

Public Law 99-556  
99th Congress

An Act

To make technical corrections in the Federal Employees Retirement System Act of 1986, and for other purposes.

Oct. 27, 1986

[H.R. 5626]

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Employees' Retirement System Technical Corrections Act of 1986".

Federal  
Employees'  
Retirement  
System  
Technical  
Corrections  
Act of 1986.  
5 USC 8401 note.

**TITLE I—PROVISIONS RELATING TO  
TITLE I OF THE FEDERAL EMPLOYEES'  
RETIREMENT SYSTEM ACT OF 1986**

**SEC. 101. REFERENCES.**

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 84 of title 5, United States Code, as added by section 101 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 516).

**SEC. 102. OPM AUDIT AUTHORITY.**

Section 8461(m)(2) is amended by striking out ", and from the Thrift Savings Fund,".

**SEC. 103. DEPOSIT FOR CERTAIN SERVICE.**

Section 8411 is amended—

- (1) in subsection (b)(2), by inserting "except as provided in subsection (f)," before "service"; and
- (2) in subsection (f)(1), by inserting "(b)(2) or" before "(b)(3)".

**SEC. 104. CLARIFICATION RELATING TO THE MINIMUM AMOUNT OF A DISABILITY ANNUITY.**

Section 8452(d) is amended by inserting "(after the reduction under subsection (a)(2), if applicable, has been made)" after "this section".

**SEC. 105. ELECTION TO DEFER ANNUITY COMMENCEMENT DATE.**

- (a) **IN GENERAL.**—Subsection (g) of section 8412 is amended—
  - (1) by redesignating such subsection as subsection (g)(1); and
  - (2) by adding at the end thereof the following:

"(2) An employee or Member entitled to an annuity under this subsection may defer the commencement of such annuity by written election. The date to which the commencement of the annuity is deferred may not precede the 31st day after the date of filing the

Regulations.

election, and must precede the date on which the employee or Member becomes 62 years of age.

“(3) The Office shall prescribe regulations under which an election under paragraph (2) shall be made.”.

(b) CONFORMING AMENDMENTS.—(1) Section 8413(b)(1) is amended—

(A) in the first sentence, by inserting “but before attaining the applicable minimum retirement age under section 8412(h)” before “is entitled”; and

(B) in the second sentence, by striking out “the applicable minimum retirement age under section 8412(h)” and inserting in lieu thereof “such minimum retirement age”.

(2) Subparagraphs (A) and (B) of section 8415(f)(2) are amended by inserting “8412(g) or” before “8413(b)”.

#### SEC. 106. AMENDMENT TO SECTION 8452.

The second sentence of section 8452(b)(3) is amended by striking out “(a)(1)(A),” and inserting in lieu thereof “(a)(1)(A)(i),”.

#### SEC. 107. LUMP-SUM CREDIT.

Section 8401(19) is amended—

(1) in subparagraph (B), by striking out “and”;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

“(C) amounts deposited by an employee, Member, or survivor under section 8411(f); and”.

#### SEC. 108. CLARIFICATION RELATING TO FIDUCIARIES.

Section 8478(a)(1) is amended by striking out “(other” and all that follows thereafter through “member”).

#### SEC. 109. DEFINITION OF A “LOSS”.

Section 8401(18) is amended to read as follows:

“(18) the term ‘loss’, as used with respect to the Thrift Savings Fund, includes the amount of any loss resulting from the investment of sums in such Fund, or from the breach of any responsibility, duty, or obligation under section 8477.”.

#### SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 8478 the following:

##### “§ 8478a. Investigative authority

“Any authority available to the Secretary of Labor under section 504 of the Employee Retirement Income Security Act of 1974 is hereby made available to the Secretary of Labor, and any officer designated by the Secretary of Labor, to determine whether any person has violated, or is about to violate, any provision of section 8477 or 8478.”.

(b) CHAPTER ANALYSIS.—The analysis for chapter 84 is amended by inserting after the item relating to section 8478 the following: “8478a. Investigative authority.”.

## SEC. 111. INTERIM EXEMPTION PROCEDURES.

(a) IN GENERAL.—Subject to subsection (b), until such time as final regulations under subparagraph (A) of section 8477(c)(3) of title 5, United States Code, become effective, the Secretary of Labor may, in accordance with procedures under section 408(a) of the Employee Retirement Income Security Act of 1974, grant any exemption allowable under such section 8477(c)(3).

5 USC 8477 note.

29 USC 1108.

(b) TERMINATION OF INTERIM AUTHORITY.—The authority to grant an exemption under section 8477(c)(3) of title 5, United States Code, using the procedures under section 408(a) of the Employee Retirement Income Security Act of 1974 shall expire not later than December 31, 1988.

## SEC. 112. ADOPTION OF ERISA ADMINISTRATIVE EXEMPTIONS.

Section 8477(c)(3) is amended by adding at the end thereof the following:

Federal Register, publication.

“(E) Notwithstanding subparagraph (D), the Secretary of Labor may determine that an exemption granted for any class of fiduciaries or transactions under section 408(a) of the Employee Retirement Income Security Act of 1974 shall, upon publication of notice in the Federal Register under this subparagraph, constitute an exemption for purposes of the provisions of paragraph (2).”.

29 USC 1108.

## SEC. 113. INTERIM BONDING REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), until such time as the Secretary of Labor promulgates final regulations under section 8478 of title 5, United States Code, the Secretary of Labor may, with respect to the Thrift Savings Fund, apply the temporary regulations under section 412 of the Employee Retirement Income Security Act of 1974 that are set forth in section 2550.412-1, and subchapter I of chapter XXV, of title 29 of the Code of Federal Regulations, as in effect on September 23, 1986.

5 USC 8478 note.

29 USC 1112.

(b) TERMINATION OF INTERIM AUTHORITY.—The authority to apply the temporary regulations referred to in subsection (a) with respect to the Thrift Savings Fund shall expire not later than December 31, 1989.

## SEC. 114. ALLOCATION OF FIDUCIARY RESPONSIBILITIES.

(a) INTERIM PROCEDURES.—(1) Subject to paragraph (2), until such time as final regulations under subparagraph (E) of section 8477(e)(1) of title 5, United States Code, become effective, a fiduciary (as defined by section 8477(a)(3) of title 5, United States Code) may, in accordance with procedures established by the Federal Retirement Thrift Investment Board, make any allocation of fiduciary responsibilities.

5 USC 8477 note.

(2) The authority to make any allocation under section 8477(e)(1)(E) using the procedures referred to in paragraph (1), and any allocation so made using such procedures, shall expire not later than December 31, 1988.

(b) CONFORMING AMENDMENT.—Section 8477(e)(1)(E)(i) is amended by striking “Board” and inserting “Secretary of Labor (or the Board under section 114 of the Federal Employees’ Retirement System Technical Corrections Act of 1986)”.

**SEC. 115. SURETY CORPORATIONS.**

Section 8478(c)(2) is amended by striking out "sections 6 through 13 of title 6" and inserting in lieu thereof "sections 9304 through 9308 of title 31".

**SEC. 116. AUTHORITY TO EXCLUDE CERTAIN EMPLOYEES SERVING ON A TEMPORARY OR INTERMITTENT BASIS.**

Section 8402(c) is amended by adding at the end thereof the following:

"(5) The Clerk of the House of Representatives and the Secretary of the Senate each may exclude from the operation of this chapter a Congressional employee—

"(A) whose employment is temporary or intermittent; and

"(B) who is paid by such Clerk or Secretary, as the case may be.

"(6) The Director of the Office of Technology Assessment may exclude from the operation of this chapter an employee under the Office of Technology Assessment whose employment is temporary or intermittent.".

**SEC. 117. CLARIFICATIONS RELATING TO COMPUTATION OF SURVIVOR'S BENEFITS FOR A CHILD.**

(a) **AMOUNT REFLECTS CSRS ADJUSTMENTS.**—Section 8443(a)(2) is amended by inserting "(including any adjustment based on section 8340)" after "83".

(b) **AMOUNT DOES NOT REFLECT FERS ADJUSTMENTS.**—Section 8462(b)(3) is amended by adding at the end thereof the following: "Nothing in the preceding sentence shall affect the computation of any amount under section 8443(a)(2).".

**SEC. 118. AMENDMENT RELATING TO SECTION 8457.**

Section 8457(a) is amended by striking out "subsection (c)" each place it appears and inserting in lieu thereof "subsection (b)".

**SEC. 119. AMENDMENT RELATING TO SECTION 8401(11).**

Section 8401(11) is amended by striking out "any of" each place it appears.

**SEC. 120. COMMENCEMENT DATE OF ANNUITY FOR THE WIDOW OR WIDOWER OF AN EMPLOYEE OR MEMBER WHO DIES ENTITLED TO A DEFERRED ANNUITY.**

Section 8442(c)(2)(b)(i)(I) is amended to read as follows:

"(I) on the day after the date on which the former employee or Member would have attained age 62 (or, if applicable, either age 60 if the former employee or Member completed at least 20 years of service, or the applicable minimum retirement age (under section 8412(h)) if the former employee or Member completed at least 30 years of service); or".

**SEC. 121. REDUCTIONS BASED ON EARNINGS TO TERMINATE AFTER ENTITLEMENT TO ANNUITY SUPPLEMENT ENDS.**

Section 8421a is amended by striking out subsection (c), and redesignating subsection (d) as subsection (c).

## **TITLE II—AMENDMENTS RELATING TO TITLE II OF THE FEDERAL EMPLOY- EES' RETIREMENT SYSTEM ACT OF 1986**

### **SEC. 201. EMPLOYEES OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA.**

Subsection (c) of section 207 of the Federal Employees' Retirement System Act of 1986 is amended—

- (1) by redesignating such subsection as subsection (c)(1); and
- (2) by adding at the end thereof the following:

“(2) The amendment made by paragraph (1) shall not result in the coverage, under subchapter I of chapter 63 of title 5, United States Code, of any individual (or class of individuals) employed by the government of the District of Columbia who would not have been covered under such subchapter if such amendment had not been made.”.

5 USC 6301.

5 USC 6301 note.

### **SEC. 202. AMENDMENT RELATING TO RETIREMENT COUNSELING.**

Section 8350(c)(1) of title 5, United States Code, as added by section 205 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 592), is amended by striking out “(b)(1)” and inserting in lieu thereof “(b)”.

## **TITLE III—AMENDMENTS RELATING TO TITLE III OF THE FEDERAL EMPLOY- EES' RETIREMENT SYSTEM ACT OF 1986**

### **SEC. 301. ELECTIONS FOR CERTAIN INDIVIDUALS NOT COVERED AS OF DECEMBER 31, 1986.**

Section 301(b)(3) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599) is amended to read as follows:

5 USC 8331 note.

“(3)(A) If, as of December 31, 1986, the individual is not subject to subchapter III of chapter 83 of title 5, United States Code, such individual may, during the 6-month period described in subsection (a)(1)(B)—

- “(i) elect to become subject to chapter 84 of such title; or
- “(ii) if such individual has not since made an election described in subparagraph (B), elect to become subject to subchapter III of chapter 83 of such title under the same terms and conditions as apply in the case of an individual described in section 8402(b)(2) of such title who is subject to such subchapter.

“(B) Nothing in this paragraph shall be considered to preclude the individual from electing to become subject to subchapter III of chapter 83 of such title pursuant to notification under section 8331(2) of such title—

- “(i) during the period after December 31, 1986, and before July 1, 1987; or

“(ii) after December 31, 1987, if such individual has not since become subject to subchapter III of chapter 83, or chapter 84, of such title.

“(C) Any individual who becomes subject to subchapter III of chapter 83 of such title pursuant to notification under section 8331(2) of such title after December 31, 1986, shall become subject to such subchapter under the same terms and conditions as apply in the case of an individual described in section 8402(b)(2) of such title who is subject to such subchapter.”.

**SEC. 302. INTEREST ON REFUNDS.**

5 USC 8331 note.

(a) **REFUND BASED ON AN ELECTION TO BECOME SUBJECT TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.**—Subparagraph (A) of section 302(c)(2) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605) is amended to read as follows:

“(A) shall be payable with interest, computed in accordance with paragraphs (2) and (3) of section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.”.

5 USC 8331 note.

(b) **REFUND BASED ON AN ELECTION UNDER SECTION 301(b)(1)(A) OF FERSA.**—Section 303(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605) is amended by adding at the end thereof the following:

“A refund under this subsection shall be computed with interest in accordance with paragraphs (2) and (3) of section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.”.

## **TITLE IV—FOREIGN SERVICE RETIREMENT**

**SEC. 401. REFERENCES.**

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.).

**SEC. 402. ANNUITY OFFSET BY AMOUNT OF SOCIAL SECURITY BENEFITS.**

Subsection (m) of section 806 (22 U.S.C. 4046) is amended to read as follows:

“(m) The retirement, disability, or survivor annuity payable to any person based on the service of an individual subject to section 805(h) beginning with the first day of the month for which such person first becomes—

“(1) eligible for an annuity under this subchapter based on the service of such individual, and

“(2) entitled, or would, upon proper application, be entitled to old age, disability, or survivor benefits under title II of the Social Security Act based on the service of such individual under this subchapter,

shall be computed as if section 8349 of title 5, United States Code, were applicable.”.

**SEC. 403. INCREASE IN CEILING ON ANNUAL RATE OF PAY FOR RE-EMPLOYED ANNUITANTS.**

Paragraph (3) of section 824(b) (22 U.S.C. 4064(b)) is amended to read as follows:

42 USC 401.

“(3)(A) The sum of—

- “(i) the total annuity payable under this chapter to an annuitant making an election under paragraph (1), and
- “(ii) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the amount described in subparagraph (B).

“(B) The amount referred to in subparagraph (A) is the greater of—

- “(i) the highest annual rate of basic pay which is payable during such year for full-time employment in the position in which the annuitant is employed, or
- “(ii) the basic pay the annuitant was entitled to receive under this Act on the date of retirement from the Service.

“(C) For purposes of this section, the term ‘annuity’ means the annuity earned by the reemployed member based on his or her service irrespective of whether or not the amount payable is reduced by the amount of an annuity payable under section 814 or 820(b).”.

**SEC. 404. THRIFT SAVINGS FUND PARTICIPATION BY FSRDS PARTICIPANTS.**

(a) **PARTICIPATION BY FSRDS PARTICIPANTS.**—Subchapter I of chapter 8 is amended by adding after section 828 the following new section:

“**SEC. 829. THRIFT SAVINGS FUND PARTICIPATION.**—Participants in this System shall be deemed to be employees for the purposes of section 8351 of title 5, United States Code. Any reference in such section 8351 or in subchapter III of chapter 84 of such title 5 to retirement or separation under subchapter III of chapter 83 or chapter 84 of such title 5 shall be deemed to be references to retirement or separation under subchapter I or II of this chapter with similar benefits or entitlements with respect to participants under such subchapter I or II, respectively.”.

22 USC 4069.

5 USC 8431 et seq.  
5 USC 8331 et seq.

(b) **CONFORMING AMENDMENT TO TABLE OF CONTENTS.**—The table of contents in section 2 of such Act is amended by inserting after the item relating to section 828 the following:

“Sec. 829. Thrift Savings Fund participation.”.

**SEC. 405. CREDITABLE SERVICE.**

(a) **TREATMENT OF CONTRIBUTION FOR PRIOR SERVICE.**—Subsection (d) of section 854 (22 U.S.C. 4071c) is amended by striking out “which would have been deducted from pay under section 854(a) had the individual been a participant” and inserting in lieu thereof “which was deducted and withheld from the individual’s basic pay under the other retirement system”.

(b) **EMPLOYEE OF A MEMBER OR OFFICE OF THE CONGRESS.**—Section 854 (22 U.S.C. 4071c) is amended by adding at the end thereof the following new subsection:

“(e) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant’s employing Member or office in the Congress shall make a matching contribu-

tion (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this subchapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.”.

SEC. 406. ENTITLEMENT TO ANNUITY.

(a) SERVICE AS A NONCAREER MEMBER OF THE FOREIGN SERVICE.—Paragraph (1) of section 855(b) (22 U.S.C. 4071d) is amended by striking out “of service subject to this chapter” and inserting in lieu thereof “as a member of the Foreign Service”.

(b) CLARIFICATION OF RATES APPLICABLE TO ANNUITY COMPUTATION.—Paragraph (2) of section 855(b) (22 U.S.C. 4071d(b)) is amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

“(A) in accordance with section 8415(d)(1) of title 5, United States Code, for all service while a participant in this System and for prior service creditable under this subchapter not otherwise counted as—

“(i) a member of the Service,

“(ii) an employee of the Central Intelligence Agency entitled to retirement credit under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act, or

“(iii) a participant as a Member of Congress, a congressional employee, law enforcement officer, firefighter, or air traffic controller in the Civil Service Retirement System under subchapter III of chapter 83, title 5, United States Code, or in the Federal Employees’ Retirement System under chapter 84 of title 5, United States Code; and

“(B) at the rate stated in section 8415(a) of title 5, United States Code, for all other service creditable under this System including service in excess of 20 years otherwise creditable under paragraph (A).”.

(c) CLARIFICATION OF OTHER ANNUITY COMPUTATIONS RELATING TO INVOLUNTARY SEPARATION, DISABILITY, DEFERRED ANNUITY, AND SURVIVOR ANNUITY.—Subsection (b) of section 855 (22 U.S.C. 4071d) is amended by adding at the end thereof the following:

“(3) Any participant who is involuntarily retired or separated under section 607, 608, or 610 and who would if a participant under subchapter I, become eligible for a refund of contributions or a deferred annuity under subchapter I, shall, in lieu thereof, receive benefits for an involuntary separation under this subchapter.

“(4) A disability annuity under this subchapter required to be redetermined under section 8452(b) of title 5, United States Code, or computed under section 8452 (c) or (d) of such title 5, shall be recomputed or computed using the formula in subsection (b)(2)(A) of this section rather than section 8415 of such title 5 (as stated in section 8452(b)(2)(A) and 8452 (c) and (d) of such title). Such annuity shall also be computed in accordance with the preceding sentence if, as of the day on which such annuity commences or is restored, the annuitant satisfies the age and service requirements for entitlement to an immediate annuity under section 811 of this Act.

50 USC 403 note.

5 USC 8331 *et seq.*

“(5) A former participant entitled to a deferred annuity under section 8413(b) of title 5, United States Code, shall not be subject to section 8415(f)(1) of such title 5 if the former participant has 20 years of service creditable under this subchapter and is at least 50 years of age as of the date on which the annuity is to commence.

“(6)(A) The amount of a survivor annuity for a widow or widower of a participant or former participant shall be 50 percent of an annuity computed for the deceased under this subchapter rather than under section 8415 of such title 5 (as stated in sections 8442(a)(1), (b)(1)(B), and (c)(2) of such title).

“(B) Any calculation for a widow or widower of a participant or former participant under section 8442(f)(2)(A) shall be based on an ‘assumed FSRDS annuity’ rather than an ‘assumed CSRS annuity’ as stated in such section. For the purpose of this subparagraph, the term ‘assumed FSRDS annuity’ means the amount of the survivor annuity to which the widow or widower would be entitled under subchapter I based on the service of the deceased annuitant determined under section 8442(f)(5) of such title 5.”.

**SEC. 407. CLARIFICATION OF DISQUALIFICATION OF FORMER SPOUSES FOR SURVIVOR BENEFIT IF REMARRIAGE BEFORE AGE 55.**

Subsection (b) of section 861 (22 U.S.C. 4071j) is amended by adding at the end thereof the following:

“(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.”.

**SEC. 408. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on January 1, 1987. The amendment made by section 403 shall apply to any individual in a reemployed status on or after January 1, 1987.

22 USC 4046  
note.

## **TITLE V—MISCELLANEOUS PROVISIONS**

**SEC. 501. TECHNICAL AMENDMENTS TO PUBLIC LAW 98-615.**

(a) **AMENDMENTS.**—(1) Subsections (a)(4)(B), (a)(5)(B)(iii), and (f) of section 4 of Public Law 98-615 (98 Stat. 3204), as amended by section 201 of Public Law 99-251 (100 Stat. 20), are amended by striking out “Federal Employees Benefits Improvement Act of 1985” and inserting in lieu thereof “Federal Employees Benefits Improvement Act of 1986”.

5 USC 8341 note.

(2) Section 4(a)(5)(A) of Public Law 98-615, as so amended, is amended—

(A) by striking out “Paragraphs (2),” and inserting in lieu thereof “Paragraphs”; and

(B) by adding at the end thereof the following: “The paragraphs referred to in the preceding sentence shall so apply only insofar as they relate to an election to provide a survivor annuity for a former spouse.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall be effective as of May 7, 1985.

5 USC 8341 note.

**SEC. 502. CREDITABILITY OF CERTAIN MILITARY SERVICE IN COMPUTING AN ANNUITY FOR THE SURVIVOR OF AN EMPLOYEE OR MEMBER WHO DIES IN SERVICE.**

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Section 8332(c) of title 5, United States Code, is amended by adding at the end thereof the following:

“(3)(A) Notwithstanding paragraph (2) of this subsection, for purposes of computing a survivor annuity for a survivor of an employee or Member—

“(i) who was awarded retired pay based on any period of military service, and

“(ii) whose death occurs before separation from the service, creditable service of the deceased employee or Member shall include each period of military service includable under subparagraph (A) or (B) of paragraph (1) of this subsection, as applicable. In carrying out this subparagraph, any amount deposited under section 8334(h) of this title shall be taken into account.

“(B) A survivor annuity computed based on an amount which, under authority of subparagraph (A), takes into consideration any period of military service shall be reduced by the amount of any survivor's benefits—

“(i) payable to a survivor (other than a child) under a retirement system for members of the uniformed services;

“(ii) if, or to the extent that, such benefits are based on such period of military service.

“(C) The Office of Personnel Management shall prescribe regulations to carry out this paragraph, including regulations under which—

“(i) a survivor may elect not to be covered by this paragraph; and

“(ii) this paragraph shall be carried out in any case which involves a former spouse.”.

(b) **FEDERAL EMPLOYEES' RETIREMENT SYSTEM.**—Section 8411(c) of title 5, United States Code, is amended by adding at the end thereof the following:

“(4)(A) Notwithstanding paragraph (2), for purposes of computing a survivor annuity for a survivor of an employee or Member—

“(i) who was awarded retired pay based on any period of military service, and

“(ii) whose death occurs before separation from the service, creditable service of the deceased employee or Member shall include each period of military service includable under subparagraph (A) or (B) of paragraph (1) or under paragraph (3). In carrying out this subparagraph, any amount deposited under subsection (f)(4) shall be taken into account.

“(B) A survivor annuity computed based on an amount which, under authority of subparagraph (A), takes into consideration any period of military service shall be reduced by the amount of any survivor's benefits—

“(i) payable to a survivor (other than a child) under a retirement system for members of the uniformed services;

“(ii) if, or to the extent that, such benefits are based on such period of military service.

“(C) The Office of Personnel Management shall prescribe regulations to carry out this paragraph, including regulations under which—

Regulations.

Regulations.

Regulations.

“(i) a survivor may elect not to be covered by this paragraph; and

“(ii) this paragraph shall be carried out in any case which involves a former spouse.”.

(c) **APPLICABILITY.**—(1) The amendments made by this section shall apply to a survivor of an employee or Member who dies on or after the 180th day after the date of the enactment of this Act.

5 USC 8332 note.

(2) Upon application to the Office of Personnel Management, such amendments shall also apply to a survivor of an employee or Member whose date of death precedes such 180th day, except that any resulting recomputation shall not be effective for any period beginning before the 60th day after the date on which the application is received.

**SEC. 503. CLARIFICATION RELATING TO ELIGIBILITY OF CERTAIN SURVIVOR ANNUITANTS TO PARTICIPATE IN FEHBP.**

Section 8901(3)(B) of title 5, United States Code, is amended by inserting after “of an employee” the following: “(including a family member entitled to an amount under section 8442(b)(1)(A), whether or not such family member is entitled to an annuity under section 8442(b)(1)(B))”.

**SEC. 504. MANDATORY SEPARATION PROVISION NOT TO BE APPLIED RETROACTIVELY.**

(a) **IN GENERAL.**—Section 8335(a) of title 5, United States Code, shall not apply to any air traffic controller appointed before January 1, 1987.

Air traffic controllers.  
5 USC 8335 note.

(b) **DEFINITION.**—For purposes of this section, the term “air traffic controller” means any individual who—

(1) is an air traffic controller within the meaning of section 2109(1) of title 5, United States Code, as in effect on January 1, 1987; but

(2) is not an air traffic controller within the meaning of section 2109(1) of title 5, United States Code, as in effect on December 31, 1986.

**SEC. 505. COORDINATION WITH PAY PERIODS.**

Under regulations prescribed by the Office of Personnel Management, any reference to a specific date in section 302, 303, 305, or 702(a) of the Federal Employees’ Retirement System Act of 1986

5 USC 8331 note.

(Public Law 99-335; 100 Stat. 514) shall, for purposes of individual contributions (including deductions from basic pay), Government contributions, and refunds, be deemed to be a reference to the first day of the first applicable pay period beginning on or after such date, or to the day before such first day, as appropriate.

Approved October 27, 1986.

---

**LEGISLATIVE HISTORY—H.R. 5626:**

**CONGRESSIONAL RECORD**, Vol. 132 (1986):  
Oct. 6, considered and passed House.  
Oct. 8, considered and passed Senate.