 214. ELIMINATION OF UNNECESSARY REPORTING REQUIREMENTS

(a) The Foreign Service Act of 1980 is amended as follows:

(1) in section 105(d)(2) (22 U.S.C. 3905(d)(2)), by striking the existing text and inserting in lieu thereof the following:

"(d)(2) The Secretary shall transmit to each House of the Congress all reports of a general nature which pertain to the Department's equal employment opportunity and affirmative action programs as called for by the schedule established by the statutes pertaining to and the regulations issued by the Office of Equal Employment Opportunity. Such reports shall be transmitted at least annually, and shall be received by the Congress not later than 30 days after their original submission to the Office of Equal Employment Opportunity.";

(2) in section 601(c) (22 U.S.C. 4001(c)), by adding at the end thereof the following:

"(4) Not later than March 1 of each year, the Secretary of State shall submit a report to the Speaker of the House of

Representatives and to the Committee on Foreign Relations of the Senate which shall --

"(a) describe the steps taken and planned in furtherance of (A) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and (B) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

"(b) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including with respect to each of the relevant promotion competition groups the projected ranges of rates of appointment, promotion, and attrition over each of the next five (fiscal?) years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

"(c) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member.";

(3) in section 703 (22 U.S.C. 4023), by repealing subsection (f) thereof; and

(4) by repealing section 2402 (22 U.S.C. 4173).

(b) Section 152(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 428) is repealed.

SEC. 215. AUTHORITY TO INVEST AND RECOVER EXPENSES FROM CLAIMS SETTLEMENT FUNDS

(a) Title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by inserting at the end of section 8 the following new subsection:

"(g) The Secretary of the Treasury is authorized and directed to invest the amounts held respectively in the 'special funds' established by this section in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on the amounts in each special fund shall be used to make payments, in accordance with subsection (c), on awards payable from that special fund."

(b) section 2668a of title 22, United States Code is amended as follows:

(1) by inserting ", subject to the deduction made under subsection (b) of this section, if any," after "and certify the same" in the second sentence;

(2) by designating the existing text, as so amended,

as subsection (a);

(3) by inserting at the end thereof the following new subsection (b):

"(b) The Secretary of State shall deduct from moneys received from foreign governments and other sources as a result of an international arbitration or other international dispute settlement proceeding to which the United States is a party an amount equal to 5 percent of any moneys determined by the Secretary to be due a private U.S. claimant, as reimbursement for expenses incurred. The amount so deducted shall be deposited in a special interest-bearing account held by the U.S. Treasury. Notwithstanding any other provision of law, moneys in this account are authorized for use by the Department of State for expenses incurred in connection with such proceedings and shall remain available until expended. This subsection shall not apply to any expenses incurred or amounts received in connection with the Iran-United States Claims Tribunal, or to any funds created under section 1627 of this title."

SEC. 216 CREDITABILITY OF CERTAIN FOREIGN NATIONAL
EMPLOYEE SERVICE

Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) a foreign national employee who is, on the effective date of this amendment, employed subject to this subchapter in

a. post abroad, shall be allowed credit for any period of prior service at any such post under a personal service contract with the United States performed on or before December 31, 1983, unless such contract was entered into pursuant to subsection 636(a)(3) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2396(a)(3)), or section 10(a)(5) of the Peace Corps Act (22 U.S.C. 2509(a)(5).)"

TITLE III. PERSONNEL MATTERS.

SEC. 301 APPOINTMENTS

Chapter 3 of title I of the Foreign Service Act of 1980 is amended as follows:

(1) in section 305(b), by inserting "or as career appointees in any other Federal personnel system" after "Senior Executive Service."; and

(2) in section 309 --

(A) by deleting "section 311 (a)" and inserting in lieu thereof "subsection (b)";

(B) by designating the text, as so amended, as subsection (a); and

(C) by adding the following new subsection (b):

"(b) A limited appointment may be extended: (1) in order to permit the completion of a current assignment in

extraordinary circumstances as determined by the agency, or (2) for continued service as--

"(i) a consular agent;

"(ii) a family member as provided in section 311(a);

"(iii) a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under chapter 11; or

"(iv) a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency."

SEC. 302 COMPENSATION

(a) Section 406 of the Foreign Service Act of 1980 is amended:

(1) in subsection (a), by changing the comma after "13" to a period and deleting the balance of that sentence; and

(2) by striking the existing text of subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving a salary under the Foreign Service Schedule, an additional salary increase to any higher step in the salary class in which the member is serving. Such increases may be granted at the same time as the increases provided under subsection (a) or at any

other time established by regulation, but no more than one increase under this subsection shall be granted in any twelve-month period.

"(c) Notwithstanding subsection (a), the Secretary shall prescribe regulations governing the circumstances under which a periodic within-class salary increase may be granted, withheld or deferred.

"(d) Under regulations prescribed by the Secretary, the benefit of successive periodic within-class salary increases shall be preserved for employees whose continuous service is interrupted in the public interest by service with the uniformed services or by service in essential non-Government civilian employment during a period of war or national emergency."

(b) The State Department Basic Authorities Act (22 U.S.C. 2669 et seq.) is amended --

(1) in section 35(b), by inserting after the second sentence thereof the following new sentence:

"The compensation for this position shall be at a rate determined by the Secretary of State on the basis of duties to be performed, but not in excess of the annual rate for positions authorized by section 5315 of title 5, United States Code."

(2) in section 203(a), by inserting at the end thereof the following new sentence:

"The Director shall be compensated at a rate determined by the Secretary of State on the basis of duties to be performed, but not in excess of the annual rate for positions authorized by section 5315 of title 5, United States Code."

(c) The amendments made by subsection (b) of this section shall be effective November 22, 1983.

SEC. 303 PROMOTION AND RETENTION

Chapter 6 of title I of the Foreign Service Act of 1980 is amended as follows:

(1) section 601(b) is amended by adding at the end thereof the following new sentence:

"Members of the Service who remain in the Service after expiration of time-in-class and any limited career extensions under section 607 shall not be eligible for promotion.".

(2) section 607 is amended --

(A) in subsection (b), by inserting "(except Foreign Service officers)" after "members of the Service"; and

(B) in clause (2) of subsection (d), by inserting a comma and "except when necessary to attain eligibility for an immediate annuity under chapter 8," after "case".

(3) section 609 is amended --

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(A) by revising subsection (a) to read as follows:

"(a) A member of the Service who is retired under section 607(c) or 608(b)--

"(1) after becoming eligible for voluntary retirement under section 811, or

"(2) from the Senior Foreign Service or class 1 in the Foreign Service Schedule, shall receive retirement benefits in accordance with section 806.";

(B) in subsection (b), by striking out-

"607(c)(1)" and inserting in lieu thereof "607(c)".

(4) Section 610 is amended, by adding at the end of subsection (a)(2) the following new sentence:

"Section 1110 shall also apply to proceedings under this paragraph.".

SEC. 304 TRAVEL, LEAVE, AND OTHER BENEFITS

Section 901 of Chapter 9 of the Foreign Service Act of 1980 is amended as follows:

(1) Paragraph (8) is amended by deleting "by a member of the Service" from the introductory clause.

(2) Paragraph (9) is amended by inserting "to or" immediately after "round-trip"; and

(3) Paragraph (11) is amended by inserting "or at" immediately after "(and of his or her family) to" and by deleting "successive".

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SEC. 305 SURVIVOR AND HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES

Sec. _____ (a) Chapter 8 of the Foreign Service Act of 1980 is amended by inserting after Section 829 the following two sections:

"Sec. 830. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a)(1) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 per centum of the greater of--

"(A) the full amount of the participant's or former participant's annuity, as computed under Chapter 8 of the Foreign Service Act of 1980; or

"(B) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(2) A survivor annuity payable under this section shall be reduced by an amount equal to the amount of retirement benefits, not including benefits under title II of the Social Security Act, received by the former spouse which are attributable to previous employment of such former spouse by the United States.

"(b) A former spouse shall not be entitled to a survivor annuity under this section if--

"(1) an election has been made with respect to such former spouse under section 2109;

"(2) the former spouse is a designated beneficiary of the employee as a person with an insurable interest;

"(3) the former spouse remarries before age fifty-five;

"(4) the former spouse is less than fifty years of age;

"(5) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least five years occurring while the participant was a member of the Foreign Service.

"(c) (1) The entitlement of a former spouse to a survivor annuity under this section--

"(A) shall commence--

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on the later of --

"(I) the sixtieth day after such date; or

"(II) the date such former spouse reaches the age fifty; and

"(ii) in the case of any other former

spouse, beginning on the latest of--

"(I) the date that the participant or former participant to whom the former spouse was married dies;

"(II) the sixtieth day after the effective date of this section; or

"(III) the date such former spouse reaches age fifty; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age fifty-five.

"(2) (A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within thirty months after the effective date of this section.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

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"(d) The Secretary shall--

"(1) as soon as possible, but not later than sixty days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

"(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section."

"Sec. 831 HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Except as provided in subsection (c)(1), any individual--

"(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than ten years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

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"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the six-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual--

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

"(2) The Secretary shall, as soon as possible, take all steps practicable--

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Secretary shall waive the six-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

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"(c)(1) Any former spouse who remarries before age fifty-five is not eligible to make an election under subsection (b)(1).

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age fifty-five shall not be eligible for continued enrollment under this section after the end of the thirty-one-day period beginning on the date of remarriage.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code."

(b) The additions to the Foreign Service Act of 1980 made by this section shall take effect on October 1, 1987, or 90 days after enactment, if later.

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SEC. 306 AMENDMENTS TO TITLE 5, UNITED STATES CODE

(a) Title 5 of the United States Code is amended as follows:

(1) Chapter 53 of title 5 is amended --

(A) in section 5313, by striking "Ambassadors at Large"; and

(B) in section 5315, by inserting "Ambassadors at Large" at the end thereof.

(2) Section 5523(a) is amended by deleting the phrase "for not more than 120 additional days", and by deleting "President" and inserting "Secretary of State" in lieu thereof.

(3) Section 5551(a) is amended by striking out "pay" in the second sentence and inserting in lieu thereof "basic pay".

(4) Section 5922 is amended by adding at the end thereof the following new subsection (d):

"(d) When a quarters allowance or education allowance under this subchapter, or quarters furnished in Government owned or controlled buildings under section 5912, would be furnished to an employee but for the death of the employee or the evacuation or ordered departure of the employee or family members, such allowances or quarters may be furnished or continued for the purpose of allowing any child of the employee to complete the current school year at post or away from post notwithstanding the disqualifying event, and an education allowance for school

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away from post which is based upon evacuation, ordered departure, or the denial of permission to family members to reside at post may be continued to permit completion of the current school year by any child of the employee notwithstanding termination of any bar to residence of family at post."

(5) Section 5923, relating to temporary lodging allowance, is amended--

(A) in paragraph (1), by inserting "and subsistence" after "lodging" by inserting "including meals and laundry expenses" after "quarters" the first time it appears;

(B) in subparagraph (1)(A), by striking out "3 months" and inserting "90 days" in lieu thereof;

(C) in subparagraph (1)(B), by striking out "1 month" and inserting "30 days" in lieu thereof; and

(D) by adding at the end of paragraph (1) the following new subparagraph:

"(C) The allowance under subparagraphs (A) and (B) may be extended for up to an additional 60 days if the head of agency concerned or his designee determines that there are compelling reasons beyond the control of the employee for the continued occupancy of temporary quarters."

(6) Section 5924(2) is amended--

(A) in subparagraph (A), by inserting ", its

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territories and possessions, or the Commonwealths of the Northern Marianas Islands or Puerto Rico," after "United States"; and

(B) in subparagraph (B), by striking out "between assignments to posts in foreign areas" and inserting "after the employee agrees in writing to remain in Government service for 12 months after transfer, unless separated for reasons beyond the control of the employee that are acceptable to the agency concerned" in lieu thereof.

(7) Section 5924(4) is amended--

(A) in the introduction, by inserting "or official assignment to serve in such area or areas," after "foreign areas";

(B) in subparagraph (A), by striking out "kindergarten" and inserting in lieu thereof "pre-kindergarten for handicapped children, kindergarten,"; and

(C) in the first line of subparagraph (B), by inserting, "its territories and possessions and the Commonwealths of the Northern Marianas Islands and Puerto Rico, after "United States", and by striking out "undergraduate college" each time it appears and inserting in lieu thereof "post-secondary educational institution"; and

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(D) by designating the last sentence of subparagraph (C) as subparagraph (D), and revising such subparagraph, as so designated, to read as follows:

"(D) notwithstanding section 5921(6) of this title, an education allowance under subparagraph (A) and travel expenses for the purpose of obtaining post-secondary education under subparagraph (B) may be authorized under such regulations as the President may prescribe for dependents of employees assigned outside the continental United States."

(b) The amendment made by subsection (a)(1) shall not affect the salary of incumbents of such positions on the effective date of this Act.

TITLE IV - FOREIGN SERVICE RETIREMENT

SEC. 401. DEFINITIONS

(a) FORMER SPOUSE.--Paragraph (6) of section 804 of the Foreign Service Act of 1980 (22 U.S.C. 4044(6)) is amended to read as follows:

"(6) 'former spouse' means a former wife or husband of an individual if--

"(A) such individual performed at least 18 months

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of civilian service creditable under this chapter; and

"(B) the former wife or husband was married to such individual for at least 9 months;".

(b) SURVIVING SPOUSE.--Section 804(13) of such Act (22 U.S.C. 4044(13)) is amended--

(1) by striking out ", in the case of a death in service or marriage after retirement,";

(2) by striking out "one year" and inserting in lieu thereof "9 months"; and

(3) by inserting before the semicolon a comma and "except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if--

"(A) the death of such participant or annuitant was accidental; or

"(B) the surviving spouse of such individual had been previously married to the individual and subsequently divorced and the aggregate time married is at least 9 months".

(c) LUMP-SUM CREDIT.--Section 852 of the Foreign Service Act of 1980 (22 U.S.C. 4071a) is amended--

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) the term ' lump-sum credit' means the unrefunded amount consisting of--

"(A) retirement deductions made from the basic pay of a participant under section 856 of this chapter (or under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983);

"(B)" amounts deposited by a participant to obtain credit under this System for prior civilian or military service; and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Fund during the preceeding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury (compounded annually); but does not include interest--

"(i) if the service covered thereby aggregate 1 year or less; or

"(ii) for a fractional part of a month in the total service;".

SEC. 402. COMPUTATION OF ANNUITIES

(a) SURVIVOR OR REDUCED ANNUITY.--(1) Section 806(b)(1)(A) of the Foreign Service Act of 1980 (22 U.S.C. 4046(b)) is amended by inserting "to whom married for the periods specified in section 814(a)(1)(A)" immediately after "former spouse" within the parenthesis.

(2) Section 806(b)(1)(B) of such Act (22 U.S.C. 4046(b)(1)(B)) is amended to read as follows:

"(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section, or to reduce such survivor annuity under this section, by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event that the marriage is dissolved following such a waiver or such an election of a reduced annuity and that the spouse qualifies as a former spouse, the waiver or reduction shall continue to apply and the base used in calculating any annuity of the former spouse under this subchapter may not exceed the portion of the participant's annuity designated under this subparagraph."

(3) Section 806(b)(1)(C) of such Act (22 U.S.C. 4046(b)(1)(C)) is amended to read as follows:

"(C)(i) If a participant or former participant has a former spouse to whom married for the periods specified in

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section 814(a)(1)(A), the participant and such former spouse may jointly elect by spousal agreement under section 820(b)(1) to waive or reduce a survivor annuity under section 814(b) for that former spouse. Any such election shall be made at retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the participant is dissolved.

"(ii) If a participant or former participant has a former spouse who qualifies under section 804(6), such participant may elect a survivor annuity for such former spouse under this section. Any such election shall be made at or before retirement, or, if later, shall be made within 2 years after the date on which the marriage of the former spouse to the former participant is dissolved. In the case of a former participant electing after retirement, such an election is subject to a deposit in the Fund by the [former] participant within such 2-year period, of an amount determined by the Secretary of State, as nearly as may be administratively feasible, to reflect the amount by which the annuity of such former participant would have been reduced if the election had been continuously in effect since the date the annuity commenced, plus interest, and shall be 6 percent. If the former participant does not make such a deposit, the Secretary of State shall collect the amount of the deposit by offset against the former

participant's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the former participant, and the former participant is deemed to consent to such offset.

"(iii) An election under clause (ii) shall not be effective--

"(I) to the extent that it conflicts with any court order (as defined in section 804(4)) which was issued before the date of such election or with any spousal agreement which was entered into before such date, or to the extent that it would cause the total of survivor annuities payable under this subchapter to spouses, former spouses or any combination thereof based on the service of the participant or former participant to exceed 55 percent of the annuity to which the participant is entitled under this subchapter; or

"(II) in the case of a participant or former participant who is then married, unless it is made with the spouse's written consent.

"(iv) The Secretary of State shall provide by regulation that clause (iii)(II) may be waived for either of the reasons set forth in subparagraph (D)."

(4) Section 806(b)(1)(D) of such Act (22 U.S.C. 4046(b)(1)(D)) is amended by striking out the final period and

inserting in lieu thereof a comma and "or, due to exceptional circumstances, requiring the participant or former participant to seek the spouse's or former spouse's consent would otherwise be inappropriate."

(5) Section 806(b)(3) of such Act (22 U.S.C. 4046(b)(3)) is amended to read as follows:

"(3) (A) If a former participant entitled to receive a reduced annuity under this subchapter dies and is survived by a spouse or former spouse, a survivor annuity shall be paid to the surviving spouse or former spouse entitled to a survivor annuity under this subchapter equal to 55 percent of the full amount of the former participant's annuity computed under subsection (a), or 55 percent of any lesser amount designed as the base for the survivor benefit under this subchapter.

"(B) A former spouse shall not be qualified for a survivor annuity under this subchapter if, before the commencement of the annuity, the former spouse remarries before becoming 55 years of age.

"(C) An annuity payable from the Fund to a surviving spouse or former spouse under this subchapter shall commence on the day after the participant or former participant dies and shall terminate on the last day of the month before the death or remarriage before attaining age 55 of the surviving spouse or former spouse as the case may

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be. If such an annuity to a surviving spouse is terminated because of remarriage, however, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump-sum paid upon termination of the annuity is returned to the Fund."

(6) Section 806(b) of such Act (22 U.S.C. 4046(b)) is amended by adding at the end thereof the following new subparagraph:

"(4)(A) The maximum survivor annuity or combination of survivor annuities under this subchapter for a spouse or former spouse, or combination thereof, with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 806(a).

"(B) Once a survivor annuity has been provided for under this subchapter for any spouse or former spouse, a survivor annuity may thereafter be provided for under this subchapter with respect to a participant or former participant only for that portion (if any) of the maximum available annuity which is not committed for survivor benefits for any spouse or former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

"(C) After the death of a participant or former participant, a court order under section 820(b)(1) may not

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adjust the amount of the annuity of any former spouse of that participant or former participant under this subchapter.

"(5)(A) Subject to paragraph (4), a former participant may irrevocably elect, in a signed writing received by the Secretary of State within 2 years after the death of a spouse or after the death or disqualification of a former spouse for whom an annuity reduction had been in effect, to continue the reduction in order to provide a survivor annuity or a higher survivor annuity for a spouse or any other former spouse under this subchapter. Such election shall be made under the same conditions as an election under section 806(g) for a spouse.

"(B) Such election shall not be effective--

"(i) if it conflicts with any court order issued, or spousal agreement entered into prior to the date of the election;

"(ii) in the case of an annuitant who is then married, unless it is made with the spouse's written consent; or

"(iii) with respect to any individual for whom a survivor annuity has been previously waived under this subchapter.

"(C) The requirement for spousal consent may be waived in accordance with section 806(b)(1)(D)."

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(b) SURVIVOR ANNUITY FOR DESIGNATED BENEFICIARY.--Section 806(f) of such Act (22 U.S.C. 4046(f)) is amended in the first sentence by striking out "an unmarried participant who does not have a former spouse for whose benefit a reduction is made under subsection (b)" and inserting in lieu thereof "a participant".

(c) SURVIVOR ANNUITY FOR SPOUSE.--Section 806(g) of such Act (22 U.S.C. 4046(g)) is amended to read as follows:

"(g)(1)(A) A former participant who marries or remarries after retirement, may irrevocably elect a reduction in annuity as provided in subsection (b)(2) to provide a survivor annuity or higher survivor annuity for any surviving spouse. Such survivor annuity shall be treated in all respects as a survivor annuity under subsection (b).

"(B) An election under subparagraph (A) shall be in a signed writing received by the Secretary of State within 2 years after such annuitant marries or, if later, within 2 years after the death or disqualification of any former spouse of such annuitant who was entitled to a survivor annuity under this subchapter (or of the last such surviving former spouse, if there was more than one).

"(2)(A) The election and reduction shall take effect the first day of the first month beginning 9 months after the date of marriage and, at the option of the annuitant, shall prospectively void any election previously made under

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subsection (f).

"(B) Within the 2-year period specified in paragraph (1)(B) for notifying the Secretary of State, the annuitant (other than an individual who made a previous election under subsection (f) which is voided under this section) shall deposit in the Fund an amount determined by the Secretary of State, as nearly as may be administratively feasible, to reflect the amount by which the retired individual's annuity would have been reduced under subsection (b)(2) since the commencing date of the annuity if the annuitant had been married at the time of retirement and had elected to provide a survivor annuity at that time, or, if later, the date the previous reduction in such former participant's annuity was terminated by reason of death, divorce, or disqualification, plus interest. For this purpose, the annual rate of interest shall be 6 percent for each year during which the annuity would have been reduced if the election had been in effect since the date the annuity commenced.

"(C) If the annuitant does not make such deposit, the Secretary of State shall collect such amount by offset against his or her annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the annuitant, and the annuitant is deemed to consent to such offset.

"(3) Notwithstanding any other provision of this

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subsection, an election under this subsection may not be made for the purpose of providing an annuity in the case of a spouse if such spouse had a prior marriage to the participant or former participant at the time of such participant's retirement and if all rights to the survivor annuity for such spouse under this subchapter based on marriage to such participant were then waived."

(d) RECALL SERVICE.--Section 806(i)(2) of such Act (22 U.S.C. 4046 (i)(2)) is amended by striking out "section 814(b)" and inserting in lieu thereof "this subchapter".

(e) RECOMPUTATION OF ANNUITY UPON DISQUALIFICATION OF SURVIVOR.--Section 806(j) of such Act (22 U.S.C. 4046(j)) is amended to read as follows:

"(j) For each full month after a spouse or former spouse of a former participant dies or become ineligible to receive a survivor annuity, an annuity which is reduced under this subchapter in order to provide a survivor annuity for such person shall be computed and paid as if such annuity had not been so reduced, subject to any reduction required to provide survivor benefits to other persons under this subchapter."

(f) SOCIAL SECURITY MINIMUM.--Section 806(l)(4) of such Act (22 U.S.C. 4046(l)(4)) is amended by striking out "814(d)" and inserting in lieu thereof "814(c)".

SEC. 403. DEATH IN SERVICE

Section 809 of the Foreign Service Act of 1980 (22 U.S.C.

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4049) is amended--

(1) in subsection (b)--

(A) by striking out "qualifying for an annuity under section 814(b)";

(B) by inserting "married to the participant for the periods specified in section 814(a)(1)(A)" immediately after "surviving former spouse";

(C) by inserting the following immediately after the first sentence: "Subject to section 806(b), any other former spouse of such participant shall be entitled to an annuity authorized by any spousal agreement or court order under section 820(b)(1)."; and

(2) in subsection (g) by striking out "806(b)(3)(B)" and inserting in lieu thereof "806(b)(4)".

SEC. 404. FORMER SPOUSES MARRIED 10 YEARS

(a) ENTITLEMENT TO ANNUITY.--Section 814(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4054(a)(1)) is amended to read as follows:

"(a)(1)(A) Unless otherwise expressly provided by a spousal agreement or court order governing disposition of benefits under this subchapter, a former spouse of a participant or former participant is entitled, during the period described in subparagraph (B), to a share (determined under subparagraph (C)) of all benefits otherwise payable to such participant

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under this subchapter if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

"(C) The share referred to in subparagraph (A) equals--

"(i) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this chapter;
or

"(ii) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service."

(b) COURT ORDER EFFECTIVE 24 MONTHS AFTER MARRIAGE IS DISSOLVED.--Section 814(a) (4) of such Act (22 U.S.C. 4054(a) (4)) is amended by striking out "12" and inserting in lieu thereof "24".

(c) REDUCTION OF PARTICIPANT'S ANNUITY NOT COUNTED FOR CERTAIN PURPOSES.--Section 814(a) (5) (A) of such Act (22 U.S.C. 4054(a) (5) (A)) is amended by striking out "subsection (b) or

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section 806(b)(3)" and inserting in lieu thereof "this subchapter".

(d) ENTITLEMENT TO SURVIVOR BENEFITS.--Section 814(b) of such Act (22 U.S.C. 4054(b)) is amended to read as follows:

"(b)(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this subchapter to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this subchapter to an eligible surviving spouse of the participant.

"(2) The share referred to in subsection (b)(1) equals--

"(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this chapter;

or

"(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service."

(e) MONTHLY RATE OF ANNUITY NOT APPLICABLE IN CERTAIN SITUATIONS.--(1) Section 814(c) of such Act (22 U.S.C. 4054(c)) is amended to read as follows:

"(c) Subsection 806(1) shall not apply to any annuity payable under this subchapter to an individual formerly married

to a participant or former participant or to any annuity payable to a surviving spouse which is less than 55 percent of the annuity of the former participant."

(2) Section 814(d) of such Act (22 U.S.C. 4054(d)) is repealed.

SEC. 405. SURVIVOR BENEFITS FOR CHILDREN.

(a) SURVIVOR BENEFITS FOR CHILDREN.--Section 806 of the Foreign Service Act of 1980 (22 U.S.C. 4046), as amended by section 402 of this Act, is further amended--

(1) in subsection (c), by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant" after "survived by a spouse" each place it appears; and

(2) in subsection (d), by amending the first sentence to read as follows: "On the death of the surviving spouse, or former spouse, or on termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the participant."

(b) DEATH IN SERVICE.--(1) Section 809(c) of such Act (22 U.S.C. 4049(c)) is amended by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the participant" after "spouse".

(2) Section 809 (d) of such Act (22 U.S.C. 4049(d)) is

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amended by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the participant" after "spouse,".

SEC. 406. LUMP SUM PAYMENTS.

(a) REQUIREMENTS FOR PAYMENT.--Section 815(a) of the Foreign Service Act of 1980 (22 U.S.C. 4055(a)) is amended to read as follows:

"(a) (1) A participant is entitled to be paid the lump-sum credit if the participant--

"(A) is separated from the Service for at least 31 consecutive days, or is transferred to a position in which the participant is not subject to this chapter and remains in such a position for at least 31 consecutive days;

"(B) files an application with the Secretary of State for payment of the lump-sum credit;

"(C) is not reemployed in a position in which the participant is subject to this chapter at the time the participant files the application;

"(D) will not become eligible to receive an annuity within 31 days after filing the application; and

"(E) has notified any spouse or former spouse the participant may have of the application for payment in accordance with regulations prescribed by the Secretary of State. Such regulations may provide for waiver of this

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requirement under circumstances described in section 806(b)(1)(D). Payment of the lump-sum credit voids all annuity rights under this chapter based on the service on which the lump-sum credit is based, until the participant is reemployed in the Service subject to this chapter.

"(2) Whenever a participant becomes entitled to be paid a lump-sum credit under subsection (a)(1), the lump-sum credit shall be paid, subject to any court order or spousal agreement under section 820(b), to the participant and to any former spouse (who has not remarried prior to age 55) of the participant in accordance with subsection (i)."

(b) PAYMENT TO FORMER SPOUSES--Section 815(i) of such Act (22 U.S.C. 4055(i)) is amended by striking out "of that participant" and inserting in lieu thereof "married to the participant or former participant for the periods specified in section 814(a)(1)(A)".

SEC. 407. COURT ORDERS

Section 820(b)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4060(b)(1)) is amended to read as follows:

"(b)(1)(A) In the case of any participant or annuitant who is covered by a court order issued with respect to a former spouse or who is a party to a spousal agreement--

"(i) any right of a former spouse to an annuity or survivor annuity under this subchapter, and the amount of

such annuity; and

"(ii) any right of the participant or former spouse to any payment of a lump-sum credit under section 815(a) or (b), and the amount of such payment;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

"(B) This subsection shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State--

"(i) would provide a survivor annuity for a spouse or former spouse of any participant--

(AA) with respect to which there is in effect a joint waiver of survivor annuity; or

(BB) in excess of the amount waived, when a portion of the survivor annuity was waived in a joint election or spousal agreement; or

"(ii) is inconsistent with the requirements of this subchapter including the requirements for annuity reduction or applicable regulations.

Whenever a survivor annuity is provided to a spouse or former spouse of a participant by court order or spousal agreement, a survivor reduction shall be made in the participant's annuity (and payment made by the annuitant, if necessary) as if the survivor annuity were being provided by election of the annuitant under section 806."

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SEC. 408. CONTRIBUTIONS FOR PRIOR SERVICE

Section 805(d)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(d)), relating to contributions to the Fund, is amended as follows:

(1) by striking out "equal to" and inserting in lieu thereof a period and inserting thereafter "Special contributions for purposes of subparagraph (A) shall equal"; and

(ii) by adding the following new sentence at the end thereof:

"Special contributions for prior refunds under subparagraph (B) shall equal the amount of the prior refund received by the participant."

SEC. 409. MINIMUM AGE REQUIREMENT

(a) **DISABILITY ANNUITY.**--Subsections (a) and (b) of section 808 of the Foreign Service Act of 1980 (22 U.S.C. 4048) are each amended by striking out "65" each time it appears and inserting in lieu thereof "60".

(b) **DEATH IN SERVICE.**--Section 809 of the Foreign Service Act of 1980 (22 U.S.C. 4049) is amended as follows:

(1) Subsection (e) is amended by striking out "65" and inserting in lieu thereof "60"; and

(2) Subsection (h) is amended by striking out "(b)(4)" and inserting in lieu thereof "(b)(3)(C)".

SEC. 410. VOLUNTARY RETIREMENT

Section 811 of the Foreign Service Act of 1980 (22 U.S.C. 4051) is amended by adding the following at the end thereof:

"The Secretary shall withhold consent for retirement under this section by any participant who has not been a member of the Service for 5 years. However, any participant who voluntarily separates from the Service before completing 5 years in the System and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, United States Code, if the participant then had an appointment under the Civil Service Retirement System, counting the participant's total federal service, may receive an annuity under section 8336 or 8338, notwithstanding section 8333(b) of title 5 United States Code, provided that all contributions transferred to the Fund under section 805(c)(1) of this Act, as well as all contributions withheld from the participant's pay and deposited into the Fund during the period he/she was subject to this chapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service."

SEC. 411. CREDITABLE SERVICE

(a) SICK LEAVE--Section 816 of the Foreign Service Act of 1980 (22 U.S.C. 4056) is amended in subsection (b) by adding

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the following at the end of the first sentence before the period:

"nor as creditable service for purposes of sections 804(10), 814, or 820(b)".

(b) UNHEALTHFUL POST CREDIT--(1) Section 816 of such Act is further amended by revising subsection (i)(2) to read as follows:

"(2) A former spouse shall not be considered as married to a participant for periods assumed to be creditable service under section 808(2) or section 809(e)."

(2) Section 817 of such Act is amended by adding, at the end thereof, the following new sentence:

"Such extra credit shall not be used to determine the eligibility of a person to qualify as a former spouse under this subchapter, or to compute the pro rata share under section 804(10)."

(c) EMPLOYEE OF A MEMBER OR OFFICE OF THE CONGRESS--Section 854 of the Foreign Service Act of 1980 (22 U.S.C. 4071(c)) is amended in the second sentence of subsection (e) by striking out "matching" and inserting "determined under section 857(a)" immediately following the parenthesis.

SEC. 412. COST OF LIVING ADJUSTMENTS

Section 826 of the Foreign Service Act of 1980 (22 U.S.C. 4066) is amended by revising subsection (c)(1) thereof to read as follows:

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"(c)(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of--

"(A) 1/12 of the applicable percent change computed under subsection (b) of this section multiplied by

"(B) the number of months (counting any portion of a month as a month)--

"(i) for which the annuity was payable from the Fund before the effective date of the increase, or

"(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant."

SEC. 413. ELECTION TO PROVIDE SURVIVOR ANNUITY.

(a) ELECTION.--A former participant who married his/her current spouse before the effective date of this Act and who married such spouse after retirement under the Foreign Service Retirement and Disability System and who was unable to provide a survivor annuity for such spouse because--

(1) the participant was married at the time of retirement and elected not to provide a survivor annuity for that spouse at the time of retirement, or

(2) subject to subsection (e), the participant failed to notify the Secretary of State of the participant's post-retirement marriage within one year after the marriage, may make the election described in subsection (b).

(b) ELECTION DESCRIBED.--(1) The election referred to in subsection (a) is an election in writing--

(1) to provide for a survivor annuity for such spouse under section 806(g) of the Foreign Service Act of 1980 (22 U.S.C. 4046(g));

(2) to have his or her annuity reduced under section 806(b)(2) of such Act; and

(3) to deposit in the Foreign Service Retirement and Disability Fund an amount determined by the Secretary of State, as nearly as may be administratively feasible, to reflect the amount by which such participant's annuity would have been reduced had the election been continuously in effect since the annuity commenced, plus interest computed under paragraph (2).

(2) For the purposes of paragraph (1), the annual rate of interest shall be 6 percent for each year during which the annuity would have been reduced if the election had been in effect on and after the date the annuity commenced.

(c) OFFSET.--If the participant does not make the deposit referred to in subsection (b)(3), the Secretary of State shall collect such amount by offset against such participant's

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annuity, up to a maximum of 25 percent of the net annuity otherwise payable to such participant. Such participant is deemed to consent to such offset.

(d) NOTICE.--The Secretary of State shall provide for notice to the general public of the right to make an election under this section.

(e) PROOF OF ATTEMPTED ELECTION.--In any case in which subsection (a)(2) applies, the retired employee or Member shall provide the Secretary of State with such documentation as the Secretary of State shall decide is appropriate, to show that such participant attempted to elect a reduced annuity with survivor benefit for his or her current spouse and that such election was rejected by the Secretary of State because it was untimely filed.

(f) DEPOSIT.--A deposit required by this subsection may be made by the surviving spouse of the participant.

(g) LIMITATION.--The election authorized in subsection (a) may only be made within one year after the effective date of this Act in accordance with procedures prescribed by the Secretary of State.

(h) DEFINITION.--For the purposes of this section, the terms "participant" and "surviving spouse" have the same meaning as such terms as used in subchapter I of chapter 8 of the Foreign Service Act of 1980.

SEC. 414. CONFORMING AMENDMENT

Section 904(b) of the Foreign Service Act of 1980 is amended by inserting "or Foreign Service Pension System" after "Foreign Service Retirement and Disability System".

SEC. 415. SAVINGS PROVISION

All determinations, authorizations, regulations, orders, agreements, or other actions made, issued, undertaken, entered into or taken under authority of any provision of the Foreign Service Act of 1980 repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

SEC. 416. EFFECTIVE DATES

(a) Except as provided in subsection (b), this title and the amendments made by this title shall be effective on the first day of the third month that begins on or after the date of enactment of this Act and shall apply to each individual who separates from, retires under, or whose annuity commences under the Foreign Service Retirement and Disability System--hereafter in this section referred to as "the System"--before, on, or after such effective date.

(b) (1) The amendment made by section 401(a) extending eligibility for benefits under the System to certain former spouses married less than 10 years shall apply to individuals

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who become former spouses under section 804(6) of the Foreign Service Act of 1980--hereafter in this section referred to as "the Act"--on or after such effective date.

(2) The amendment to section 860(g) of the Act made by section 402(c) shall apply to any individual who marries on or after such effective date.

(3) The amendment to section 814(a) and (b) of the Act made by section 404 and the amendment of section 815(i) of the Act made by section 406(b), adding a requirement for at least 5 years of marriage to have occurred while the participant was a member of the Foreign Service for a former spouse to acquire entitlement to pro rata share benefits shall not apply to any individual who is a former spouse of such participant on such effective date.

(4) The amendments to section 806 and 809 of the Act made by section 405 shall apply to children whose annuities commence on or after such effective date.

(5) The amendments to section 815(a) of the Act made by section 406(a) shall apply to lump-sum payments for which application is made on or after such effective date.

(6) The amendments made to section 820(b) of the Act by section 407 shall apply to spousal agreements concluded or court orders issued after such effective date.

(7) The amendment made to section 811 of the Act by section 410 relating to voluntary retirement, shall not

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apply to individuals who are participants in the System on the date of enactment of this Act.

(8) The amendment made to section 826 (c) (1) of the Act of section 412 relating to the formula for proration of the initial cost-of-living adjustment of the Foreign Service annuity shall be made retroactively effective to August 13, 1981, and shall apply to annuities which commence before, on, or after such date.

Section-by-Section Analysis

AN ACT

TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEARS 1988 AND 1989 FOR THE DEPARTMENT OF STATE, AND FOR OTHER PURPOSES

TITLE I - AUTHORIZATION OF APPROPRIATIONS

Section 101: Short Title

This section provides that the Act may be cited as the "Department of State Authorization Act, Fiscal Years 1988 and 1989".

Section 102: Authorization of Appropriations

This section provides an authorization of appropriations for the Department of State in accordance with the provisions of section 15(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), as amended. This Act primarily authorizes funds to be appropriated under this legislation for the fiscal years 1988 and 1989 category.

Category (1) -- authorizes appropriations under the heading "Administration of Foreign Affairs" for fiscal years 1988 and 1989. This category provides the necessary funds for the salaries, expenses and allowances of the officers and employees of the Department, both for the United States and abroad. It includes funds for executive direction and policy formulation, conduct of diplomatic relations with foreign governments and international organizations, domestic public information activities. This category also provides for representational expenses in accordance with Section 905 of the Foreign Service Act of 1980. Further, it authorizes funds for such activities as the acquisition and maintenance of office space and living quarters for staff of United States agencies abroad; funds for relief and repatriation loans to United States citizens abroad and for other emergencies of the Department; and authorizes appropriations for buying power maintenance and protection of foreign missions and officials, and the American Institute in Taiwan.

Category (2) -- authorizes appropriations for fiscal years 1988 and 1989 under the heading "International Organizations and Conferences". This category provides the necessary funds for United States contributions of its assessed share of the expenses of the United Nations and other international organizations of which the United States is a member. In addition, provision is made for funding of official United States Government participation in regularly scheduled or planned multilateral intergovernmental conferences, meetings and related activities, and for contributions to international peacekeeping activities in accordance with multilateral agreements.

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Category (3) -- authorizes appropriations for fiscal years 1988 and 1989 under the heading "International Commissions". This category provides funds necessary to enable the United States to meet its obligations as a participant in international commissions such as the American Sections of international commissions dealing with American boundaries and related matters with Canada and Mexico, and international fisheries commissions.

Category (4) -- authorizes appropriations for fiscal years 1988 and 1989 under the heading "Other Activities". This category enables the Secretary of State to provide assistance and make contributions for migrants and refugees, including contributions to international organizations such as the United National High Commissioner for Refugees, and the International Committee for the Red Cross, and through private voluntary agencies and through governments, and bilateral assistance, as authorized by law. This category also provides funds for United States bilateral science and technology agreements, Soviet-East European research, the Asia Foundation, the Fishermen's Protective Fund and the Fishermen's Guaranty Fund.

In addition to the amounts requested to be authorized in this bill, the Department plans to utilize the following authorizations already enacted by Congress for:

- Acquisition and Maintenance of Buildings, \$417,962,000 in 1988 by the Diplomatic Security and Anti-terrorism Act of 1986 (P.L. 99-399).
- Fishermens' Protective Fund, \$1,000,000 in 1988 by the Fishermens Protective Act (P.L. 99-659).
- Fishermens' Guaranty Fund, \$1,800,000 in 1988 by the Fishermens Protective Act (P.L. 99-659).

As a result, the total authorization amounts, including these authorizations, is \$3,711,746,000 for fiscal year 1988 and such sums as may be necessary for fiscal year 1989.

TITLE II - MISCELLANEOUS PROVISIONS

Section 201: Insurance abroad

Chiefs of mission and other senior officers, who are required to maintain residences which exceed personal requirements because of official representational responsibilities, would be authorized to obtain so-called "home-owner's" liability insurance at Government expense. This would offset potential personal liability of these officers for death or injury to official invitees on the premises and provide compensation to such persons which may be unavailable or inadequate under the laws applicable to tort claims against the United States.

Section 202: Termination of Extra Credit for Service at Unhealthful Posts

The Foreign Service Retirement and Disability System provides that, in lieu of receiving a hardship differential for service at unhealthful posts, extra credit may be given toward retirement, by counting each year of duty at such posts as one and one-half years for computing length of service. The hardship differential is available to all employees under 5 U.S.C. sections 5925 or 5928, but the civil service retirement systems do not contain a comparable extra credit provision. The new Foreign Service Pension System, created by P.L. 99-355, also does not contain such a provision, based on the judgment that the hardship differential was an appropriate recompense for service at unhealthful posts and that a special additional provision for foreign service personnel only was not warranted.

In keeping with that judgment, and in order to conform the two Foreign Service retirement systems, this amendment would establish a cut-off date for extra credit under the old system. This cut-off is would apply to any service as part of a tour of duty, or extension thereof, commencing on or after January 1, 1988, so that persons who have committed themselves to service at a hardship post on the understanding that they could receive extra credit would still receive such credit.

Section 203: Authority of Diplomatic Security Service

This section amends the authority of Department of State special agents to arrest without a warrant in order to correct ambiguity in the current language and to enable the Department more effectively to carry out its enforcement responsibilities. Under current law, in order for a special agent to make an arrest for a felony violation not committed in his presence, two requirements must be met: the agent must have reasonable grounds to believe that such person has committed or is committing such violation and, in addition, the person must be in or fleeing from the immediate area of the commission of the violation.

The requirement that an individual be in or fleeing from the area of the crime is not a usual condition of comparable arrest authorities; for example, the arrest authorities of the Secret Service, F.B.I., Bureau of Alcohol, Tobacco and Firearms, and the Drug Enforcement Administration do not contain such a requirement. It is, moreover, a severely restrictive requirement, which effectively permits arrest only when the agent can apprehend the violator almost immediately after the crime. If, for example, the violator successfully escapes pursuit by the agent, the agent cannot later arrest him. Even if an individual were to confess to previously committing a crime in the presence of an agent, no arrest could be made. The proposed amendment would remove this requirement, conforming this arrest authority to the comparable authority of other federal agencies.

Section 204: Passport and Visa Fees

Current law (22 U.S.C. 214 and 215) requires the deposit into the Treasury of all fees collected for execution of applications for passports and visas and for issuance of passports and placing visas in alien passports. (22 U.S.C. 214 permits execution fees to be retained by States or reimbursed to the Postal Service on passport applications processed by them.) In addition, specific statutory authority is necessary to prevent fees collected by the Government from reverting to miscellaneous receipts of the Treasury. In order to maintain the pace toward automation of the passport and visa functions of the Department of State, this amendment would authorize the creation of a \$20 million fund from fees collected for passport services, visa services, and notarial services to be credited to an account which will only be available for that program. (Consular officer has the meaning defined in section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9).) This fund would be replenished each year from current consular fee receipts, but no more than \$20 million would be available in any one year. This amendment will help reach the objectives set in section 132 of the 1986-1987 State Authorization Act to identify narcotics traffickers, as well as enhancing our counter terrorism capability as recommended by the Inman Panel. Annual savings in appropriated funds are estimated to be \$20 million.

Section 205: Minimum Annuity under the Civil Service Retirement and Disability System

This amendment would reinstate a provision repealed by Section 305 of the Benefits Improvement Act (Public Law 99-251), effective February 27, 1986, in order to restore to Foreign Service Nationals employed under the Foreign Service Act of 1980, as amended, their entitlement to a guaranteed minimum annuity. The minimum annuity provided for under this amendment would be the smaller of: (1) the minimum amount paid to Social Security recipients in the United States or (2) 80% of their "high three" average pay. The restoration of this annuity will result in just treatment of Foreign Service national employees who have already completed many years of service on the understanding that a minimum annuity would be provided.

Section 206: Carry-Over of Senior Foreign Service Performance Pay

This is a conforming amendment, which exactly parallels a provision added to 5 U.S.C. 5383 with respect to the Senior Executive Service by P.L. 98-615 of November 8, 1984. The purpose is identical to that for the earlier SES provision, to make it possible for the most distinguished performers to

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receive full benefits devised by the Congress in recognition of their contributions, without exceeding in any one year the statutory limit for combined base pay and performance pay/presidential awards of the salary of Executive Level I paid to a Cabinet Secretary. Currently, the pay structure for the SES and the SFS is identical, except for the absence of this provision with respect to the SFS.

Section 207: Compensation of Fascell Fellows.

This is a perfecting amendment, intended to clarify the original intent of Title X of P.L. 99-399 that Fascell Fellows could either be appointed on limited Foreign Service appointments, or on a contractual basis. Under this amendment, appointments under limited Foreign Service appointment authority would be subject to all laws and regulations governing federal employees. Compensation under a contractual arrangement, on the other hand, would be governed by Section 2(c) of the State Department Basic Authorities Act, concerning personal service contracts.

Section 208: Overseas Construction Hazard Insurance

Section 208 would add a new subsection to section 16 of the State Department Basic Authorities Act to provide clear authority for the United States Government to accept direct responsibility for injuries to the employees of contractors at diplomatic and consular missions caused by terrorist activities. In connection with the major security enhancement construction program authorized by Title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, the Department of State made inquiries concerning the possibility of obtaining a blanket workmen's compensation policy to provide coverage required by the Defense Base Act (42 U.S.C. 1651 et seq.). The Agency for International Development has experienced major cost savings through use of such a blanket policy.

A major stumbling block to obtaining coverage has proved to be uncertainty as to the scope of the War-Risk Hazards Act (42 U.S.C. 1701 et seq.), under which the United States assumes direct responsibility for certain workmen's compensation claims arising from war risks and other hostile actions. Since certain types of terrorist activities are not clearly within the statutory definition of "war-risk hazard," insurance underwriters expressed reluctance to write blanket coverage that might involve substantial and uncertain risk of injuries due to terrorist bombings or similar attacks. The proposed legislation is consonant with the original intent of the War-Risk Hazards Act to place uniquely governmental risks directly with the Government and would ensure that Defense Base Act insurance for security enhancement and other contracts at our missions abroad will be available at reasonable costs.

Section 209: Authority to Designate Foreign Depositories

At present, the process for reviewing and selecting depositories abroad for USDO funds is layered and confused. While the Secretary of the Treasury has the statutory responsibility, in reality it is the State Department which has the major interest in and devotes the major resources to evaluating and selecting overseas depositories. Since, however, there are legal obstacles to delegating functions specifically assigned by statute to an agency head to another agency, the proposed amendment would specifically authorize the Secretary of the Treasury to delegate any of his authority under 31 U.S.C. 3303(b) to designated depositories in foreign countries to the Secretary of State. This would then allow the Departments of Treasury and State to work out an interagency agreement giving State the primary responsibility for evaluation and selecting necessary banks to hold United States Disbursing Officer (USDO) Accounts.

Section 210: Authority to Transfer Retirement Contributions for FSN'S to Local Plans

Pursuant to the policy and authority of section 408 of the Foreign Service Act of 1980, concerning local compensation plans, the Department of State has been in the process of establishing local retirement plans for foreign national personnel abroad. Unlike the civil service retirement system, which is designed for personnel living in the United States, such local plans can be tailored to local circumstances, including the characteristics and needs of the foreign national employees. A significant number of foreign national employees who participate in such plans, however, are also vested participants in the Civil Service Retirement and Disability System. Thus, upon retirement, there will be a double burden of administration for such employees, even though in many cases the ultimate civil service annuity for such persons would be quite small.

This amendment seeks to further the policies of section 408, and to reduce administrative costs for the Civil Service Retirement and Disability System, by permitting the transfer of a foreign national employee's interest in the civil service system to a local plan. The Secretary of State would determine which local plans would qualify for transfer; generally, these would be plans established by the U.S. Government with insurance companies, banks, or comparable institutions. A government social security benefit system would not be considered as a qualifying local retirement plan. A single one-year election period is provided, in order to provide maximum encouragement to employees to take advantage of this possibility. Since the process of establishing local plans is ongoing, and not yet complete, one-year period would be determined on a post-by-post basis, depending on the availability of an approved local plan.

Section 211: Preservation of Museum Character of Portions of Department of State Building

This section provides authority for the Secretary of State, with the guidance of the Department of State's Curator of the Diplomatic Reception Rooms, to preserve the present style and quality of designated areas of the Department of State Building. It is similar to Public Law 87-286 (75 Stat. 586) which is the basis for preserving the museum character of the White House.

Subsection (a) describes the areas so designated; they are:

(1) the Diplomatic Reception Rooms on the 8th floor of the building (the John Quincy Adams, Thomas Jefferson, Benjamin Franklin, James Monroe, James Madison, Henry Clay, Martin Van Buren, Daniel Webster, James Buchanan, Robert Livingston Rooms and adjacent lounges and halls); -

(2) the offices and reception areas of the Secretary and Deputy Secretary of State on the 7th floor of the building, and

(3) the floor Reception Area (immediately outside the Secretary's office, also known as the Treaty Rooms).

Subsection (b) directs the Secretary of State to administer and regulate the historical areas designated in subsection (a), called the museum areas for purposes of this section, by such means and measures as conform to their fundamental purpose. This would include access to the public, as in present practice, to provide proper security and to avoid unnecessary wear and tear. The fundamental purpose is to conserve the architecture, furnishings, and historic objects in these areas essentially as they now are and to provide for their enjoyment in a manner and means which will leave them unimpaired for the use and enjoyment of future generations. The Secretary of State, with the guidance of the Curator (who will have day-to-day supervision of the museum areas) is to give primary attention to the preservation and interpretation of the museum character of the designated areas as presently existing or under current development. (The completion of the Deputy Secretary's offices is scheduled for 1988). However, this authority is not to be exercised in a way which would conflict with the administration of the State Department or with the use of the museum areas for official purposes.

Subsection (c) provides authority for the Secretary of State to decide which articles of furniture, fixtures, and decorative objects now in the areas or subsequently acquired, are of historic or artistic interest and to dispose of those items solely in accordance with this section. The Curator, of course, would advise the Secretary in making these decisions.

Subsection (d) authorizes the Secretary of State to sell or trade items designated under subsection (c) when they are not needed for the museum areas or can be used to upgrade the museum areas. In order to provide the Curator the flexibility necessary to carry out the purposes of this section, such sales or trades are exempted from the provisions of the Federal

Property and Administrative Services Act of 1949, as amended. However, conditions on items accepted as conditional gifts would continue to be observed. Proceeds of sale would be credited to the State Department's unconditional gift account and allocated to the Curator. Items obtained in trade would become the property of the Secretary of State under this section. Through the Secretary, the Curator would also be authorized to lend articles from the museum areas to other institutions, such as museums, for care, repair, study, storage or exhibition.

Subsection (e) designates a position in the Department of State as Curator for the Diplomatic Reception Rooms. The present incumbent serves under a career appointment, but when it should be necessary to find a replacement, the subsection would authorize the Secretary of State to set the level of salary administratively, but no higher than Executive Schedule Level IV which is the maximum rate for positions under 5 U.S.C. 5315, and would make the appointment subject to termination at the pleasure of the Secretary. In order to carry out the purposes set forth in subsection (b), it will be necessary to appoint to the position a person with recognized expertise in historical decoration, and this authority will permit the Department to attract properly qualified persons with salary and promotion possibilities, to assure the necessary relationship of mutual trust and confidence, the subsection further would authorize the Secretary to terminate an appointment when it is deemed necessary.

Section 212: Authority to Insure Contents of State Department Diplomatic Reception Rooms

This section authorizes the Department of State to use appropriated funds to insure all of its valuable Americana Collection whether donated in kind, purchased with donations of money or loaned. At present the Department has the authority to insure loaned items by Comptroller General Ruling (17 Comp. Gen. 5 (1937)), and items which are gifts to the collection (section 25(d) of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2697(d)). The Department lacks authority to insure things purchased with donations of money. In a recent inspection report, the Department's Program Inspector General recommended that the Department "...seek appropriate legislative authority...to insure the entire collection." This seems prudent, and this section would do that. This insurance would cost approximately \$42,000 annually. The collection is estimated to be worth \$30,000,000.

Section 213: Official Residence for the Secretary of State

This section would make clear that the Department of State, using its gift authority under section 25 of the State Department Basic Authorities Act of 1956, may construct, or acquire by purchase or gift, a suitable permanent residence

within the Washington, D.C. area for future Secretaries of State. The Department would be authorized to insure the residence, its contents and other structures on the property. In carrying out the purposes of this section, the Department would be authorized to use the provisions of 22 U.S.C. 4308(d) with respect to contracting.

Section 214: Reporting Requirements

Taken together, these four amendments are intended to simplify reporting requirement associated with the Foreign Service Act of 1980, and a closely related provision in the Foreign Relations Authorization Act, Fiscal Years 1985 and 1986 (P.L. 99-93), as a result of time and experience with the reports in question. The intent is to continue to provide the Congress with desired information, while reducing the workload involved in producing reports the relevance of which is now overtaken, or the utility of which has proven to be questionable.

Subsection (a)(1) eliminates a redundant provision of section 105, which requires a comprehensive report on Equal Employment Opportunity activities which essentially replecates information produced on a somewhat different time schedule and in a slightly different format for the Equal Employment Opportunity Commission. Elimination of the current requirements and substitution with this new one will continue to provide the same information to the Congress, while simplifying production difficulties.

Subsections (a)(2) and (4) taken together revise the reporting requirements associated with the concept of maintaining a "regular, predictable flow" of personnel into the Foreign Service, into and through the Senior Foreign Service, and leaving the Service; and eliminate certain "one-time" reporting requirements no longer need because implementation of the Foreign Service Act is complete. Subsection (c) repeals the existing reporting requirement in its entirety, but subsection (d) reinstates, in language identical to that in the original report, those elements which continue to be useful. The requirement to continue to report on "stretch" and "down-stretch" assignments is maintained, although the requirement to produce a name list is omitted as being unnecessary. Such information could be provided by request, if particular circumstances make it pertinent in the Congress's view.

Subsection (a)(3) repeals the requirement to produce an annual report on agency professional development programs and the resources necessary and available to achieve them. This report has proven to be particularly difficult to develop on the required interagency basis, has not served the intended purpose of making more resources available for professional development activities, and has elicited no comment or notice from recipients. The agencies would continue to undertake to provide information on professional development for oversight

purposes in the context of authorization and appropriation submissions, and as requested by the Congress when specific issues warrant.

Subsection (b) eliminates a reporting requirement which relates to the report referred to in subsection (a)(1).

Section 215: Authority to Invest and Recover Expenses from Claims Settlement Funds

Subsection (a) of this proposed section would provide general statutory authority for Treasury to earn and pay interest of funds deposited by foreign governments pursuant to lump-sum claims settlements, pending payment to individual claimants. At present, when the United States enters into a claims settlement agreement with another country, amounts paid to the U.S. Government are held in individual claims accounts by the Treasury. There is often considerable delay between the time the payments are made to the Treasury and the time at which the individual claims are fully adjudicated and paid to successful claimants. The International Claims Settlement Act of 1949, however, makes no provision for investment and accrual of interest. Congress has addressed this problem in the Czechoslovakian Claims Settlement Act of 1981, which specifically provides that the Secretary of the Treasury shall invest settlement monies at market rates and that the interest earned shall be paid to claimants along with the principal amount of the settlement. This amendment would provide similar authority with respect to other settlement funds.

Subsection (b) would revise 22 U.S.C. 2668a, concerning funds received by the Secretary of State from foreign governments and others in settlement of international claims, in order to require the Secretary of State to deduct a percentage fee amount for reimbursement of expenses in cases where the payment is received as a result of an international arbitration or other international dispute settlement proceedings to which the United States is a party. This amount would be deducted from amounts determined to be due to U.S. citizens in connection with such claims, and would be placed in a separate account in order to defray the expenses of future proceedings of this character. Separate statutes already provide for such a deduction with respect to the Iran-United States Claims Tribunal and the Foreign Claims Settlement Commission, which are therefore exempted from the operation of this section.

Section 216: Creditability of Certain Foreign National Employee Service

This amendment would provide equitable treatment for a relatively small number of foreign service national employees who rendered service under personal contracts prior to December 31, 1983. Prior to 1982, such service was creditable toward civil service retirement. The Office of Personnel Management

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then changed its interpretation, so that only persons who actually retired prior to the change received such credit. No specific exemption was made for foreign service national employees at the time, but such an exemption is justified, since the conditions of employment of foreign service nationals under personal service contracts closely parallel those of foreign service nationals serving as direct-hire employees, and the different rules on creditability were not established at the time. This amendment establishes a cut-off date of December 31, 1983, in order to take account of service performed under contracts entered into before posts were advised of the new rule on creditability.

TITLE III - PERSONNEL PROVISIONS

Section 301(1): Five Percent Limitation on Non-Career Members of the Senior Foreign Service (F.S. Act Sec. 305(b))

Section 305 of the Act now provides that career government employees who are members of the Senior Executive Service are not to be counted against the 5% limit on non-career membership in the Senior Foreign Service. Most senior career government officials appointed to limited appointments in the SFS, with reemployment rights to their career status, will in fact come from the SES. In rare cases, however, it will be desirable to appoint a non-SES career employee to an SFS limited appointment (for example, a scientific supergrade appointed under P.L.-313, or a member of one of the parallel services to the SES. This amendment would exempt career government officials from their other career services from being counted against the non-career ceiling. This is consistent with the original purpose of the 1980 Act.

Section 301(2): Exclusions From 5 Year Limit on Limited Appointments (F.S. Act Sec. 309)

This amendment would correct omissions in the original text of section 309 and would consolidate in a single section all exceptions to the 5 year limitation on the duration of limited appointments. Exceptions are provided in order to avoid interruption of a current assignment, for service as a consular agent, for employment as a family member, for career officials whose home base is another agency and who are serving abroad on reimbursable detail in a Foreign Service position, and for continued service as a career candidate when a grievance is pending. Consular agents perform consular and related services in locations where there are no Foreign Service posts, and it is highly desirable to retain their services for an indefinite period of time, if their performance is satisfactory. They cannot be career members of the Foreign Service, either because they are foreign nationals, or because

they are available for service only in one locality. Career candidates serving on limited appointments sometimes contest decisions not to grant them career status before the expiration of the maximum 5 year period for such appointments. The amendment would clarify the Department's authority to extend the candidate's appointment in such a case, if ordered by the Foreign Service Grievance Board, or if deemed necessary administratively to provide an equitable chance for career consideration. The exception for family members is already provided by existing law, but is consolidated here with other exceptions for convenient reference. The exception to permit completion of a current assignment is intended to promote greater efficiency in the assignment of individuals serving under limited appointments. It is expected that the need to use this authority will arise rarely. Finally, the exception for career employees of other agencies serving on reimbursable detail in a Foreign Service position is necessary to further the efficiency of government operations in rare circumstances. For example, career Civil Service employees of the Social Security Administration routinely serve abroad as Federal Benefits officers for a single tour, and then return to SSA. At times, however, replacements are difficult to find, and both the employee and SSA would prefer to have them remain in their assigned positions for a longer period of time. It is not disadvantageous to the employee for this to occur, since it would only be done voluntarily, and would not affect their career status.

Section 302(a): Eligibility for Within Grade Salary Increases
(F.S. Act Sec. 406)

Section 406 presently addresses three points. First, it provides in subsection (a) a schedule for regular within-class salary increases for members of the Service. Second, in the same subsection it provides for withholding such increases on the basis of selection board determination that performance, while satisfactory, is at a level below the standards of performance for his or her salary class. Finally, subsection (b) provides for additional increases for meritorious service.

Because of the difference between the Foreign Service performance evaluation cycle and the anniversary dates of promotion into a class, it has been difficult under the present language to reconcile the regularly scheduled increases with meritorious increases, on the one hand, and, on the other, withholding of regular increases on performance grounds. The amendments would make it clear that, by regulation, the actions may be keyed to one another or kept independent as appropriate. They also provide, as is the case for the Civil Service, that no more than one additional increase for especially meritorious service shall be granted within any twelve-month period. Language incentive awards, should they be in the form of step increases, are not to be construed as

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periodic or meritorious increases within the meaning of this section.

Under new subsection (c) regulations would be issued to require starting a new waiting period for periodic increases under subsection (a) following receipt by a member of an equivalent increase in pay, comparable to OPM regulations for General Schedule employees. Regulations would also govern deferral or withholding of periodic increases in case of members on leave without pay or in part-time employment and mandatory deferral or withholding in cases where selection boards determine performance is not up to the standard of the class, and that determination is administratively upheld.

New subsection (d) parallels after 5 U.S.C. 5335 (b) and is added to preserve the benefit of periodic increases for members whose service is interrupted by service in the uniformed services or essential civilian employment during a period of war or national emergency.

Section 302(b) and (c): Establishing a pay authority for the Director of the International Communications Policy Bureau and the Director of the Office of Foreign Missions.

Subsections (b) and (c) of section 302 would establish a pay authority for the Director of the International Communications Policy Bureau and for the Director of the Office of Foreign Missions, retroactive to the date on which these positions were established by P.L. 98-164 (97 Stat. 1017). Both of these positions require Senate confirmation; present duties are at the EX-4 level. No pay authority is now in existence other than non-career SFS, which is inappropriate for domestic political appointees. SES authorities are specifically not available for positions requiring Senate confirmation.

Section 303(1): Ineligibility for Promotion After Expiration of Time-In-Class (F.S. Act Sec. 601(b))

In certain cases, members of the Foreign Service are allowed to remain beyond expiration of their time-in-class, normally for humanitarian reasons to allow them to qualify for an immediate annuity. (Individuals at the FS-1 level and higher are eligible for such an annuity at expiration of time-in-class under section 609, but those at FS-2 and lower are not.) This amendment would expressly provided that individuals retained for this purpose are not eligible for promotion. If they were allowed to compete for promotion, then time-in-class rules would become meaningless.

Section 303(2): Limited Career Extensions Below The Highest Class in an Occupation/Retention After Expiration of TIC to Gain Eligibility for an Immediate Annuity (F.S. Act Sec. 607(b)(1) and 607(8)(2))

The current law permits Limited Career Extensions (LCEs) when individuals have attained the highest salary class for their occupation categories except in the Senior Foreign Service, in which case LCEs are available at each class level. The first amendment clarifies the original intent of the Act by specifying that Foreign Service Officers are not eligible to receive LCE's at class 1. The second amendment would provide new authority to the Secretary to retain individuals below the FS-1 level for more than one year after their TIC has expired, in order to allow them to qualify for an immediate annuity.

Section 303(3)(A) and (B): Retirement Benefits/Severance Pay For Individuals Separated From the Service After Expiration of TIC or Failure to Have a Limited Career Extension Renewed (F.S. Act Sec. 609(a) and (b))

Without these amendments, an individual leaving the service from class FS-2 or below for expiration of time-in-class would receive severance pay, while one at the same level who leaves for expiration of a limited career extension without renewal would be entitled to an immediate annuity. The two situations should be treated in the same way. The amendments would conform the two cases, and follow the existing practice, first legislated in 1946, that those separated involuntarily from class FS-1 or higher receive an immediate annuity, while those separated involuntarily from classes FS-2 and lower receive severance pay.

Section 303(4): Judicial Review in Separation for Cause Cases (F.S. Act Sec. 610(a)(2))

Section 110 of the Act authorizes an aggrieved party in a grievance case to obtain judicial review of a final action of the Secretary or the Board. Section 610, which provides for separation for cause, specifically applies only the hearing procedures of section 1106 to separation cases before the Board. Other provisions of Chapter 11 applicable to grievances may in general be applied to the extent appropriate to separations by rule of the Board itself, but it takes a provision of law to have judicial review. This amendment would apply the judicial review provision, now applicable to grievances, to separation for cause cases as well.

Section 304 (1): Extension of Family Visitation Travel to Family Members (F.S. Act Sec. 901 (8))

Current law provides that employees may visit their family

when family members are not allowed at post. As section 901(8) is currently written, only employees receive this travel. There have been cases where dependent children were not allowed at post, and this amendment would allow spouses to receive the same visitation travel as employees to visit children in the U.S. or at other locations.

Section 304(2): Family Visitation Travel for Family Member or Members of Service to Go to Post in Emergency Circumstances (F.S. Act Sec. 901(9))

In today's Foreign Service it is increasingly likely that married employees go abroad while the family remains in the U.S. Under current law, expenses of emergency visits may only be paid from a location abroad. Thus, if an employee becomes seriously ill, the spouse who wishes to visit the employee cannot be reimbursed. This amendment would permit payment for emergency visitation to post as well as from post.

Section 304(3): Payment of Household Moves at Post (F.S. Act Sec. 901(11))

The purpose of this amendment is to make explicit the Secretary's authority to treat overseas personnel in government-leased and government-owned housing and personnel in privately leased housing equally when it comes to paying for moves required for reasons of force majeure at post. At present the government pays for the moving costs when individuals are housed in government-leased or owned quarters, but not when they are in privately leased quarters. Since the individuals are at post for the convenience of the government, since the government is paying for the costs of the housing and because the method of providing housing abroad is at the option of the government, there is no reason to treat employees differently by reason of the housing arrangements the government has selected when those employees are required by circumstance beyond their control to move. Examples of such circumstances include destruction of the housing or to comply with new local laws or restrictions.

Section 305: Annuities and Other Benefits for Certain Former Spouses (F.S. Act Sec. 830 and 831)

This amendment adds two new sections, 830 and 831, to title I of Chapter 8 of the Act to provide survivor annuities and access to health insurance coverage to former spouses who were divorced from members of the Service before the effective date of the 1980 Act. This will ease the plight of this closed group of less than 100 former spouses who have spent long periods in support of the U.S. Government through service with their former husbands at posts abroad. The 1980 Act protects those who become former spouses after its effective date of February 15, 1981, but that Act was not made retroactive.

This amendment would allow these former spouses to receive

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survivor annuities, provided that the former spouse meets these qualifying conditions:

- (i) does not remarry prior to age 55;
- (ii) was married to a participant who was qualified to leave a survivor annuity;
- (iii) was married to the participant during at least 10 years of creditable service, and during at least 5 years in the Foreign Service;
- (iv) is not entitled to an annuity by election under section 2109 or as a designated beneficiary of the employee;
- (v) files an application within 30 months; and
- (vi) is over age 50 at the time of filing such application.

The Secretary would be required to issue implementing regulations within 120 days of enactment and, to the maximum extent practicable, to notify affected individuals. Benefits under this section would be paid from the Fund without requiring any reduction of benefits paid to others.

It is estimated that eligible persons covered by this retroactive program have served abroad in the Foreign Service community an average of 12 years. They deserve this benefit because --

- Many in this group are old, disabled, and have little work experience.
- They are cut-off from Government pensions and few have Social Security protection.
- They faced disadvantages not faced by others cultural, legal and linguistic barriers to their own paid employment;
- They were subjected to riots, bombings, and diseases;
- They were required, prior to 1972, to perform representational tasks for the United States.

Section 831 would allow former spouses divorced before May 7, 1985 access to the Federal Employees Health Benefits Plan, under certain conditions. The former spouse would need to demonstrate that he or she was covered as a married dependent of an employee within eighteen months of the divorce. The former spouse would pay both the employer and employee's share of premiums, and the former spouse could not participate in the Plan if he or she had other group health insurance coverage.

Section 306(1): Changing the Salary of Ambassadors at Large
(5 USC 5313)

This change would reduce the salary levels of Ambassadors at Large from Executive Level II to Level IV, i.e., from the equivalent of the Deputy Secretary to the equivalent of an Assistant Secretary. The Department believes this change is needed to reflect accurately the responsibility vested in Ambassadors at Large. Ambassadors who are Chiefs of Mission

are no longer paid at the equivalent of Level II; Ambassadors at Large should similarly be salaried at a lower Executive Level. This provision would not reduce the salary of employees currently serving as Ambassadors at Large, but would take effect prospectively.

Section 306(2): Elimination of 180 Day Limitation on Payment of Subsistence Expense Allowance (5 USC 5523(a))

This amendment would eliminate the 180 day limit on the subsistence expense allowance for evacuees. Currently the allowance terminates after 180 days, even if the employee and/or family member remains in evacuation/ordered departure status. Removal of the limit would allow evacuees to receive the allowance for the actual duration of the evacuation/ordered departure status. This same amendment was submitted to Congress in 1980 and cleared the Senate; however, it was attached to the authorization bill which died in the House.

Section 306(3): Calculation of Lump Sum Leave Payment Upon Separation (5 U.S.C. 5551)

This amendment would prohibit inclusion of any post differentials or foreign or territorial allowances for hardship in lump sum leave payments for employees who retire from a post abroad rather than in the United States. The existing statute provides the possibility of a windfall payment, which the Inter-Agency Committee on Allowances has recommended be eliminated. This amendment would produce Government-wide savings. The term "basic pay" is defined in 5 U.S.C. 8331(3).

Section 306(4): Educational Continuity for Children Following Death or Evacuation of Employee (5 U.S.C. 5922(d))

This amendment would allow children of employees assigned overseas to complete their current school year if the employee dies. Education and/or living quarters allowances for the children and other family members may be continued by the post for the purpose of allowing such children to complete the current school year at post. Also, education allowances could be continued for a child in a school away from post until the end of the school year.

Also, an education allowance for school away from post would be continued if the employee or spouse is evacuated or ordered to depart. This continuation would extend through the duration of the evacuation, or the end of the school year, whichever comes last. Likewise, if an employee is evacuated from an overseas post to an overseas post, and the children become eligible for the away from post education allowance, they may be allowed to continue to receive the allowance for the duration of the current school year after the evacuation is rescinded and dependents are returned to post. If an employee

is paneled for assignment and dependent evacuation is ordered before the employee arrives at post, the education allowance could also be granted. Employees paneled to posts already in evacuation status could not receive the education allowance.

Section 306(5): Temporary Lodging Allowance
(5 U.S.C. 5923)

This amendment would permit the reimbursement of some meal and laundry expenses incurred by employees and families occupying temporary quarters abroad. It would enable the Department to combine the present separate temporary lodging and supplementary post allowances into a single per diem type allowance comparable to that paid employees on transfers to and within the United States.

The revision from "3 months" and "1 month" to "90" and "30" days is for simplification and to correspond to the general use of a fixed number of days, rather than months, for similar benefit periods.

The new paragraph (C) is to allow for the fact that due to extremely difficult housing market rental conditions in a few locations abroad, the 3-month period has not permitted employees the necessary time to locate and secure suitable housing. This new section would permit heads of agencies to extend the temporary lodging period by up to an additional 60 days when such conditions were beyond the control of the employee.

Section 306(6): Transfer Allowances (5 U.S.C. 5924(2))

This amendment would result in two revisions of particular importance to Civil Service employees:

(1) Transfer allowances currently available on departure from the United States to a foreign area would also be permitted on similar transfers from U.S. territories, possessions and Puerto Rico.

(2) The transfer allowance is currently available to Foreign Service personnel agreeing to 12 months additional service upon return to the U.S. This amendment would provide the same basis of payment for employees not under the Foreign Service Act. Under present legislation, Civil Service employees can be paid a transfer allowance only upon return to the U.S. between foreign assignments.

Section 306(7): Education Allowances at Time of Transfer, for Handicapped Children and At Post Secondary Educational Institutions (5 U.S.C. 5924(4))

Together, these changes update and improve the education allowance system to bring it into line with current circumstances and problems.

The first change permits payment of educational allowances

for children of employees being transferred or newly assigned to a Foreign Service post with inadequate schooling for the entire school year, even if the member of the Service does not depart the United States until after the beginning of the school year. (Generally, the reverse situation, transfer back to the United States during the school year, can be managed, if the member of the Service wishes his or her children to remain in their current schools during the remainder of the semester.)

The second amendment would permit educational services to be provided for handicapped children, beginning at age 3. P.L. 94-142, the "Education for All Handicapped Children Act of 1975," generally requires states to offer public educational facilities for handicapped children from age three. It seems desirable to amend 5 U.S.C. so that overseas education allowance policy may be consistent with U.S. public school education practice for handicapped children. Under present law, no allowance can be granted for a handicapped or normal child under age 4 and who is not at least in a kindergarten program.

The third amendment would permit travel to educational institutions in "non-foreign" areas outside the U.S. such as the U.S. Virgin Islands and Puerto Rico. Educational travel to these non-foreign areas is of particular importance to Department of Defense civilian personnel with normal U.S. residences outside the several states and the District of Columbia. It would also permit post-secondary educational travel for dependents not only for undergraduate college education, but also at other institutions such as nursing, technical, vocational, music and performing arts schools which are not considered colleges. This amendment is necessary in order to provide the appropriate kinds of post-secondary education for a wider variety of chosen career fields for dependent children. The term "educational institution" in the text of the amendment is drawn from 38 U.S.C. 1701(a)(6) (Veterans Benefits). It is not planned to extend the benefit during post-graduate education, as is possible for veterans. Accredited educational institutions at which these benefits can be used will be determined by reference to an established list, such as that developed by the Veterans Administration or the Department of Education. The list or lists to be used will be specified by regulations issued by the Secretary.

The fourth amendment would authorize the payment of an education allowance for dependents of employees stationed outside the continental United States, for example, in Guam or American Samoa, and travel expenses to the continental United States for undergraduate college education, (and other post-secondary education, consistent with the amendment described above.) This amendment would facilitate reorganization of overseas operations to areas under U.S. jurisdiction for reasons of security and economy, while maintaining uniform treatment of personnel.

TITLE IV - FOREIGN SERVICE RETIREMENT

The primary purpose of this title is to conform the Foreign Service Retirement and Disability System (FSRDS) with the changes in the Civil Service Retirement System (CSRS) made by the Civil Service Retirement Spouse Equity Act of 1984 (CSRSEA). Many of these new concepts are incorporated in the new retirement systems, the Foreign Service Pension System (FSPS) and the Federal Employees' Retirement System (FERS). Enactment of this title will then conform FSRDS in these areas with the other 3 systems. Section 4(h) of the CSRSE Act provided that section 827 of the Foreign Service Act of 1980 not apply to many of its amendments. Accordingly, it is not possible to make these conforming amendments by Executive order.

The most significant of the amendments in this title is the extension of eligibility for survivor benefits to former spouses married to participants or annuitants under FSRDS for periods from 9 months to 10 years. The current requirement is 10 years. Those married for this shorter period will not be eligible for the landmark pro rata share benefits authorized in 1980. They will however, be eligible for survivor benefits elected by members or ordered by a court. We believe this is a significant benefit now being denied this group of former spouses.

This title contains two minor amendments of FSPS in sections 401(c) and 411(c). All of the other amendments apply to FSRDS. A section by section analysis follows.

Section 401: Definitions

Subsection (a) amends section 804(6) to change the definition of "former spouse" to reduce the marriage duration requirement from 10 years to 9 months to conform to Civil Service Retirement Spouse Equity Act (CSRSEA). The 10 year requirement will be retained for eligibility for pro rata share benefits and for automatic entitlement to survivor benefits (unless the benefits are waived in a joint election or spousal agreement). The new category of former spouses created by this amendment--those married between 9 months and 10 years--will become eligible for survivor benefits when the benefit is either elected by the participant or ordered by a court.

Subsection (b) amends section 804(13) to revise the definition of "surviving spouse" to conform with changes made in the CSRSE Act. It reduces the duration of the marriage requirement from one year to 9 months for entitlement to a survivor annuity following a death in service. It also establishes a 9-month marriage requirement for entitlement to a survivor annuity following a death after retirement. Currently, no minimum period of marriage is required in the latter case. The amendment also adds the CSRSE Act exceptions to the 9-month rule: the minimum marriage requirement is waived in case of an accidental death or if there were two marriages to the same person totaling 9 months.

Subsection (c) amends section 852 to add a definition of

"lump-sum credit" to the Foreign Service Pension System corresponding to the definition of this term in 5 U.S.C. 8401(19). If this definition is not added to section 852, the latter definition would be applicable. That definition is inappropriate because of cross reference to title 5 rather than the Foreign Service Act and especially because of the reference to the Civil Service Retirement Fund rather than the Foreign Service Retirement Fund.

Section 402: Computation of Annuities

Subsection (a) amends section 806(b) in several places to define the respective benefits for former spouses married 9 months and for those married 10 years. The significant changes are as follows.

The requirement for a member to provide a survivor annuity for a former spouse unless there is a joint waiver is retained in cases where the marriage lasted 10 years provided at least 5 of those years occurred while the member was in the Foreign Service. (See the explanation of section 404 for an explanation of this change.) In other cases, similar to CSRSEA benefits, the former spouse is entitled to any survivor annuity elected by the member at retirement or, if later, within 2 years after the divorce, or ordered by a court. If a member has more than one former spouse at retirement, a multiple election could be made at retirement, provided the overall "55 percent" limitation is not exceeded.

The addition in paragraph (1)(C) of a survivor benefit for a former spouse married less than 10 years requires that general rules governing payments, initiation, termination, etc., be provided. These are the same as such rules for other former spouses and spouses. Accordingly all these rules, now stated in section 806 and 814 are consolidated in section 806. There is one change in these rules: a former spouse whose survivor annuity is terminated because of remarriage prior to age 55 will no longer be entitled to a resumption of that annuity if the remarriage is subsequently dissolved. (A surviving spouse will remain eligible for such resumption of survivor annuity.) This change will also permit a survivor annuity for a surviving former spouse which is to be discontinued to be transferred to a qualified surviving spouse. This change is being made to conform the Foreign Service Retirement and Disability System with the new Foreign Service Pension System and the Federal Employees' Retirement System. It will be effective for all former spouses whose Foreign Service survivor annuities have been discontinued for remarriage. A requirement is added in section 806(b)(1)(C) that any annuitant making an election after retirement for a survivor annuity for a former spouse must repay the Fund for past survivorship reductions. It is intended that the computation of the amount to be repaid reflect survivorship reductions previously made for a spouse. This requirement is

similar to the repayment in 5 U.S.C.8339(j)(3) as added by CSRSE Act.

The authority in paragraph (1)(D) for an employee to make certain elections without spousal consent is broadened to correspond to similar authority in CSRSEA.

The rules, time limits and costs of transferring survivor benefits to a spouse or other former spouses in the event one former spouse dies or becomes disqualified are amended to conform with CSRSEA, and restated in paragraph (5) of subsection 806(b).

Subsection (b) amends section 806(f) to conform the FSRDS with a CSRSE Act amendment to permit a participant at retirement to provide a survivor annuity, whether married or not, for one or more designated beneficiaries. These benefits would be in addition to any survivor annuities the participant provides under other sections of the Act for a spouse or former spouse. The only limitation is that the participant's annuity be sufficient to permit the substantial reductions required to provide these benefits.

Subsection (c) amends section 806(g) to combine the procedures for election of a survivor annuity for a spouse acquired after retirement. The procedures and eligibility requirements are currently contained in subsections 806(g) and (j) and differentiate between participants who were married at the time of retirement and those who were not. This distinction was dropped in the CSRE Act (those married at retirement who did not elect a survivor annuity are now eligible to do so for a new spouse) and the new procedures are set forth in subsection (g).

An election for an after-acquired spouse under this amendment will require an appropriate annuity reduction, as at present, plus a deposit equivalent to retroactive reductions from the date of retirement plus interest. This deposit and the survivor election must be made within the two-year period after the marriage or, if later, after the death or disqualification of any former spouse entitled to a survivor annuity. If the deposit is not made, the Secretary will be obliged to collect the amount by offset from the annuity.

Subsection (d) makes a conforming amendment of section 806(i) on recall service to change a cross reference.

Subsection (e) amends section 806(j) on recomputation of a former participant's annuity to consolidate similar provisions now in section 814(B)(5)(A) and this section, to expand its scope to cover the former spouses married less than 10 years, and to delete material proposed for inclusion in section 806(g) covering marriage after retirement.

Subsection (f) makes a conforming amendment of section 806(l) on Social Security minimum to change a cross reference.

Section 403: Death In Service

Section 403 amends section 809 in a manner parallel to the amendments made in section 806(b), to retain automatic survivor benefits for surviving former spouses who are married for 10

years, but to authorize such benefits for other former spouses, following the death of a member in Service, only if a valid court order or spousal agreement has been executed at the time of death.

Section 404: Former Spouses Married 10 Years

Subsections (a) and (d) amend sections 814(a) and (b) to insert a requirement that the marriage must have lasted for at least 10 years to trigger the pro-rata share benefits in section 814. This change is necessary because of the change of definition of former spouse in section 804 (section 401(a)). A requirement is also included that at least 5 of the 10 years of marriage have occurred while the member was in the Foreign Service. This additional requirement is consistent with the reasons for the enactment of the special "pro-rata" provisions for the Foreign Service in 1980--the difficulties spouses of members of the Foreign Service have in building independent economic bases. Without this amendment, the pro rata share requirement might apply to a former spouse who was divorced from a member at the time the member entered the Service.

Subsection (b) amends section 814(a)(4) is amended to provide 24 months rather than 12 months after a divorce for a court to issue an order affecting pension benefits for a former spouse. Experience indicates this is desirable and the 24-month period is consistent with the 24-month period for making elections under CSRSEA.

Subsection (c) amends subsection 814(a)(5)(A) to conform the cross-reference.

Subsection (d) also amends section 814(b) to repeal the various payment rules in paragraphs (2) through (5) because they have been consolidated with similar rules in section 806, as explained under the amendment of that section.

Subsection (e)(1) repeals the text of section 814(c). This section now provides members an opportunity to elect "additional" survivor annuities at a cost so high that none have done so. There seems to be no purpose to retaining it now that members have additional opportunity to elect survivor annuities for designated beneficiaries, as proposed in this bill.

Subsection (e)(1) adds a new section 814(c), consisting of a revision of the previous section 814(d). Both the Civil Service and Foreign Service Retirement Systems contain a provision to guarantee that all annuities equal at least certain minimum amounts payable under the Social Security System. The 1980 Act contains a partial exception to this minimum provision for certain annuities to former spouses. The CSRSEA exempts from the minimum provision all survivor annuities to former spouses and survivor annuities to spouses that are reduced by the former. This amendment adapts this concept for survivor annuities and extends the exemption to cover pensions paid to former spouses or others under sections 814 or 820. Subsection (e)(2) repeals Section 814(d).

Section 405: Survivor Annuities for Children

Foreign Service and Civil Service survivor annuities for children are paid at one rate if a spouse survives and at a higher rate if not. The CSRSE Act provides that the lower rate be paid only if a spouse or former spouse survives who is the parent of a surviving child. The amendment made by subsection (a) makes conforming changes in section 806(c) and (d) of the Foreign Service Act, relating to a death after retirement.

Subsection (b) makes similar changes to those in subsection (a) in sections 809(c) and (d), relating to a death in Service.

Section 406: Lump Sum Payments

Subsection (a) of this amendment divides section 815(a) of the Act into two paragraphs. New paragraph (1) requires that members be separated from the Service for at least 31 consecutive days and meet related requirements to be eligible for a refund of their contributions to the Fund. It conforms the FSRDS with the change made in CSRS by section 303(c) of the Omnibus Budget Reconciliation Act of 1980, as amended by section 3(f) of P.L. 97-346. The amendment also adds a provision to require the participant to notify any spouse or former spouse of an application for refund to conform with the CSRSE Act.

New paragraph (2) of section 815(a) would correct an apparent oversight in the 1980 Act by eliminating the right of a former spouse who remarries prior to age 55 to a share of the lump-sum payment, just as rights to an annuity are cut off in such circumstances.

Subsection (b) amends section 815(i) to provide that pro rata share payments of lump sum refunds will be made only to former spouses who meet the 10-year-marriage requirement. Other former spouses will be entitled to such share of lump sum refunds as are ordered by a court or provided by spousal agreement.

Section 407: Court Orders

Section 407 amends section 820(b)(1)(A) to permit the Secretary of State to honor court orders barring or limiting refunds of retirement contributions to members who resign. Such refunds extinguish pension and survivor annuity rights to which a spouse or former spouse may be entitled. This change is consistent with a similar change made by the CSRSE Act.

Section 820(b)(1)(B) is also restated to make clear that no court order or spousal agreement may authorize benefits that have been previously waived by the beneficiary. This amendment also makes clear that all court orders and spousal agreements must be consistent with the special rules in the subchapter governing payments to former spouses. The special rules written into the Foreign Service Act of 1980 are:

---remarriage, at age 55 provision;

- COLA increases under section 826;
- delayed implementation of an order for payment of a share of a member's disability annuity to a former spouse, and the calculation of such payment under section 814(a)(6);
- continuation of payment to a former spouse during reemployment or recall of member pursuant to section 814(a)(5)(B);
- prohibition on payment to a person in receipt of another Federal survivor annuity.

As in the past under section 820(b)(1), a court order or spousal agreement may provide for lesser, but not greater benefits than authorized under the special rules listed above.

Section 408: Contributions for Prior Service

Section 408 amends section 805(d)(1) to simplify the calculation of the amount owing by a member for a previous refund of contributions from the Foreign Service Retirement and Disability System (FSRDS) or from any other retirement system for Government employees. Such refunds must be repaid by a member in order to obtain any credit for the prior service. At present, amounts owing for such refunds are determined by taking into account the differing contribution rates previously in effect under the FSRDS during the period covered by the refund. This rate at different times has been both higher and lower than the corresponding rate in the Civil Service System. (CSRS). The proposed change would adopt the current CSRS formula expressed in 5 U.S.C. 8334(d) under which the amount owing is simply the amount of the previous refund plus interest.

Section 409: Minimum Age Requirement

Sections 808(a) and 809(e) of the Act fix the minimum disability and survivor annuity, respectively, for members who become disabled or who die in service. The minimums are currently based on assumed service to 65, or to a total of 20 years whichever is less. Subsections (a) and (b) of this amendment would change the specified age to 60 instead of 65, to conform with 5 U.S.C. 8339(g) and 8341(d).

Section 808(b) of the Act requires a disability annuitant whose disability has not been declared permanent by the Office of Medical Services to undergo an annual physical examination up to age 65. This change would reduce the age to 60 and consequently reduce the number of such examinations. This amendment would conform with 5 U.S.S. 8337(c).

Subsection 409(b)(2) of the bill corrects a cross reference in subsection 809(h) of the Act.

Section 410: Voluntary Retirement

Section 410 amends section 811 to require members to complete 5 years under the FSRDS before becoming eligible for

voluntary retirement at age 50 after 20 years creditable service. In the 1980 Act, a requirement was imposed that a member have at least 5 years of civilian service credit in order to retire voluntarily in order to prevent those with extensive military service from entering the Service and retiring in less than 5 years. This amendment will impose a comparable requirement for those with extensive service under CSRS. The change will be made applicable only to those who enter the Service after enactment of the Act (see effective date section 415(b)(7)). The amendment will permit a member who wishes to retire before completing 5 years in the Foreign Service Retirement and Disability System, whose total Federal Service would entitle him/her to do so under the Civil Service retirement system, to revert to the latter system and receive an annuity thereunder.

Section 411: Creditable Service

Subsection (a) amends section 816(b) to make clear that, when calculating pro rata share payments to former spouses, credit for unused sick leave described in section 816(b) of the Act shall be excluded both from (A) the number of years during which the former spouse was married to a participant during the creditable service of that participant and (B) the total number of years of such creditable service.

Credit for unused sick leave is added in lump sum to a participant's other creditable service on the date of retirement. It would not be administratively feasible to pro rate this credit over a participant's career, not is it necessary to achieve equity. Equity is achieved by excluding the credit entirely from calculations of the pro rata share percentable which is applied to the participant's annuity or survivor annuity to determine the share payable to a former spouse.

Subsection (b) amends sections 816(i) and 817 to eliminate extra service credit for assignments at unhealthful posts granted to members not receiving post differential from computations of the time period during which a marriage must have endured and from computations of the pro rata share benefit.

Currently, subparagraph (B) of section 816(i)(2), which would be repealed, makes it necessary for the Department to determine whether a spouse resided with a member at an unhealthful post, both before and after passage of the Foreign Service Act of 1980. This is almost impossible to determine for periods prior to institution of the special reports now required. The change would simplify administration of the Act without significantly affecting benefits.

Subsection (c) amends section 854(e), added to the Foreign Service Act by section 405(b) of P.L. 99-556 of October 27, 1986 to correct an oversight. The section now requires a Member or office of Congress employing a member of the Foreign

Service who is on LWOP to make a "matching" contribution to the Retirement Fund. This amendment makes clear that the employer retirement contribution under the FSPS is determined under section 857(a) of the Act.

Section 412: Cost-of-Living Adjustments

Section 412 amends section 826(c) to change the proration formula applicable to the first annuity increase for certain annuitants to conform with the change made in the CSRS formula by P.L. 97-35 effective August 13, 1981 and is made effective on the same date by section 415. Also, this amendment extends the proration procedure to the first increases granted surviving former spouses.

Section 413: Election to Provide Survivor Annuity to Certain Spouses of Retirees Under FSRDS

This amendment authorizes certain annuitants under FSRDS who retired before the effective date of this Act to elect a survivor annuity for a spouse acquired after retirement. It would benefit those who, under existing law, were unable to make such an election. In the future, under the amendment of section 806(g) of the FS Act made by section 402(c) of this bill, annuitants in these categories will be able to elect a survivor annuity for a spouse acquired after retirement by making an appropriate payment to the Fund. An election under this section will require a similar payment. This amendment provides an opportunity comparable to the opportunity provided retirees under CSRS by section 4(c) of the CSRSE Act. This amendment will be applicable by section 415 to all annuitants who marry after the effective date of this Act and elect a survivor annuity.

Section 414: Conforming Amendment

Section 904(b) of the Foreign Service Act of 1980 authorizes medical examinations to determine disability or incapacity for retirement as part of the Department of State health program. This technical amendment adds a reference to the new Foreign Service Pension System in addition to the Foreign Service Retirement and Disability System.

Section 415: Savings Provision

This savings provision will insure that regulations agreements, etc., under any provision of the FS Act repealed, modified, or affected by this Act remain in full force and effect until modified or superseded by appropriate authority. For example, should a survivor annuity be purchased under section 814(c) prior to its repeal by this Act, it would be paid under the terms of such section 814(c).

Summary of Changes to Department of State Authorization

Title I

Section 101 provides the title of this Act.

Section 102 provides for an authorization of appropriations for the Department of State in Accordance with Section 15(a) of the State Department Basic Authorities Act of 1956, as amended. The authorization is divided into four categories.

Title II

Section 201 provides for home owner's liability insurance or the equivalent at government expense, for those occupying so-called representational housing, in recognition of the fact that the current laws applicable to tort claims may provide inadequate coverage for injury or death incurred during the carrying out of official responsibilities.

Section 202 terminates the option of taking extra retirement credit in lieu of post differential under section 817 of the Foreign Service Act, thus conforming the existing Foreign Service Retirement and Disability System to a change already made for the new Foreign Service Pension System.

Section 203 clarifies the arrest authority for special agents in the Diplomatic Security Service.

Section 204 would allow a portion of the fees for passport and related services to be credited to a special account for research and development undertaken by the Department.

Section 205 restores for a limited period (those who become eligible for retirement in the next 5 years) a minimum annuity for Foreign Service Nationals which was repealed in 1986, with new limits to prevent windfall payments.

Section 206 provides equivalence between the SES and the Senior Foreign Service, by adding a provision to the Foreign Service Act to allow a lump sum payment of performance pay and presidential awards in a following fiscal year, if full payment cannot be made because of the statutory ceiling.

Section 207 makes a technical change with respect to methods of compensation Fascell Fellows, under the program created by title X of the Diplomatic Security Act.

Section 208 amends the State Department Basic Authorities Act to provide clear authority for the government to accept direct responsibilities for injuries of employees of contractors at diplomatic and consular missions caused by terrorist activities, with the purpose of substantial cost savings on construction workmen's compensation required under the Defense Base Act.

Section 209 authorizes the Secretary of the Treasury to delegate his authority to designate depositaries in foreign countries to the Secretary of State.

Section 210 provides authority to transfer employee and employer contributions for FSN's from the Civil Service Retirement system to local plans.

Section 211 provides authority for preservation of the museum character of portions of the Department of State building, and creates a statutory position of Curator for the diplomatic reception rooms.

Section 212 provides authority to insure the contents of the State Department diplomatic reception rooms.

Section 213 provides authority to acquire an official residence for the Secretary of State, at no expense to the government.

Section 214 proposes elimination/modification of several unnecessary or outdated reports required by the Foreign Service Act of 1980.

Section 215 would provide statutory authority for the Treasury to earn and pay interest on funds deposited by foreign governments pursuant to lump-sum claims settlements, and for the Secretary of State to deduct a percentage fee from claims awards for reimbursement of expenses.

Section 216 would allow FSN employees, under restricted circumstances, to obtain retirement credit for certain service performed under contract.

Title III

Section 301(1) modifies slightly existing limitations on the number of members of the SFS who can be non-career appointees.

Section 301(2) provides several exclusions to the five year limitation on service under Foreign Service limited appointments which operations since passage of the Foreign Service Act have shown to be desirable:

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Section 302 clarifies eligibility for within grade salary increases on the Foreign Service schedule, as has been requested by the General Accounting Office, and provides authority to set pay levels for the Director of the Office of Foreign Missions and the Director of International Communications.

Sections 303(1), (2), and (3) are related amendments making slight modifications in the use of Limited Career Extensions in light of experience under the Foreign Service Act.

Section 303(4) provides for judicial review at the request of either party in separation for cause cases.

Sections 304(1) and (2) extend family visitation travel authority to allow use for dependents, and to allow family members to visit a member of the Service at post.

Section 304(3) provides for payment for involuntary household moves at post.

Section 305 provides survivor and health benefits for former spouses of members of the Service not covered by the Foreign Service Act of 1980, and parallels a substantially identical section in the recently enacted Intelligence Authorization Act.

Section 306(1) changes the statutory salary for Ambassadors-at-Large from Executive Level II to Executive Level IV.

Section 306(2) eliminates the 180 day limitation on payment of the Subsistence Expense Allowance (SEA) in evacuation cases.

Section 306(3) prohibits inclusion of post differentials or foreign allowances for hardship in the basic salary used for computation of lump sum leave payments when an employee of the government retires at a post abroad.

Section 306(4) provides for educational continuity for children following the death or evacuation of an employee, for the remainder of a current school year.

Section 306(5) combines the present temporary lodging and supplementary post allowances abroad into a single per diem type allowance comparable to that paid employees on transfers to and within the United States.

Section 306(6) modifies certain civil service transfer allowances to bring them into conformity with that currently provided to the more equitable Foreign Service provisions.

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Section 306(7) updates educational allowance authorities to bring them into line with current circumstances, by allowing payment at the time of transfer, by providing educational services to young handicapped children, and by allowing educational allowances and travel "non-foreign" areas outside the United States and to accredited institutions of higher education other than traditional undergraduate colleges.

Title IV

Sections 401 - 415 are primarily technical in nature, intended to conform the Foreign Service Retirement and Disability system (FSRDS) with changes in the Civil Service Retirement System (CSRS) made by the Civil Service Retirement Spouse Equity Act of 1984. Topics include:

- 402 - Computation of Annuities
- 403 - Death in Service
- 404 - Former Spouses Married 10 years
- 405 - Survivor benefits for Children
- 406 - Lump Sum Payments
- 407 - Court Orders
- 408 - Contributions for Prior Service
- 409 - Minimum Age Requirement
- 410 - Voluntary Retirement
- 411 - Creditable Service
- 412 - COLA
- 413 - Election to Provide Survivor Annuity
- 414 - Savings Provision
- 415 - Effective Dates



United States Department of State

Washington, D.C. 20520

Dear Mr. President:

In accordance with Section 15 of the Act of August 1, 1956, as amended (22 U.S.C. 2680), there is transmitted herewith proposed legislation to authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during the fiscal years 1988 and 1989 and for other purposes contained in this bill.

The primary purpose of the bill is to provide authorization of appropriations for (1) "Administration of Foreign Affairs" which supports the operation of the United States diplomatic and consular posts abroad and the Department of State in the United States; (2) "International Organizations, Conferences and other activities," which includes contributions to meet obligations pursuant to treaties, conventions or specific acts of Congress and other activities; (3) "International Commissions," which enables the United States to fulfill treaty and other international obligation; and (4) "Other Activities" which funds the U.S. Bilateral Science/Technology Agreement, The Asia Foundation and the Soviet-East European Research/Training Fund, and also funds the United States annual contribution to the International Committee of the Red Cross and various refugee assistance programs. A section-by-section analysis further explaining the proposed legislation is also enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

With best wishes,

Sincerely,

J. Edward Fox
Assistant Secretary
Legislative and Intergovernmental Affairs

Enclosure:

1. Proposed Legislation.
2. Section-by-Section Analysis.

The Honorable
George Bush,
President of the Senate.



United States Department of State

Washington, D.C. 20520

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With best wishes,

Sincerely,

J. Edward Fox
Assistant Secretary
Legislative and Intergovernmental Affairs

Enclosure:

1. Proposed Legislation.
2. Section-by-Section Analysis.

The Honorable
Jim Wright,
Speaker of the House of
Representatives.