

RESTRICTED

MEMORANDUM FOR: See Distribution

VIA: Acting Chief, Liaison Division, OLL

FROM: [Redacted]
Liaison Division, OLL

SUBJECT: Retirement: Senator Stevens Supplemental Plan

1. Attached hereto is the updated version of Senator Ted Stevens (R., AL) bill to establish a "Civil Service Pension" for all Federal civilian employees hired on or after 1 January 1984. Also attached is the most recent draft of a "Section-by-Section Analysis" of the bill, and summary of the bill. Please destroy earlier versions of the bill (the last distributed was dated 16 January 1984).

2. The staff does not anticipate further changes. This bill will soon be introduced and hearings will commence in March. There are no changes to earlier reports on Senate plans for supplemental retirement.

(b)(3)

(b)(3)

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6 MARCH 1985

Section-by-Section Analysis

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

Title I - Civil Service Pension System

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

Subchapter I of this chapter provides definitions for administration of the CSPS, identifies the participants in the new CSPS, and specifies its relationship to the Social Security Act. Employees of the District of Columbia are specifically excluded. Employees of the current Civil Service System are included if they so choose pursuant to Section 8471.

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

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

Subsections (a) and (b) provide for an immediate annuity at age 55 with 30 years of service and age 62 with 10 years of service.

Subsections (c) and (d) provide for an immediate annuity to the special retirement classes (law enforcement officer, firefighter, or air traffic controller) at age 55 with 25 years of service in those respective occupations.

Subsection (e) recognizes the unique situation of military technicians who must maintain military membership as a condition of civil service employment. This currently is covered, for National Guard technicians, in the National Guard Technicians Act of 1968; for reserve technicians, coverage is by administrative agreement with the Office of Personnel Management.

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

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

Section 8412 provides for deferred retirement at age 62 to a participant under age 62 who terminates service after completing 10 years of civilian service.

Section 8413 provides the formula for computing the annuity a participant is entitled to receive. The formula is 0.85 percent of the average pay over a period of five consecutive years multiplied by the number of years of service. For the special retirement classes, an annuity supplement equal to the amount of Social Security benefits paid at age 62 will be paid to annuitants under age 62 until they reach age 62. This

supplement will be increased annually by the percent increase in the index of national salaries and wages.

Section 8414 provides for a reduction of an immediate annuity by two percent for each year the participant is under age 62 on the date of separation. For employees in the special retirement classes who are involuntarily separated prior to age 55, the two percent reduction applies to each year the participant is under age 55. This is also applicable to military technicians whose loss of military status results in their involuntary separation from their technician position.

Section 8415 lists the methods by which an annuity may be reduced to provide for a survivor annuity.

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

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

Section 8416 provides that OPM shall prescribe methods of payment of annuities and participant election of the method preferred. Included in those methods are:

- (1) a monthly annuity only during the life of the annuitant
- (2) a monthly annuity for the joint lives of the annuitant and spouse and the life of the one of them who survives the other.

Section 8417 provides that the participant's employing agency shall contribute an amount equal to the normal cost of an annuity under this subchapter for each participant employed by the agency. It also provides for a yearly determination of the Fund's supplemental liability which is to be credited to the Fund by the Secretary of the Treasury or the Postmaster General of the United States, as appropriate.

Subchapter III describes the thrift savings plan, which is an optional plan permitting participants and those former participants who are receiving disability benefits to contribute a percentage of their basic pay or disability benefits to a selected investment vehicle and have those contributions matched two for one by the government, up to a maximum of an eight percent government contribution.

Section 8421(a) allows participants to contribute up to 10 percent of their basic pay to the thrift plan. Former participants under age 62, who are receiving disability benefits, may contribute up to 10 percent of the disability benefits payable. An opportunity to change the contribution amount will be provided at least annually.

Section 8421(b) requires the employing agency to contribute an amount equal to twice the contribution of the participant at the same time as the participant's contribution is made. The total amount of the employing agency's contribution cannot exceed eight percent of the participant's annual rate of basic pay or the disabled participant's disability benefits

for the fiscal year.

Section 8421(c) provides that appropriations or funds available to the agency for payments of basic pay are to serve as the source of the agency's contribution to the thrift fund.

Section 8421(d) provides that amounts contributed by the employee to the thrift fund are not included in gross income for income tax purposes.

Section 8422 provides a vesting schedule for the thrift plan. A participant immediately vests in his contributions and their earnings. Beginning at two years of service, the participant vests in 25 percent of the employer's contribution. This increases by 25 percent for each additional year of participation up to five years and beyond, when the entire share contributed by the employer, plus interest, is vested. A participant who dies while employed by the government immediately vests in 100 percent of the employer's contribution and the earnings on it.

Subsection 8423(a) permits a participant who separates from government employment when entitled to an immediate annuity to elect one of four methods of receiving money credited to his or her thrift account. These methods are:

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

Subsection 8423(b) permits a participant who separates from government employment before becoming entitled to an immediate annuity to elect one of three methods of receiving money credited to his or her thrift account. These methods are:

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

Subsection 8423(c) permits a participant who elected to defer an annuity payment under subsection 8423(a) to modify the date specified in that election.

Subsection 8423(d) requires participants who transferred from the CSRS to wait five years from their date of participation before they can receive or transfer their accounts if they separate from service during the five year period. This limitation does not apply to transferees who become eligible for an immediate or a deferred annuity before the five year period expires.

Section 8424 describes how annuities available from the thrift plan will be computed and paid. The Thrift Investment Board will prescribe methods of payment which must include a monthly annuity payable only during the life of the annuitant and a monthly annuity payable for the joint lives of the one who survives the other. The amounts will be determined in accordance with generally accepted actuarial principles. Methods for providing annual increases in the annuity payable must also be

prescribed. At the end of each fiscal year, a reconciliation of the investment experience for the annuitant's account and the actuarial assumptions used to compute the annuity will be made. Any excess return will be used to purchase an additional annuity payable from the fund.

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

Section 8426 establishes the Thrift Savings Fund and prescribes how monies in the Fund may be used. One such use is loans to participants in cases of hardship.

Section 8427 identifies categories of investments available to the Board for investment of sums in the Fund and provides that Fund participants may elect the type or types of investments into which money in their account will be invested. The section also specifies, for the implementation phase, a minimum percentage of contributions made (1) by the participant and (2) on behalf of the participant which must be invested, during a given period of time, in United States government securities. The initial percentage is 100, reduced over a four year period by 25% each year for the participant's contributions. For the agency's contribution, the reduction goes to a final rate of 12.5% over a 12 year period. All sums initially credited for transfer participants and for participants hired during the temporary adjustment period will be invested in U.S. government securities. All amounts earned on sums invested in

interest-bearing securities of the United States government and matured investments will be reinvested in interest-bearing securities of the United States government. The Board is restricted from investing in equity securities of private businesses to the extent that their ownership interest would permit them to direct the management of that private business.

Section 8428 prescribes how the Board is to account for the funds of each participant in the System and requires that the participant be provided an annual statement of his or her account.

Subchapter IV describes the benefits available to survivors of deceased participants and former participants.

Section 8431 provides for payment of death benefits from the basic plan to a participant's survivor if the deceased had at least 18 months of service. The survivor gets the higher of:

(1) 50 percent of the accrued annuity (computed as if the worker had retired the day before death, with any applicable early retirement reductions, but without the reduction for survivor benefits), or

(2) 25 percent of the worker's high-five average salary. This benefit is offset by the family benefits. This offset does not apply if the only benefit payable is a child's insurance benefit.

Section 8432 provides for payment of death benefits from the basic plan to a retiree's survivor unless the surviving spouse waived a survivor annuity. Survivors

eligible for social security benefits get 50 percent of the unreduced annuity (except for early retirement reduction). Survivors who are not eligible for social security get the full annuity that was payable to the retiree (after reductions for early retirement and survivor benefits). When they become eligible for social security, they get 50 percent of that amount, taking into account any adjustments made in the annuity since the date of death.

Money required to pay an annuity to a former spouse is deducted from the amounts described above.

Section 8433 provides for survivor benefits from the thrift savings plan using one of three methods. These are:

- (1) An annuity payable for life,
- (2) Transfer of the money to the spouse's individual retirement account, or
- (3) Lump sum payment

Money required to pay an annuity to a former spouse is deducted from a distribution to the surviving spouse or the estate and held in a fund until expended in payment of that annuity, unless terminated. Any remaining money in such fund goes to the surviving spouse or the estate.

Section 8434 provides for survivor benefits from the basic plan and the thrift plan for eligible former spouses. The benefits from the basic plan are the same as for a surviving spouse under sections 8431 or 8432.

-- In all three of the above sections, any prior elections or prior court orders or decrees concerning an annuity for a

former spouse must be honored before payment to a surviving spouse or another former spouse can be made.

-- Benefits from the thrift fund are determined actuarially.

Section 8435 provides for a former participant to elect a survivor benefit from the basic plan and the thrift plan for an eligible former spouse.

Subsection (a) permits a participant who has a former spouse to elect an annuity reduction in order to provide a survivor annuity to such former spouse. The election must be made on the date payment of an annuity from the basic plan commences or, if later, within two years after the date on which the marriage of the former spouse to the participant is dissolved. A deposit, computed to reflect the amount by which the annuity would have been reduced if it had been continuously in effect since the date the annuity commenced, plus interest at six percent is required. If the deposit is not made, the retiree's annuity will be offset. An election of an annuity reduction to provide a survivor benefit to a former spouse shall not be effective if it

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

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

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

Section 8436 provides for termination of a survivor annuity on death of the spouse, or former spouse, dissolution of the marriage, or remarriage of the former spouse before reaching age 55.

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

Section 8441 provides definitions for the administration of this benefit.

Section 8442 provides that an eligible participant is entitled to receive benefits under this subchapter while under age 62. At age 62, the annuity is payable under the basic plan provisions of subchapter II based on at least 10 years actual service plus projected service through age 62. Average pay is equal to pay on the date of disability, increased each time after that date by the compounded overall average percentage increase in the rates of the General Schedule pursuant to section 5305.

Section 8443 provides the following methods for computing disability benefits:

- (1) If eligible for Social Security or ineligible for Social Security only as a result of insufficient quarters of coverage, 60 percent of the high five salary minus 100 percent of the Social Security benefit.

- (2) If ineligible for Social Security, 60 percent of the high five salary for the first year. After the first year, 20 percent of the high five or the accrued benefit based on projected service through age 62, whichever is lower.

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

Section 8445 requires OPM to direct a medical examination of disability retirement applicants.

Section 8446 requires that an applicant who is determined able to perform the work required in any position offered by the agency must be considered for appointment to such position. The applicant is entitled to appeal such a determination.

Section 8447 provides for termination of disability benefits to an individual who recovers from the disability before reaching age 62. These benefits may be resumed if there is a recurrence of disability. In the case of an individual whose benefits were terminated due to restored earning capacity, benefits are resumed if he is not reemployed within one year, his disability continues, and his income for one year is less than the amount establishing his restored earning capacity.

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

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

Section 8450 requires agencies to pay disability benefits from their salary appropriations.

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

Section 8451 provides that OPM shall pay all benefits payable under the basic plan from the Fund.

Section 8452 provides for an annual adjustment to the basic pension of the consumer price index minus 2 percentage points. The adjustment is made in January and is based on the change from September to September. A pro rata share of the increase is payable to retirees or survivor annuitants for whom this is the first increase.

Section 8453 provides that each annuity and disability benefit is stated as an annual amount, one-twelfth of which is the monthly rate payable.

Section 8454 provides that a participant's annuity under the basic pension begins to accrue on the day after the participant separates from government employment and terminates on the date of death or other terminating event provided by law. It further provides that a survivor annuity begins to accrue on the date of death of the participant or retiree on whom the annuity is based and terminates

on the last day of the last month ending before the surviving spouse dies or remarries before age 55.

Section 8455 provides that an individual entitled to receive a basic pension may waive receipt of all or part of the benefits. An individual may also make allotments from the benefit payment.

Section 8456 provides that an application for benefits must be received before the former participant's 115th birthday; for survivor benefits, the application must be received within 30 years after the death or other event which establishes entitlement to the benefit.

Section 8457 requires compliance with the terms of a court order requiring payment of an annuity, in whole or in part, to another person.

Section 8458 provides for termination of an annuity when an annuitant is employed in an appointive or elective position in the Government. Upon termination of the employment, his annuity rights are redetermined. The amount of the annuity resulting from a redetermination is not less than the amount of the terminated annuity plus any increases under section 8452 of this title.

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

Section 8471 permits CSRS participants to elect to transfer to the CSPA or to begin participation in the CSPA and retain accrued credit for entitlement to benefits under the CSRS for service subject to that system. It also permits

the same election to rehires who are required to participate in the CSPS but who have an unrefunded lump-sum credit in the Fund based on prior service under the CSRS.

Section 8472 provides that for transferees from the CSRS to the CSPS, the total amount deposited to the CSRS Fund on their behalf (employee and employer contributions), plus interest on this amount as if it had been credited at an annual rate of seven percent at the end of each year for the amount deposited during that year and had been compounded, will be transferred to the thrift savings fund in the form of U.S. Government securities. All service credited under subchapter III of chapter 83 is creditable service for the basic pension benefit.

Section 8473 provides that CSRS participants who elect to first participate in the CSPS are allowed credit for service under both systems for purposes of determining eligibility to retire in both systems. Pay for such individuals subsequent to beginning participation in the CSPS is taken into account in computing average pay under both systems.

Section 8474 provides that service by a participant during the temporary adjustment period will be recognized by transferring from the Fund to the Thrift Savings Fund an amount which equals his or her contributions plus twice that amount plus interest at 10%.

Section 8475 excludes former CSRS participants who join

the CSPS from the offset provisions of the Social Security Act.

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

Subchapter VIII describes the Civil Service Thrift Investment Board, which administers the Thrift Savings Fund.

Section 8491 provides that the Board is established as an independent establishment in the executive branch of the Federal government. The Board will be composed of six members appointed by the President, confirmed by the Senate, and an Executive Director appointed by a majority of the members. Except for the members first appointed under this section, the members and the Executive Director are appointed for seven years.

Section 8492 lists the functions of the Board and the Executive Director.

Section 8493 states the powers of the Board.

Section 8494 states the powers of the Executive Director, including the authority to contract with private business concerns for the investment of sums in the Thrift Savings Fund and the management of such investments.

Section 8495 provides rules of administration for actions of the Board.

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

Title II - Amendments to the Internal Revenue Code of 1954 and the Social Security Act.

Section 201(a) amends section 210(a)(5) of the Social Security Act by adding a new subparagraph concerning service performed by an individual who transfers to or commences participation in the CSPS.

Section 201(b) amends section 3121(b)(5) of the Internal Revenue Code of 1954 by adding a new subparagraph concerning service performed by an individual who transfers to or commences participation in the CSPS.

Title III - Miscellaneous Amendments

Section 301 amends section 5363(a) of title 5, United States Code, to provide pay retention for disabled employees placed as a result of subchapter V of chapter 84 in a lower grade position.

Section 302(a) amends section 8331 of title 5, U.S. code, to exclude District of Columbia government employees first employed after the effective date of this Act.

Section 302(b) amends section 8332 of title 5, United States Code, by adding a new subsection excluding participants in the CSPS from the creditable service provisions of the CSRS. Also excluded are those who transfer from the CSRS.

Section 302(c) amends section 8334(a) of title 5, United States Code, relating to deductions from an employee's pay for both CSRS and Social Security coverage. An employee who was covered by the CSRS on December 31, 1983 and who was subsequently covered by Social Security will continue in the

CSRS at a reduced contribution. The contribution to CSRS will be equal to the excess of the employee's normal CSRS contribution over the full Social Security contribution.

Section 302(d) amends section 8334(d) of title 5, United States Code, to exclude participants under chapter 84 from making a redeposit to the Fund for a refund of retirement deductions covering service for which they may be allowed credit under subchapter III of chapter 83.

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

Section 303 excludes participants in the CSPS from participation in the Foreign Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System. It includes officers and employees of the Postal Service for coverage under the provisions of chapters 83 and 84 of title 5.

Section 304 amends title 5, U.S. Code, to incorporate health benefit plan eligibility requirements for former spouses as a result of P.L. 98-615.

Title IV - Authorization and Effective Dates.

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

Section 402 provides that this act takes effect 180 days after enactment, except for subchapter VIII of chapter 84 (relating to the Civil Service Thrift Investment Board), which takes effect on the date of enactment.

6 MARCH 1985

Senator Stevens' Retirement Plan

Participation-

- All permanent federal employees covered by Social Security on or after January 1, 1984 with the exception of employees who were participants in CSRS on December 31, 1983.
- All those who are currently subject to CSRS and who elect to join.

I. BASIC PLAN-

- 0.85% x high 5 years of salary x years of service.
- 2% per year reduction of annuity under age 62.
- Can retire with immediate annuity at age 62 with 10 years of service; age 55 with 30 years of service.
- Involuntary retirement age 50 with 20 years of service, any age and 25 years of service.
- Disability and survivor benefits integrated with Social Security.
- Deferred annuity at age 62 for employees with 10 years service who leave prior to retirement eligibility.
- Retains special retirement classes (Law enforcement, firefighters and air traffic controllers)
 - Age 55 with 25 years of service
 - Age 62 with 10 years of service
 - No reduction under 62
 - Retirement Supplement under 62 equal to Social Security benefit available at 62.

Funding

Agency contributes to CSR fund the percentage of pay necessary to meet the projected cost of benefits. Any supplemental liabilities to be amortized from Treasury over 30 year period. Agency also pays cost of annuity for disability retirees under age 62.

Fund for basic plan will be the same as that for CSRS. OPM pays benefits, must provide life annuity and joint and survivor annuity along with any other annuity form OPM desires as long as actuarially equivalent.

Basic pension is adjusted annually in January for the change in CPI from September-September minus two.

Disability

18 months for vesting

If eligible for Social Security, 60% of high 5 minus 100% of Social Security benefit from onset of disability to age 62.

If ineligible for Social Security:

1) Definition tightened resulting in placement of disabled employee in any job in commuting area for which qualified within 2 grades of current position.

2) 1st year - 60% of high 5

3) After 1st year - 20% of high 5 or accrued benefit based on projected service through age 62, whichever is lower.

In both cases, accrued benefit after age 62 based on actual service plus projected service through age 62. Must have 10 years of actual and projected service.

Survivor Annuity

A. Preretirement survivor benefits:

1. Benefits payable immediately if the deceased had at least 18 months service

2. Survivor gets the higher of:

(a) 50 percent of the accrued annuity (computed as if the worker had retired the day before death, with any applicable early retirement reductions, but without the reduction for survivor benefits) plus any social security payable,

(b) 25 percent of the worker's high-five average salary minus any social security family benefits (not applicable if only benefit payable is child's insurance benefit).

B. Postretirement survivor benefits: Annuity to married retiree automatically reduced actuarially as in a 50 percent joint-and-survivor plan to provide a spouse survivor annuity - waived with consent of spouse.

1. Survivors eligible for Social Security benefits get 50 percent of the unreduced annuity (except for early retirement reduction) plus any social security payable.

2. Survivors not eligible for Social Security get the full annuity that was payable to the retiree (after reductions for early retirement and survivor benefits) until age 60, when they

will get 50 percent of the accrued annuity after early retirement reductions plus any social security payable.

- C. Survivors benefits to widows and widowers cease if they remarry before age 55 (this reflects the provision in the new Civil Service Retirement Spouse Equity Act of 1984).
- D. Child survivor benefits: none from plan, social security only.
- E. Former spouse benefits: Any prior elections or court orders concerning an annuity for a former spouse must be honored before payment to a surviving spouse or another former spouse can be made.

II. THRIFT/SAVINGS PLAN

- Participant may contribute to the fund any amount not exceeding 10 percent of basic pay.
- Contributions will be tax deferred.
- Agency shall contribute \$2 for every \$1 contributed by employee up to 4% of employee basic pay.
 - Maximum agency contribution will be 8% of pay.
- Employee elects category of investment(s) for his account, receives annual statement of earnings, annual opportunity to change amount contributed, category of investment(s).
- At retirement may withdraw, rollover in IRA, draw an annuity or defer.
- Upon separation prior to retirement eligibility may rollover in IRA or qualified employer pension or leave till age 62 and withdraw or receive an annuity.

Investments

1st year - all monies invested in federal securities.

2nd year and beyond - each year a 25% increment of employee money to be invested by Board of Trustees in any federal, state, local or private interest bearing securities, equities, real estate, etc. Agency money to be invested in 12.5% increments beginning in year 6. After year 4 all employee money to be invested by board; after year 12, all agency money.

Thrift Investment Board

Off budget agency.

6 trustees.

Appointed by President, confirmed by Senate.

Executive Director appointed by Board, must have

substantial experience, training or expertise in the management of financial investments.

All trustees have 7 year appointments except first few to be graduated.

III. Transition provisions

For current employees to join new system - two options (also applicable to rehires covered by the plan who have an unrefunded lump-sum credit from prior service under the CSRS).

1) employee contributions to current system will be matched by government money plus 7% interest (credited annually and compounded) from CSRS and transferred to thrift/savings account of employee. Additionally, credit under current program will be transferred to credit under new basic plan.

2) credit in current program will freeze and employee may accrue new credit in new program. Service in new program will count towards eligibility to retire in old. Salary in new will count towards high 3 in old. However, service in new program will not accrue for old. Service in old program will count towards eligibility to retire in new but will not accrue in new.

Employees hired during interim period will be given credit for service in basic plan plus 1.3% contribution will be matched 2 for 1 with a 10% interest applied and put in employees' thrift/savings accounts.

Employee covered by CSRS prior to January 1, 1984 and covered by Social Security pursuant to Social Security Amendments of 1983 will contribute difference between OASDI contribution and normal CSRS contribution to CSRS fund. Entitled to full CSRS benefit until begins receiving Social Security payment. CSRS benefit recomputed and reduced by the amount of the Social Security benefit attributable to service performed while employee of federal government. Applies to normal benefit, disability and survivor benefits.

6 MARCH 1985

079910.087

S.I.C.

99th CONGRESS
1st Session

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. Stevens introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

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

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled.

3 That this Act may be cited as the "Civil Service Pension
4 Reform Act of 1985".

5 PURPOSES

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

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

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

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

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S.I.C.

1 Federal Government retirement benefits plan;

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

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

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

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

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

15 TITLE I--CIVIL SERVICE PENSION SYSTEM

16 ESTABLISHMENT

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

19 ``CHAPTER 84--CIVIL SERVICE PENSION SYSTEM

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

``Sec.

``8401. Definitions.

``8402. Civil Service Pension System; participation.

``8403. Relationship to the Social Security Act.

``SUBCHAPTER II--BASIC PLAN

``8411. Entitlement.

``8412. Deferred retirement.

``8413. Computation of annuity.

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S.I.C.

3

- ``8414. Reduction for early retirement.
- ``8415. Reduction for survivor annuities.
- ``8416. Methods of Payments.
- ``8417. Funding.

``SUBCHAPTER III--THRIFT SAVINGS PLAN

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

``SUBCHAPTER IV--SURVIVOR BENEFITS

- ``8431. Basic plan benefits relating to death of a participant.
- ``8432. Basic plan benefits relating to death of a former participant.
- ``8433. Survivor benefits under the thrift savings plan.
- ``8434. Survivor benefits for former spouses: entitlements; amount.
- ``8435. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.
- ``8436. Termination of entitlement.

``SUBCHAPTER V--DISABILITY BENEFITS

- ``8441. Definitions.
- ``8442. Entitlement.
- ``8443. Computation of benefits.
- ``8444. Application.
- ``8445. Medical examinations.
- ``8446. Offers of alternative employment.
- ``8447. Recovery or restoration of earning capacity.
- ``8448. Relationship to workers' compensation.
- ``8449. National Guard technicians.
- ``8450. Funding.

``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- ``8451. Responsibilities.
- ``8452. Cost-of-living adjustment in basic plan annuities, survivor annuities, and disability benefits.

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S.L.C.

- ``8453. Rate of benefits.
- ``8454. Accrual and termination of annuities.
- ``8455. Waiver, allotment, and assignment of benefits.
- ``8456. Application for benefits.
- ``8457. Court orders.
- ``8458. Annuities and pay on reemployment.

``SUBCHAPTER VII--TRANSITION PROVISIONS

- ``8471. Elections.
- ``8472. Transfer participants.
- ``8473. Participants retaining entitlement in the Civil Service Retirement and Disability System.
- ``8474. Participants hired during temporary adjustment period.
- ``8475. Exemption from offset provision of the Social Security Act.
- ``8476. Regulations.

``SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT BOARD

- ``8491. Establishment; membership.
- ``8492. Functions.
- ``8493. Powers of the Board.
- ``8494. Powers of the Executive Director.
- ``8495. Administrative provisions.
- ``8496. Fiduciary responsibilities; liability and penalty.

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

2 ``§ 8401. Definitions

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

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

8 ``(2) the term 'annuitant' means a former participant
9 who is entitled to an annuity under this chapter and who
10 has applied under this chapter for the payment of the
11 annuity to begin;

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

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

11 “(A) means the lesser of--

12 “(1) the basic pay of the participant
13 established pursuant to law, without regard to
14 any provision of law limiting the rate of pay
15 actually payable in any pay period (including any
16 provision of law restricting the use of
17 appropriated funds); or

18 “(1i) the rate of basic pay payable for
19 level I of the Executive Schedule; and

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

24 “(5) the term ‘Board’ means the Civil Service Thrift
25 Investment Board established by section 8491(a) of this

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1 title;

2 ``(6) the term 'Civil Service Retirement and
3 Disability Fund' means the Civil Service Retirement and
4 Disability Fund referred to in section 8348 of this
5 title;

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

13 ``(8) the term 'Director' means the Director of the
14 Office of Personnel Management;

15 ``(9) the term 'dynamic assumptions' means economic
16 assumptions that are used in determining actuarial costs
17 and liabilities of a retirement system and anticipate the
18 effects of long-term future--

19 ``(A) investment yields,

20 ``(B) increases in rates of basic pay, and

21 ``(C) rates of inflation;

22 ``(10) the term 'earning', when used with respect to
23 the Thrift Savings Fund, means the amount of the gain
24 realized or yield received from the investment of sums in
25 such fund;

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1 “(11) the term ‘eligible former spouse’, when used
2 with respect to a participant or former participant,
3 means a former spouse of the participant or former
4 participant if--

5 “(A) the participant or former participant
6 performed at least 18 months of civilian service
7 covered under this chapter as a participant or
8 subchapter III of chapter 83 of this title; and

9 “(B) the former spouse was married to the
10 participant or former participant for at least 9
11 months;

12 “(12) the term ‘employee’ means--

13 “(A) each individual referred to in
14 subparagraphs (A), (E), (F), (H), (I), and (J) of
15 section 8331(1) of this title; and

16 “(B) a Congressional employee as defined in
17 section 2107 of this title, including a temporary
18 Congressional employee;

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

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1 paragraph, any individual excluded under section
2 8402(b)(2) of this title, or any individual who was
3 subject to subchapter III of chapter 83 of this title on
4 December 31, 1983, and has not elected to transfer to the
5 System or to commence participation in the System
6 pursuant to section 8471(a) of this title;

7 "(13) the term 'Executive Director' means the
8 Executive Director of the Board;

9 "(14) the term 'firefighter' has the same meaning
10 provided in section 8331(21) of this title;

11 "(15) the term 'Fund' means the Civil Service
12 Retirement and Disability Fund;

13 "(16) the term 'Government' has the same meaning
14 provided in section 8331(7) of this title;

15 "(17) the term 'law enforcement officer' has the
16 same meaning provided in section 8331(20) of this title;

17 "(18) the term 'loss', when used with respect to the
18 Thrift Savings Fund, means the amount of the loss
19 realized from the investment of sums in such fund;

20 "(19) the term 'lump-sum credit' has the same
21 meaning as provided by section 8331(8) of this title;

22 "(20) the term 'Member' has the same meaning as
23 provided by section 2106 of this title, except that such
24 term does not include a Member who was subject to
25 subchapter III of chapter 83 of this title on December

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1 31, 1983, and has not elected to transfer to the System
2 or to commence participation in the System pursuant to
3 section 8471(a) of this title;

4 ``(21) the term 'net earnings' means the excess of
5 earnings over losses;

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

8 ``(23) the term 'normal cost', when used with respect
9 to an annuity of a participant, means the entry-age
10 normal cost of the annuity, computed by the Office in
11 accordance with generally accepted actuarial practice and
12 standards (using dynamic assumptions) and expressed as a
13 level percentage of the basic pay of the participant;

14 ``(24) the term 'Office' means the Office of
15 Personnel Management;

16 ``(25) the term 'participant' means an employee or
17 Member;

18 ``(26) the term 'price index' has the same meaning as
19 provided in section 8331(15) of this title;

20 ``(27) the term 'service', when used with respect to
21 a participant or former participant, means employment of
22 the participant or former participant (while a
23 participant) that would be creditable under section 8332
24 of this title if the participant or annuitant were
25 subject to subchapter III of chapter 83 of this title

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1 instead of this chapter (and is not credited for the
2 purposes of the application of such subchapter to the
3 participant or former participant);

4 “(28) the term ‘supplemental liability’, when used
5 with respect to a fiscal year, means the estimated excess
6 of--

7 “(A) the sum of--

8 “(1) the present value of all benefits
9 payable from the Fund after such fiscal year to
10 participants and former participants, and to
11 their survivors, under this chapter, computed in
12 accordance with generally accepted actuarial
13 practice and standards (using dynamic
14 assumptions),

15 “(11) the excess of the amount of the
16 administrative expenses incurred by the Office in
17 carrying out this chapter during such fiscal year
18 over the amount of the administrative expenses
19 estimated for such fiscal year for the purposes
20 of clause (iii) of this paragraph at the end of
21 the preceding fiscal year; and

22 “(iii) the estimated amount of the
23 administrative expenses that the Office will
24 incur in carrying out this chapter during the
25 ensuing fiscal year; over

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1 “(B) the sum of--

2 “(i) the total amount of the contributions
3 made on behalf of participants pursuant to
4 section 8417(a) of this title;

5 “(ii) the present value of the contributions
6 to be made on behalf of participants pursuant to
7 such section 8417(a);

8 “(iii) the amount of the net earnings from
9 investment of sums contributed on behalf of
10 participants pursuant to such section 8417(a);
11 and

12 “(iv) the present value of the amount of the
13 net earnings expected to be realized from
14 investment of sums contributed on behalf of
15 participants pursuant to such section 8417(a);
16 and

17 “(29) the term ‘System’ means the Civil Service
18 Pension System described in section 8402(a) of this
19 title.

20 “§ 8402. Civil Service Pension System; participation

21 “(a) The provisions of this chapter comprise the Civil
22 Service Pension System.

23 “(b)(1) Except as provided in paragraph (2) of this
24 subsection, each employee and Member shall be a participant
25 in the System.

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1 “(2)(A) The Office may exclude from the operation of
2 this chapter an employee or group of employees in or under an
3 Executive agency whose employment is temporary or
4 intermittent, except an employee who occupies a position as
5 part-time career employment (as defined in section 3401(2) of
6 this title).

7 “(B) The Architect of the Capitol may exclude from the
8 operation of this chapter an employee under the Office of the
9 Architect of the Capitol whose employment is temporary or of
10 uncertain duration.

11 “(C) The Librarian of Congress may exclude from the
12 operation of this chapter an employee under the Library of
13 Congress whose employment is temporary or of uncertain
14 duration.

15 “§ 8403. Relationship to the Social Security Act

16 “Except as otherwise provided in this chapter, the
17 benefits payable under the System are in addition to the
18 benefits payable under the Social Security Act.

19 “SUBCHAPTER II--BASIC PLAN

20 “§ 8411. Entitlement

21 “(a) An employee or a Member who is separated from
22 employment by the Federal Government after becoming 55 years
23 of age and completing 30 years of service is entitled to an
24 immediate annuity.

25 “(b) An employee or a Member who is separated from

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1 employment by the Federal Government after becoming 62 years
2 of age and completing 10 years of service is entitled to an
3 immediate annuity.

4 “(c) An employee who is separated from employment by the
5 Federal Government after becoming 55 years of age and
6 completing 25 years of service as a law enforcement officer
7 or firefighter, or any combination of such service totaling
8 at least 25 years, is entitled to an immediate annuity.

9 “(d) An employee who is separated from employment by the
10 Federal Government after becoming 55 years of age and
11 completing 25 years as an air traffic controller is entitled
12 to an immediate annuity.

13 “(e)(1) For the purposes of this subsection--

14 “(A) the term ‘military technician’ means a member
15 of the reserve components of the Armed Forces who is
16 assigned to a civilian position as a technician in the
17 administration and training of the reserve components of
18 the Armed Forces or the maintenance and repair of
19 supplies issued to the reserve components of the Armed
20 Forces; and

21 “(B) the term ‘reserve components of the Armed
22 Forces’ means the reserve components of the Armed Forces
23 specified in section 261(a) of title 10.

24 “(2) A military technician who is separated from
25 employment by the Federal Government after becoming 55 years

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1 of age and completing 30 years of service is entitled to an
2 immediate annuity.

3 "(f)(1) Except as provided in paragraph (2) of this
4 subsection, any employee who has completed 25 years of
5 service, or is not less than 50 years of age and has
6 completed 20 years of service, and who--

7 "(A) is separated from employment by the Federal
8 Government involuntarily, except by removal for cause on
9 charges of misconduct or delinquency; or

10 "(B) while serving in a geographic area designated
11 by the Director, is voluntarily separated from employment
12 by the Federal Government during a period that--

13 "(i) the agency in which the employee is serving
14 is undergoing a major reorganization, a major
15 reduction in force, or a major transfer of function;
16 and

17 "(ii) a significant percentage of the total
18 number of employees serving in such agency will be
19 separated or subject to an immediate reduction in the
20 rate of basic pay (without regard to subchapter VI of
21 chapter 53 of this title or comparable provisions);
22 as determined by the Director, is entitled to an immediate
23 annuity.

24 "(2) An employee described in paragraph (1)(A) of this
25 subsection is not entitled to an annuity under this

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1 subsection if the employee has declined a reasonable offer of
2 another position in the employee's agency for which the
3 employee is qualified and the offered position is not lower
4 than two grades (or pay levels) below the employee's grade
5 (or pay level) and is within the employee's commuting area.

6 “(g) An annuity authorized by this section is computed
7 under sections 8413 through 8415 of this title.

8 “§ 8412. Deferred retirement

9 “(a) A participant who is under 62 years of age and
10 separates from employment by the Federal Government after
11 completing 10 years of civilian service is entitled to an
12 annuity beginning on the date the participant becomes 62
13 years of age.

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

16 “§ 8413. Computation of annuity

17 “(a)(1) Except as provided in section 8414 or 8415 of
18 this title, the amount of the annuity a former participant is
19 entitled to receive under this subchapter shall be equal to
20 the product of 0.85 percent of the former participant's
21 average pay (while serving as an employee or Member)
22 multiplied by the participant's total service.

23 “(2) For the purposes of computing the amount of an
24 annuity under paragraph (1) of this subsection, the total
25 service of a participant who separates from employment by the

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1 Federal Government entitled to an immediate annuity or who
2 dies leaving a survivor or survivors entitled to a survivor
3 annuity includes the days of unused sick leave credited to
4 the participant under a formal leave system.

5 “(b)(1) Except as provided in section 8415 of this
6 title, a former participant who is entitled to receive an
7 annuity under subsection (c) or (d) of section 8411 of this
8 title and is under 62 years of age on the date the annuity
9 commences shall be entitled to receive an annuity supplement,
10 in addition to the amount of the annuity computed under
11 subsection (a) of this section, while under such age.

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

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

19 “(B) is attributable to service referred to in
20 section 8411(c), 8411(d), or 8411(e) of this title, as
21 applicable,

22 increased as provided in paragraph (3) of this subsection.

23 “(3) Effective on January 1 of each year, the amount of
24 the annuity supplement computed under paragraph (2) of this
25 subsection shall be increased by the percent increase, if

1 any, in the SSA average wage index (as defined in section
2 215(1)(1)(G) of the Social Security Act) published for
3 November of the preceding year over such index published for
4 November of the next preceding year.

5 ``§ 8414. Reduction for early retirement

6 ``(a) The annuity computed under section 8413(a) of this
7 title (without regard to this section or section 8415 of this
8 title)--

9 ``(1) for a participant who is separating from
10 employment by the Federal Government entitled to an
11 immediate annuity, other than a participant referred to
12 in paragraph (2) of this section, shall be reduced by
13 one-sixth of one percent for each full month the
14 participant is under 62 years of age on the date of
15 separation; and

16 ``(2) for a participant who is separating from
17 employment by the Federal Government entitled to an
18 immediate annuity under section 8411(f) of this title and
19 who--

20 ``(A) has been a law enforcement officer,
21 firefighter, or air traffic controller for the years
22 of service qualifying the participant for an
23 immediate annuity under such section 8411(f), or

24 ``(B) is a military technician (as defined in
25 section 8411(e)(1)(A) of this title) when separated,

1 shall be reduced by one-sixth of one percent for each
2 full month the participant is under 55 years of age on
3 the date of separation.

4 ``§ 8415. Reduction for survivor annuities

5 ``(a) The annuity of a former participant computed under
6 section 8413 of this title (including an annuity supplement
7 computed under subsection (b) of such section) and, if
8 appropriate, under section 8414 of this title shall be
9 reduced by the appropriate amount such that the total amount
10 of the retirement benefits expected to be payable to the
11 former participant under this subchapter and all survivor
12 benefits expected to be payable with respect to the former
13 participant pursuant to sections 8432 and 8434 of this title
14 is equal to the total amount of the retirement benefits that
15 would be expected to be payable under this subchapter to the
16 former participant pursuant to the method referred to in
17 section 8416(b)(1) of this title, determined in accordance
18 with generally accepted actuarial principles and standards.

19 ``(b) A reduction in the annuity of a former participant
20 pursuant to subsection (a) of this section shall be adjusted,
21 as appropriate to carry out such subsection, to reflect any
22 election made pursuant to subsection (b), (c), or (d) of
23 section 8435 of this title.

24 ``§ 8416. Methods of Payment

25 ``(a)(1) The Office shall prescribe methods of payment of
26 annuities under this subchapter.

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1 “(2) The Office shall include among the methods of
2 payment prescribed under paragraph (1) of this subsection--

3 “(A) a method providing for the payment of a monthly
4 annuity only to a former participant entitled to the
5 annuity during the life of the former participant; and

6 “(B) a method providing for the payment of a monthly
7 annuity for the joint lives of a former participant and
8 the spouse of the former participant and the life of the
9 one of them who survives the other of them.

10 “(b) Subject to section 8432 of this title--

11 “(1) under such regulations as the Office shall
12 prescribe, each former participant shall elect one of the
13 methods of payment prescribed by the Office under
14 subsection (a) of this section; and

15 “(2) the annuity of the former participant under
16 this subchapter shall be paid in accordance with the
17 method of payment elected by the former participant
18 pursuant to paragraph (1) of this subsection.

19 “§ 8417. Funding

20 “(a)(1) The employing agency of a participant shall
21 contribute to the Fund for each participant employed by the
22 agency an amount equal to the normal cost of an annuity under
23 this subchapter for such participant.

24 “(2) The contribution required by paragraph (1) of this
25 subsection to be made for a participant shall be made from

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1 the appropriation or fund used to pay the participant, or, in
2 the case of an elected participant, from an appropriation or
3 fund available for payment of other salaries of the office or
4 establishment of the participant. In the case of a
5 participant in the legislative branch who is paid by the
6 Clerk of the House of Representatives, contributions for the
7 benefit of such participant shall be paid from the contingent
8 fund of the House of Representatives.

9 “(b)(1) The Office of shall compute--

10 “(A) the amount of the supplemental liability of the
11 Fund relating to participants and former participants
12 other than participants and former participants referred
13 to in subparagraph (B) of this paragraph, and

14 “(B) the amount of the supplemental liability of the
15 Fund relating to participants and former participants who
16 are active or retired officers or employees of the United
17 States Postal Service,

18 as of the close of each fiscal year beginning after September
19 30, 1985.

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

21 “(A) computed pursuant to paragraph (1) (A) of this
22 subsection with respect to participants and former
23 participants referred to in such paragraph (1) (A) of
24 this subsection, and

25 “(B) computed pursuant to paragraph (1) (B) of this

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1 subsection with respect to participants and former
 2 participants referred to in such paragraph (1) (B),
 3 shall each be amortized in thirty annual installments.

4 "(3) At the end of each fiscal year, the Office shall
 5 notify--

6 "(A) the Secretary of the Treasury of the amount of
 7 the annual installment computed under paragraph (2) (A)
 8 of this subsection for such fiscal year, and

9 "(B) the Postmaster General of the United States of
 10 the amount of the annual installment computed pursuant to
 11 paragraph (2) (B) of this subsection for such fiscal
 12 year.

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

19 "(B) Upon receiving a notice required by paragraph (3)
 20 (B) of this subsection, the United States Postal Service
 21 shall pay the amount of the annual installment specified in
 22 the notice. The amount paid shall be credited to the Fund.

23 "SUBCHAPTER III--THRIFT SAVINGS PLAN

24 "§ 8421. Contributions

25 "(a)(1) Each participant may contribute to the Thrift

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1 Savings Fund in any fiscal year any amount not exceeding ten
2 percent of the participant's annual rate of basic pay.

3 “(2) Each former participant receiving disability
4 benefits under subchapter V of this chapter may, until
5 becoming 62 years of age, contribute to the Thrift Savings
6 Fund in any fiscal year any amount not exceeding ten percent
7 of the amount of the former participant's disability benefits
8 payable under such subchapter during such fiscal year.

9 “(3) Any contribution under this subsection shall be
10 made only pursuant to a program of regular contributions to
11 be made at the end of each pay period of the participant, or
12 at the end of each disability benefits payment period in the
13 case of a disabled former participant, under such regulations
14 as the Board shall prescribe.

15 “(4) At least once each year, a participant or former
16 participant may modify the amount contributed pursuant to
17 paragraph (1) or (2) of this subsection, as the case may be.

18 “(b) The employing agency of a participant who
19 contributes to the Thrift Savings Fund under subsection (a)
20 of this section for any pay period, or, in the case of a
21 disabled former participant who contributes to such fund
22 under such subsection for any disability benefits payment
23 period, the employing agency of the former participant on the
24 date of onset of the disability, shall contribute to the
25 Thrift Savings Fund for the benefit of such participant or

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1 disabled former participant at the end of such period an
2 amount equal to twice such portion of the amount of the
3 contribution of the participant or former participant as does
4 not exceed four percent of the amount of the gross pay or
5 gross disability benefits, as the case may be, payable for
6 such period.

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

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

20 “(1) any amount of the participant's pay which is
21 contributed to the Thrift Savings Fund and the amount of
22 the employing agency's matching contributions shall not
23 be included in the gross income of the participant, and

24 “(2) the Thrift Savings Fund shall be treated, for
25 purposes of determining when amounts in such Fund are

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1 included in the income of any participant, as described
2 in section 401(a) of such Code.

3 ``§ 8422. Vesting

4 ``(a)(1) A participant who separates from employment by
5 the Government shall be entitled to an amount equal to--

6 ``(A) the sum of the total amount of the
7 contributions made under section 8421(a) of this title
8 and the total amount of the net earnings in the Thrift
9 Savings Fund attributable to such contributions; and

10 ``(B) the applicable percentage of the sum of the
11 total amount contributed to the Thrift Savings Fund for
12 the benefit of the participant under section 8421(b) of
13 this title and the total amount of the net earnings in
14 the Thrift Savings Fund attributable to such
15 contributions, as provided in subsection (b) of this
16 section.

17 ``(2) The amount to which a participant is entitled under
18 paragraph (1) of this subsection shall be payable in
19 accordance with the election made by the participant pursuant
20 to section 8423 of this title.

21 ``(b)(1) For the purpose of subsection (a)(1)(B) of this
22 section, except as provided in paragraph (2) of this
23 subsection, the applicable percentage for a participant
24 separating from employment by the Government after having
25 been a participant in the System for a period set forth under

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1 column I of the table below is the percentage set forth under
2 column II of the table below opposite the description of such
3 period:

<u>Column I</u>	<u>Column II</u>
Period for which the participant has been a participant in the System:	Applicable percentage:
Less than 2 years	0
Not less than 2 years, but less than 3 years.	25
Not less than 3 years, but less than 4 years.	50
Not less than 4 years, but less than 5 years.	75
Not less than 5 years	100.

4 “(2) For the purposes of subsection (a)(1)(B) of this
5 section, the percentage applicable in the case of any
6 participant who dies while employed by the Government shall
7 be 100 percent.

8 “§ 8423. Entitlement and elections relating to entitlement

9 “(a) Any participant who separates from employment by
10 the Government entitled to an immediate annuity under section
11 8411 of this title is entitled and may elect--

12 “(1) to receive an immediate annuity from the Thrift
13 Savings Fund;

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

17 “(3) to withdraw, in one payment, the amount of the
18 balance credited to the participant’s account in the
19 Thrift Savings Fund as of such date; or

20 “(4) to transfer the amount of the balance in the

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

4 "(b) Subject to section 8425(d) of this title, any
5 participant who separates from employment by the Government
6 before becoming entitled to an immediate annuity under
7 section 8411 of this title is entitled and may elect--

8 "(1) to receive an annuity from the Thrift Savings
9 Fund commencing when the participant becomes 62 years of
10 age;

11 "(2) to withdraw, in one payment, the amount of the
12 balance credited to the participant's account in the
13 Thrift Savings Funds (subject to the limitations set out
14 in section 8422(a)(1) of this title), payable when the
15 participant becomes 62 years of age; or

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

20 "(c)(1) Subject to paragraph (2) of this subsection, any
21 participant making an election pursuant to subsection (a)(2)
22 of this section may modify the date specified in the
23 election.

24 "(2) Any modification under paragraph (1) of this
25 subsection may not specify a date for the commencement of

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1 annuity payments earlier than one month after the date such
2 modification is filed with the Board.

3 “(d)(1) Notwithstanding any other provision of this
4 section, except as provided in paragraph (2) of this
5 subsection, a participant who has transferred to the System
6 under section 8471(a)(1) of this title shall not be entitled
7 to receive benefits under this section, other than an
8 immediate annuity under subsection (a)(1) of this section or
9 a deferred annuity under subsection (b)(1) of this section,
10 before the date five years after the date the participant
11 commenced participation in the System.

12 “(2) Paragraph (1) of this subsection shall not apply in
13 the case of a deceased participant or a person who is
14 disabled for the purposes of subchapter V of this title.

15 “§ 8424. Annuities: methods of payment; election; and
16 computation

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

19 “(2) The Board shall include among the methods of
20 payment prescribed under paragraph (1) of this subsection--

21 “(A) a method providing for the payment of a monthly
22 annuity only to a former participant during the life of
23 the former participant;

24 “(B) a method providing for the payment of a monthly
25 annuity for the joint lives of a former participant and

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1 the spouse of the former participant and the life of the
2 one of them who survives the other of them;

3 "(C) a method described in subparagraph (A) of this
4 paragraph providing for annual increases in the amount of
5 the annuity payable; and

6 "(D) a method described in subparagraph (B) of this
7 paragraph providing for annual increases in the amount of
8 the annuity payable.

9 "(b) Under such regulations as the Board shall
10 prescribe, each former participant electing under section
11 8423 (b) of this title to receive an annuity from the Thrift
12 Savings Fund shall elect one of the methods of payment
13 prescribed by the Board under subsection (a) of this section.

14 "(c)(1) Subject to paragraph (2) of this subsection, the
15 amount of the annuity payable under this subchapter to a
16 former participant pursuant to the method elected under
17 subsection (b) of this section shall be determined, as of the
18 date on which the payment of the annuity under the elected
19 method commences, in accordance with generally accepted
20 actuarial principles and standards based on the balance in
21 the annuitant's account on such date.

22 "(2) The total amount of all retirement benefits
23 expected to be payable to a former participant under this
24 subchapter and all survivor benefits expected to be payable
25 with respect to the former participant pursuant to an

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1 election made under subsection (b) of this section and
2 pursuant to section 8434 of this title shall be equal to the
3 total amount of the retirement benefits that would be
4 expected to be payable under this subchapter to the former
5 participant pursuant to the method referred to in subsection
6 (a)(2)(A) of this section, determined in accordance with
7 generally accepted actuarial principles and standards.

8 “(3) The amount of the annuity payable to a former
9 participant under this subchapter shall be redetermined if--

10 “(A) an individual entitled to a survivor annuity
11 pursuant to an election made under subsection (c) of this
12 section or pursuant to section 8434 of this title dies or
13 loses the entitlement to the survivor annuity; or

14 “(B) the former participant makes an election
15 pursuant to section 8435 of this title.

16 “(d) At the end of each fiscal year, the investment
17 experience relating to the account of each annuitant in the
18 Thrift Savings Fund shall be compared to the actuarial
19 assumptions that were used to compute the amount of the
20 annuity payable from the Thrift Savings Fund to the annuitant
21 under this subchapter during such fiscal year. Under
22 regulations issued by the Board, the excess of the amount of
23 the return, if any, over the amount of the assumed return
24 shall be used to purchase an additional annuity payable from
25 the Thrift Savings Fund. The amount of the additional annuity

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1 shall be computed by the Board in accordance with generally
2 accepted actuarial principles and standards.

3 ``S 8425. Administrative provisions relating to payments and
4 elections

5 ``(a) The Board shall make payments and transfers in
6 accordance with an election of a participant under section
7 8423 or 8424(b) of this title.

8 ``(b) Any election under section 8423 or 8424 of this
9 title shall be in writing and shall be filed with the Board
10 in accordance with such rules as the Board may prescribe.

11 ``(c) Notwithstanding any other provision of this
12 section, an election or modification of an election under any
13 provision of this subchapter shall not be effective if the
14 election or modification would result in a violation of the
15 terms of an applicable court decree of divorce, annulment, or
16 legal separation, or the terms of any court order or court-
17 approved property settlement agreement incident to a court
18 decree of divorce, annulment, or legal separation, as
19 determined by the Executive Director.

20 ``(d)(1) A participant may make an election authorized by
21 paragraph (2) or (3) of section 8423(b) of this title--

22 ``(A) only if the spouse and each eligible former
23 spouse of the participant are notified of the
24 participant's election; and

25 ``(B) in any case in which there is an eligible

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1 former spouse, shall be subject to the terms of a court
2 order or decree issued with respect to such former spouse
3 if--

4 “(1) the order or decree expressly relates to
5 any portion of the amount involved, and

6 “(11) payment of the amount in accordance with
7 the election would extinguish entitlement of the
8 former spouse to a survivor annuity under section
9 8434 of this title or to any portion of an annuity
10 under section 8457 of this title.

11 “(2)(A) Notification of a spouse or eligible former
12 spouse under this subsection shall be made in accordance with
13 such requirements as the Board shall by regulation prescribe.

14 “(B) Under the regulations, the Board may provide that
15 paragraph (1)(A) of this subsection may be waived with
16 respect to a spouse or eligible former spouse if the
17 participant establishes to the satisfaction of the Board that
18 the location of such spouse or former spouse cannot be
19 determined.

20 “(3) The Board shall prescribe regulations under which
21 this subsection shall be applied in any case in which the
22 Office receives two or more applicable court orders or
23 decrees.

24 “§ 8426. Thrift Savings Fund

25 “(a) There is established in the Treasury of the United

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1 States a Thrift Savings Fund.

2 “(b) The Thrift Savings Fund consists of the sum of all
3 amounts contributed under section 8421 of this title
4 increased by the total net earnings from investments of sums
5 in the Thrift Savings Fund or reduced by the total net losses
6 from investments of the Thrift Savings Fund.

7 “(c) The sums in the Thrift Savings Fund are
8 appropriated and shall remain available without fiscal year
9 limitation--

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

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

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

13 Board; and

14 “(4) to make loans to participants as provided in
15 subsection (e) of this section.

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

20 “(2) Moneys due or payable from the Thrift Savings Fund
21 to any individual shall be subject to legal process for the
22 enforcement of the individual's legal obligations to provide
23 child support or make alimony payments as provided in section
24 459 of the Social Security Act (42 U.S.C. 659).

25 “(e) Under such regulations as the Board shall

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1 prescribe, the Board may make loans from the Thrift Savings
2 Fund to a participant in case of hardship.

3 “(f) The sums in the Thrift Savings Fund shall not be
4 appropriated and may not be used for any purpose other than
5 the purposes specified in this section.

6 “§ 8427. Investment of Thrift Savings Fund

7 “(a) Subject to subsections (b), (c), and (d) of this
8 section, the Board--

9 “(1) may invest the sums available in the Thrift
10 Savings Fund for investment--

11 “(A) in interest-bearing securities of the
12 United States Government;

13 “(B) in interest-bearing securities of any State
14 or a political subdivision thereof;

15 “(C) in interest-bearing or equity securities of
16 any private business concern;

17 “(D) in real estate; and

18 “(E) in any other assets the Board considers
19 appropriate; and

20 “(2) shall determine the appropriate distribution of
21 investments among the assets listed under paragraph (1)
22 of this subsection.

23 “(b)(1) Except as provided in subsection (c) or (c) of
24 this section, once each year, a participant or former
25 participant may elect the general type or types of

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1 investments, as designated by the Board under section
2 8492(a)(2) of this title, into which the Board shall invest
3 sums in the Fund credited to the account of such participant
4 or former participant and the distribution of such sums among
5 the types of investments elected.

6 “(2) The election of a participant or former participant
7 under paragraph (1) of this subsection shall be made in
8 accordance with rules prescribed by the Board and within such
9 period after the date the participant’s or former
10 participant’s annual statement is transmitted to the
11 participant or former participant pursuant to section 8428(c)
12 of this title as the Board shall prescribe in such rules.

13 “(c)(1) At the end of the first calendar month during
14 which title I of the Civil Service Pension Reform Act of 1985
15 takes effect, the amounts contributed by a participant to the
16 Thrift Savings Fund under section 8421(a) of this title and
17 the amounts contributed to such fund for the benefit of such
18 participant under section 8421(b) of this title shall be
19 invested in interest-bearing securities of the United States
20 Government.

21 “(2)(A) The Board shall invest a percentage of the total
22 amount that--

23 “(1) is contributed to the Thrift Savings Fund by a
24 participant under section 8421(a) of this title during a
25 month described under column I of the table of

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1 distribution of investments set out in subparagraph (B)
2 of this paragraph, and

3 "(ii) is available for investment,
4 in interest-bearing securities of the United States
5 Government, as specified under column II of the table
6 opposite the description of such month.

7 "(B) For the purposes of subparagraph (A) of this
8 paragraph, the table of distribution of investments is as
9 follows:

"Column I Number of the month after the month des- cribed in paragraph (1) of this subsection:	Column II Minimum percentage of the contribu- tions made by a participant for the month to be invested in United States Government securities:
1 through 12	100
13 through 24	75
25 through 36	50
37 through 48	25.

10 "(3)(A) The Board shall invest a percentage of the total
11 amount that--

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

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1 “(ii) is available for investment,
2 in interest-bearing securities of the United States
3 Government, as specified under column II of the table
4 opposite the description of such month.

5 “(B) For the purposes of subparagraph (A) of this
6 paragraph, the table of distribution of investments is as
7 follows:

<u>Column I</u> Number of the month after the month des- cribed in paragraph (1) of this subsection:	<u>Column II</u> Minimum percentage of the contribu- tions made for the benefit of a participant for the month to be invested in United States Government securities:
1 through 60	100
61 through 72	87.5
73 through 84	75
85 through 96	62.5
97 through 108	50
109 through 120	37.5
121 through 132	25
133 through 144	12.5

8 “(4) All sums credited to the Thrift Savings Fund
9 pursuant to section 8472(a) or 8474(b) of this title shall be
10 invested in interest-bearing securities of the United States
11 Government.

12 “(5) The sums invested in interest-bearing securities of
13 the United States Government as required by this subsection
14 and returned to the Thrift Savings Fund after maturity of the
15 securities, and the amounts earned on the investment of such

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1 sums, shall be reinvested in interest-bearing securities of
2 the United States Government.

3 “(d) In investing sums in the Thrift Savings Fund in
4 equity securities of private businesses the Board shall not
5 acquire such an extensive ownership interest in any private
6 business that the Board, without the concurrence of other
7 owners of the private business, can elect any officer of the
8 private business or require the adoption of any policy for
9 the management of the private business.

10 “§ 8428. Accounting

11 “(a)(1) The Board shall establish and maintain an
12 account for each participant making contributions under
13 section 8421(a) of this title.

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

16 “(A) the sum of--

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

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

23 “(iii) the amounts transferred from such fund
24 with respect to the participant or former participant
25 under section 8472(a) or 8474(b) of this title; and

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

4 “(B) the amounts paid with respect to such
5 participant under sections 8411, 8412, 8433, and 8434 of
6 this title.

7 “(3) Pursuant to rules prescribed by the Board, the
8 Board shall allocate to the credit of the account of each
9 participant or former participant an amount equal to a pro
10 rata share of the net earnings and net losses from each
11 investment of sums in the Thrift Savings Fund attributable to
12 sums credited to the account of such participant, reduced by
13 an appropriate share of--

14 “(A) the administrative expenses of the Board, and

15 “(B) any amount reserved by the Board to pay
16 underfunded annuities,

17 as determined by the Board.

18 “(b) Each employing agency shall report to the Board at
19 the end of each month all amounts contributed by or for the
20 benefit of each participant during such month under section
21 8421(b) of this title.

22 “(c) The Board shall provide each participant and former
23 participant an annual statement of the balance in the
24 participant's or former participant's account.

25 “SUBCHAPTER IV--SURVIVOR BENEFITS

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1 **§ 8431. Basic plan benefits relating to death of a
2 participant

3 "(a) If a participant dies after performing eighteen
4 months of service and before separating from employment by
5 the Government, death benefits shall be paid as provided in
6 this section.

7 "(b) Except as provided in subsection (c) of this
8 section, the surviving spouse of a deceased participant
9 referred to in subsection (a) of this section shall be
10 entitled to a survivor annuity equal to the higher of--

11 "(1) the amount equal to 50 percent of the annuity
12 computed with respect to the deceased participant
13 pursuant to sections 8413 and 8414 of this title as if
14 the participant had retired from employment by the
15 Government entitled to an immediate annuity under section
16 8411 of this title on the day before the date of death of
17 the participant; or

18 "(2) the amount equal to the excess, if any, of--

19 "(A) the amount equal to 25 percent of the
20 average pay of the deceased participant, over

21 "(B) the sum of--

22 "(i) the amount of the benefits, if any,
23 that, by reason of the death of the participant
24 and based on the service of the participant, are
25 payable pursuant to subsection (e), (f), or (g)

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1 of section 202 of the Social Security Act (or
2 that, but for a failure to file an application
3 referred to in such subsection, would be payable
4 pursuant to such subsection) to the surviving
5 spouse; and

6 "(ii) if benefits referred to in clause (i)
7 of this subparagraph are or would be payable to
8 the surviving spouse, the amount of the benefits,
9 if any, that, by reason of the death of the
10 participant and based on the service of the
11 participant, are payable pursuant to section
12 202(d) of such Act (or that, but for a failure to
13 file an application referred to in such section
14 202(d), would be payable pursuant to such section
15 202(d)) to the deceased participant's children,
16 if any, who are in the care of the surviving
17 spouse.

18 "(c) The amount of the survivor annuity payable under
19 this section to the surviving spouse of a deceased
20 participant shall be equal to the excess, if any, of the
21 amount of the survivor annuity which would be payable to the
22 surviving spouse under this section without regard to this
23 subsection over the total amount of the survivor annuity or
24 survivor annuities payable pursuant to section 8434 of this
25 title to an eligible former spouse or eligible former spouses

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1 of the deceased former participant.

2 ``§ 8432. Basic plan benefits relating to death of a former
3 participant

4 `` (a) For the purposes of this section the term 'deceased
5 former participant's annuity' means--

6 `` (1) the annuity the deceased former participant was
7 entitled to receive under section 8411 of this title on
8 the day before the date of the former participant's
9 death; or

10 `` (2) in the case of a former participant who died
11 entitled to a deferred annuity under section 8412 of this
12 title before payment of the annuity commenced, the
13 annuity the deceased former participant would have been
14 entitled to receive under such section if the deceased
15 former participant had been 62 years of age on the day
16 before the date of death.

17 `` (b)(1) Except as provided in paragraph (2) of this
18 subsection, the surviving spouse of a former participant who
19 dies after terminating employment entitled to an immediate or
20 deferred annuity under subchapter II of this chapter shall be
21 entitled to a survivor annuity as provided in subsection (c)
22 of this section.

23 `` (2)(A) A survivor annuity shall not be paid to a
24 surviving spouse of a former participant who, jointly with
25 the former participant, waived a survivor annuity under this

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1 section as provided in subparagraph (B) of this paragraph.

2 “(B) For the purposes of subparagraph (A) of this
3 paragraph, a waiver may be made only in writing, on the date
4 payment of an annuity to the former participant commences
5 under subchapter II of this chapter, and in accordance with
6 such regulations as the Office may prescribe.

7 “(c) Except as provided in subsection (d) of this
8 section, the amount of the survivor annuity payable under
9 subsection (b) of this section to a deceased former
10 participant's surviving spouse--

11 “(1) for any month the surviving spouse is or
12 becomes eligible, by reason of the death of the former
13 participant and based on the service of the former
14 participant, to receive benefits pursuant to subsection
15 (e), (f), or (g) of section 202 of the Social Security
16 Act (or would be or would become eligible to receive such
17 benefits if the participant had been fully or currently
18 insured for the purposes of such subsection) shall be
19 equal to--

20 “(A) in the case of a surviving spouse who has
21 not received a survivor annuity computed pursuant to
22 paragraph (2) of this subsection (based on the
23 service of the deceased former participant), 50
24 percent of the amount of the deceased former
25 participant's annuity computed pursuant to sections

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1 8413 and 8414 of this title without regard to section
2 8415 of this title and adjusted as provided in
3 section 8452 of this title; and

4 "(B) in the case of a surviving spouse who has
5 received a survivor annuity computed pursuant to
6 paragraph (2) of this subsection (based on the
7 service of the deceased former participant), 50
8 percent of the amount of such survivor annuity the
9 surviving spouse was entitled to receive for the
10 latest month such paragraph applied to the survivor
11 annuity; and

12 "(2) for any full month the surviving spouse is not
13 eligible to receive benefits pursuant to subsection (e),
14 (f), or (g) of section 202 of the Social Security Act
15 (and would not be eligible to receive such benefits if
16 the participant had been fully or currently insured for
17 the purposes of such subsection) shall be equal to the
18 amount of the deceased former participant's annuity
19 computed pursuant to sections 8413, 8414, and 8415 of
20 this title.

21 "(d) The amount of the survivor annuity payable under
22 this section to the surviving spouse of a deceased former
23 participant shall be equal to the excess, if any, of the
24 amount of the survivor annuity which would be payable to the
25 surviving spouse under this section without regard to this

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1 subsection over the total amount of any survivor annuity or
2 survivor annuities payable pursuant to section 8434 of this
3 title to an eligible former spouse or eligible former spouses
4 of the deceased former participant.

5 ``§ 8433. Survivor benefits under the thrift savings plan

6 `` (a) Except as provided in section 8425(a) of this title
7 or subsection (c) of this section, the amount in the account
8 established and maintained for a deceased participant or
9 deceased former participant pursuant to section 8428(a) of
10 this title, determined on the date of distribution under this
11 section, shall, subject to the limits of the entitlement set
12 out in section 8422(a)(1) of this title (without regard to
13 section 8422(a)(2) of this title), be paid to--

14 `` (1) the surviving spouse of the deceased
15 participant pursuant to the method elected under
16 subsection (b) of this section; or

17 `` (2) if there is no surviving spouse, to the estate
18 of the deceased participant.

19 `` (b) A surviving spouse entitled to payment of benefits
20 under subsection (a) of this section may elect--

21 `` (1) to receive an annuity from the Fund payable
22 monthly for life;

23 `` (2) to transfer the amount referred to in such
24 subsection to an individual retirement account (within
25 the meaning of the Internal Revenue Code of 1954) of the

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1 surviving spouse; or

2 "(3) to withdraw such amount in one payment.

3 "(c)(1) Any amount required for the payment of a

4 survivor annuity with respect to a deceased participant or

5 deceased former participant out of the Thrift Savings Fund

6 pursuant to section 8434 of this title shall be deducted and

7 withheld from a distribution made with respect to the

8 deceased participant or deceased former participant pursuant

9 to subsection (a) of this section. The amount deducted and

10 withheld shall be maintained in the Thrift Savings Fund until

11 expended in payment of the survivor annuity or until the

12 survivor annuity terminates. Any sums remaining from the

13 amount deducted and withheld after the termination of the

14 survivor annuity, plus net earnings realized from investment

15 of such amount, shall be distributed as provided in

16 subsection (a) of this section.

17 "§ 8434. Survivor benefits for eligible former spouses:

18 entitlement; amount

19 "(a) Subject to subsections (b) through (f) of this

20 section, an eligible former spouse of a deceased participant

21 or deceased former participant is entitled to a survivor

22 annuity under this section, if and to the extent that an

23 election under section 8435 of this title or the terms of any

24 court decree dissolving or annulling the marriage of the

25 participant or former participant and the eligible former

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1 spouse or any court order or court-approved property
2 settlement agreement incident to such decree expressly
3 provides for such survivor annuity.

4 “(b)(1) The amount of the survivor annuity payable from
5 the Fund to an eligible former spouse of a deceased
6 participant or deceased former participant under this section
7 may not exceed the excess, if any, of--

8 “(A) the amount applicable in the case of such
9 eligible former spouse, as determined under paragraph (2)
10 of this subsection, over

11 “(B) the amount of any survivor annuity payable from
12 the Fund under this section to any other eligible former
13 spouse of the participant or former participant based on
14 an election previously made under section 8435 of this
15 title or a court decree or order previously issued.

16 “(2)(A) For the purposes of paragraph (1)(A) of this
17 subsection, the applicable amount in the case of an eligible
18 former spouse of a deceased participant or deceased former
19 participant is the amount which would be applicable--

20 “(i) under section 8432(c) of this title (without
21 regard to section 8432(d) of this title) in the case of a
22 surviving spouse of the deceased, if the deceased was a
23 former participant who died after retirement; or

24 “(ii) under section 8431(b)(1) of this title
25 (without regard to section 8431(c) of this title) in the

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1 case of a surviving spouse of the deceased, if the
2 deceased was a participant described in section 8431(a)
3 of this title.

4 `` (c)(1) The total amount of all survivor annuities
5 payable from the Thrift Savings Fund to eligible former
6 spouses of a deceased participant or deceased former
7 participant pursuant to this section may not exceed the
8 amount of the survivor annuities that would be payable to the
9 former spouses out of 100 percent of the balance in the
10 account of the deceased participant or deceased former
11 participant, determined in accordance with generally accepted
12 actuarial practice and standards.

13 `` (2) If more than one eligible former spouse is entitled
14 to a survivor annuity pursuant to this section, the amount of
15 each such survivor annuity shall be limited appropriately to
16 carry out paragraph (1) of this subsection on a first-come,
17 first-served basis determined by reference to the date an
18 election is properly made pursuant to section 8435 of this
19 title or the date the Board properly receives a copy of the
20 court decree, order, or court-approved agreement applicable
21 to the entitlement.

22 `` (d) The commencement and termination of a survivor
23 annuity payable under this section to an eligible former
24 spouse of a deceased participant or deceased former
25 participant shall be governed by the terms of the applicable

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1 court order, decree, or agreement or an election, as the case
2 may be, except that any such survivor annuity--

3 “(1) shall not commence before--

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

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

12 whichever is later, and

13 “(2) shall terminate not later than the last day of
14 the month before the former spouse remarries before
15 becoming 55 years of age or dies.

16 “(e) For the purposes of this section, a modification in
17 a court decree, order, or agreement or an election referred
18 to in subsection (a) of this section shall not be effective--

19 “(1) if such modification is made after the
20 retirement of the participant concerned, and

21 “(2) to the extent that such modification involves a
22 survivor annuity under this section.

23 “(f) For the purposes of this section, a court decree,
24 order, or agreement or an election referred to in subsection
25 (a) of this section shall not be effective, in the case of a

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1 former spouse, to the extent that it is inconsistent with any
2 joint waiver previously executed with respect to such former
3 spouse under section 8432(b)(2) of this title.

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

6 “§ 8435. Survivor benefits for former spouses: elections,
7 deposits and collections, and administrative
8 provisions

9 “(a)(1) A former participant who, on the date that
10 payment of an annuity to the former participant under
11 subchapter II of this chapter commences, has an eligible
12 former spouse may elect, under procedures prescribed by the
13 Office, to provide a survivor annuity for such former spouse
14 under section 8434 of this title. An election under this
15 paragraph shall be made on the date that payment of an
16 annuity under subchapter II of this chapter to the former
17 participant commences or, if later, within two years after
18 the date on which the marriage of the former spouse to the
19 former participant is dissolved or annulled. The election
20 shall specify the amount of the survivor annuity to be
21 provided under this paragraph.

22 “(2) A former participant making an election under
23 paragraph (1) of this subsection during the two-year period
24 referred to in such paragraph shall deposit in the Fund,
25 within such period, an amount determined by the Office, as

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1 nearly as may be administratively feasible, to reflect the
2 amount by which the annuity of such former participant would
3 have been reduced if the election had been continuously in
4 effect since the date the annuity commenced, plus interest.

5 “(3) An election under paragraph (1) of this
6 subsection--

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

9 “(1) any court decree or order referred to in
10 subsection (a) of section 8434 of this title, which
11 was issued before the date of such election; or

12 “(ii) any agreement referred to in such
13 subsection which was entered into before such date;

14 “(B) shall not be effective to the extent that the
15 amount of the annuity specified in the election exceeds--

16 “(1) in the case of a survivor annuity payable
17 from the Fund, the amount determined pursuant to
18 section 8434(b) of this title; or

19 “(ii) in the case of a survivor annuity payable
20 from the Thrift Savings Fund, the amount determined
21 pursuant to section 8434(c) of this title; and

22 “(C) except as provided in subsection (d) of this
23 section, shall not be effective, in the case of a former
24 participant who is married on the date of the election,
25 unless the election is made with the written consent of

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1 the former participant's spouse.

2 "(b) A former participant who has elected to provide a
3 survivor annuity for an eligible former spouse pursuant to
4 subsection (a) of this section may make an election to
5 provide or increase a survivor annuity for any other eligible
6 former spouse of the former participant within the same
7 period that, and subject to the same conditions under which,
8 an election could be made under subsection (c) of this
9 section for a spouse of the former participant (subject to
10 the provisions of subsection (a)(3)(C) of this section
11 relating to the consent of a spouse, if the former
12 participant is then married). The opportunity to make an
13 election under the preceding sentence is in addition to any
14 opportunity otherwise provided under this subsection.

15 "(c) If the entitlement of an eligible former spouse of
16 a former participant to a survivor annuity under this
17 subchapter is terminated or reduced by reason of the
18 remarriage or death of the former spouse, the former
19 participant may elect, in a signed writing received by the
20 Office within two years after the former spouse's date of
21 death or remarriage, to provide a survivor annuity or to
22 increase the survivor annuity for the spouse of the former
23 participant.

24 "(d)(1) If a former participant is married on the date
25 that payment of an annuity under subchapter II of this

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1 chapter to the former participant commences, the marriage
2 terminates, and the former participant remarries, the former
3 participant may irrevocably elect during the later marriage
4 to provide an annuity for such former participant's spouse.
5 An election under this subparagraph shall be made in a signed
6 writing received by the Office within two years after the
7 date of the remarriage.

8 “(2) An election under paragraph (1) of this subsection
9 shall be effective the first day of the second month
10 beginning after the election is received by the Office, but
11 not earlier than nine months after the date of the remarriage
12 referred to in such paragraph.

13 “(3) A former participant making an election under
14 paragraph (1) of this subsection shall, within two years
15 after the date of the remarriage referred to in such
16 paragraph, deposit in the Fund an amount determined by the
17 Office, as nearly as may be administratively feasible, to
18 reflect the amount by which the annuity of such former
19 participant would have been reduced if the election had been
20 in effect since the date that payment of an annuity to the
21 former participant under subchapter II of this chapter
22 commenced or, if later, the date the previous reduction in
23 such former participant's annuity was terminated under
24 section 8415(b) or 8415(c) of this title, plus interest.

25 “(4) Notwithstanding any other provision of this

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1 paragraph, an election under this subsection may not be made
2 for the purpose of providing a survivor annuity to a spouse
3 of a former participant by remarriage if--

4 “(A) such spouse was married to the former
5 participant on the date that payment of an annuity to the
6 former participant under subchapter II of this chapter
7 commenced; and

8 “(B) all rights to survivor benefits for such spouse
9 under this subchapter based on marriage to such former
10 participant were then waived under section 8432(b)(2) of
11 this title.

12 “(e) For the purposes of subsection (a)(2) or (d)(3) of
13 this section, the annual rate of interest for each year
14 during which an annuity would have been reduced if the
15 election referred to in such subsection had been in effect on
16 and after the applicable date referred to in such subsection
17 shall be six percent.

18 “(f) If a former participant does not make a deposit
19 required by subsection (a)(2) or (d)(3) of this section, the
20 Office shall collect such amount by offset against the former
21 participant's annuity payable from the Fund, up to a maximum
22 of 25 percent of the net annuity otherwise payable to the
23 former participant. The former participant is deemed to
24 consent to such offset.

25 “(g) The Office may extend the time limit for making a

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1 deposit required by subsection (a)(2) or (d)(3) of this
2 section in any case for good cause shown.

3 “(h) Any requirement that the spouse of a participant or
4 former participant waive a right to a survivor annuity under
5 this subchapter as a condition for an election authorized by
6 this section shall not apply if the participant or former
7 participant establishes to the satisfaction of the Office
8 that--

9 “(1) the spouse’s whereabouts cannot reasonably be
10 determined; or

11 “(2) due to exceptional circumstances, it would be
12 inappropriate to require the participant or former
13 participant to obtain the spouse’s consent.

14 “§ 8436. Termination of entitlement

15 “(a) An election of a former participant to provide a
16 survivor annuity to the former participant’s spouse under
17 this subchapter terminates on the first day of the first
18 month beginning after--

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

20 “(2) the date of the dissolution of the spouse’s
21 marriage to the former participant.

22 “(b) The entitlement of an eligible former spouse of a
23 former participant to a survivor annuity under section
24 8434(a) of this title terminates on the first day of the
25 first month beginning after--

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

2 “(2) the date the former spouse remarries before

3 becoming 55 years of age.

4 “SUBCHAPTER V--DISABILITY BENEFITS

5 “§ 8441. Definitions

6 “For the purposes of this subchapter--

7 “(1) the term ‘disability benefits under the Social
8 Security Act’ means disability insurance benefits payable
9 under section 223 of the Social Security Act or benefits
10 payable under section 202 of such Act by reason of being
11 under a disability;

12 “(2) the term ‘disabled’, when used with respect to
13 an eligible participant, means that the eligible
14 participant--

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

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

23 “(i) which is in the participant’s employing
24 agency;

25 “(ii) which is in a grade (or pay level) not

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1 lower than two grades (or pay levels) below the
2 grade (or pay level) of the participant's
3 position; and

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

6 "(3) the term 'eligible participant' means a
7 participant whose service exceeds eighteen months and--

8 "(A) who--

9 "(1) has applied for disability benefits
10 under the Social Security Act and has been
11 determined to be under a disability for the
12 purposes of title II of the Social Security Act;
13 or

14 "(ii) in the case of a participant who is
15 not entitled to disability benefits under the
16 Social Security Act by reason of insufficient
17 quarters of coverage, has been determined by the
18 Office to be disabled within the meaning of
19 paragraph (1)(A) of this section on the basis of
20 a report of examination required by section 8445
21 of this title; or

22 "(B) who has been determined by the Office to be
23 disabled within the meaning of paragraph (2)(B) of
24 the section on the basis of a report of examination
25 required by section 8445 of this title;

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1 “(4) the term ‘onset average pay’, when used with
2 respect to a disabled eligible participant, means the
3 participant’s average pay on the date of onset of the
4 disability; and

5 “(5) the term ‘projected service’, when used with
6 respect to a disabled eligible participant, means the sum
7 of the number of years of service performed by the
8 participant before the onset of the disability and the
9 number of years, if any, after the date of the onset of
10 the disability and before the date the participant
11 becomes 62 years of age.

12 “§ 8442. Entitlement

13 “(a) An eligible participant who is disabled is entitled
14 to receive disability benefits under this subchapter while
15 under 62 years of age.

16 “(b)(1) An eligible participant who is disabled, is not
17 less than 62 years of age, and has ten years or more of
18 projected service shall be entitled to an annuity as provided
19 in subchapter II of this title.

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

23 “(A) the eligible participant shall be deemed to
24 have separated from employment by the Government at 62
25 years of age;

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1 “(B) the service of the participant shall be deemed
2 to be equal to the participant's projected service; and

3 “(C) the participant's average pay shall be equal to
4 the participant's onset average pay, increased each time
5 after the date of onset of the participant's disability
6 that the rates of pay under the General Schedule are
7 increased pursuant to section 5305 of this title, by the
8 same overall average percent of the increase in such
9 rates, and compounded.

10 “§ 8443. Computation of benefits

11 “(a) The annual rate of the disability benefits
12 initially payable under section 8442(a) of this title to an
13 eligible participant referred to in section 8441(3)(A) of
14 this title shall be equal to the excess of 60 percent of the
15 participant's onset average pay over the amount, if any,
16 payable to the participant as disability benefits under the
17 Social Security Act. Such annual rate shall be adjusted as
18 provided in section 8452 of this title.

19 “(b) The annual rate of the disability benefits payable
20 under section 8442(a) of this title to an eligible
21 participant referred to in section 8441(3)(B) of this title--

22 “(1) during the period ending one year after the
23 date of onset of the disability, shall be equal to 60
24 percent of the participant's onset average pay; and

25 “(2) after such period, shall be equal to the lesser

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1 of--

2 “(A) 20 percent of the onset average pay
3 increased by the same percent as the overall percent
4 increase, if any, taking effect in the rates of pay
5 under the General Schedule pursuant to section 5305
6 of this title between the effective date of the
7 annual rate computed pursuant to paragraph (1) of
8 this subsection and the effective date of the annual
9 rate computed under this paragraph; or

10 “(B) the amount the participant would be
11 entitled to receive under section 8442(b) of this
12 title if the eligible participant were 62 years of
13 age.

14 “§ 8444. Application

15 “(a) Except as provided in subsection (b) of this
16 section, a claim of a participant for disability benefits
17 under this subchapter may be allowed only if the participant
18 files with the Office an application for the disability
19 benefits within one year after the date the participant
20 separates from employment by the Federal Government.

21 “(b) The Office may waive the time limitation set out in
22 subsection (a) of this section in the case of a participant
23 if--

24 “(1) the Office determines that the participant was
25 mentally incompetent on the date the participant

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1 separated from employment by the Federal Government or
2 within one year after such date; and

3 "(2) the application for disability benefits is
4 filed within one year after the date the participant is
5 restored to mental competency or the date a fiduciary is
6 appointed to manage the financial affairs of the
7 participant, whichever date is earlier.

8 "§ 8445. Medical examinations

9 "(a) A participant applying for disability benefits
10 under section 8442(a) of this title shall be examined by a
11 physician under the direction of the Office at such times as
12 the Office may require.

13 "(b) A physician examining a participant under
14 subsection (a) of this section shall report to the Office the
15 diagnosis and prognosis with respect to such participant.

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

20 "§ 8446. Offers of alternative employment

21 "(a) Any participant who is applying for disability
22 benefits under this subchapter, is examined pursuant to
23 section 8445 of this title, and is determined on the basis of
24 the examination to be able to perform the work required in
25 any position in the participant's employing agency shall be

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1 considered for appointment to such position.

2 “(b) Any participant who is appointed to or offered a
3 position under subsection (a) of this section is entitled to
4 appeal to the Merit Systems Protection Board under section
5 7701 of this title any determination that the participant is
6 able to perform the work required of such position.

7 “§ 8447. Recovery or restoration of earning capacity

8 “(a)(1) If the office determines that an individual who
9 is receiving disability benefits under this subchapter has
10 recovered from the disability before becoming 62 years of
11 age, payment of the benefits shall terminate on the date the
12 individual is reemployed by the Government or one year after
13 the date of the medical examination on which the Office's
14 determination is based, whichever date is earlier.

15 “(2) Except as provided in subsection (c)(2) of this
16 section, payment of disability benefits under this chapter
17 that has been terminated pursuant to paragraph (1) of this
18 subsection in the case of any individual shall be resumed if
19 there is a recurrence of the individual's disability, as
20 determined by the Office after a medical examination of the
21 individual. The resumption of payment of disability benefits
22 shall be effective on the date such medical examination was
23 completed. The annual rate of the disability benefits payable
24 to the individual upon resumption of payment shall be the
25 annual rate that would have been payable to the individual if

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1 payment of disability benefits had not been terminated
2 pursuant to paragraph (1) of this subsection.

3 “(b)(1) If the Office determines that an individual who
4 is receiving disability benefits under this subchapter has
5 received, during the latest calendar year, income from wages
6 or self-employment or both totalling the amount equal to 80
7 percent of the rate of pay payable for the individual’s
8 position of employment by the Government on the date of the
9 onset of the individual’s disability (increased as if such
10 rate of pay had been increased, by the same percent as the
11 overall percent increase in the rates of pay under the
12 General Schedule, each time such rates had been increased
13 pursuant to section 5305 of this title since such date),
14 payment of the benefits shall terminate on the date 180 days
15 after the end of such calendar year.

16 “(2) Except as provided in subsection (c)(2) of this
17 section, if payment of disability benefits under this
18 subchapter has been terminated pursuant to paragraph (1) of
19 this subsection in the case of an individual who is not
20 reemployed in a position subject to this chapter, continues
21 to be disabled, and receives in the calendar year in which
22 the disability benefits were terminated, or any calendar year
23 after such year, income from wages or self-employment or both
24 totalling less than the amount computed in such case as
25 provided in such paragraph, payment of disability benefits to

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1 the individual under this subchapter shall be resumed. The
2 resumption of payment of disability benefits shall be
3 effective the first day of the first year beginning after the
4 year in which the individual received the income referred to
5 in the first sentence. The annual rate of the disability
6 benefits payable to the individual upon resumption of payment
7 shall be the annual rate that would have been payable to the
8 individual if payment had not been terminated pursuant to
9 paragraph (1) of this subsection.

10 ``§ 8448. Relationship to workers' compensation

11 `` (a)(1) An individual is not entitled to receive
12 disability benefits under this subchapter and compensation
13 for injury or disability to the individual under subchapter I
14 of chapter 81 of this title covering the same period of time.

15 `` (2) Paragraph (1) of this subsection does not bar the
16 right of a claimant to the greater benefit conferred by
17 either subchapter referred to in such paragraph for any part
18 of the period referred to in such paragraph.

19 `` (3) Paragraph (1) of this subsection and the provisions
20 of subchapter I of chapter 81 of this title do not deny an
21 individual an annuity accruing to the individual under this
22 chapter on account of service performed by the individual and
23 do not deny any concurrent benefit to the individual under
24 subchapter I of chapter 81 of this title on account of the
25 death of another individual.

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

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

16 “(A) refund to the Department of Labor the amount
17 representing the commuted compensation payments for the
18 extended period; or

19 “(B) authorize the deduction of the amount from the
20 disability benefits.

21 Deductions from the disability benefits may be made from
22 accrued or accruing payments. The amounts deducted and
23 withheld from disability benefits shall be transmitted to the
24 Department of Labor for reimbursement to the Employees'
25 Compensation Fund. When the Department of Labor finds that

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1 the financial circumstances of an individual entitled to
2 disability benefits under this subchapter warrant deferred
3 refunding under this paragraph, deductions from the
4 disability benefits may be prorated against and paid from
5 accruing payments in such manner as the Department
6 determines.

7 ``§ 8449. National Guard technicians

8 ``(a) For the purposes of this section, the term
9 'technician' means an individual employed under section
10 709(a) of title 32 who, as a condition of the employment, is
11 required under section 709(b) of such title to be a member of
12 the National Guard and to hold a specified military grade.

13 ``(b)(1) Except as provided in paragraph (2) of this
14 subsection, a participant shall be entitled to disability
15 benefits under this subchapter in the same manner as an
16 eligible participant (as defined in section 8441(3)(B) of
17 this title) if the participant--

18 ``(A) is separated from employment as a technician
19 under section 709(e)(1) of title 32 by reason of a
20 disability that disqualifies the individual from
21 membership in the National Guard or from holding the
22 military grade required for such employment:

23 ``(B) is not considered disabled;

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

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1 otherwise); and

2 ``(D) has not declined an offer to a position in the
3 Government under subsection (c) of this section.

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

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

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

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

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

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

21 ``(2) the individual is qualified to serve in the
22 vacant position; and

23 ``(3) the position is at the same grade or equivalent
24 level as the position from which the individual was
25 separated under section 709(e)(1) of title 32.

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1 `§ 8450. Funding

2 `Disability benefits payable to a participant under
3 section 8442(a) of this title shall be paid by the employing
4 agency from the appropriation or fund available for payment
5 of the basic pay or salaries of employees of the agency. In
6 the case of a participant in the legislative branch who was
7 paid by the Clerk of the House on the date of onset of the
8 disability, disability benefits payable to the participant
9 shall be paid from the contingent fund of the House of
10 Representatives.

11 `SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

12 `§ 8451. Responsibilities

13 `The Office shall pay all benefits that are payable
14 under subchapter II of this chapter from the Fund.

15 `§ 8452. Cost-of-living adjustment in basic plan annuities,
16 survivor annuities, and disability benefits

17 ` (a) For the purpose of this section--

18 ` (1) the term 'base quarter', when used with respect
19 to a year, means the calendar quarter ending on September
20 30, of such year; and

21 ` (2) the price index for a base quarter is the
22 arithmetical mean of such index for the three months
23 comprising such quarter.

24 ` (b) Except as provided in subsection (c) or (e) of this
25 section, effective December 1 of each year, each annuity

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1 payable from the Fund under subchapter II of this chapter or
2 section 8431 or 8432 of this title, and each disability
3 benefit payable under section 8442(a) of this title, and
4 having a commencing date not later than such December 1 shall
5 be increased by the percentage equal to the excess of--

6 “(1) the percent increase, if any, in the price
7 index for the base quarter of such year over the price
8 index for the base quarter of the latest preceding year
9 in which an increase was made under this subsection in
10 annuities under such subchapter, over

11 “(2) two percent,
12 adjusted to the nearest one-tenth of one percent.

13 “(c)(1) The first increase (if any) made under
14 subsection (b) of this section to an annuity payable to a
15 participant who retires, to the surviving spouse of a
16 deceased participant, or to the surviving spouse of a
17 deceased annuitant whose annuity has never been increased
18 under this subsection or subsection (b) of this section, and
19 the first increase (if any) made under such subsection to a
20 disability benefit that is referred to in such subsection and
21 is payable to a participant, shall be equal to the product
22 (adjusted to the nearest one-tenth of one percent) of--

23 “(A) one-twelfth of the applicable percentage of the
24 adjustment computed under subsection (b) of this section,
25 multiplied by

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1 “(P)(1) the number of months (counting any portion
2 of a month as a month) for which the annuity or
3 disability benefit was payable before the effective date
4 of the increase, or

5 “(ii) in the case of a survivor annuity payable to a
6 surviving spouse of a deceased annuitant whose annuity
7 has never been so increased, the number of months
8 (counting any portion of a month as a month) since the
9 annuity was first payable to the deceased annuitant.

10 “(2) Effective on its commencing date, an annuity
11 referred to in subsection (b) of this section and payable to
12 an annuitant’s surviving spouse shall be increased by the
13 total percent by which the deceased annuitant’s annuity had
14 been increased under this section during the period beginning
15 on the date the deceased annuitant’s annuity commenced and
16 ending on the date of the deceased annuitant’s death.

17 “(d) The monthly installment of an annuity or disability
18 benefit payable after adjustment under this section shall be
19 rounded to the next lowest dollar, but the increase in the
20 monthly installment under this section shall be at least one
21 dollar.

22 “§ 8453. Rate of benefits

23 “Each annuity and disability benefit is stated as an
24 annual amount, one-twelfth of which, fixed at the nearest
25 dollar, constitutes the monthly rate payable on the first

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1 business day of the first month beginning not less than one
2 month after the last day of the month for which the annuity
3 or disability benefit has accrued.

4 ``§ 8454. Accrual and termination of annuities

5 `` (a)(1) Except as otherwise provided in this subchapter,
6 the annuity of a participant under subchapter II of this
7 chapter commences to accrue on the day after--

8 `` (A) the participant separates from employment by
9 the Government entitled to an immediate annuity under
10 section 8411 of this title, or

11 `` (B) the date a participant referred to in section
12 8412 of this title becomes 62 years of age,
13 as the case may be.

14 `` (2) The annuity of a former participant under this
15 chapter terminates on the date of death or other terminating
16 event provided by law.

17 `` (b)(1) The survivor annuity of an individual entitled
18 to a survivor annuity under this chapter commences to accrue
19 on the date of death of the deceased participant or former
20 participant on whose death such annuity is based.

21 `` (2) The survivor annuity payable to a surviving spouse
22 or an eligible former spouse of a deceased participant or
23 deceased former participant under this chapter terminates on
24 the last day of the last month ending before the surviving
25 spouse or former spouse dies or, if the surviving spouse or

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1 former spouse is less than 55 years of age, remarries.

2 ``§ 8455. Waiver, allotment, and assignment of benefits

3 ``(a) An individual entitled to receive payment of

4 benefits under subchapter II of this chapter may decline to

5 accept all or any part of the amount of the benefits by a

6 waiver signed and filed with the Office. The waiver may be

7 revoked in writing at any time. Payment of the benefits

8 waived may not be made for the period during which the waiver

9 is in effect.

10 ``(b) An individual entitled to receive payment of

11 benefits under subchapter II of this chapter may make

12 allotments or assignments of amounts from the benefits for

13 such purposes as the Office considers appropriate.

14 ``§ 8456. Application for benefits

15 ``(a) No payment of benefits based on the service of a

16 former participant shall be made under subchapter II of this

17 chapter unless an application for payment of the benefits is

18 received by the Office before the one hundred and fifteenth

19 anniversary of the former participant's birth.

20 ``(b) Notwithstanding subsection (a) of this section,

21 after the death of a participant or former participant, a

22 benefit based on the participant's or annuitant's service

23 shall not be paid under subchapter II of this chapter unless

24 an application therefor is received by the Office within

25 thirty years after the death or other event which establishes

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1 the entitlement to the benefit.

2 ``§ 8457. Court orders

3 ``(a) Payments under this chapter which would otherwise

4 be made to a participant or former participant based upon the

5 service of the participant or former participant shall be

6 paid (in whole or in part) by the Office or the Board, as the

7 case may be, to another person if and to the extent that the

8 terms of any court decree of divorce, annulment, or legal

9 separation, or the terms of any court order or court-approved

10 property settlement agreement incident to any court decree of

11 divorce, annulment, or legal separation expressly provide.

12 Any payment under this paragraph to a person bars recovery by

13 any other person.

14 ``(b) Subsection (a) of this section shall apply only to

15 payments made by the Office or the Board under this chapter

16 after the date the Office or the Board, as the case may be,

17 receives written notice of such decree, order, or agreement,

18 and such additional information and documentation as the

19 Office or the Board may require.

20 ``§ 8458. Annuities and pay on reemployment

21 ``(a) If a former participant receiving an annuity under

22 this chapter becomes employed in an appointive or elective

23 position in the Government, payment of the annuity terminates

24 effective on the date of the employment and the former

25 participant's service on and after the date the former

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1 participant becomes so employed is covered by this chapter.
2 Upon termination of the employment, the rights of the former
3 participant under this chapter shall be redetermined. If the
4 former participant dies while still so employed, a survivor
5 annuity payable with respect to the deceased former
6 participant shall be redetermined as if the employment had
7 otherwise terminated on the date of death.

8 “(b) The amount of an annuity resulting from a
9 redetermination of rights under this chapter pursuant to
10 subsection (a) of this section shall not be less than the
11 amount of the terminated annuity plus any increases under
12 section 8452 of this title occurring after the termination of
13 the annuity and before the commencement of the redetermined
14 annuity.

15 “SUBCHAPTER VII--TRANSITION PROVISIONS

16 “§ 8471. Elections

17 “(a) Any individual who was subject to subchapter III of
18 chapter 83 of this title as an employee (as defined in
19 section 8331(1) of this title) or a Member (as defined in
20 section 8331(2) of this title) on December 31, 1983, and is
21 not required by section 8402 of this title to be a
22 participant may elect, not later than one year after the
23 effective date of the Civil Service Pension Reform Act of
24 1985--

25 “(1) to transfer to the System; or

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1 “(2) to commence participation in the System and
2 retain accrued credit for entitlement to benefits under
3 such subchapter for service performed subject to such
4 subchapter.

5 “(b)(1) Any individual who--

6 “(A) has an unrefunded lump-sum credit in the Fund
7 under subchapter III of chapter 83 of this title,
8 “(B) is required by section 8402 of this title to be
9 a participant, and
10 “(C) is not a participant referred to in section
11 8474(a) of this title,
12 may, not later than one year after the date the individual
13 becomes a participant, make an election pursuant to paragraph
14 (2) of this subsection.

15 “(2) An individual authorized to make any election
16 pursuant to this paragraph may elect--

17 “(A) to transfer retirement credit to the System; or
18 “(B) to retain entitlement in the Civil Service
19 Retirement and Disability System.

20 “(c) An election under subsection (a) or (b) of this
21 section shall be made in writing pursuant to such regulations
22 as the Office may prescribe.

23 “§ 8472. Transfer participants

24 “(a)(1) The amount computed pursuant to paragraph (2) of
25 this subsection shall be transferred from the Fund to the

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1 Thrift Savings Fund in the case of an individual electing to
2 transfer to the System under section 8471(a)(1) of this title
3 or an individual electing to transfer retirement credit to
4 the System under section 8471(b)(2)(A) of this title. The
5 amount shall be credited to an account established for the
6 individual pursuant to section 8428(a)(1) of this title.

7 “(2) The amount transferred from the Fund in the case of
8 an individual pursuant to paragraph (1) of this subsection
9 shall be equal to the sum of--

10 “(A) the lump-sum credit of the individual (other
11 than interest computed pursuant to section 8331 (8) (C)
12 of this title);

13 “(B) the total amount contributed by the employing
14 agency and deposited to the credit of the Fund with
15 respect to the individual pursuant to the second sentence
16 of section 8334 (a) (1) of this title (or any similar
17 prior provision of law); and

18 “(C) interest on the amounts referred to in
19 subparagraphs (A) and (B) of this paragraph as if
20 interest had been credited to the Fund at the end of each
21 year at an annual rate of seven percent of the total of
22 such amounts that had been deposited to the Fund with
23 respect to such individual in such year and all prior
24 years and had been compounded.

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

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1 “(A) the amount computed pursuant to paragraph (2)
2 (A) of this subsection and the interest on such amount,
3 computed pursuant to paragraph (2) (C) of this
4 subsection, shall be treated as a contribution made under
5 section 8421 (a) of this title; and

6 “(B) the amount computed pursuant to paragraph (2)
7 (B) of this subsection and the interest on such amount,
8 computed pursuant to paragraph (2) (C) of this
9 subsection, shall be treated as a contribution made under
10 section 8421 (b) of this title.

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

15 “(b) Any sums contributed to the Fund pursuant to
16 section 8343 of this title by an individual referred to in
17 subsection (a)(1) of this section shall be refunded to the
18 individual.

19 “(c) The service that is credited for the purposes of
20 subchapter III of chapter 83 of this title in the case of an
21 individual referred to in subsection (a)(1) of this section
22 and that is covered by deposits made pursuant to section 8334
23 of this title (or any prior provision of law) or is described
24 in section 8334(g) of this title shall be considered--

25 “(1) creditable service for the purposes of this

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1 chapter; and

2 "(2) years of participation in the System for the
3 purposes of section 8422(b)(1) of this title.

4 "(d) The basic pay paid to an individual referred to in
5 subsection (a)(1) of this section for employment as an
6 employee (as defined in section 8331(1) of this title) or as
7 a Member (as defined in section 8331(1) of this title) shall
8 be taken into account in computing the individual's average
9 pay for the purposes of section 8413(a) of this title.

10 "§ 8473. Participants retaining entitlement in the Civil

11 Service Retirement and Disability System

12 "(a) Service that is creditable under subchapter III of
13 chapter 83 of this title in the case of an individual
14 electing to commence participation in the System under
15 section 8471(a)(2) of this title or an individual electing to
16 retain entitlement in the Civil Service Retirement and
17 Disability System under section 8471(b)(2)(B) of this title
18 shall be credited as service under this chapter only for the
19 purpose of determining eligibility to retire entitled to an
20 immediate annuity under section 8411 of this title.

21 "(b)(1) Service performed as a participant in the System
22 by an individual referred to in subsection (a) of this
23 section shall be credited under subchapter III of chapter 83
24 of this title only for the purpose of determining eligibility
25 to retire entitled to an immediate annuity under section 8335

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1 or 8336 of this title.

2 ``(2)(A) The rates of basic pay in effect for an
3 individual referred to in subsection (a) of this section on
4 and after the date the individual begins to participate in
5 the System shall be taken into account in computing the
6 individual's average pay (as defined in section 8331(4) of
7 this title) for the purposes of subchapter III of chapter 83
8 of this title.

9 ``(B) The rates of basic pay in effect for an individual
10 referred to in subsection (a) of this section before the date
11 the individual begins to participate in the System shall be
12 taken into account in computing the individual's average pay
13 for the purposes of this chapter.

14 ``§ 8474. Participants hired during temporary adjustment
15 period

16 ``(a) If a participant first commenced service as an
17 employee or Member after December 31, 1983, and before the
18 effective date of the Civil Service Pension Reform Act of
19 1985, and the service is employment for the purposes of title
20 II of the Social Security Act and chapter 21 of the Internal
21 Revenue Code of 1954, such service shall be credited as
22 service for the purposes of this chapter and shall be
23 considered years of participation in the System for the
24 purposes of section 8422 (b) (1) of this title.

25 ``(b)(1) The amount computed under paragraph (2) of this

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1 subsection shall be transferred from the Fund to the Thrift
2 Savings Fund in the case of a participant referred to in
3 subsection (a) of this section. The amount transferred shall
4 be credited to an account established for the individual
5 pursuant to section 8428(a) of this title.

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

9 "(1) three times the total amount deducted and
10 withheld from the basic pay of the participant pursuant
11 to section 204(a) of the Federal Employee's Retirement
12 Contribution Temporary Adjustment Act of 1983 (97 Stat.
13 1107; 5 U.S.C. 8331 note); and

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

23 "(B) In the case of any participant to whom paragraph
24 (1) of this subsection applies--

25 "(i) the numerator of the fraction referred to in

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1 subparagraph (A) (ii) of this paragraph is one; and

2 “(ii) the denominator of the fraction is the number
3 of months for which amounts were deducted and withheld
4 from the basic pay of the participant as described in
5 subparagraph (A) (i) of this paragraph.

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

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

12 “(B) two-thirds of such amount shall be treated as a
13 contribution made by the employing agency of the
14 participant pursuant to section 8421 (b) of this title.

15 “(4) All amounts transferred from the Fund pursuant to
16 paragraph (1) of this subsection shall be transferred in the
17 form of interest-bearing securities of the United States.

18 “§ 8475. Exemption from offset provision of the Social
19 Security Act

20 “Section 215(a)(7) of the Social Security Act shall not
21 apply in the case of a person making an election to become a
22 participant in the System pursuant to section 8471(a) of this
23 title.

24 “§ 8476. Regulations

25 ““The Office of Personnel Management may prescribe

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1 regulations to carry out this subchapter.

2 ``SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT BOARD

3 ``§ 8491. Establishment; membership

4 ``(a) There is established as an independent
5 establishment in the executive branch of the Federal
6 Government a Civil Service Thrift Investment Board.

7 ``(b) The Board shall be composed of--

8 ``(1) six members appointed by the President, by and
9 with the advice and consent of the Senate; and

10 ``(2) an Executive Director appointed by a majority
11 of the members appointed under paragraph (1) of this
12 subsection.

13 The Executive Director shall have substantial experience,
14 training, or expertise in the management of financial
15 investments.

16 ``(c)(1)(A) Except as provided in subparagraph (B) of
17 this paragraph the term of office of each member of the Board
18 appointed under subsection (b)(1) of this section shall be
19 seven years.

20 ``(B) Of the members of the Board first appointed under
21 subsection (b)(1) of this section--

22 ``(i) one member shall be appointed for a term of one
23 year;

24 ``(ii) one member shall be appointed for a term of
25 two years;

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1 ``(iii) one member shall be appointed for a term of
2 three years;

3 ``(iv) one member shall be appointed for a term of
4 four years;

5 ``(v) one member shall be appointed for a term of
6 five years; and

7 ``(vi) one member shall be appointed for a term of
8 six years.

9 ``(2) Any member appointed under subsection (b)(1) of
10 this section to fill a vacancy occurring before the
11 expiration of the term for which his predecessor was
12 appointed shall be appointed for the remainder of such term.

13 ``(d) The Executive Director shall serve for seven years
14 after the date of appointment unless removed earlier by the
15 Board under section 8493(a)(3)(C) of this title.

16 ``§ 8492. Functions

17 ``(a) In addition to performing such functions, duties,
18 and responsibilities as are required under subchapter III of
19 this chapter, the Board shall--

20 ``(1) establish policy and prescribe regulations for
21 the management of the Thrift Savings Fund and for the
22 administration of subchapter III of this title;

23 ``(2) designate the general types of investments to
24 be made with sums in the Thrift Savings Fund;

25 ``(3) review the performance of investments made for

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1 the Thrift Savings Fund;

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

5 "(5) supervise the Executive Director; and

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

7 "(b) The Executive Director shall--

8 "(1) be the executive officer of the Board;

9 "(2) preside at the meetings of the Board;

10 "(3) manage the Thrift Savings Fund;

11 "(4) pay annuities and other distributions from the
12 Thrift Savings Fund under this chapter; and

13 "(5) administer the provisions of this subchapter
14 and subchapter III of this chapter and the regulations
15 prescribed by the Board.

16 "§ 8493. Powers of the Board

17 "(a) The Board may--

18 "(1) adopt, alter, and use a seal;

19 "(2) adopt, amend, and repeal regulations to carry
20 out its functions;

21 "(3) upon the concurring votes of four members--

22 "(A) disapprove any action of the Executive
23 Director under section 8494 of this title;

24 "(B) except as provided in subsection (b) of
25 this section, direct the Executive Director to take

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1 such action as the Board considers appropriate to
2 carry out the provisions of this chapter and the
3 policies of the Board; and
4 ``(C) remove the Executive Director from office
5 for good cause shown; and
6 ``(4) take such other action as may be necessary to
7 carry out the functions of the Board.
8 ``(b) The Board may not direct the Executive Director--
9 ``(1) to invest or to cause to be invested any sums
10 of the Fund in a specific asset; or
11 ``(2) to enter into a contract under section
12 8494(a)(3) of this title with a specific private business
13 concern.
14 ``§ 8494. Powers of the Executive Director
15 ``(a) Subject to section 8493 of this title, the
16 Executive Director, may--
17 ``(1) call meetings of the Board;
18 ``(2) without regard to civil service and
19 classification laws, appoint, employ, and fix the
20 compensation of such personnel as may be necessary to
21 carry out the provisions of this subchapter and
22 subchapter III of this chapter;
23 ``(3) subject to subsection (b) of this section, and
24 subject to the approval of the Board, enter into
25 contracts with private business concerns, without regard

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1 to the provisions of title III of the Federal Property
2 and Administrative Services Act of 1949 (41 U.S.C. 251 et
3 seq.), to invest sums in the Thrift Savings Fund and to
4 manage such investments;

5 "(4) enter into such other contracts or other
6 arrangements or modifications thereof, as may be
7 necessary to carry out the provisions of this subchapter
8 and section 8427 of this title and the policies of the
9 Board;

10 "(5) obtain from any Federal agency, including any
11 independent establishment or instrumentality of the
12 United States, advice, information, estimates,
13 statistics, and such other assistance as the Executive
14 Director considers necessary to carry out the provisions
15 of this subchapter and suchapter III of this chapter and
16 the policies of the Board;

17 "(6) make such expenditures from the Thrift Savings
18 Fund as the Executive Director determines are necessary
19 to carry out the provisions of this subchapter and
20 subchapter III of this chapter and the policies of the
21 Board;

22 "(7) pay the compensation, per diem, and travel
23 expenses of personnel from the Fund;

24 "(8) accept and utilize the services of individuals
25 employed intermittently in the Government service and

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1 reimburse such individuals for travel expenses, as
2 authorized by section 5703 of title 5, United States
3 Code, including per diem as authorized by section 5702 of
4 such title;

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

12 "(10) take such other action as may be necessary to
13 carry out the functions of the Executive Director.

14 "(b) Each contract entered into under subsection (a)(3)
15 of this section shall--

16 "(1) specify that the private business concern
17 managing investments for the Thrift Savings Fund under
18 such contract shall make, consistent with prudent
19 criteria for financial investment, such investments as,
20 in the judgment of such private business concern, will
21 maximize the return on such investments; and

22 "(2) provide for the payment of fees to such
23 business concern in an amount not exceeding the amount
24 equal to one-quarter of one percent of the sums in the
25 Thrift Savings Fund invested by such business concern

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1 under the contract.

2 ``§ 8495. Administrative provisions

3 ``(a) The Board shall meet--

4 ``(1) not less than four times during each fiscal
5 year at such times as the Board shall establish; and

6 ``(2) at additional times at the call of the
7 Executive Director.

8 ``(b)(1) The Board shall perform the functions and
9 exercise the powers of the Board on a majority vote of a
10 quorum of the Board.

11 ``(2) A vacancy on the Board shall not impair the
12 authority of a quorum of the Board to perform the functions
13 and exercise the powers of the Board.

14 ``(c) Four members of the Board shall constitute a quorum
15 for the transaction of business.

16 ``(d) Each member of the Board who is not a Federal
17 employee shall be compensated at the daily rate of basic pay
18 applicable to a position described in section 5315 of this
19 title for each day or part thereof during which such member
20 is engaged in performing a function of the Board.

21 ``(e) The accrued annual leave of any employee who is a
22 member of the Board shall not be charged for any time used in
23 performing service for the Board during any work period.

24 ``§ 8496. Fiduciary responsibilities; liability and penalty

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

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1 “(1) the term ‘fiduciary’ means--
2 “(A) with respect to the Thrift Savings Fund,
3 each member of the Board; and
4 “(B) with respect to sums from the Thrift
5 Savings Fund invested and managed by a private
6 business concern under a contract entered into under
7 section 8494(a)(3) of this title--
8 “(i) such private business concern; and
9 “(ii) each owner, director, officer, and
10 employee of such private business concern;
11 “(2) the term ‘party in interest’ includes--
12 “(A) any fiduciary;
13 “(B) any counsel to a fiduciary;
14 “(C) any person providing services to the Board;
15 “(D) a labor organization;
16 “(E) a spouse, ancestor, lineal descendant, or
17 spouse of a lineal descendant of a person described
18 in subclause (A), (B), or (C) of this clause; and
19 “(F) a corporation, partnership, or trust or
20 estate of which, or in which, 50 percent or more of--
21 “(i) the combined voting power of all
22 classes of stock entitled to vote or the total
23 value of shares of all classes of stock of such
24 corporation;
25 “(ii) the capital interest or profits

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1 interest of such partnership; or
2 "(iii) the beneficial interest of such trust
3 or estate,
4 is owned directly or indirectly, or held by a person
5 described in subclause (A), (B), (C), or (E) of this
6 clause; and
7 "(3) the term 'person' means an individual,
8 partnership, joint venture, corporation, mutual company,
9 joint-stock company, trust, estate, unincorporated
10 organization, association, or labor organization.
11 "(b)(1) A fiduciary shall discharge his responsibilities
12 with respect to the Thrift Savings Fund or applicable portion
13 thereof solely in the interest of the participants and
14 beneficiaries and--
15 "(A) for the exclusive purpose of--
16 "(1) providing benefits to participants and
17 their beneficiaries; and
18 "(ii) defraying reasonable expenses of
19 administering the Thrift Savings Fund or applicable
20 portions thereof;
21 "(B) with the care, skill, prudence, and diligence
22 under the circumstances then prevailing that a prudent
23 man acting in a like capacity and familiar with such
24 matters would use in the conduct of an enterprise of a
25 like character and with like objectives; and

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

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

9 “(c)(1) A fiduciary shall not cause the Thrift Savings
10 Fund or any portion thereof to engage in a transaction, if
11 the fiduciary knows or should know that such transaction
12 constitutes a direct or indirect--

13 “(A) sale or exchange, or leasing, of any property
14 between the Thrift Savings Fund and a party in interest;

15 “(B) lending of money or other extension of credit
16 between the Thrift Savings Fund and a party in interest;

17 “(C) furnishing of goods, services, or facilities
18 between the Thrift Savings Fund and a party in interest;

19 or

20 “(D) transfer to, or use by or for the benefit of, a
21 party in interest, of any assets of the Thrift Savings
22 Fund.

23 “(2) A fiduciary shall not--

24 “(A) deal with any assets of the Thrift Savings Fund
25 in his own interest or for his own account;

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1 “(B) act, in his individual or any other capacity,
2 in any transaction involving the Thrift Savings Fund for
3 the benefit of a party (or represent a party) whose
4 interests are adverse to the interests of the Thrift
5 Savings Fund or the interests of its participants or
6 beneficiaries; or

7 “(C) receive any consideration for his own personal
8 account from any party dealing with such Thrift Savings
9 Fund in connection with a transaction involving assets of
10 the Thrift Savings Fund.

11 “(3) For the purposes of this subsection, a transfer of
12 real or personal property by a party in interest to a plan
13 shall be treated as a sale or exchange if the property is
14 subject to a mortgage or similar lien which the plan assumes
15 or if it is subject to a mortgage or similar lien which a
16 party-in-interest placed on the property within the 10-year
17 period ending on the date of the transfer.

18 “(d)(1)(A) Any fiduciary that breaches the
19 responsibilities, duties, and obligations set out in
20 subsection (b) of this section or violates subsection (c) of
21 this section shall be liable to make good to the Thrift
22 Savings Fund any losses to such fund resulting from each such
23 breach or violation and to restore to such fund any profits
24 made by the fiduciary through use of assets of such fund by
25 the fiduciary, and shall be subject to such other equitable

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1 or remedial relief as a court considers appropriate. A
2 fiduciary may be removed for a breach referred to in the
3 preceding sentence.

4 “(B) The Attorney General of the United States may
5 assess a civil penalty against a party in interest engaging
6 in a transaction prohibited by subsection (c) of this
7 section. The amount of such penalty may not exceed five
8 percent of the amount involved (as defined in section
9 4975(f)(4) of the Internal Revenue Code of 1954); except
10 that, if the transaction is not corrected (in such manner as
11 the Attorney General shall prescribe by regulation consistent
12 with section 4975(f)(5) of the Internal Revenue Code of 1954)
13 within ninety days after the date the Attorney General
14 transmits notice to the party in interest (or such longer
15 period as the Attorney General may permit), such penalty may
16 be in an amount not more than 100 percent of the amount
17 involved.

18 “(C) A fiduciary shall not be liable under subparagraph
19 (A) of this paragraph with respect to a breach of fiduciary
20 duty under subsection (b) of this section committed before
21 becoming a fiduciary or after ceasing to be a fiduciary.

22 “(2) A civil action may be brought in the district
23 courts of the United States--

24 “(A) by the Attorney General of the United States--

25 “(i) to determine and enforce a liability under

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1 paragraph (1)(A) of this subsection; or

2 "(1) to collect any civil penalty under

3 paragraph (1)(B) of this subsection; or

4 "(B) by the Attorney General of the United States,
5 any participant, former participant, other beneficiary,
6 or fiduciary--

7 "(i) to enjoin any act or practice which
8 violates any provision of subsection (b) or (c) of
9 this section; or

10 "(ii) to obtain any other appropriate equitable
11 relief to redress a violation of any such provision.

12 "(3) An action may not be commenced under paragraph (2)
13 of this subsection with respect to a fiduciary's breach of
14 any responsibility, duty, or obligation under subsection (b)
15 of this section or a violation of subsection (c) of this
16 section after the earlier of--

17 "(A) six years after (i) the date of the last action
18 which constituted a part of the breach or violation, or
19 (ii) in the case of an omission, the latest date on which
20 the fiduciary could have cured the breach or violation;
21 or

22 "(B) three years after the earliest date on which
23 the plaintiff had actual knowledge of the breach or
24 violation; except that, in the case of fraud or
25 concealment, such action may be commenced not later than

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1 six years after the date of discovery of such breach or
2 violation.".

3 (b) The table of chapters at the beginning of part III of
4 such title is amended by inserting after the item relating to
5 chapter 83 the following new item:

84. Civil Service Pension System. 8401".

6 TITLE II--AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954 AND

7 THE SOCIAL SECURITY ACT

8 AMENDMENTS RELATING TO SOCIAL SECURITY

9 Sec. 201. (a) Section 210(a)(5) of the Social Security
10 Act is amended--

11 (1) by striking out "or" at the end of subparagraph
12 (F);

13 (2) by striking out the semicolon at the end of
14 subparagraph (G) and inserting in lieu thereof ", or";
15 and

16 (3) by adding at the end thereof the following new
17 subparagraph:

18 "(H) service performed by an individual after
19 such individual has transferred to or commenced
20 participation in the Civil Service Pension System
21 pursuant to section 8471 of title 5, United States
22 Code;".

23 (b) Section 3121(b)(5) of the Internal Revenue Code of
24 1954 is amended--

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1 (1) by striking out ``or`` at the end of subparagraph
2 (F);

3 (2) by striking out the semicolon at the end of
4 subparagraph (G) and inserting in lieu thereof `` , or``;
5 and

6 (3) by adding at the end thereof the following new
7 subparagraph:

8 `` (H) service performed by an individual after
9 such individual has transferred to or commenced
10 participation in the Civil Service Pension System
11 pursuant to section 8471 of title 5, United States
12 Code;``.

13 TITLE III--MISCELLANEOUS AND CONFORMING AMENDMENTS

14 PAY RETENTION FOR CERTAIN DISABLED EMPLOYEES

15 Sec. 301. Section 5363(a) of title 5, United States Code,
16 is amended--

17 (1) by striking out ``or`` at the end of paragraph
18 (2);

19 (2) by redesignating paragraph (3) as paragraph (4);
20 and

21 (3) by inserting before paragraph (4), as
22 redesignated by clause (2), the following new paragraph
23 (3):

24 `` (3) whc--

25 `` (A) is removed from a position subject to this

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1 subchapter by reason of being disabled (for the
2 purposes of subchapter V of chapter 84 of this
3 title); and

4 "(B) is placed in another position which is
5 subject to this subchapter and is in a lower grade
6 than the previous position; or".

7 MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED
8 STATES CODE

9 Sec. 302. (a) Section 8331(1)(G) of title 5, United
10 States Code, is amended to read as follows:

11 "(G) an individual first employed by the
12 government of the District of Columbia before the
13 effective date of the Civil Service Pension Reform
14 Act of 1985;".

15 (b) Section 8332 of such title is amended by adding at
16 the end thereof the following new subsections:

17 "(n)(1) Except as provided in section 8473(b)(1) of this
18 title, service performed by a participant in the Civil
19 Service Pension System under chapter 84 of this title is not
20 creditable under this section.

21 "(2) Service creditable under this section and
22 transferred for credit to the Civil Service Pension System
23 under chapter 84 of this title is not creditable under this
24 section.".

25 (c) Subsection (a) of section 8334 of such title is

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1 amended--

2 (1) in the first sentence of paragraph (1), by
3 striking out "The employing" and inserting in lieu
4 thereof "Except as provided in paragraph (3) of this
5 subsection, the employing"; and

6 (2) by adding at the end thereof the following new
7 paragraph:

8 "(3)(A) In the case of an employee or Member who was
9 subject to this subchapter before January 1, 1984, and whose
10 service--

11 "(1) is employment for the purposes of title II of
12 the Social Security Act and chapter 21 of the Internal
13 Revenue Code of 1954; and

14 "(1) is not creditable service for any purpose
15 under chapter 84 of this title,
16 an employing agency shall deduct and withhold from the basic
17 pay of the employee or Member under paragraph (1) of this
18 subsection during any pay period only the amount computed
19 pursuant to subparagraph (B) of this paragraph.

20 "(B) The amount deducted and withheld from basic pay
21 during any pay period pursuant to subparagraph (A) of this
22 paragraph in the case of an employee or Member referred to in
23 such subparagraph shall be the excess, if any, of--

24 "(1) the amount that would be deducted and withheld
25 under paragraph (1) of this subsection but for this

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1 paragraph, over

2 “(ii) the amount of the employment taxes deducted
3 and withheld from the basic pay of the employee or Member
4 for the pay period pursuant section 3101(a) of the
5 Internal Revenue Code of 1954.”.

6 (d) The first sentence of section 8334(d) of such title
7 is amended by inserting after “subchapter” the following:
8 “, other than an employee or Member who is a participant in
9 the Civil Service Pension System under chapter 84 of this
10 title,”.

11 (e) Section 8339 of such title is amended by adding at
12 the end thereof the following new subsection:

13 “(o)(1) Effective on the first day of the month in which
14 an annuitant or a survivor becomes 62 years of age, the
15 annuity or survivor annuity computed under the other
16 subsections of this section shall be reduced by an amount
17 equal to the amount (if any) by which the annuitant’s or
18 surviving annuitant’s benefit under title II of the Social
19 Security Act exceeds the amount of such benefit to which he
20 would be entitled if the service described in paragraph (2)
21 of this subsection were not taken into account.

22 “(2) The service described in this paragraph is the
23 civilian service that is covered by amounts deducted and
24 withheld as provided in section 8334 (a) (3) of this title
25 and is taken into account for the purpose of computing--

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1 “(A) the annuity or survivor annuity; and
2 “(B) benefits under such title of the Social
3 Security Act.”.

4 CONFORMING PROVISIONS FOR OTHER RETIREMENT SYSTEMS

5 Sec. 303. (a) Section 803 of the Foreign Service Act of
6 1980 (22 U.S.C. 4043) is amended by adding at the end thereof
7 the following new subsection:

8 “(d) Notwithstanding any other provision of this
9 section, a participant in the Civil Service Pension System
10 under chapter 84 of title 5, United States Code, may not be a
11 participant in the Foreign Service Retirement and Disability
12 System under this title.”.

13 (b) Section 203 of the Central Intelligence Agency
14 Retirement Act of 1964 for Certain Employees (50 U.S.C. 403
15 note) is amended by adding at the end thereof the following
16 new sentence: “A participant in the Civil Service Pension
17 System under chapter 84 of title 5, United States Code, may
18 not be a participant in the Central Intelligence Agency
19 Retirement and Disability System under this Act.”.

20 (c) Section 1005(d) of title 39, United States Code, is
21 amended to read as follows:

22 “(d) Officers and employees of the Postal Service (other
23 than the Governors) shall be covered by chapters 83 and 84 of
24 title 5 according to the provisions of such chapters. The
25 Postal Service shall withhold from pay and shall pay into the

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1 Civil Service Retirement and Disability Fund the amounts
 2 specified in or determined under such chapter 83. The Postal
 3 Service shall pay into the Civil Service Retirement and
 4 Disability Fund the amounts specified or determined under
 5 subchapters II and V of such chapter 84. The Postal Service
 6 shall pay into the Civil Service Thrift Savings Fund the
 7 amounts specified in or determined under subchapter III of
 8 such chapter 84.".

9 HEALTH BENEFIT PLAN ELIGIBILITY FOR FORMER SPOUSES

10 Sec. 304. (a) Section 8901(10) of title 5, United States
 11 Code, is amended--

12 (1) in subparagraph (C)(i)--

13 (A) by inserting "or 8457" after "8345(j)";

14 and

15 (B) by inserting "or 8434" after "8341(h)";

16 and

17 (2) in subparagraph (C)(ii)--

18 (A) by inserting "or 8434" after "8341(h)";

19 and

20 (B) by inserting "or 8457" after "8345(j)".

21 (b) Paragraph (1) of section 8905(c) of such title is
 22 amended--

23 (1) in subparagraph (B), by inserting "or

24 8435(a)(1)"; and

25 (2) in the second sentence--

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1 (A) by inserting ``or 8434`` after ``8341(h)``;

2 and

3 (B) by inserting ``or 8457`` after ``8345(j)``.

4 TITLE IV--AUTHORIZATION AND EFFECTIVE DATES

5 FIRST YEAR EXPENSES OF THE BOARD

6 Sec. 401. (a) Notwithstanding section 8426(c)(3) of title
7 5, United States Code (as added by section 101 of this Act),
8 the expenses incurred in the administration of the Civil
9 Service Thrift Investment Board established by section
10 8491(a) of such title (as added by section 101 of this Act)
11 during fiscal year 1986 shall be paid from sums appropriated
12 pursuant to subsection (b).

13 (b) There are authorized to be appropriated to the Civil
14 Service Thrift Investment Board, for fiscal year 1986, such
15 sums as may be necessary to pay the expenses incurred in the
16 administration of the Civil Service Thrift Investment Board
17 during such fiscal year.

18 EFFECTIVE DATES

19 Sec. 402. (a) Except as provided in subsection (b) or
20 (c), this Act and the amendments made by this Act shall take
21 effect 180 days after the date of enactment.

22 (b) Subchapter VIII of chapter 84 of title 5, United
23 States Code (relating to the Civil Service Thrift Investment
24 Board), as added by section 101, shall take effect on the
25 date of enactment.