

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993

OCTOBER 1, 1992.—Ordered to be printed

Mr. McCURDY, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany H.R. 5095]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095), to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1993”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified Schedule of Authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Staff.

## **TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

*Sec. 201. Authorization of appropriations.*

## **TITLE III—GENERAL PROVISIONS**

- Sec. 301. Increase in employee compensation and benefits authorized by law.*
- Sec. 302. Restriction on conduct of intelligence activities.*
- Sec. 303. Sense of Congress regarding disclosure of annual intelligence budget.*
- Sec. 304. Technical amendments.*
- Sec. 305. Airborne reconnaissance.*

## **TITLE IV—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES**

- Sec. 401. Postemployment assistance for certain DIA employees.*
- Sec. 402. Inclusion of Senior Executive Service positions in civilian intelligence personnel system.*
- Sec. 403. Notice to congressional intelligence committees of Department of Defense real property transactions and construction projects involving intelligence agencies.*
- Sec. 404. Amendments to National Security Education Act of 1991.*
- Sec. 405. Pay and allowances for employees of the National Security Agency.*
- Sec. 406. Exemption for National Reconnaissance Office from any requirement for disclosure of personnel information.*

## **TITLE V—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS**

*Sec. 501. Temporary FBI authority to accept bequests or devises.*

## **TITLE VI—CENTRAL INTELLIGENCE AGENCY**

*Sec. 601. Authority of Inspector General to receive complaints and information from any person.*

## **TITLE VII—INTELLIGENCE ORGANIZATION**

- Sec. 701. Short title.*
- Sec. 702. Definitions.*
- Sec. 703. Participation of the Director of Central Intelligence in the National Security Council.*
- Sec. 704. Appointment of the Director and Deputy Director of Central Intelligence.*
- Sec. 705. Responsibilities and authorities of the Director of Central Intelligence.*
- Sec. 706. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.*

## **TITLE VIII—RESTATEMENT OF CIARDS STATUTE**

- Sec. 801. Short title.*
- Sec. 802. Restatement of Act.*
- Sec. 803. Conforming amendments.*
- Sec. 804. Savings provisions.*
- Sec. 805. Effective date.*

# **TITLE I—INTELLIGENCE ACTIVITIES**

## **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

*Funds are hereby authorized to be appropriated for fiscal year 1993 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:*

- (1) The Central Intelligence Agency.*
- (2) The Department of Defense.*
- (3) The Defense Intelligence Agency.*
- (4) The National Security Agency.*
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.*
- (6) The Department of State.*

- (7) *The Department of the Treasury.*
- (8) *The Department of Energy.*
- (9) *The Federal Bureau of Investigation.*
- (10) *The Drug Enforcement Administration.*

#### **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

(a) **SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.**—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1993, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany the conference report on the bill H.R. 5095 of the One Hundred Second Congress.

(b) **AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**—The Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

#### **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

(a) **AUTHORITY FOR ADJUSTMENTS.**—The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1993 under section 102 of this Act when the Director determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) **NOTICE TO INTELLIGENCE COMMITTEES.**—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

#### **SEC. 104. COMMUNITY MANAGEMENT STAFF.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for the Community Management Staff of the Director of Central Intelligence for fiscal year 1993 the sum of \$86,900,000.

(b) **AUTHORIZED PERSONNEL LEVELS.**—The Community Management Staff of the Director of Central Intelligence is authorized 161 full-time personnel as of September 30, 1993. Such personnel may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) **REIMBURSEMENT.**—During fiscal year 1993, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(d) **COMMUNITY MANAGEMENT STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.**—During fiscal year 1993, activities and personnel of the Community Management Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

## **TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1993 the sum of \$168,900,000.

## **TITLE III—GENERAL PROVISIONS**

### **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.**

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

### **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.**

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

### **SEC. 303. SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET.**

It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.

### **SEC. 304. TECHNICAL AMENDMENTS.**

(a) **NATIONAL SECURITY AGENCY ACT OF 1959.**—The National Security Agency Act of 1959 is amended by redesignating the second section 17 (added by section 405 of Public Law 102-183) as section 18.

(b) **PUBLIC LAW 102-88.**—Effective as of August 14, 1991, section 305(a)(3) of Public Law 102-88 (105 Stat. 432) is amended by striking out “in the last sentence” and inserting in lieu thereof “in the penultimate sentence”.

### **SEC. 305. AIRBORNE RECONNAISSANCE.**

(a) Of the amount authorized to be appropriated by section 101 for reconnaissance programs, funds are authorized for an advanced airborne reconnaissance system.

(b) *The amount authorized in subsection (a) is the amount equal to one-third of the amount authorized for a similar activity in the National Foreign Intelligence Program for fiscal year 1992 by the Intelligence Authorization Act for Fiscal Year 1992 (Public Law 102-183).*

## **TITLE IV—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES**

### **SEC. 401. POSTEMPLOYMENT ASSISTANCE FOR CERTAIN DIA EMPLOYEES.**

(a) **ASSISTANCE AUTHORIZED.**—Subsection (e) of section 1604 of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4)(A) Notwithstanding any other provision of law, the Secretary of Defense may use appropriated funds to assist employees who have been in sensitive positions in the Defense Intelligence Agency and who are found to be ineligible for continued access to Sensitive Compartmented Information and employment with the Defense Intelligence Agency, or whose employment with the Defense Intelligence Agency has been terminated—

“(i) in finding and qualifying for subsequent employment;

“(ii) in receiving treatment of medical or psychological disabilities; and

“(iii) in providing necessary financial support during periods of unemployment.

“(B) Assistance may be provided under subparagraph (A) only if the Secretary determines that such assistance is essential to maintain the judgment and emotional stability of such employee and avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee had access. Assistance provided under this paragraph for an employee shall not be provided any longer than five years after the termination of the employment of the employee.

“(C) The Secretary shall report annually to the Committees on Appropriations of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives with respect to any expenditure made pursuant to this paragraph.”.

(b) **FIRST ANNUAL REPORT.**—The first report under paragraph (4) of section 1604(e) of title 10, United States Code, shall be submitted not later than 12 months after the date of the enactment of this Act.

### **SEC. 402. INCLUSION OF SENIOR EXECUTIVE SERVICE POSITIONS IN CIVILIAN INTELLIGENCE PERSONNEL SYSTEM.**

(a) **INCLUSION OF SENIOR EXECUTIVE SERVICE POSITIONS.**—Section 1590 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting “, including positions in the Senior Executive Service,” after “positions”; and

(B) by inserting after “such departments” the following: “, except that the total number of positions in the Senior Executive Service established pursuant to this sec-

tion may not exceed one-half of one percent of the total number of all civilian intelligence positions established pursuant to this section.”;

(2) in subsection (b), by inserting after the first sentence the following new sentence: “The Secretary shall also fix rates of pay for positions in the Senior Executive Service established pursuant to this section that are not in excess of the maximum rate or less than the minimum rate of basic pay established pursuant to section 5382 of title 5.”; and

(3) by adding at the end the following new subsections:

“(f) With regard to any position in the Senior Executive Service which may be established pursuant to this section, the Secretary of Defense shall prescribe regulations to implement this section which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3393a, 3396(c), 3592, 3595(a), 5384, and 6304, subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the Senior Executive Service is entitled shall be held or decided pursuant to regulations issued by the Secretary), and subchapter II of chapter 43 of title 5. The Secretary of Defense shall also prescribe, to the extent practicable, regulations to implement such other provisions of title 5 as apply to members of the Senior Executive Service or to individuals applying for positions in the Senior Executive Service.

“(g) The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Senior Executive Service whose positions may be established pursuant to this section. The awarding of such a rank shall be made in a manner consistent with the provisions of that section.”

(b) **CONFORMING AMENDMENT.**—Section 3132(a)(1)(B) of title 5, United States Code, is amended by inserting after “National Security Agency” the following: “, Department of Defense intelligence activities the civilian employees of which are subject to section 1590 of title 10.”

**SEC. 403. NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES OF DEPARTMENT OF DEFENSE REAL PROPERTY TRANSACTIONS AND CONSTRUCTION PROJECTS INVOLVING INTELLIGENCE AGENCIES.**

(a) **REAL PROPERTY TRANSACTIONS.**—(1) Section 2662 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f) Whenever a transaction covered by this section is made by or on behalf of an intelligence component of the Department of Defense or involves real property used by such a component, any report under this section with respect to the transaction that is submitted to the Committees on Armed Services of the Senate and the House of Representatives shall be submitted concurrently to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”

(2)(A) The heading of such section is amended to read as follows:

**"§ 2662. Real property transactions: reports to congressional committees".**

(B) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

**"2662. Real property transactions: reports to congressional committees."**

(b) **CONSTRUCTION PROJECTS.**—Section 2801(c)(4) of such title is amended by inserting before the period at the end the following: "and, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate".

**SEC. 404. AMENDMENTS TO NATIONAL SECURITY EDUCATION ACT OF 1991.**

(a) **REDESIGNATION OF ACT.**—Section 801(a) of the National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1901 et seq.) is amended to read as follows:

"(a) **SHORT TITLE.**—This title may be cited as the 'David L. Boren National Security Education Act of 1991'."

(b) **PROGRAM REVISIONS.**—Section 802(a) of such Act (50 U.S.C. 1902(a))—

(1) in paragraph (1)(A), by inserting "or equivalent term," after "at least one academic semester";

(2) in paragraph (1)(B)(i), by striking out "in the United States" and inserting in lieu thereof "as part of a graduate degree program of a United States institution of higher education"; and

(3) in paragraph (4), by adding at the end the following new sentence: "In addition, the Secretary may enter into personal service contracts for periods up to one year for program administration, except that not more than 10 such contracts may be in effect at any one time."

(c) **REPEAL OF REQUIRED ENTITY TO ADMINISTER PROGRAM.**—Section 802 of such Act is further amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(d) **NATIONAL SECURITY EDUCATION BOARD.**—Section 803(b) of such Act (50 U.S.C. 1903(b)) is amended—

(1) by redesignating paragraph (7) as paragraph (8);

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) The Chairperson of the National Endowment for the Humanities."; and

(3) in paragraph (8) (as so redesignated)—

(A) by striking out "Four individuals" and inserting in lieu thereof "Six individuals"; and

(B) by inserting before the period at the end the following: "and who may not be officers or employees of the Federal Government".

(e) **FUND ASSETS AVAILABLE FOR INVESTMENT.**—Section 804(c) of such Act (50 U.S.C. 1904(c)) is amended by striking out "obligation" at the end of the first sentence and inserting in lieu thereof "expenditure".

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for fiscal year 1993 to the National Security Education Trust Fund established by section 804 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1904) the sum of \$30,000,000.

**SEC. 405. PAY AND ALLOWANCES FOR EMPLOYEES OF THE NATIONAL SECURITY AGENCY.**

Section 2 of the National Security Agency Act of 1959 (Public Law 86-36; 50 U.S.C. 402 note) is amended to read as follows:

"SEC. 2. (a) The Secretary of Defense (or his designee) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic pay for such positions shall be fixed by the Secretary of Defense (or his designee for this purpose) in relation to the rates of basic pay provided for in subpart D of part III of title 5, United States Code, for positions subject to such title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, no officer or employee of the National Security Agency shall be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of such title and not more than 70 such officers and employees shall be paid within the range of rates authorized in section 5376 of such title.

"(b) The Secretary of Defense (or his designee) may provide officers and employees of the National Security Agency other compensation, benefits, incentives, and allowances which are consistent with, and do not exceed the levels authorized for, such compensation, benefits, incentives, or allowances by title 5, United States Code."

**SEC. 406. EXEMPTION FOR NATIONAL RECONNAISSANCE OFFICE FROM ANY REQUIREMENT FOR DISCLOSURE OF PERSONNEL INFORMATION.**

(a) **EXEMPTION FROM DISCLOSURE.**—Except as required by the President or as provided in subsection (b), nothing in this Act or any other provision of law shall be construed to require the disclosure of the name, title, or salary of any person employed by, or assigned or detailed to, the National Reconnaissance Office or the disclosure of the number of such persons.

(b) **PROVISION OF INFORMATION TO CONGRESS.**—Subsection (a) does not apply with respect to the provision of information to Congress.

## **TITLE V—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS**

**SEC. 501. TEMPORARY FBI AUTHORITY TO ACCEPT BEQUESTS OR DEVISES.**

(a) **ACCEPTANCE OF BEQUESTS.**—During fiscal year 1993, the Director of the Federal Bureau of Investigation may accept, on behalf of the Bureau, any bequest or devise made by a citizen of the United States, if such bequest or devise is used only—

(1) to fund and administer, in accordance with regulations prescribed by the Director, a scholarship program for the benefit



of the immediate families of Federal law enforcement officers slain or permanently disabled in the line of duty; and

(2) to pay all necessary expenses in connection with the acceptance of such bequest or devise.

(b) **AUTHORITY TO USE FUNDS.**—(1) Notwithstanding any other provision of law, proceeds from the sale of property accepted as a bequest or devise by the Director pursuant to subsection (a) shall be maintained in an interest bearing account and shall remain available for disbursement for purposes of this section until such funds are expended.

(2) The authority of paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriation Acts.

(c) **REGULATIONS REQUIRED.**—Not later than 90 days after accepting any bequest or devise pursuant to this section, the Director shall prescribe regulations to implement the provisions of this section in a fair, equitable manner, and shall make copies of such regulations available to all Federal law enforcement agencies. Copies of such regulations shall also be provided the Judiciary Committees of the Senate and the House of Representatives.

## **TITLE VI—CENTRAL INTELLIGENCE AGENCY**

### **SEC. 601. AUTHORITY OF CIA INSPECTOR GENERAL TO RECEIVE COMPLAINTS AND INFORMATION FROM ANY PERSON.**

Section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) by striking out “an employee of the Agency” and inserting in lieu thereof “any person”; and

(2) by inserting “from an employee of the Agency” after “received”.

## **TITLE VII—INTELLIGENCE ORGANIZATION**

### **SEC. 701. SHORT TITLE.**

This title may be cited as the “Intelligence Organization Act of 1992”.

### **SEC. 702. DEFINITIONS.**

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 2 the following new section:

#### **“DEFINITIONS**

**“SEC. 3. As used in this Act:**

“(1) The term ‘intelligence’ includes foreign intelligence and counterintelligence.

“(2) The term ‘foreign intelligence’ means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons.

*"(3) The term 'counterintelligence' means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.*

*"(4) The term 'intelligence community' includes—*

*"(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 105(b)(3)), and such other offices as the Director may designate;*

*"(B) the Central Intelligence Agency;*

*"(C) the National Security Agency;*

*"(D) the Defense Intelligence Agency;*

*"(E) the central imagery authority within the Department of Defense;*

*"(F) the National Reconnaissance Office;*

*"(G) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;*

*"(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, and the Department of Energy;*

*"(I) the Bureau of Intelligence and Research of the Department of State; and*

*"(J) such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community.*

*"(5) The terms 'national intelligence' and 'intelligence related to the national security'—*

*"(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and*

*"(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.*

*"(6) The term 'National Foreign Intelligence Program' refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces."*

**SEC. 703. PARTICIPATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE IN THE NATIONAL SECURITY COUNCIL.**

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"(h) The Director of Central Intelligence (or, in the Director's absence, the Deputy Director of Central Intelligence) may, in the performance of the Director's duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council."

**SEC. 704. APPOINTMENT OF THE DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE.**

Section 102 of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a)—

(A) by striking out "under the National Security Council"; and

(B) by striking out "with a Director" and all that follows through "disability"; and

(3) by striking out the second sentence of subsection (a) and subsections (b) through (f) and inserting in lieu thereof the following:

"(2) There shall be a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall—

"(A) serve as head of the United States intelligence community;

"(B) act as the principal adviser to the President for intelligence matters related to the national security; and

"(C) serve as head of the Central Intelligence Agency.

"(b) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be a Deputy Director of Central Intelligence, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall act for, and exercise the powers of, the Director during the Director's absence or disability.

"(c)(1) The Director or Deputy Director of Central Intelligence may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in an active or retired status.

"(2) It is the sense of the Congress that under ordinary circumstances, it is desirable that either the Director or the Deputy Director be a commissioned officer of the Armed Forces or that either such appointee otherwise have, by training or experience, an appreciation of military intelligence activities and requirements.

"(3)(A) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3), while serving in such position—

"(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(ii) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to

any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

"(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of which such officer is a member.

"(B) Except as provided in clause (i) or (ii) of paragraph (A), the appointment of a commissioned officer of the Armed Forces pursuant to paragraph (2) or (3) shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

"(C) A commissioned officer of the Armed Forces appointed pursuant to subsection (a) or (b), while serving in such position, shall continue to receive military pay and allowances (including retired pay) payable to a commissioned officer of the officer's grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of Central Intelligence.

"(d) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency."

**SEC. 705. RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.**

(a) **IN GENERAL.**—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) by striking out section 102a;

(2) by redesignating sections 103 and 104 as sections 107 and 108, respectively; and

(3) by inserting after section 102, as amended by section 721, the following new sections:

**"RESPONSIBILITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE**

**"SEC. 103. (a) PROVISION OF INTELLIGENCE.**—(1) Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing national intelligence—

"(A) to the President;

"(B) to the heads of departments and agencies of the executive branch; and

"(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

"(D) where appropriate, to the Senate and House of Representatives and the committees thereof.

"(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

"(b) **NATIONAL INTELLIGENCE COUNCIL.**—(1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the 'Council'). The Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence.

*"(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.*

*"(2) The Council shall—*

*"(A) produce national intelligence estimates for the Government, including, whenever the Council considers appropriate, alternative views held by elements of the intelligence community; and*

*"(B) otherwise assist the Director in carrying out the responsibilities described in subsection (a).*

*"(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the Government.*

*"(4) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policy-making officials and other consumers of intelligence.*

*"(5) The heads of elements within the intelligence community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.*

*"(C) HEAD OF THE INTELLIGENCE COMMUNITY.—In the Director's capacity as head of the intelligence community, the Director shall—*

*"(1) develop and present to the President an annual budget for the National Foreign Intelligence Program of the United States;*

*"(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community;*

*"(3) promote and evaluate the utility of national intelligence to consumers within the Government;*

*"(4) eliminate waste and unnecessary duplication within the intelligence community;*

*"(5) protect intelligence sources and methods from unauthorized disclosure; and*

*"(6) perform such other functions as the President or the National Security Council may direct.*

*"(d) HEAD OF THE CENTRAL INTELLIGENCE AGENCY.—In the Director's capacity as head of the Central Intelligence Agency, the Director shall—*

*"(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers or internal security functions;*

*"(2) provide overall direction for the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which*

are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

"(3) correlate and evaluate intelligence related to the national security and providing appropriate dissemination of such intelligence;

"(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and

"(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct.

#### "AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

"SEC. 104. (a) ACCESS TO INTELLIGENCE.—To the extent recommended by the National Security Council and approved by the President, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

"(b) APPROVAL OF BUDGETS.—The Director of Central Intelligence shall provide guidance to elements of the intelligence community for the preparation of their annual budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.

"(c) ROLE OF DCI IN REPROGRAMMING.—No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the intelligence community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.

"(d) TRANSFER OF FUNDS OR PERSONNEL WITHIN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, may transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to a year.

"(2) A transfer of funds or personnel may be made under this subsection only if—

"(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

"(B) the need for funds or personnel for such activity is based on unforeseen requirements;

"(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

"(D) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

*"(E) the Secretary or head of the department which contains the affected element or elements of the intelligence community does not object to such transfer.*

*"(3) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.*

*"(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this section.*

*"(5) The Director shall promptly submit to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and House of Representatives, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.*

*"(e) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the National Security Council and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.*

*"(f) USE OF PERSONNEL.—The Director shall, in coordination with the heads of departments and agencies with elements in the intelligence community, institute policies and programs within the intelligence community—*

*"(1) to provide for the rotation of personnel between the elements of the intelligence community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions; and*

*"(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the intelligence community.*

*"(g) TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.—Notwithstanding the provisions of any other law, the Director may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States. Any such termination shall not affect the right of the officer or employee terminated to seek or accept employ-*

ment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management."

(b) **AMENDMENT TO TABLE OF CONTENTS.**—The table of contents in the first section of the National Security Act of 1947 is amended by striking out the items relating to sections 102a and 103 and inserting in lieu thereof the following new items:

"Sec. 103. Responsibilities of the Director of Central Intelligence.

"Sec. 104. Authorities of the Director of Central Intelligence.

"Sec. 107. National Security Resources Board.

"Sec. 108. Annual National Security Strategy Report."

**SEC. 706. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.**

(a) **IN GENERAL.**—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 104 (as added by section 705) the following new sections:

**"RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM**

**"SEC. 105. (a) IN GENERAL.**—The Secretary of Defense shall—

"(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

"(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

"(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

"(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

"(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

"(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

**"(b) RESPONSIBILITY FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS.**—Consistent with sections 103 and 104 of this Act, the Secretary of Defense shall ensure—

"(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;



"(2) through a central imagery authority (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;

"(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

"(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

"(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence activities, including defense attaches; and

"(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

"(A) the requirements of the Director of Central Intelligence;

"(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

"(C) the requirements of the unified and specified combatant commands and of joint operations; and

"(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

"(c) **USE OF ELEMENTS OF DEPARTMENT OF DEFENSE.**—The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

**"ADMINISTRATIVE PROVISIONS PERTAINING TO DEFENSE ELEMENTS  
WITHIN THE INTELLIGENCE COMMUNITY**

"**SEC. 106. (a) CONSULTATIONS WITH REGARD TO CERTAIN APPOINTMENTS.**—The Secretary of Defense shall undertake appropriate consultations with the Director of Central Intelligence before the appointment of any individual as head of the National Security Agency, the National Reconnaissance Office, or the Defense Intelligence Agency.

*"(b) APPOINTMENT OF HEAD OF CENTRAL IMAGERY AUTHORITY.—The Secretary shall appoint, upon the recommendation of the Director, the head of the central imagery authority within the Department of Defense."*

*(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 104 (as added by section 705(b)) the following new items:*

*"Sec. 105. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.*

*"Sec. 106. Administrative provisions pertaining to defense elements within the intelligence community."*

## **TITLE VIII—RESTATEMENT OF CIARDS STATUTE**

### **SEC. 801. SHORT TITLE.**

*This title may be cited as the "CIARDS Technical Corrections Act of 1992".*

### **SEC. 802. RESTATEMENT OF ACT.**

*The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended to read as follows:*

#### **"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

*"(a) SHORT TITLE.—This Act may be cited as the 'Central Intelligence Agency Retirement Act'.*

*"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*"Sec. 1. Short title; table of contents.*

#### **"TITLE I—DEFINITIONS**

*"Sec. 101. Definitions relating to the system.*

*"Sec. 102. Definitions relating to participants and annuitants.*

#### **"TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

##### **"PART A—ESTABLISHMENT OF SYSTEM**

*"Sec. 201. The CIARDS system.*

*"Sec. 202. Central Intelligence Agency Retirement and Disability Fund.*

*"Sec. 203. Participants in the CIARDS system.*

*"Sec. 204. Annuitants.*

##### **"PART B—CONTRIBUTIONS**

*"Sec. 211. Contributions to fund.*

##### **"PART C—COMPUTATION OF ANNUITIES**

*"Sec. 221. Computation of annuities.*

*"Sec. 222. Annuities for former spouses.*

*"Sec. 223. Election of survivor benefits for certain former spouses divorced as of November 15, 1982.*

*"Sec. 224. Survivor annuity for certain other former spouses.*

*"Sec. 225. Retirement annuity for certain former spouses.*

*"Sec. 226. Survivor annuities for previous spouses.*

##### **"PART D—BENEFITS ACCRUING TO CERTAIN PARTICIPANTS**

*"Sec. 231. Retirement for disability or incapacity—medical examination—recovery.*

*"Sec. 232. Death in service.*

- "Sec. 233. Voluntary retirement.
- "Sec. 234. Discontinued service benefits.
- "Sec. 235. Mandatory retirement.
- "Sec. 236. Eligibility for annuity.

#### **"PART E—LUMP-SUM PAYMENTS**

- "Sec. 241. Lump-sum payments.

#### **"PART F—PERIOD OF SERVICE FOR ANNUITIES**

- "Sec. 251. Computation of length of service.
- "Sec. 252. Prior service credit.
- "Sec. 253. Credit for service while on military leave.

#### **"PART G—MONEYS**

- "Sec. 261. Estimate of appropriations needed.
- "Sec. 262. Investment of moneys in the fund.
- "Sec. 263. Payment of benefits.
- "Sec. 264. Attachment of moneys.
- "Sec. 265. Recovery of payments.

#### **"PART H—RETIRED PARTICIPANTS RECALLED, REINSTATED, OR REAPPOINTED IN THE AGENCY OR REEMPLOYED IN THE GOVERNMENT**

- "Sec. 271. Recall.
- "Sec. 272. Reemployment.
- "Sec. 273. Reemployment compensation.

#### **"PART I—VOLUNTARY CONTRIBUTIONS**

- "Sec. 281. Voluntary contributions.

#### **"PART J—COST-OF-LIVING ADJUSTMENT OF ANNUITIES**

- "Sec. 291. Cost-of-living adjustment of annuities.

#### **"PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM**

- "Sec. 292. Authority to maintain existing areas of conformity between Civil Service and Central Intelligence Agency Retirement and Disability Systems.
- "Sec. 293. Thrift savings plan participation.
- "Sec. 294. Alternative forms of annuities.
- "Sec. 295. Payments from CIARDS fund for portions of certain Civil Service Retirement System annuities.

#### **"TITLE III—PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM**

- "Sec. 301. Application of Federal Employees' Retirement System to Agency employees.
- "Sec. 302. Special rules relating to section 203 criteria employees.
- "Sec. 303. Special rules for other employees for service abroad.
- "Sec. 304. Special rules for former spouses.
- "Sec. 305. Administrative provisions.
- "Sec. 306. Regulations.
- "Sec. 307. Transition regulations.

## **"TITLE I—DEFINITIONS**

#### **"SEC. 101. DEFINITIONS RELATING TO THE SYSTEM.**

"When used in this Act:

"(1) AGENCY.—The term 'Agency' means the Central Intelligence Agency.

"(2) DIRECTOR.—The term 'Director' means the Director of Central Intelligence.

"(3) **QUALIFYING SERVICE.**—The term 'qualifying service' means service determined by the Director to have been performed in carrying out duties described in section 203.

"(4) **FUND BALANCE.**—The term 'fund balance' means the sum of—

"(A) the investments of the fund calculated at par value; and

"(B) the cash balance of the fund on the books of the Treasury.

"(5) **UNFUNDED LIABILITY.**—The term 'unfunded liability' means the estimated amount by which—

"(A) the present value of all benefits payable from the fund exceeds

"(B) the sum of—

"(i) the present value of deductions to be withheld from the future basic pay of participants subject to title II and of future Agency contributions to be made on the behalf of such participants;

"(ii) the present value of Government payments to the fund under sections 261(c) and 261(d); and

"(iii) the fund balance as of the date on which the unfunded liability is determined.

"(6) **NORMAL COST.**—The term 'normal cost' means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for government employees and less the cost of credit allowed for military service.

"(7) **LUMP-SUM CREDIT.**—The term 'lump-sum credit' means the unrefunded amount consisting of retirement deductions made from a participant's basic pay, amounts deposited by a participant covering earlier service, including any amounts deposited under section 252(h), and interest determined under section 281.

"(8) **CONGRESSIONAL INTELLIGENCE COMMITTEES.**—The term 'congressional intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(9) **EMPLOYEE.**—The term 'employee' includes an officer of the Agency.

#### "SEC. 102. DEFINITIONS RELATING TO PARTICIPANTS AND ANNUITANTS.

"(a) **GENERAL DEFINITIONS.**—When used in title II:

"(1) **FORMER PARTICIPANT.**—The term 'former participant' means a person who—

"(A) while an employee of the Agency was a participant in the system; and

"(B) separates from the Agency without entitlement to immediate receipt of an annuity from the fund.

"(2) **RETIRED PARTICIPANT.**—The term 'retired participant' means a person who—

"(A) while an employee of the Agency was a participant in the system; and

"(B) is entitled to receive an annuity from the fund based upon such person's service as a participant.

"(3) SURVIVING SPOUSE.—

"(A) IN GENERAL.—The term 'surviving spouse' means the surviving wife or husband of a participant or retired participant who (i) was married to the participant or retired participant for at least 9 months immediately preceding the participant's or retired participant's death, or (ii) who is the parent of a child born of the marriage.

"(B) TREATMENT WHEN PARTICIPANT DIES LESS THAN 9 MONTHS AFTER MARRIAGE.—In a case in which the participant or retired participant dies within the 9-month period beginning on the date of the marriage, the requirement under subparagraph (A)(i) that a marriage have a duration of at least 9 months immediately preceding the death of the participant or retired participant shall be treated as having been met if—

"(i) the death of the participant or retired participant was accidental; or

"(ii) the surviving wife or husband had been previously married to the participant or retired participant (and subsequently divorced) and the aggregate time married is at least 9 months.

"(4) FORMER SPOUSE.—The term 'former spouse' means a former wife or husband of a participant, former participant, or retired participant as follows:

"(A) DIVORCES ON OR BEFORE DECEMBER 4, 1991.—In the case of a divorce that became final on or before December 4, 1991, such term means a former wife or husband of a participant, former participant, or retired participant who was married to such participant for not less than 10 years during periods of the participant's creditable service, at least 5 years of which were spent outside the United States by both such participant and former wife or husband during the participant's service as an employee of the Agency.

"(B) DIVORCES AFTER DECEMBER 4, 1991.—In the case of a divorce that becomes final after December 4, 1991, such term means a former wife or husband of a participant, former participant, or retired participant who was married to such participant for not less than 10 years during periods of the participant's creditable service, at least 5 years of which were spent by the participant during the participant's service as an employee of the Agency (i) outside the United States, or (ii) otherwise in a position the duties of which qualified the participant for designation by the Director as a participant under section 203.

"(C) CREDITABLE SERVICE.—For purposes of subparagraphs (A) and (B), the term 'creditable service' means all periods of a participant's service that are creditable under sections 251, 252, and 253.

"(5) PREVIOUS SPOUSE.—The term 'previous spouse' means an individual who was married for at least 9 months to a participant, former participant, or retired participant who had at

least 18 months of service which are creditable under sections 251, 252, and 253.

"(6) **SPOUSAL AGREEMENT.**—The term 'spousal agreement' means an agreement between a participant, former participant, or retired participant and the participant, former participant, or retired participant's spouse or former spouse that—

"(A) is in writing, is signed by the parties, and is notarized;

"(B) has not been modified by court order; and

"(C) has been authenticated by the Director.

"(7) **COURT ORDER.**—The term 'court order' means—

"(A) a court decree of divorce, annulment, or legal separation; or

"(B) a court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

"(8) **COURT.**—The term 'court' means a court of a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court.

232: "(b) **DEFINITION OF CHILD.**—For purposes of sections 221 and

"(1) **IN GENERAL.**—The term 'child' means any of the following:

"(A) **MINOR CHILDREN.**—An unmarried dependent child under 18 years of age, including—

"(i) an adopted child;

"(ii) a stepchild, but only if the stepchild lived with the participant or retired participant in a regular parent-child relationship;

"(iii) a recognized natural child; and

"(iv) a child who lived with the participant, for whom a petition of adoption was filed by the participant or retired participant, and who is adopted by the surviving spouse after the death of the participant or retired participant.

"(B) **DISABLED ADULT CHILDREN.**—An unmarried dependent child, regardless of age, who is incapable of self-support because of a physical or mental disability incurred before age 18.

"(C) **STUDENTS.**—An unmarried dependent child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

"(2) **SPECIAL RULES FOR STUDENTS.**—

"(A) **EXTENSION OF AGE TERMINATION OF STATUS AS 'CHILD'.**—For purposes of this subsection, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, shall be treated as having attained the age of 22 on the first day of July following that birthday.

**"(B) TREATMENT OF INTERIM PERIOD BETWEEN SCHOOL YEARS.**—A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim does not exceed 5 months and if the child shows to the satisfaction of the Director that the child has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim.

**"(3) DEPENDENT DEFINED.**—For purposes of this subsection, the term 'dependent', with respect to the child of a participant or retired participant, means that the participant or retired participant was, at the time of the death of the participant or retired participant, either living with or contributing to the support of the child, as determined in accordance with regulations prescribed under title II.

**"(4) EXCLUSION OF STEPCHILDREN FROM LUMP-SUM PAYMENT.**—For purposes of section 241(c), the term 'child' includes an adopted child and a natural child, but does not include a stepchild.

## **"TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

### **"Part A—Establishment of System**

#### **"SEC. 201. THE CIARDS SYSTEM.**

##### **"(a) IN GENERAL.**—

**"(1) ESTABLISHMENT OF SYSTEM.**—There is a retirement and disability system for certain employees of the Central Intelligence Agency known as the Central Intelligence Agency Retirement and Disability System (hereinafter in this Act referred to as the 'system'), originally established pursuant to title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

**"(2) DCI REGULATIONS.**—The Director shall prescribe regulations for the system. The Director shall submit any proposed regulations for the system to the congressional intelligence committees not less than 14 days before they take effect.

**"(b) ADMINISTRATION OF SYSTEM.**—The Director shall administer the system in accordance with regulations prescribed under this title and with the principles established by this title.

**"(c) FINALITY OF DECISIONS OF DCI.**—In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3)) that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of chapter 7 of title 5, United States Code, or any other provision of law (except section 305(b) of this Act), any determination by the Director authorized by this Act shall

be final and conclusive and shall not be subject to review by any court.

**"SEC. 202. CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND.**

*"The Director shall maintain the fund in the Treasury known as the 'Central Intelligence Agency Retirement and Disability Fund' (hereinafter in this Act referred to as the 'fund'), originally created pursuant to title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.*

**"SEC. 203. PARTICIPANTS IN THE CIARDS SYSTEM.**

*"(a) DESIGNATION OF PARTICIPANTS.—The Director may from time to time designate employees of the Agency who shall be entitled to participate in the system. Employees so designated who elect to participate in the system are referred to in this Act as 'participants'.*

*"(b) QUALIFYING SERVICE.—Designation of employees under this section may be made only from among employees of the Agency who have completed at least 5 years of qualifying service. For purposes of this Act, qualifying service is service in the Agency performed in carrying out duties that are determined by the Director—*

*"(1) to be in support of Agency activities abroad hazardous to life or health; or*

*"(2) to be so specialized because of security requirements as to be clearly distinguishable from normal government employment.*

*"(c) ELECTION OF EMPLOYEE TO BE A PARTICIPANT.—*

*"(1) PERMANENCE OF ELECTION.—An employee of the Agency who elects to accept designation as a participant in the system shall remain a participant of the system for the duration of that individual's employment with the Agency.*

*"(2) IRREVOCABILITY OF ELECTION.—Such an election shall be irrevocable except as and to the extent provided in section 301(d).*

*"(3) ELECTION NOT SUBJECT TO APPROVAL.—An election under this section is not subject to review or approval by the Director.*

**"SEC. 204. ANNUITANTS.**

*"Persons who are annuitants under the system are—*

*"(1) those persons who, on the basis of their service in the Agency, have met all requirements for an annuity under this title or any other Act and are receiving an annuity from the fund; and*

*"(2) those persons who, on the basis of someone else's service, meet all the requirements under this title or any other Act for an annuity payable from the fund.*

## **"Part B—Contributions**

**"SEC. 211. CONTRIBUTIONS TO FUND.**

*"(a) IN GENERAL.—*

*"(1) PARTICIPANT'S CONTRIBUTIONS.—Except as provided in subsection (d), 7 percent of the basic pay received by a partici-*



part for any pay period shall be deducted and withheld from the pay of that participant and contributed to the fund.

"(2) AGENCY CONTRIBUTIONS.—An equal amount shall be contributed to the fund for that pay period from the appropriation or fund which is used for payment of the participant's basic pay.

"(3) DEPOSITS TO THE FUND.—The amounts deducted and withheld from basic pay, together with the amounts so contributed from the appropriation or fund, shall be deposited by the Director to the credit of the fund.

"(b) CONSENT OF PARTICIPANT TO DEDUCTIONS FROM PAY.—Each participant shall be deemed to consent and agree to such deductions from basic pay, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant is entitled under this title, notwithstanding any law, rule, or regulation affecting the individual's pay.

"(c) TREATMENT OF CONTRIBUTIONS AFTER 35 YEARS OF SERVICE.—

"(1) ACCRUAL OF INTEREST.—Amounts deducted and withheld from the basic pay of a participant under this section for pay periods after the first day of the first pay period beginning after the day on which the participant completes 35 years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(a)(2)) shall accrue interest. Such interest shall accrue at the rate of 3 percent a year through December 31, 1984, and thereafter at the rate computed under section 8334(e) of title 5, United States Code, and shall be compounded annually from the date on which the amount is so deducted and withheld until the date of the participant's retirement or death.

"(2) USE OF AMOUNTS WITHHELD AFTER 35 YEARS OF SERVICE.—

"(A) USE FOR DEPOSITS DUE UNDER SECTION 252(b).—Amounts described in paragraph (1), including interest accrued on such amounts, shall be applied upon the participant's retirement or death toward any deposit due under section 252(b).

"(B) LUMP-SUM PAYMENT.—Any balance of such amounts not so required for such a deposit shall be refunded to the participant in a lump sum after the participant's separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(c)), subject to the requirement under section 241(b)(4).

"(C) PURCHASES OF ADDITIONAL ELECTIVE BENEFITS.—In lieu of such a lump-sum payment, the participant may use such amounts—

"(i) to purchase an additional annuity in accordance with section 281; or

"(ii) provide any additional survivor benefit for a current or former spouse or spouses.

"(d) OFFSET FOR SOCIAL SECURITY TAXES.—

*"(1) PERSONS COVERED.—In the case of a participant who was a participant subject to this title before January 1, 1984, and whose service—*

*"(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and*

*"(B) is not creditable service for any purpose under title III of this Act or chapter 84 of title 5, United States Code, there shall be deducted and withheld from the basic pay of the participant under this section during any pay period only the amount computed under paragraph (2).*

*"(2) REDUCTION IN CONTRIBUTION.—The amount deducted and withheld from the basic pay of a participant during any pay period pursuant to paragraph (1) shall be the excess of—*

*"(A) the amount determined by multiplying the percent applicable to the participant under subsection (a) by the basic pay payable to the participant for that pay period, over*

*"(B) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of the Internal Revenue Code of 1954 (relating to old-age, survivors, and disability insurance) for that pay period.*

## ***"Part C—Computation of Annuities***

### **"SEC. 221. COMPUTATION OF ANNUITIES.**

#### ***"(a) ANNUITY OF PARTICIPANT.—***

*"(1) COMPUTATION OF ANNUITY.—The annuity of a participant is the product of—*

*"(A) the participant's high-3 average pay (as defined in paragraph (4)); and*

*"(B) the number of years, not exceeding 35, of service credit (determined in accordance with sections 251 and 252) multiplied by 2 percent.*

*"(2) CREDIT FOR UNUSED SICK LEAVE.—The total service of a participant who retires on an immediate annuity (except under section 231) or who dies leaving a survivor or survivors entitled to an annuity shall include (without regard to the 35-year limitation prescribed in paragraph (1)) the days of unused sick leave to the credit of the participant. Days of unused sick leave may not be counted in determining average basic pay or eligibility for an annuity under this title. A deposit shall not be required for days of unused sick leave credited under this paragraph.*

#### ***"(3) CREDITING OF PART-TIME SERVICE.—***

*"(A) IN GENERAL.—In the case of a participant whose service includes service on a part-time basis performed after April 6, 1986, the participant's annuity shall be the sum of the amounts determined under subparagraphs (B) and (C).*

*"(B) COMPUTATION OF PRE-APRIL 7, 1986, ANNUITY.—The portion of an annuity referred to in subparagraph (A) with respect to service before April 7, 1986, shall be the amount computed under paragraph (1) using the participant's length of service before that date (increased by the*

unused sick leave to the credit of the participant at the time of retirement) and the participant's high-3 average pay.

**"(C) COMPUTATION OF POST-APRIL 6, 1986, ANNUITY.—**The portion of an annuity referred to in subparagraph (A) with respect to service after April 6, 1986, shall be the product of—

**"(i)** the amount computed under paragraph (1), using the participant's length of service after that date and the participant's high-3 average pay, as determined by using the annual rate of basic pay that would be payable for full-time service; and

**"(ii)** the ratio which the participant's actual service after April 6, 1986 (as determined by prorating the participant's total service after that date to reflect the service that was performed on a part-time basis) bears to the total service after that date that would be creditable for the participant if all the service had been performed on a full-time basis.

**"(D) TREATMENT OF EMPLOYMENT ON TEMPORARY OR INTERMITTENT BASIS.—**Employment on a temporary or intermittent basis shall not be considered to be service on a part-time basis for purposes of this paragraph.

**"(4) HIGH-3 AVERAGE PAY DEFINED.—**For purposes of this subsection, a participant's high-3 average pay is the amount of the participant's average basic pay for the highest 3 consecutive years of the participant's service (or, in the case of an annuity computed under section 232 and based on less than 3 years, over the total service) for which full contributions have been made to the fund.

**"(5) COMPUTATION OF SERVICE.—**In determining the aggregate period of service upon which an annuity is to be based, any fractional part of a month shall not be counted.

**"(b) SPOUSE OR FORMER SPOUSE SURVIVOR ANNUITY.—**

**"(1) REDUCTION IN PARTICIPANT'S ANNUITY TO PROVIDE SPOUSE OR FORMER SPOUSE SURVIVOR ANNUITY.—**

**"(A) GENERAL RULE.—**Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 55), the participant shall receive a reduced annuity and provide a survivor annuity for the participant's spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

**"(B) JOINT ELECTION FOR WAIVER OR REDUCTION OF SPOUSE SURVIVOR ANNUITY.—**A married participant or former participant and the participant's spouse may jointly elect in writing at the time of retirement to waive a survivor annuity for that spouse under this section or to reduce such survivor annuity under this section by designating a portion of the annuity of the participant as the base for the survivor annuity. If the marriage is dissolved following an election for such a reduced annuity and the spouse quali-

ties as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

“(C) JOINT ELECTION OF PARTICIPANT AND FORMER SPOUSE.—If a participant or former participant has a former spouse, such participant and the participant's former spouse may jointly elect by spousal agreement under section 264(b) to waive, reduce, or increase a survivor annuity under section 222(b) for that former spouse. Any such election must be made (i) before the end of the 12-month period beginning on the date on which the divorce or annulment involving that former spouse becomes final, or (ii) at the time of retirement of the participant, whichever is later.

“(D) UNILATERAL ELECTIONS IN ABSENCE OF SPOUSE OR FORMER SPOUSE.—The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

“(2) AMOUNT OF REDUCTION IN PARTICIPANT'S ANNUITY.—The annuity of a participant or former participant providing a survivor annuity under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by  $2\frac{1}{2}$  percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(5).

“(3) AMOUNT OF SURVIVING SPOUSE ANNUITY.—

“(A) IN GENERAL.—If a retired participant receiving a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse. The amount of the annuity shall be equal to 55 percent of (i) the full amount of the participant's annuity computed under subsection (a), or (ii) any lesser amount elected as the base for the survivor annuity under paragraph (1)(B).

“(B) LIMITATION.—Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the retired participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor annuities which remains available under section 222(b)(4)(B).

“(C) EFFECTIVE DATE AND TERMINATION OF ANNUITY.—An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the retired participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 55. If such survivor annuity is

*terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.*

**"(c) 18-MONTH OPEN PERIOD AFTER RETIREMENT TO PROVIDE SPOUSE COVERAGE.—**

**"(1) SURVIVOR ANNUITY ELECTIONS.—**

**"(A) ELECTION WHEN SPOUSE COVERAGE WAIVED AT TIME OF RETIREMENT.—***A participant or former participant who retires after March 31, 1992 and who—*

*"(i) is married at the time of retirement; and*

*"(ii) elects at that time (in accordance with subsection (b)) to waive a survivor annuity for the spouse, may, during the 18-month period beginning on the date of the retirement of the participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the participant's spouse.*

**"(B) ELECTION WHEN REDUCED SPOUSE ANNUITY ELECTED.—***A participant or former participant who retires after March 31, 1992, and—*

*"(i) who, at the time of retirement, is married, and*

*"(ii) who, at that time designates (in accordance with subsection (b)) that a portion of the annuity of such participant is to be used as the base for a survivor annuity,*

*may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.*

**"(2) DEPOSIT REQUIRED.—**

**"(A) REQUIREMENT.—***An election under paragraph (1) shall not be effective unless the amount specified in subparagraph (B) is deposited into the fund before the end of that 18-month period.*

**"(B) AMOUNT OF DEPOSIT.—***The amount to be deposited with respect to an election under this subsection is the amount equal to the sum of the following:*

*"(i) ADDITIONAL COST TO SYSTEM.—The additional cost to the system that is associated with providing a survivor annuity under subsection (b) and that results from such election, taking into account—*

*"(I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this title and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity; and*

*"(II) the costs associated with providing for the later election.*

“(ii) **INTEREST.**—Interest on the additional cost determined under clause (i), computed using the interest rate specified or determined under section 8334(e) of title 5, United States Code, for the calendar year in which the amount to be deposited is determined.

“(3) **VOIDING OF PREVIOUS ELECTIONS.**—An election by a participant or former participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

“(4) **REDUCTIONS IN ANNUITY.**—An annuity that is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant or former participant whose annuity is so reduced.

“(5) **RIGHTS AND OBLIGATIONS RESULTING FROM REDUCED ANNUITY ELECTION.**—Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations that would have resulted had the participant involved elected such annuity at the time of retirement.

“(d) **ANNUITIES FOR SURVIVING CHILDREN.**—

“(1) **PARTICIPANTS DYING BEFORE APRIL 1, 1992.**—In the case of a retired participant who died before April 1, 1992, and who is survived by a child or children—

“(A) if the retired participant was survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

“(B) if the retired participant was not survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

“(2) **PARTICIPANTS DYING ON OR AFTER APRIL 1, 1992.**—In the case of a retired participant who dies on or after April 1, 1992, and who is survived by a child or children—

“(A) if the retired participant is survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

“(B) if the retired participant is not survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

“(3) **AMOUNT OF ANNUITY.**—

“(A) The annual amount of an annuity for the surviving child of a participant covered by paragraph (1)(A) or (2)(A) of this subsection (or covered by paragraph (1)(A) or (2)(A) of section 232(c)) is the smallest of the following:

“(i) 60 percent of the participant's high-3 average pay, as determined under subsection (a)(4), divided by the number of children.

“(ii) \$900, as adjusted under section 291.

"(iii) \$2,700, as adjusted under section 291, divided by the number of children.

"(B) The amount of an annuity for the surviving child of a participant covered by paragraph (1)(B) or (2)(B) of this subsection (or covered by paragraph (1)(B) or (2)(B) of section 232(c)) is the smallest of the following:

"(i) 75 percent of the participant's high-3 average pay, as determined under subsection (a)(4), divided by the number of children.

"(ii) \$1,080, as adjusted under section 291.

"(iii) \$3,240, as adjusted under section 291, divided by the number of children.

"(4) RECOMPUTATION OF CHILD ANNUITIES.—

"(A) In the case of a child annuity payable under paragraph (1), upon the death of a surviving spouse or the termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse or child had not survived the retired participant.

"(B) In the case of a child annuity payable under paragraph (2), upon the death of a surviving spouse or former spouse or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the retired participant. If the annuity of a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities of all currently eligible children were then being initiated.

"(5) DEFINITION OF FORMER SPOUSE.—For purposes of this subsection, the term 'former spouse' includes any former wife or husband of the retired participant, regardless of the length of marriage or the amount of creditable service completed by the participant.

"(e) COMMENCEMENT AND TERMINATION OF CHILD ANNUITIES.—

"(1) COMMENCEMENT.—An annuity payable to a child under subsection (d), or under section 232(c), shall begin on the day after the date on which the participant or retired participant dies or, in the case of an individual over the age of 18 who is not a child within the meaning of section 102(b), shall begin or resume on the first day of the month in which the individual later becomes or again becomes a student as described in section 102(b). Such annuity may not commence until any lump-sum that has been paid is returned to the fund.

"(2) TERMINATION.—Such an annuity shall terminate on the last day of the month before the month in which the recipient of the annuity dies or no longer qualifies as a child (as defined in section 102(b)).

"(f) PARTICIPANTS NOT MARRIED AT TIME OF RETIREMENT.—

"(1) DESIGNATION OF PERSONS WITH INSURABLE INTEREST.—

"(A) AUTHORITY TO MAKE DESIGNATION.—Subject to the rights of former spouses under sections 221(b) and 222, at the time of retirement an unmarried participant found by

the Director to be in good health may elect to receive an annuity reduced in accordance with subparagraph (B) and designate in writing an individual having an insurable interest in the participant to receive an annuity under the system. The amount of such an annuity shall be equal to 55 percent of the participant's reduced annuity after the participant's death.

"(B) REDUCTION IN PARTICIPANT'S ANNUITY.—The annuity payable to the participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by an additional 5 percent for each full 5 years the designated individual is younger than the participant. The total reduction under this subparagraph may not exceed 40 percent.

"(C) COMMENCEMENT OF SURVIVOR ANNUITY.—The annuity payable to the designated individual shall begin on the day after the retired participant dies and terminate on the last day of the month before the designated individual dies.

"(D) RECOMPUTATION OF PARTICIPANT'S ANNUITY ON DEATH OF DESIGNATED INDIVIDUAL.—An annuity which is reduced under this paragraph shall, effective the first day of the month following the death of the designated individual, be recomputed and paid as if the annuity had not been so reduced.

"(2) ELECTION OF SURVIVOR ANNUITY UPON SUBSEQUENT MARRIAGE.—A participant who is unmarried at the time of retirement and who later marries may irrevocably elect, in a signed writing received by the Director within one year after the marriage, to receive a reduced annuity as provided in section 221(b). Such election and reduction shall be effective on the first day of the month beginning 9 months after the date of marriage. The election voids prospectively any election previously made under paragraph (1).

"(g) EFFECT OF DIVORCE AFTER RETIREMENT.—

"(1) RECOMPUTATION OF RETIRED PARTICIPANT'S ANNUITY UPON DIVORCE.—An annuity which is reduced under this section (or any similar prior provision of law) to provide a survivor annuity for a spouse shall, if the marriage of the retired participant to such spouse is dissolved, be recomputed and paid for each full month during which a retired participant is not married (or is remarried if there is no election in effect under paragraph (2)) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor annuity under subsection (b) or (c) of section 222 or under section 226.

"(2) ELECTION OF SURVIVOR ANNUITY UPON SUBSEQUENT REMARRIAGE.—

"(A) IN GENERAL.—Upon remarriage, the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive a reduced annuity for the purpose of providing an annuity for the new spouse of the retired participant in the event such spouse survives the retired participant. Such reduction shall be equal to the reduction in



effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5) or elected under subparagraph (B)).

**"(B) WHEN ANNUITY PREVIOUSLY NOT (OR NOT FULLY) REDUCED.—**

**"(i) ELECTION.—**If the retired participant's annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement, the retired participant may make an election under the first sentence of subparagraph (A) upon remarriage to a spouse other than the spouse at the time of retirement. For any remarriage that occurred before August 14, 1991, the retired participant may make such an election within 2 years after such date.

**"(ii) DEPOSIT REQUIRED.—**

**"(I)** The retired participant shall, within one year after the date of the remarriage (or by August 14, 1993 for any remarriage that occurred before August 14, 1991), deposit in the fund an amount determined by the Director, as nearly as may be administratively feasible, to reflect the amount by which the retired participant's annuity would have been reduced if the election had been in effect since the date the annuity commenced, plus interest.

**"(II)** The annual rate of interest for each year during which the retired participant's annuity would have been reduced if the election had been in effect since the date the annuity commenced shall be 6 percent.

**"(III)** If the retired participant does not make the deposit, the Director shall collect such amount by offset against the participant's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the retired participant, and the retired participant is deemed to consent to such offset.

**"(IV)** The deposit required by this subparagraph may be made by the surviving spouse of the retired participant.

**"(C) EFFECTS OF ELECTION.—**An election under this paragraph and the reduction in the participant's annuity shall be effective on the first day of the month beginning 9 months after the date of remarriage. A survivor annuity elected under this paragraph shall be treated in all respects as a survivor annuity under subsection (b).

**"(h) COORDINATION OF ANNUITIES.—**

**"(1) SURVIVING SPOUSE.—**A surviving spouse whose survivor annuity was terminated because of remarriage before attaining age 55 shall not be entitled under subsection (b)(3)(C) to the restoration of that survivor annuity payable from the fund unless the surviving spouse elects to receive it instead of any other survivor annuity to which the surviving spouse may be entitled

under the system or any other retirement system for Government employees by reason of the remarriage.

**"(2) FORMER SPOUSE.**—A surviving former spouse of a participant or retired participant shall not become entitled under section 222(b) or 224 to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the surviving former spouse elects to receive it instead of any other survivor annuity to which the surviving former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

**"(3) SURVIVING SPOUSE OF POST-RETIREMENT MARRIAGE.**—A surviving spouse who married a participant after the participant's retirement shall be entitled to a survivor annuity payable from the fund only upon electing that annuity instead of any other survivor annuity to which the surviving spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the retired participant.

**"(i) SUPPLEMENTAL SURVIVOR ANNUITIES.**—

**"(1) SPOUSE OF RECALLED ANNUITANT.**—A married recalled annuitant who reverts to retired status with entitlement to a supplemental annuity under section 271(b) shall, unless the annuitant and the annuitant's spouse jointly elect in writing to the contrary at the time of reversion to retired status, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for the annuitant's spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant.

**"(2) REGULATIONS.**—The Director shall prescribe regulations to provide for the application of paragraph (1) of this subsection and of subsection (b) of section 271 in any case in which an annuitant has a former spouse who was married to the recalled annuitant at any time during the period of recall service and who qualifies for an annuity under section 222(b).

**"(j) OFFSET OF ANNUITIES BY AMOUNT OF SOCIAL SECURITY BENEFIT.**—Notwithstanding any other provision of this title, an annuity (including a disability annuity) payable under this title to an individual described in sections 211(d)(1) and 301(c)(1) and any survivor annuity payable under this title on the basis of the service of such individual shall be reduced (except as provided in paragraph (2)) in a manner consistent with section 8349 of title 5, United States Code, under conditions consistent with the conditions prescribed in that section.

**"(k) INFORMATION FROM OTHER AGENCIES.**—

**"(1) OTHER AGENCIES.**—For the purpose of ensuring the accuracy of the information used in the determination of eligibility for and the computation of annuities payable from the fund under this title, at the request of the Director—

**"(A)** the Secretary of Defense shall provide information on retired or retainer pay paid under title 10, United States Code;

*"(B) the Secretary of Veterans Affairs shall provide information on pensions or compensation paid under title 38, United States Code;*

*"(C) the Secretary of Health and Human Services shall provide information contained in the records of the Social Security Administration; and*

*"(D) the Secretary of Labor shall provide information on benefits paid under subchapter I of chapter 81 of title 5, United States Code.*

*"(2) LIMITATION ON INFORMATION REQUESTED.—The Director shall request only such information as the Director determines is necessary.*

*"(3) LIMITATION ON USES OF INFORMATION.—The Director, in consultation with the officials from whom information is requested, shall ensure that information made available under this subsection is used only for the purposes authorized.*

*"(1) INFORMATION ON RIGHTS UNDER THE SYSTEM.—The Director shall, on an annual basis—*

*"(1) inform each retired participant of the participant's right of election under subsections (c), (f)(2), and (g); and*

*"(2) to the maximum extent practicable, inform spouses and former spouses of participants, former participants, and retired participants of their rights under this Act.*

**"SEC. 222. ANNUITIES FOR FORMER SPOUSES.**

*"(a) FORMER SPOUSE SHARE OF PARTICIPANT'S ANNUITY.—*

*"(1) PRO RATA SHARE.—Unless otherwise expressly provided by a spousal agreement or court order under section 264(b), a former spouse of a participant, former participant, or retired participant is entitled to an annuity—*

*"(A) if married to the participant, former participant, or retired participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or*

*"(B) if not married to the participant throughout such creditable service, equal to that proportion of 50 percent of such annuity that is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this title bears to the total number of days of such creditable service.*

*"(2) DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.—A former spouse is not qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 55 years of age.*

*"(3) COMMENCEMENT OF ANNUITY.—The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title or on the first day of the month after the divorce or annulment involved becomes final, whichever is later.*

*"(4) TERMINATION OF ANNUITY.—The annuity of such former spouse and the right thereto terminate on—*

*"(A) the last day of the month before the month in which the former spouse dies or remarries before 55 years of age; or*

*"(B) the date on which the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).*

**"(5) TREATMENT OF PARTICIPANT'S ANNUITY.—**

*"(A) REDUCTION IN PARTICIPANT'S ANNUITY.—The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating—*

*"(i) the survivor annuity for any spouse, former spouse, or other survivor under this title; and*

*"(ii) any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or under section 221(b).*

*"(B) TREATMENT WHEN ANNUITANT RETURNS TO SERVICE.—If an annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and 273, the pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.*

**(3), in the case of a former spouse of a disability annuitant—**

*"(A) the annuity of that former spouse shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under this title (other than a disability annuity) or the date on which the disability annuity begins, whichever is later, and*

*"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.*

**"(7) ELECTION OF BENEFITS.—**A former spouse of a participant, former participant, or retired participant shall not become entitled under this subsection to an annuity payable from the fund unless the former spouse elects to receive it instead of any other annuity to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

**"(8) LIMITATION IN CASE OF MULTIPLE FORMER SPOUSE ANNUITIES.—**No spousal agreement or court order under section 264(b) involving a participant may provide for an annuity or a combination of annuities under this subsection that exceeds the annuity of the participant.

**"(b) FORMER SPOUSE SURVIVOR ANNUITY.—**

**"(1) PRO RATA SHARE.**—Subject to any election under section 221(b)(1)(B) and (C) and unless otherwise expressly provided by a spousal agreement or court order under section 264(b), if an annuitant is survived by a former spouse, the former spouse shall be entitled—

“(A) if married to the annuitant throughout the creditable service of the annuitant, to a survivor annuity equal to 55 percent of the unreduced amount of the annuitant’s annuity, as computed under section 221(a); and

“(B) if not married to the annuitant throughout such creditable service, to a survivor annuity equal to that proportion of 55 percent of the unreduced amount of such annuity that is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this title bears to the total number of days of such creditable service.

**"(2) DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.**—A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 55 years of age.

**"(3) COMMENCEMENT, TERMINATION, AND RESTORATION OF ANNUITY.**—An annuity payable from the fund under this title to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse’s death or remarriage before attaining age 55. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

**"(4) SURVIVOR ANNUITY AMOUNT.**—

“(A) **MAXIMUM AMOUNT.**—The maximum survivor annuity or combination of survivor annuities under this subsection (and section 221(b)(3)) with respect to any participant may not exceed 55 percent of the full amount of the participant’s annuity, as calculated under section 221(a).

“(B) **LIMITATION ON OTHER SURVIVOR ANNUITIES BASED ON SERVICE OF SAME PARTICIPANT.**—Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 221(b)(3)) with respect to the participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

“(C) **FINALITY OF COURT ORDER UPON DEATH OF PARTICIPANT.**—After the death of a participant or retired participant, a court order under section 264(b) may not adjust the amount of the annuity of a former spouse of that participant or retired participant under this section.

**"(5) EFFECT OF TERMINATION OF FORMER SPOUSE ENTITLEMENT.**—

**"(A) RECOMPUTATION OF PARTICIPANT'S ANNUITY.**—If a former spouse of a retired participant dies or remarries before attaining age 55, the annuity of the retired participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid, effective on the first day of the month beginning after such death or remarriage, as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

**"(B) ELECTION OF SPOUSE ANNUITY.**—Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

**"(c) OPTIONAL ADDITIONAL SURVIVOR ANNUITIES FOR OTHER FORMER SPOUSE OR SURVIVING SPOUSE.**—

**"(1) IN GENERAL.**—In the case of any participant providing a survivor annuity under subsection (b) for a former spouse—

**"(A)** such participant may elect, or

**"(B)** a spousal agreement or court order under section 264(b) may provide for, an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

**"(2) LIMITATION.**—Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, may exceed 55 percent of the unreduced amount of the participant's annuity, as computed under section 221(a).

**"(3) CONTRIBUTION FOR ADDITIONAL ANNUITIES.**—

**"(A) PROVISION OF ADDITIONAL SURVIVOR ANNUITY.**—In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection—

**"(i)** by a reduction in the annuity or an allotment from the basic pay of the participant;

**"(ii)** by a lump-sum payment or installment payments to the fund; or

**"(iii)** by any combination thereof.

**"(B) ACTUARIAL EQUIVALENCE TO BENEFIT.**—The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

**"(C) EFFECT OF FORMER SPOUSE'S DEATH OR DISQUALIFICATION.**—If a former spouse predeceases the participant or remarries before attaining age 55 (or, in the case of a spouse, the spouse predeceases or does not qualify as a former spouse upon dissolution of the marriage)—

“(i) if an annuity reduction or pay allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the pay allotment terminated, as the case may be; and

“(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

“(D) RECOMPUTATION UPON DEATH OR REMARRIAGE OF FORMER SPOUSE.—Under regulations prescribed by the Director, an annuity shall be recomputed (or a pay allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 55 and an increased annuity is provided for that spouse in accordance with this section.

“(4) COMMENCEMENT AND TERMINATION OF ADDITIONAL SURVIVOR ANNUITY.—An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse’s death or remarriage before attaining age 55.

“(5) NONAPPLICABILITY OF COLA PROVISION.—Section 291 does not apply to an annuity under this subsection, unless authorized under regulations prescribed by the Director.

“SEC. 223. ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES DIVORCED AS OF NOVEMBER 15, 1982.

“(a) FORMER SPOUSES AS OF NOVEMBER 15, 1982.—A participant, former participant, or retired participant in the system who on November 15, 1982, had a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

“(b) TIME FOR MAKING ELECTION.—

“(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

“(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982, as the Director may prescribe.

“(3) For the purposes of applying this title, any such election shall be treated in the same manner as if it were a spousal agreement under section 264(b).

“(c) BASE FOR ANNUITY.—An election under this section may provide for a survivor annuity based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for a survivor annuity for a spouse or any other former spouse of the participant. The participant and the partici-

part's spouse may make an election under section 221(b)(1)(B) before the time of retirement for the purpose of allowing an election to be made under this section.

**"(d) REDUCTION IN PARTICIPANT'S ANNUITY.—**

**"(1) COMPUTATION.—**The amount of the reduction in the participant's annuity shall be determined in accordance with section 221(b)(2).

**"(2) EFFECTIVE DATE OF REDUCTION.—**Such reduction shall be effective as of—

**"(A)** the commencing date of the participant's annuity, in the case of an election under subsection (b)(1); or

**"(B)** November 15, 1982, in the case of an election under subsection (b)(2).

**"SEC. 224. SURVIVOR ANNUITY FOR CERTAIN OTHER FORMER SPOUSES.**

**"(a) SURVIVOR ANNUITY.—**

**"(1) IN GENERAL.—**An individual who was a former spouse of a participant or retired participant on November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

**"(A)** the unreduced amount of the participant's or retired participant's annuity, as computed under section 221(a); or

**"(B)** the unreduced amount of what such annuity as so computed would be if the participant, former participant, or retired participant had not elected payment of the lump-sum credit under section 294.

**"(2) REDUCTION IN SURVIVOR ANNUITY.—**A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former spouse under section 223.

**"(b) LIMITATIONS.—**A former spouse is not entitled to a survivor annuity under this section if—

**"(1)** the former spouse remarries before age 55, except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

**"(2)** the former spouse is less than 50 years of age.

**"(c) COMMENCEMENT AND TERMINATION OF ANNUITY.—**

**"(1) COMMENCEMENT OF ANNUITY.—**The entitlement of a former spouse to a survivor annuity under this section shall commence—

**"(A)** in the case of a former spouse of a participant or retired participant who is deceased as of October 1, 1986, beginning on the later of—

**"(i)** the 60th day after such date; or

**"(ii)** the date on which the former spouse reaches age 50; and

**"(B)** in the case of any other former spouse, beginning on the latest of—

**"(i)** the date on which the participant or former participant to whom the former spouse was married dies;



"(ii) the 60th day after October 1, 1986; or

"(iii) the date on which the former spouse attains age 50.

"(2) **TERMINATION OF ANNUITY.**—The entitlement of a former spouse to a survivor annuity under this section terminates on the last day of the month before the former spouse's death or remarriage before attaining age 55. The entitlement of a former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

"(d) **APPLICATION.**—

"(1) **TIME LIMIT; WAIVER.**—A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than April 1, 1989. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

"(2) **RETROACTIVE BENEFITS.**—Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1986.

"(e) **RESTORATION OF ANNUITY.**—Notwithstanding subsection (d)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(2).

#### "SEC. 225. RETIREMENT ANNUITY FOR CERTAIN FORMER SPOUSES.

"(a) **RETIREMENT ANNUITY.**—An individual who was a former spouse of a participant, former participant, or retired participant on November 15, 1982, and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to an annuity—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

"(b) **LIMITATIONS.**—A former spouse is not entitled to an annuity under this section if—

"(1) the former spouse remarries before age 55, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

"(2) the former spouse is less than 50 years of age.

"(c) **COMMENCEMENT AND TERMINATION.**—

**"(1) RETIREMENT ANNUITIES.**—The entitlement of a former spouse to an annuity under this section—

**"(A)** shall commence on the later of—

**"(i)** the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under this title;

**"(ii)** the first day of the month in which the divorce or annulment involved becomes final; or

**"(iii)** such former spouse's 50th birthday; and

**"(B)** shall terminate on the earlier of—

**"(i)** the last day of the month before the former spouse dies or remarries before 55 years of age, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

**"(ii)** the date on which the annuity of the participant terminates.

**"(2) DISABILITY ANNUITIES.**—Notwithstanding paragraph (1)(A)(i), in the case of a former spouse of a disability annuitant—

**"(A)** the annuity of the former spouse shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under this title (other than disability annuity) or the date the disability annuity begins, whichever is later; and

**"(B)** the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

**"(3) ELECTION OF BENEFITS.**—A former spouse of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity payable from the fund unless the former spouse elects to receive it instead of any other annuity to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

**"(4) APPLICATION.**—

**"(A) TIME LIMIT; WAIVER.**—An annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, not later than June 2, 1991. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

**"(B) RETROACTIVE BENEFITS.**—Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before December 2, 1987.

**"(d) RESTORATION OF ANNUITIES.**—Notwithstanding subsection (c)(4)(A), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored under subsection (b)(1) or (c)(1)(B).

**"(e) SAVINGS PROVISION.**—Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this title.

**"SEC. 226. SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES.**

*"The Director shall prescribe regulations under which a previous spouse who is divorced after September 29, 1988, from a participant, former participant, or retired participant shall be eligible for a survivor annuity to the same extent and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to former spouses (as defined in section 8331(23) of title 5, United States Code) of participants in the Civil Service Retirement and Disability System (CSRS) as prescribed by the Civil Service Retirement Spouse Equity Act of 1984.*

## ***"Part D—Benefits Accruing to Certain Participants***

**"SEC. 231. RETIREMENT FOR DISABILITY OR INCAPACITY—MEDICAL EXAMINATION—RECOVERY.**

**"(a) DISABILITY RETIREMENT.**—

**"(1) ELIGIBILITY.**—A participant who has become disabled shall, upon the participant's own application or upon order of the Director, be retired on an annuity computed under subsection (b).

**"(2) STANDARD FOR DISABILITY DETERMINATION.**—A participant shall be considered to be disabled only if the participant—

**"(A)** is found by the Director to be unable, because of disease or injury, to render useful and efficient service in the participant's position; and

**"(B)** is not qualified for reassignment, under procedures prescribed by the Director, to a vacant position in the Agency at the same grade or level and in which the participant would be able to render useful and efficient service.

**"(3) TIME LIMIT FOR APPLICATION.**—

**"(A) ONE YEAR REQUIREMENT.**—A claim may be allowed under this section only if the application is submitted before the participant is separated from the Agency or within one year thereafter.

**"(B) WAIVER FOR MENTALLY INCOMPETENT PARTICIPANT.**—The time limitation may be waived by the Director for a participant who, at the date of separation from the Agency or within one year thereafter, is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant to com-

petency or the appointment of a fiduciary, whichever is earlier.

**"(b) COMPUTATION OF DISABILITY ANNUITY.—**

**"(1) IN GENERAL.—**Except as provided in paragraph (2), an annuity payable under subsection (a) shall be computed under section 221(a). However, if the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the system at the time of retirement, the annuity shall be computed on the assumption that the participant has had 20 years of service, but the additional service credit that may accrue to a participant under this paragraph may not exceed the difference between the participant's age at the time of retirement and age 60.

**"(2) COORDINATION WITH MILITARY RETIRED PAY AND VETERANS' COMPENSATION AND PENSION.—**If a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in section 252(e)(3)) or Department of Veterans Affairs compensation or pension in lieu of such retired or retainer pay, the annuity of that participant shall be computed under section 221(a), excluding credit for such military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of title 5, United States Code, or the Department of Veterans Affairs compensation or pension in lieu of such retired or retainer pay, is less than the annuity that would be payable under this section in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity payable under section 221(a).

**"(c) MEDICAL EXAMINATIONS.—**

**"(1) MEDICAL EXAMINATION REQUIRED FOR DETERMINATION OF DISABILITY.—**In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons.

**"(2) ANNUAL REEXAMINATIONS UNTIL AGE 60.—**Unless the disability is permanent, like examinations shall be made annually until the annuitant becomes age 60. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that the annuitant can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date the annuitant's recovery is determined.

**"(3) REINSTATEMENT.—**Upon application, the Director may reinstate any such recovered disability annuitant in the grade held at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of the annuitant's contemporaries in the Agency, appoint the annuitant to a grade higher than the one held before retirement.

**"(4) TERMINATION OF DISABILITY ANNUITY.—**Payment of the annuity shall continue until a date one year after the date of

examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier.

"(5) **PAYMENT OF FEES.**—Fees for examinations under this subsection, together with reasonable traveling and other expenses incurred in order to submit to examination, may be paid out of the fund.

"(6) **SUSPENSION OF ANNUITY PENDING REQUIRED EXAMINATION.**—If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

"(7) **TERMINATION OF ANNUITY UPON RESTORATION OF EARNING CAPACITY.**—If the annuitant receiving a disability retirement annuity is restored to earning capacity before becoming age 60, payment of the annuity terminates on reemployment by the Government or 180 days after the end of the calendar year in which earning capacity is restored, whichever is earlier. Earning capacity shall be considered to be restored if in any calendar year the income of the annuitant from wages or self-employment, or both, equals at least 80 percent of the current rate of pay for the grade and step the annuitant held at the time of retirement.

"(d) **TREATMENT OF RECOVERED DISABILITY ANNUITANT WHO IS NOT REINSTATED.**—

"(1) **SEPARATION.**—If a recovered or restored disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, the annuitant shall be considered, except for service credit, to have been separated within the meaning of section 234 as of the date of termination of the disability annuity.

"(2) **RETIREMENT.**—After such termination, the recovered or restored annuitant shall be entitled to the benefits of section 234 or 241(b), except that the annuitant may elect voluntary retirement under section 233, if qualified thereunder, or may be placed by the Director in an involuntary retirement status under section 235(a), if qualified thereunder. Retirement rights under this paragraph shall be based on the provisions of this title in effect as of the date on which the disability annuity is discontinued.

"(3) **FURTHER DISABILITY BEFORE AGE 62.**—If, based on a current medical examination, the Director determines that a recovered annuitant has, before reaching age 62, again become totally disabled due to recurrence of the disability for which the annuitant was originally retired, the annuitant's terminated disability annuity (same type and rate) shall be reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that the annuitant's income from wages and self-employment in any calendar year before reaching age 62 was less than 80 percent of the rate of pay for the grade and step the annuitant held at the time of retirement, the annuitant's terminated disability annuity (same type and rate) shall be reinstated from the first of the next following year. If the annuitant

has been allowed an involuntary or voluntary retirement annuity in the meantime, the annuitant's reinstated disability annuity shall be substituted for it unless the annuitant elects to retain the former benefit.

**"(e) COORDINATION OF BENEFITS.—**

**"(1) WORKERS' COMPENSATION.—**A participant is not entitled to receive for the same period of time—

**"(A)** an annuity under this title, and

**"(B)** compensation for injury to, or disability of, such participant under subchapter I of chapter 81 of title 5, United States Code, other than compensation payable under section 8107 of such title.

**"(2) SURVIVOR ANNUITIES.—**An individual is not entitled to receive an annuity under this title and a concurrent benefit under subchapter I of chapter 81 of title 5, United States Code, on account of the death of the same person.

**"(3) GREATER BENEFIT.—**Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this title or subchapter I of chapter 81 of title 5, United States Code.

**"(f) OFFSET FROM SURVIVOR ANNUITY FOR WORKERS' COMPENSATION PAYMENT.—**

**"(1) REFUND TO DEPARTMENT OF LABOR.—**If an individual is entitled to an annuity under this title and the individual receives a lump-sum payment for compensation under section 8135 of title 5, United States Code, based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Secretary of Labor, shall be refunded to the Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

**"(A)** refund to the Secretary of Labor the amount representing the commuted compensation payments for the extended period; or

**"(B)** authorize the deduction of the amount from the annuity.

**"(2) SOURCE OF DEDUCTION.—**Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Secretary for reimbursement to the Employees' Compensation Fund.

**"(3) PRORATING DEDUCTION.—**If the Secretary finds that the financial circumstances of an individual entitled to an annuity under this title warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Secretary determines appropriate.

**"SEC. 232. DEATH IN SERVICE.**

**"(a) RETURN OF CONTRIBUTIONS WHEN NO ANNUITY PAYABLE.—**If a participant dies and no claim for an annuity is payable under this title, the participant's lump-sum credit and any voluntary con-

tributions made under section 281, with interest, shall be paid in the order of precedence shown in section 241(c).

**"(b) SURVIVOR ANNUITY FOR SURVIVING SPOUSE OR FORMER SPOUSE.—**

**"(1) IN GENERAL.—**If a participant dies before separation or retirement from the Agency and is survived by a spouse or by a former spouse qualifying for a survivor annuity under section 222(b), such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with paragraphs (2) and (3) of this subsection and section 221(a), and any such surviving former spouse shall be entitled to an annuity computed in accordance with section 222(b) and paragraph (2) of this subsection as if the participant died after being entitled to an annuity under this title. The annuity of such surviving spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the death or remarriage before attaining age 55 of the surviving spouse or former spouse (subject to the payment and restoration provisions of sections 221(b)(3)(C), 221(h), and 222(b)(3)).

**"(2) COMPUTATION.—**The annuity payable under paragraph (1) shall be computed in accordance with section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (A) 40 percent of the participant's high-3 average pay, or (B) the sum obtained under such section after increasing the participant's length of service by the difference between the participant's age at the time of death and age 60.

**"(3) LIMITATION.—**Notwithstanding paragraph (1), if the participant had a former spouse qualifying for an annuity under section 222(b), the annuity of a surviving spouse under this section shall be subject to the limitation of section 221(b)(3)(B), and the annuity of a former spouse under this section shall be subject to the limitation of section 222(b)(4)(B).

**"(4) PRECEDENCE OF SECTION 224 SURVIVOR ANNUITY OVER DEATH-IN-SERVICE ANNUITY.—**If a former spouse who is eligible for a death-in-service annuity under this section is or becomes eligible for an annuity under section 222, the annuity provided under this section shall not be payable and shall be superseded by the annuity under section 224.

**"(c) ANNUITIES FOR SURVIVING CHILDREN.—**

**"(1) PARTICIPANTS DYING BEFORE APRIL 1, 1992.—**In the case of a participant who before April 1, 1992, died before separation or retirement from the Agency and who was survived by a child or children—

**"(A)** if the participant was survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(A); and

**"(B)** if the participant was not survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(B).

**"(2) PARTICIPANTS DYING ON OR AFTER APRIL 1, 1992.**—In the case of a participant who on or after April 1, 1992, dies before separation or retirement from the Agency and who is survived by a child or children—

"(A) if the participant is survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(A); and

"(B) if the participant is not survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(B).

**"(3) FORMER SPOUSE DEFINED.**—For purposes of this subsection, the term 'former spouse' includes any former wife or husband of a participant, regardless of the length of marriage or the amount of creditable service completed by the participant.

**"SEC. 233. VOLUNTARY RETIREMENT.**

"A participant who is at least 50 years of age and has completed 20 years of service may, on the participant's application and with the consent of the Director, be retired from the Agency and receive benefits in accordance with the provisions of section 221 if the participant has not less than 10 years of service with the Agency.

**"SEC. 234. DISCONTINUED SERVICE BENEFITS.**

**"(a) DEFERRED ANNUITY.**—A participant who separates from the Agency may, upon separation or at any time before the commencement of an annuity under this title, elect—

"(1) to have the participant's contributions to the fund returned to the participant in accordance with section 241(a); or

"(2) except in a case in which the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States, to leave the contributions in the fund and receive an annuity, computed as prescribed in section 221, commencing at age 62.

**"(b) REFUND OF CONTRIBUTIONS IF FORMER PARTICIPANT DIES BEFORE AGE 62.**—If a participant who qualifies under subsection (a) to receive a deferred annuity commencing at age 62 dies before reaching age 62, the participant's contributions to the fund, with interest, shall be paid in accordance with the provisions of sections 241 and 281.

**"SEC. 235. MANDATORY RETIREMENT.**

**"(a) INVOLUNTARY RETIREMENT.**—

"(1) **AUTHORITY OF DIRECTOR.**—The Director may, in the Director's discretion, place in a retired status any participant in the system described in paragraph (2).

"(2) Paragraph (1) applies with respect to any participant who has not less than 10 years of service with the Agency and who—

"(A) has completed at least 25 years of service; or

"(B) is at least 50 years of age and has completed at least 20 years of service.



**"(b) MANDATORY RETIREMENT FOR AGE.—**

**"(1) IN GENERAL.—**A participant in the system shall be automatically retired from the Agency—

**"(A)** upon reaching age 65, in the case of a participant in the system receiving compensation under the Senior Intelligence Service pay schedule at the rate of level 4 or above; and

**"(B)** upon reaching age 60, in the case of any other participant in the system.

**"(2) EFFECTIVE DATE OF RETIREMENT.—**Retirement under paragraph (1) shall be effective on the last day of the month in which the participant reaches the age applicable to that participant under that paragraph.

**"(3) AUTHORITY FOR EXTENSION.—**In any case in which the Director determines it to be in the public interest, the Director may extend the mandatory retirement date for a participant under this subsection by a period of not to exceed 5 years.

**"(c) RETIREMENT BENEFITS.—**A participant retired under this section shall receive retirement benefits in accordance with section 221.

**"SEC. 236. ELIGIBILITY FOR ANNUITY.**

**"(a) ONE-OUT-OF-TWO REQUIREMENT.—**A participant must complete, within the last two years before any separation from service (except a separation because of death or disability) at least one year of creditable civilian service during which the participant is subject to this title and in a pay status before the participant or the participant's survivors are eligible for an annuity under this title based on that separation.

**"(b) REFUND OF CONTRIBUTIONS FOR TIME NOT ALLOWED FOR CREDIT.—**If a participant (other than a participant separated from the service because of death or disability) fails to meet the service and pay status requirement of subsection (a), any amounts deducted from the participant's pay during the period for which no eligibility is established based on the separation shall be returned to the participant on the separation.

**"(c) EXCEPTION.—**Failure to meet the service and pay status requirement of subsection (a) shall not deprive the participant or the participant's survivors of any annuity to which they may be entitled under this title based on a previous separation.

## **"Part E—Lump Sum Payments**

**"SEC. 241. LUMP-SUM PAYMENTS.**

**"(a) ENTITLEMENT TO LUMP-SUM CREDIT.—**Subject to section 252(d) and subsection (b) of this section, a participant who—

**"(1)** is separated from the Agency for at least 31 consecutive days and is not transferred to employment covered by another retirement system for Government employees;

**"(2)** files an application with the Director for payment of the lump-sum credit;

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

"(4) will not become eligible to receive an annuity under this title within 31 days after filing the application, is entitled to be paid the lump-sum credit. Receipt of the payment of the lump-sum credit by the former participant voids all annuity rights under this title based on the service on which the lump-sum credit is based, until the former participant is reemployed in service subject to this title.

"(b) CONDITIONS FOR PAYMENT OF LUMP-SUM CREDIT.—

"(1) IN GENERAL.—Whenever a former participant becomes entitled to receive payment of the lump-sum credit under subsection (a), such lump-sum credit shall be paid to the former participant and to any former spouse or former wife or husband of the former participant in accordance with paragraphs (2) through (4). The former participant's lump-sum credit shall be reduced by the amount of the lump-sum credit payable to any former spouse or former wife or husband.

"(2) PRO RATA SHARE FOR FORMER SPOUSE.—Unless otherwise expressly provided by any spousal agreement or court order under section 264(b), a former spouse of the former participant shall be entitled to receive a share of such participant's lump-sum credit—

"(A) if married to the participant throughout the period of creditable service of the participant, equal to 50 percent of such lump-sum credit; or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant bears to the total number of days of such creditable service.

"(3) SHARE FOR FORMER WIFE OR HUSBAND.—Payment of the former participant's lump-sum credit shall be subject to the terms of a court order under section 264(c) concerning any former wife or husband of the former participant if—

"(A) the court order expressly relates to any portion of such lump-sum credit; and

"(B) payment of the lump-sum credit would extinguish entitlement of such former wife or husband to a survivor annuity under section 226 or to any portion of the participant's annuity under section 264(c).

"(4) NOTIFICATION.—A lump-sum credit may be paid to or for the benefit of a former participant—

"(A) only upon written notification to (i) the current spouse, if any, (ii) any former spouse, and (iii) any former wife or husband who has a court order covered by paragraph (3); and

"(B) only if the express written concurrence of the current spouse has been received by the Director.

*This paragraph may be waived under circumstances described in section 221(b)(1)(D).*

*"(c) ORDER OF PRECEDENCE OF PAYMENT.—A lump-sum benefit that would have been payable to a participant, former participant, or annuitant, or to a survivor annuitant, authorized by subsection (d) or (e) of this section or by section 234(b) or 281(d) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon establishment of a valid claim therefor, and such payment bars recovery by any other individual:*

*"(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Director before the participant's death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed with the Director shall have no force or effect.*

*"(2) If there is no designated beneficiary, to the surviving wife or husband of such participant.*

*"(3) If none of the above, to the child or children of such participant and descendent of deceased children by representation.*

*"(4) If none of the above, to the parents of such participant or the survivor of them.*

*"(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant.*

*"(6) If none of the above, to such other next of kin of such participant as the Director determines to be legally entitled to such payment.*

*"(d) DEATH OF FORMER PARTICIPANT BEFORE RETIREMENT.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), if a former participant eligible for a deferred annuity under section 234 dies before reaching age 62, such former participant's lump-sum credit shall be paid in accordance with subsection (c).*

*"(2) LIMITATION.—In any case where there is a surviving former spouse or surviving former wife or husband of such participant who is entitled to a share of such participant's lump-sum credit under paragraphs (2) and (3) of subsection (b), the lump-sum credit payable under paragraph (1) shall be reduced by the lump-sum credit payable to such former spouse or former wife or husband.*

*"(e) TERMINATION OF ALL ANNUITY RIGHTS.—If all annuity rights under this title based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid in accordance with subsection (c).*

*"(f) TERMINATION OF SURVIVOR ANNUITY.—An annuity accrued and unpaid on the termination, except by death, of the annuity of a survivor annuitant shall be paid to that individual. An annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other individual:*

*"(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.*

"(2) If there is no executor or administrator, to such next of kin of the survivor annuitant as the Director determines to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days from the date of death of the survivor annuitant.

## **"Part F—Period of Service for Annuities**

### **"SEC. 251. COMPUTATION OF LENGTH OF SERVICE.**

#### **"(a) IN GENERAL.—**

"(1) **CREDITING SERVICE AS PARTICIPANT.**—For the purposes of this title, the period of service of a participant shall be computed from the date on which the participant becomes a participant under this title.

"(2) **EXCLUSION OF CERTAIN PERIODS.**—In computing the period of service of a participant, all periods of separation from the Agency and so much of any leave of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under chapter 81 of title 5, United States Code, and leaves of absence granted participants while performing active and honorable service in the Armed Forces.

"(3) **CREDITING CERTAIN PERIODS OF SEPARATION.**—A participant or former participant who returns to Government duty after a period of separation shall have included in the participant or former participant's period of service that part of the period of separation in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code.

#### **"(b) EXTRA CREDIT FOR PERIODS SERVED AT UNHEALTHFUL POSTS OVERSEAS.—**

"(1) **CLASSIFICATION OF CERTAIN POSTS AS UNHEALTHFUL.**—The Director may from time to time establish a list of places outside the United States that, by reason of climatic or other extreme conditions, are to be classed as unhealthy posts. Such list shall be established in consultation with the Secretary of State.

"(2) **EXTRA CREDIT.**—Each year of duty at a post on the list established under paragraph (1), inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this title for the purpose of retirement. In computing such service, any fractional month shall be treated as a full month.

"(3) **COORDINATION WITH BENEFITS UNDER TITLE 5.**—Extra credit for service at an unhealthy post may not be credited to a participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for the same service.

### **"SEC. 252. PRIOR SERVICE CREDIT.**

"(a) **IN GENERAL.**—A participant may, subject to the provisions of this section, include in the participant's period of service—

"(1) civilian service in the Government before becoming a participant that would be creditable toward retirement under

subchapter III of chapter 83 of title 5, United States Code (as determined under section 8332(b) of such title); and

"(2) honorable active service in the Armed Forces before the date of the separation upon which eligibility for an annuity is based, or honorable active service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the total service of any participant shall exclude—

"(A) any period of civilian service on or after October 1, 1982, for which retirement deductions or deposits have not been made,

"(B) any period of service for which a refund of contributions has been made, or

"(C) any period of service for which contributions were not transferred pursuant to subsection (c)(1);

unless the participant makes a deposit to the fund in an amount equal to the percentages of basic pay received for such service as specified in the table contained in section 8334(c) of title 5, United States Code, together with interest computed in accordance with section 8334(e) of such title. The deposit may be made in one or more installments (including by allotment from pay), as determined by the Director.

"(2) EFFECT OF RETIREMENT DEDUCTIONS NOT MADE.—If a participant has not paid a deposit for civilian service performed before October 1, 1982, for which retirement deductions were not made, such participant's annuity shall be reduced by 10 percent of the deposit described in paragraph (1) remaining unpaid, unless the participant elects to eliminate the service involved for the purpose of the annuity computation.

"(3) EFFECT OF REFUND OF RETIREMENT CONTRIBUTIONS.—A participant who received a refund of retirement contributions under this or any other retirement system for Government employees covering service for which the participant may be allowed credit under this title may deposit the amount received, with interest computed under paragraph (1). Credit may not be allowed for the service covered by the refund until the deposit is made, except that a participant who—

"(A) separated from Government service before October 1, 1990, and received a refund of the participant's retirement contributions covering a period of service ending before October 1, 1990;

"(B) is entitled to an annuity under this title (other than a disability annuity) which commences after December 1, 1992; and

"(C) does not make the deposit required to receive credit for the service covered by the refund; shall be entitled to an annuity actuarially reduced in accordance with section 8334(d)(2)(B) of title 5, United States Code.

"(4) ENTITLEMENT UNDER ANOTHER SYSTEM.—Credit toward retirement under the system shall not be allowed for any period of civilian service on the basis of which the participant is re-

ceiving (or will in the future be entitled to receive) an annuity under another retirement system for Government employees, unless the right to such annuity is waived and a deposit is made under paragraph (1) covering that period of service, or a transfer is made pursuant to subsection (c).

**“(c) TRANSFER FROM OTHER GOVERNMENT RETIREMENT SYSTEMS.—**

**“(1) IN GENERAL.—**If an employee who is under another retirement system for Government employees becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5, United States Code) under such retirement system on behalf of the employee as well as such employee's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the employee's credit in the fund effective as of the date such employee becomes a participant in the system.

**“(2) CONSENT OF EMPLOYEE.—**Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered before becoming a participant in the system.

**“(3) ADDITIONAL CONTRIBUTIONS; REFUNDS.—**A participant whose contributions are transferred pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed for employees by section 8334(c) of title 5, United States Code, for contributions to the fund.

**“(d) TRANSFER TO OTHER GOVERNMENT RETIREMENT SYSTEMS.—**

**“(1) IN GENERAL.—**If a participant in the system becomes an employee under another Government retirement system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5, United States Code) to the fund on the participant's behalf as well as the participant's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the participant's credit in the fund of such other retirement system effective as of the date on which the participant becomes eligible to participate in such other retirement system.

**“(2) CONSENT OF EMPLOYEE.—**Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the fund on account of service rendered before the participant's becoming eligible for participation in that other system.

**“(e) PRIOR MILITARY SERVICE CREDIT.—**

**"(1) APPLICATION TO OBTAIN CREDIT.**—If a deposit required to obtain credit for prior military service described in subsection (a)(2) was not made to another Government retirement fund and transferred under subsection (c)(1), the participant may obtain credit for such military service, subject to the provisions of this subsection and subsections (f) through (h), by applying for it to the Director before retirement or separation from the Agency.

**"(2) EMPLOYMENT STARTING BEFORE, ON, OR AFTER OCTOBER 1, 1982.**—Except as provided in paragraph (3)—

**"(A)** the service of a participant who first became a Federal employee before October 1, 1982, shall include credit for each period of military service performed before the date of separation on which entitlement to an annuity under this title is based, subject to section 252(f); and

**"(B)** the service of a participant who first becomes a Federal employee on or after October 1, 1982, shall include credit for—

**"(i)** each period of military service performed before January 1, 1957, and

**"(ii)** each period of military service performed after December 31, 1956, and before the separation on which entitlement to an annuity under this title is based, only if a deposit (with interest, if any) is made with respect to that period, as provided in subsection (h).

**"(3) EFFECT OF RECEIPT OF MILITARY RETIRED PAY.**—In the case of a participant who is entitled to retired pay based on a period of military service, the participant's service may not include credit for such period of military service unless the retired pay is paid—

**"(A)** on account of a service-connected disability—

**"(i)** incurred in combat with an enemy of the United States; or

**"(ii)** caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in section 1101 of title 38, United States Code); or

**"(B)** under chapter 67 of title 10, United States Code.

**"(4) SURVIVOR ANNUITY.**—Notwithstanding paragraph (3), the survivor annuity of a survivor of a participant—

**"(A)** who was awarded retired pay based on any period of military service, and

**"(B)** whose death occurs before separation from the Agency,

shall be computed in accordance with section 8332(c)(3) of title 5, United States Code.

**"(f) EFFECT OF ENTITLEMENT TO SOCIAL SECURITY BENEFITS.**—

**"(1) IN GENERAL.**—Notwithstanding any other provision of this section (except paragraph (3) of this subsection) or section 253, any military service (other than military service covered by military leave with pay from a civilian position) performed by a participant after December 1956 shall be excluded in determining the aggregate period of service on which an annuity payable under this title to such participant or to the participant's

spouse, former spouse, previous spouse, or child is based, if such participant, spouse, former spouse, previous spouse, or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old-age or survivors' insurance benefits under section 202 of the Social Security Act (42 U.S.C. 402), based on such participant's wages and self-employment income. If the military service is not excluded under the preceding sentence, but upon attaining age 62, the participant or spouse, former spouse, or previous spouse becomes entitled (or would upon proper application be entitled) to such benefits, the aggregate period of service on which the annuity is based shall be redetermined, effective as of the first day of the month in which the participant or spouse, former spouse, or previous spouse attains age 62, so as to exclude such service.

"(2) **LIMITATION.**—The provisions of paragraph (1) relating to credit for military service do not apply to—

"(A) any period of military service of a participant with respect to which the participant has made a deposit with interest, if any, under subsection (h); or

"(B) the military service of any participant described in subsection (e)(2)(B).

"(3) **EFFECT OF ENTITLEMENT BEFORE SEPTEMBER 8, 1982.**—

(A) The annuity recomputation required by paragraph (1) shall not apply to any participant who was entitled to an annuity under this title on or before September 8, 1982, or who is entitled to a deferred annuity based on separation from the Agency occurring on or before such date. Instead of an annuity recomputation, the annuity of such participant shall be reduced at age 62 by an amount equal to a fraction of the participant's old-age or survivors' insurance benefits under section 202 of the Social Security Act. The reduction shall be determined by multiplying the participant's monthly Social Security benefit by a fraction, the numerator of which is the participant's total military wages and deemed additional wages (within the meaning of section 229 of the Social Security Act (42 U.S.C. 429)) that were subject to Social Security deductions and the denominator of which is the total of all the participant's wages, including military wages, and all self-employment income that were subject to Social Security deductions before the calendar year in which the determination month occurs.

"(B) The reduction determined in accordance with subparagraph (A) shall not be greater than the reduction that would be required under paragraph (1) if such paragraph applied to the participant. The new formula shall be applicable to any annuity payment payable after October 1, 1982, including annuity payments to participants who had previously reached age 62 and whose annuities had already been recomputed.

"(C) For purposes of this paragraph, the term 'determination month' means—

"(i) the first month for which the participant is entitled to old-age or survivors' insurance benefits (or would be entitled to such benefits upon application therefor); or

"(ii) October 1982, in the case of any participant entitled to such benefits for that month.



**"(g) DEPOSITS PAID BY SURVIVORS.**—For the purpose of survivor annuities, deposits authorized by subsections (b) and (h) may also be made by the survivor of a participant.

**"(h) DEPOSITS FOR PERIODS OF MILITARY SERVICE.**—

**"(1)** Each participant who has performed military service before the date of separation on which entitlement to an annuity under this title is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37, United States Code, to the participant for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).

**"(2)** Any deposit made under paragraph (1) more than two years after the later of—

**"(A)** October 1, 1983, or

**"(B)** the date on which the participant making the deposit first becomes an employee of the Federal Government, shall include interest on such amount computed and compounded annually beginning on the date of expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e) of title 5, United States Code.

**"(3)** Any payment received by the Director under this subsection shall be deposited in the Treasury of the United States to the credit of the fund.

**"(4)** The provisions of section 221(k) shall apply with respect to such information as the Director determines to be necessary for the administration of this subsection in the same manner that such section applies concerning information described in that section.

**"SEC. 253. CREDIT FOR SERVICE WHILE ON MILITARY LEAVE.**

**"(a) GENERAL RULE.**—A participant who, during the period of any war or of any national emergency as proclaimed by the President or declared by the Congress, leaves the participant's position in the Agency to enter military service shall not be considered, for purposes of this title, as separated from the participant's position in the Agency by reason of such military service, less the participant applies for and receives a refund of contributions under this title. Such a participant may not be considered as retaining such position in the Agency after December 31, 1956, or upon the expiration of five years of such military service, whichever is later.

**"(b) WAIVER OF CONTRIBUTIONS.**—Except to the extent provided under section 252(e) or 252(h), contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active service in the Armed Forces.

## **“Part G—Moneys**

### **“SEC. 261. ESTIMATE OF APPROPRIATIONS NEEDED.**

**“(a) ESTIMATES OF ANNUAL APPROPRIATIONS.**—The Director shall prepare the estimates of the annual appropriations required to be made to the fund.

**“(b) ACTUARIAL VALUATIONS.**—The Director shall cause to be made actuarial valuations of the fund at such intervals as the Director determines to be necessary, but not less often than every five years.

**“(c) CHANGES IN LAW AFFECTING ACTUARIAL STATUS OF FUND.**—Any statute which authorizes—

**“(1) new or increased benefits payable from the fund under this title, including annuity increases other than under section 291;**

**“(2) extension of the coverage of this title to new groups of employees; or**

**“(3) increases in pay on which benefits are computed;**  
is deemed to authorize appropriations to the fund in order to provide funding for the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the system and with the first payment thereof due as of the end of the fiscal year in which such new or liberalized benefit, extension of coverage, or increase in pay is effective.

**“(d) AUTHORIZATION.**—There is hereby authorized to be appropriated to the fund for each fiscal year such amounts as may be necessary to meet the amount of normal cost for each year that is not met by contributions under section 211(a).

**“(e) UNFUNDED LIABILITY; CREDIT ALLOWED FOR MILITARY SERVICE.**—There is hereby authorized to be appropriated to the fund for each fiscal year such sums as may be necessary to provide the amount equivalent to—

**“(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the system; and**

**“(2) that portion of disbursement for annuities for that year that the Director estimates is attributable to credit allowed for military service,**

less an amount determined by the Director to be appropriate to reflect the value of the deposits made to the credit of the fund under section 252(h).

### **“SEC. 262. INVESTMENT OF MONEYS IN THE FUND.**

**“The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the fund as in the Director's judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances from the fund. The income derived from such investments shall be credited to and constitute a part of the fund.**

**"SEC. 263. PAYMENT OF BENEFITS.**

**"(a) ANNUITIES STATED AS ANNUAL AMOUNTS.**—Each annuity is stated as an annual amount,  $\frac{1}{12}$  of which, rounded to the next lowest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.

**"(b) COMMENCEMENT OF ANNUITY.**—

**"(1) COMMENCEMENT OF ANNUITY FOR PARTICIPANTS GENERALLY.**—Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after separation from the Agency or after pay ceases and the service and age requirements for title to an annuity are met.

**"(2) EXCEPTIONS.**—The annuity of—

**"(A)** a participant involuntarily separated from the Agency;

**"(B)** a participant retiring under section 231 due to a disability; and

**"(C)** a participant who serves 3 days or less in the month of retirement; shall commence on the day after separation from the Agency or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

**"(3) OTHER ANNUITIES.**—Any other annuity payable from the fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

**"(c) TERMINATION OF ANNUITY.**—An annuity payable from the fund shall terminate—

**"(1)** in the case of a retired participant, on the day death or any other terminating event provided by this title occurs; or

**"(2)** in the case of a former spouse or a survivor, on the last day of the month before death or any other terminating event occurs.

**"(d) APPLICATION FOR SURVIVOR ANNUITIES.**—The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Director may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to the individual's estate.

**"(e) WAIVER OF ANNUITY.**—An individual entitled to an annuity from the fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Director. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver is in effect.

**"(f) LIMITATIONS.**—

**"(1) APPLICATION BEFORE 115TH ANNIVERSARY.**—No payment shall be made from the fund unless an application for benefits based on the service of the participant is received by the Director before the 115th anniversary of the participant's birth.

**"(2) APPLICATION WITHIN 30 YEARS.**—Notwithstanding paragraph (1), after the death of a participant or retired participant, no benefit based on that participant's service may be paid from the fund unless an application for the benefit is received

by the Director within 30 years after the death or other event which gives rise to eligibility for the benefit.

“(g) **WITHHOLDING OF STATE INCOME TAX FROM ANNUITIES.**—

“(1) **AGREEMENTS WITH STATES.**—The Director shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Director shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund and disbursed to the States during the month following that calendar quarter.

“(2) **LIMITATION ON MULTIPLE REQUESTS.**—An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests during any one calendar year.

“(3) **CHANGE IN STATE DESIGNATION.**—Subject to paragraph (2), an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Director, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Director.

“(4) **GENERAL PROVISIONS.**—This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements of the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Director may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Director shall be repaid by the State in accordance with regulations prescribed by the Director.

“(5) **DEFINITION.**—For the purpose of this subsection, the term ‘State’ includes the District of Columbia and any territory or possession of the United States.

#### “SEC. 264. ATTACHMENT OF MONEYS.

“(a) **EXEMPTION FROM LEGAL PROCESS.**—Except as provided in subsections (b), (c), and (e), none of the moneys mentioned in this title shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

“(b) **PAYMENT TO FORMER SPOUSES UNDER COURT ORDER OR SPOUSAL AGREEMENT.**—In the case of any participant, former participant, or retired participant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

“(1) any right of the former spouse to any annuity under section 222(a) in connection with any retirement or disability

annuity of the participant, and the amount of any such annuity;

"(2) any right of the former spouse of a participant or retired participant to a survivor annuity under section 222(b) or 222(c), and the amount of any such annuity;

"(3) any right of the former spouse of a former participant to any payment of a lump-sum credit under section 241(b) and to any payment of a return of contributions under section 234(a); and

"(4) any right of the former spouse of a participant or former participant to a lump-sum payment or additional annuity payable from a voluntary contribution account under section 281;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this title.

"(c) **OTHER PAYMENTS UNDER COURT ORDERS.**—Payments under this title that would otherwise be made to a participant, former participant, or retired participant based upon that participant's service shall be paid, in whole or in part, by the Director to another individual if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

"(d) **PROSPECTIVE PAYMENTS; BAR TO RECOVERY.**—

"(1) Subsections (b) and (c) apply only to payments made under this title for periods beginning after the date of receipt by the Director of written notice of such decree, order, or agreement and such additional information and documentation as the Director may require.

"(2) Any payment under subsection (b) or (c) to an individual bars recovery by any other individual.

"(e) **ALLOTMENTS.**—An individual entitled to an annuity from the fund may make allotments or assignments of amounts from such annuity for such purposes as the Director considers appropriate.

#### "SEC. 265. RECOVERY OF PAYMENTS.

"Recovery of payments under this Act may not be made from an individual when, in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money payable pursuant to this Act on account of a certification or payment made by a former employee of the Agency in the discharge of the former employee's official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.

## ***"Part H—Retired Participants Recalled, Reinstated, or Reappointed in the Agency or Reemployed in the Government***

### ***"SEC. 271. RECALL.***

***"(a) AUTHORITY TO RECALL.***—The Director may, with the consent of a retired participant, recall that participant to service in the Agency whenever the Director determines that such recall is in the public interest.

***"(b) PAY OF RETIRED PARTICIPANT WHILE SERVING.***—A retired participant recalled to duty in the Agency under subsection (a) or reinstated or reappointed in accordance with section 231(b) shall, while so serving, be entitled, in lieu of the retired participant's annuity, to the full basic pay of the grade in which the retired participant is serving. During such service, the retired participant shall make contributions to the fund in accordance with section 211.

***"(c) RECOMPUTATION OF ANNUITY.***—When the retired participant reverts to retired status, the annuity of the retired participant shall be redetermined in accordance with section 221.

### ***"SEC. 272. REEMPLOYMENT.***

***"A participant retired under this title shall not, by reason of that retired status, be barred from employment in Federal Government service in any appointive position for which the participant is qualified.***

### ***"SEC. 273. REEMPLOYMENT COMPENSATION.***

***"(a) DEDUCTION FROM BASIC PAY.***—An annuitant who has retired under this title and who is reemployed in the Federal Government service in any appointive position (either on a part-time or full-time basis) shall be entitled to receive the annuity payable under this title, but there shall be deducted from the annuitant's basic pay a sum equal to the annuity allocable to the period of actual employment.

***"(b) RECOVERY OF OVERPAYMENTS.***—In the event of an overpayment under this section, the amount of the overpayment shall be recovered by withholding the amount involved from the basic pay payable to such reemployed annuitant or from any other moneys, including the annuitant's annuity, payable in accordance with this title.

***"(c) DEPOSIT IN THE FUND.***—Sums deducted from the basic pay of a reemployed annuitant under this section shall be deposited in the Treasury of the United States to the credit of the fund.

## ***"Part I—Voluntary Contributions***

### ***"SEC. 281. VOLUNTARY CONTRIBUTIONS.***

***"(a) AUTHORITY FOR VOLUNTARY CONTRIBUTIONS.***—

***"(1) IN GENERAL.***—Under such regulations as may be prescribed by the Director, a participant may voluntarily contribute additional sums in multiples of one percent of the participant's basic pay, but not in excess of 10 percent of such basic pay.

*"(2) INTEREST.—The voluntary contribution account in each case is the sum of unrefunded contributions, plus interest—*

*"(A) for periods before January 1, 1985, at 3 percent a year; and*

*"(B) for periods on or after January 1, 1985, at the rate computed under section 8334(e) of title 5, United States Code,*

*compounded annually to the date of election under subsection (b) or the date of payment under subsection (d).*

*"(b) TREATMENT OF VOLUNTARY CONTRIBUTIONS.—Effective on the date of retirement and at the election of the participant, the participant's account shall be—*

*"(1) returned in a lump sum;*

*"(2) used to purchase an additional life annuity;*

*"(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on the participant's death to a beneficiary; or*

*"(4) used to purchase an additional life annuity for the participant and a life annuity commencing on the participant's death payable to a beneficiary, with a guaranteed return to the beneficiary or the beneficiary's legal representative of an amount equal to the cash payment referred to in paragraph (3).*

*In the case of a benefit provided under paragraph (3) or (4), the participant shall notify the Director in writing of the name of the beneficiary of the cash payment or life annuity to be paid upon the participant's death.*

*"(c) VALUE OF BENEFITS.—The benefits provided by subsection (b) (2), (3), or (4) shall be actuarially equivalent in value to the payment provided for in subsection (b)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.*

*"(d) LUMP SUM PAYMENT.—A voluntary contribution account shall be paid in a lump sum at such time as the participant dies or separates from the Agency without entitlement to an annuity. In the case of death, the account shall be paid in the order of precedence specified in section 241(c).*

*"(e) BENEFITS IN ADDITION TO OTHER BENEFITS.—Any benefit payable to a participant or to the participant's beneficiary with respect to the additional contributions provided under this section shall be in addition to benefits otherwise provided under this title.*

## ***"Part J—Cost-of-Living Adjustment of Annuities***

### ***"SEC. 291. COST-OF-LIVING ADJUSTMENT OF ANNUITIES.***

*"(a) IN GENERAL.—Each annuity payable from the fund shall be adjusted as follows:*

*"(1) Each cost-of-living annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.*

*"(2) A cost-of-living increase made under paragraph (1) shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States*

Code. Except as provided in subsection (b), each such increase shall be applied to each annuity payable from the fund which has a commencing date not later than the effective date of the increase.

"(b) **ELIGIBILITY.**—Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

"(1) The first cost-of-living increase (if any) made under subsection (a) to an annuity which is payable from the fund to a participant who retires, to the surviving spouse, former spouse, or previous spouse of a participant who dies in service, or to the surviving spouse, former spouse, previous spouse, or insurable interest designee of a deceased annuitant whose annuity has not been increased under this subsection or subsection (a), shall be equal to the product (adjusted to the nearest  $\frac{1}{10}$  of one percent) of—

"(A)  $\frac{1}{12}$  of the applicable percent change computed under subsection (a), multiplied by

"(B) the number of months (not to exceed 12 months, counting any portion of a month as a month)—

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

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

"(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled to an annuity under section 221(d) or section 232(c)) shall be increased by the total percentage increase the annuitant was receiving under this section at death.

"(3) For purposes of computing the annuity of a child under section 221(d) that commences after October 31, 1969, the dollar amounts specified in section 221(d)(3) shall each be increased by the total percentage increases allowed and in force under this section on or after such day and, in the case of a deceased annuitant, the percentages specified in that section shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

"(c) **LIMITATION.**—An annuity increase provided by this section may not be computed on any additional annuity purchased at retirement by voluntary contributions.

"(d) **ROUNDING TO NEXT LOWER DOLLAR.**—The monthly annuity installment, after adjustment under this section, shall be rounded to the next lowest dollar, except that such installment shall, after adjustment, reflect an increase of at least \$1.

"(e) **LIMITATION ON MAXIMUM AMOUNT OF ANNUITY.**—

"(1) **IN GENERAL.**—An annuity shall not be increased by reason of an adjustment under this section to an amount which exceeds the greater of—



*"(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or*

*"(B) the final pay (or average pay, if higher) of the participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in the rates of pay of the General Schedule under subchapter I of chapter 53 of title 5, United States Code, during the period—*

*"(i) beginning on the date on which the annuity commenced (or, in the case of a survivor of the retired participant, the date on which the participant's annuity commenced), and*

*"(ii) ending on the effective date of the adjustment under this section.*

*"(2) PAY DEFINED.—For purposes of paragraph (1), the term 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.*

## ***"Part K—Conformity With Civil Service Retirement System***

### **"SEC. 292. AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEMS.**

***"(a) PRESIDENTIAL AUTHORITY.—***

*"(1) CONFORMITY TO CSRS BY EXECUTIVE ORDER.—Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, the President may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which—*

*"(A) amends subchapter III of chapter 83 of title 5, United States Code, and is applicable to civil service employees generally; or*

*"(B) otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors.*

*"(2) EXTENSION TO CIARDS.—Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors.*

*"(3) LEGAL STATUS.—Any such order shall have the force and effect of law.*

*"(4) EFFECTIVE DATE.—Any such order may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.*

*“(b) EFFECT OF EXECUTIVE ORDER.—Provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—*

*“(1) provisions of law enacted before the effective date of the Executive order; and*

*“(2) any prior provision of an Executive order issued under this section.*

**“SEC. 293. THRIFT SAVINGS PLAN PARTICIPATION.**

*“(a) ELIGIBILITY FOR THRIFT SAVINGS PLAN.—Participants in the system shall be deemed to be employees for the purposes of section 8351 of title 5, United States Code.*

*“(b) MANAGEMENT OF THRIFT SAVINGS PLAN ACCOUNTS BY DIRECTOR.—Subsections (k) and (m) of section 8461 of title 5, United States Code, shall apply with respect to contributions made by participants to the Thrift Savings Fund under section 8351 of such title and to earnings attributable to the investment of such contributions.*

**“SEC. 294. ALTERNATIVE FORMS OF ANNUITIES.**

*“(a) AUTHORITY FOR ALTERNATIVE FORM OF ANNUITY.—The Director shall prescribe regulations under which a participant may, at the time of retiring under this title (other than under section 231), elect annuity benefits under this section instead of any other benefits under this title (including any survivor benefits under this title) based on the service of the participant creditable under this title.*

*“(b) BASIS FOR ALTERNATIVE FORMS OF ANNUITY.—The regulations and alternative forms of annuity shall, to the maximum extent practicable, meet the requirements prescribed in section 8343a of title 5, United States Code.*

*“(c) LUMP-SUM CREDIT.—Any lump-sum credit provided pursuant to an election under subsection (a) shall not preclude an individual from receiving other benefits provided under that subsection.*

*“(d) SUBMISSION OF REGULATIONS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—The Director shall submit the regulations prescribed under subsection (a) to the congressional intelligence committees before the regulations take effect.*

**“SEC. 295. PAYMENTS FROM CIARDS FUND FOR PORTIONS OF CERTAIN CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES.**

*“The amount of the increase in any annuity that results from the application of section 18 of the Central Intelligence Agency Act of 1949, if and when such increase is based on an individual's overseas service as an employee of the Central Intelligence Agency, shall be paid from the fund.*

## **“TITLE III—PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM**

**“SEC. 301. APPLICATION OF FEDERAL EMPLOYEES' RETIREMENT SYSTEM TO AGENCY EMPLOYEES.**

*“(a) GENERAL RULE.—Except as provided in subsections (b) and (c), all employees of the Agency, any of whose service after December*

31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, shall be subject to chapter 84 of title 5, United States Code.

"(b) **EXCEPTION FOR PRE-1984 EMPLOYEES.**—Participants in the Central Intelligence Agency Retirement and Disability System who were participants in such system on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not subject to chapter 84 of title 5, United States Code, without regard to whether they are subject to title II of the Social Security Act.

"(c) **NONAPPLICABILITY OF FERS TO CERTAIN EMPLOYEES.**—

"(1) The provisions of chapter 84 of title 5, United States Code, shall not apply with respect to—

"(A) any individual who separates, or who has separated, from Federal Government service after having been an employee of the Agency subject to title II of this Act; and

"(B) any employee of the Agency having at least 5 years of civilian service which was performed before January 1, 1987, and is creditable under title II of this Act (determined without regard to any deposit or redeposit requirement under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act, or any requirement that the individual become subject to such subchapter or to title II of this Act after performing the service involved).

"(2) Paragraph (1) shall not apply with respect to an individual who has elected under regulations prescribed under section 307 to become subject to chapter 84 of title 5, United States Code, to the extent provided in such regulations.

"(3) An individual described in paragraph (1) shall be deemed to be an individual excluded under section 8402(b)(2) of title 5, United States Code.

"(d) **ELECTION TO BECOME SUBJECT TO FERS.**—An employee who is designated as a participant in the Central Intelligence Agency Retirement and Disability System after December 31, 1987, pursuant to section 203 may elect to become subject to chapter 84 of title 5, United States Code. Such election—

"(1) shall not be effective unless it is made during the six-month period beginning on the date on which the employee is so designated;

"(2) shall take effect beginning with the first pay period beginning after the date of the election; and

"(3) shall be irrevocable.

"(e) **SPECIAL RULES.**—The application of the provisions of chapter 84 of title 5, United States Code, to an employee referred to in subsection (a) shall be subject to the exceptions and special rules provided in this title. Any provision of that chapter which is inconsistent with a special rule provided in this title shall not apply to such employees.

"**SEC. 302. SPECIAL RULES RELATING TO SECTION 203 CRITERIA EMPLOYEES.**

"(a) **IN GENERAL.**—Except as otherwise provided in this section, in the application of chapter 84 of title 5, United States Code, to an

employee of the Agency who is subject to such chapter and is designated by the Director under the criteria prescribed in section 203, such employee shall be treated for purposes of determining such employee's retirement benefits and obligations under such chapter as if the employee were a law enforcement officer (as defined in section 8401(17) of title 5, United States Code).

"(b) **VOLUNTARY AND MANDATORY RETIREMENT.**—The provisions of sections 233 and 235 shall apply to employees referred to in subsection (a), except that the retirement benefits shall be determined under chapter 84 of title 5, United States Code.

"(c) **RECALL.**—

"(1) Except as provided in paragraph (2), section 271 shall apply to an employee referred to in subsection (a).

"(2) Contributions during recall service shall be made as provided in section 8422 of title 5, United States Code.

"(3) When an employee recalled under this subsection reverts to a retired status, the annuity of such employee shall be redetermined under the provisions of chapter 84 of title 5, United States Code.

**"SEC. 303. SPECIAL RULES FOR OTHER EMPLOYEES FOR SERVICE ABROAD.**

"(a) **SPECIAL COMPUTATION RULE.**—Notwithstanding any provision of chapter 84 of title 5, United States Code, the annuity under subchapter II of such chapter of a retired employee of the Agency who is not designated under section 302(a) and who has served abroad as an employee of the Agency after December 31, 1986, shall be computed as provided in subsection (b).

"(b) **COMPUTATION.**—

"(1) **SERVICE ABROAD.**—The portion of the annuity relating to such service abroad shall be computed as provided in section 8415(d) of title 5, United States Code.

"(2) **OTHER SERVICE.**—The portions of the annuity relating to other creditable service shall be computed as provided in section 8415 of such title that is applicable to such service under the conditions prescribed in chapter 84 of such title.

**"SEC. 304. SPECIAL RULES FOR FORMER SPOUSES.**

"(a) **GENERAL RULE.**—Except as otherwise specifically provided in this section, the provisions of chapter 84 of title 5, United States Code, shall apply in the case of an employee of the Agency who is subject to chapter 84 of title 5, United States Code, and who has a former spouse (as defined in section 8401(12) of title 5, United States Code) or a qualified former spouse.

"(b) **DEFINITIONS.**—For purposes of this section:

"(1) **EMPLOYEE.**—The term 'employee' means an employee of the Agency who is subject to chapter 84 of title 5, United States Code, including an employee referred to in section 302(a).

"(2) **QUALIFIED FORMER SPOUSE.**—The term 'qualified former spouse' means a former spouse of an employee or retired employee who—

"(A) in the case of a former spouse whose divorce from such employee became final on or before December 4, 1991, was married to such employee for not less than 10 years during periods of the employee's service which are creditable under section 8411 of title 5, United States Code, at

least 5 years of which were spent outside the United States by both the employee and the former spouse during the employee's service with the Agency; and

"(B) in the case of a former spouse whose divorce from such employee becomes final after December 4, 1991, was married to such employee for not less than 10 years during periods of the employee's service which are creditable under section 8411 of title 5, United States Code, at least 5 years of which were spent by the employee outside the United States during the employee's service with the Agency or otherwise in a position the duties of which qualified the employee for designation by the Director under the criteria prescribed in section 203.

"(3) **PRO RATA SHARE.**—The term 'pro rata share' means the percentage that is equal to (A) the number of days of the marriage of the qualified former spouse to the employee during the employee's periods of creditable service under chapter 84 of title 5, United States Code, divided by (B) the total number of days of the employee's creditable service.

"(4) **SPOUSAL AGREEMENT.**—The term 'spousal agreement' means an agreement between an employee, former employee, or retired employee and such employee's spouse or qualified former spouse that—

"(A) is in writing, is signed by the parties, and is notarized;

"(B) has not been modified by court order; and

"(C) has been authenticated by the Director.

"(5) **COURT ORDER.**—The term 'court order' means any court decree of divorce, annulment or legal separation, or any court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

**"(C) ENTITLEMENT OF QUALIFIED FORMER SPOUSE TO RETIREMENT BENEFITS.—**

"(1) **ENTITLEMENT.**—

"(A) **IN GENERAL.**—Unless otherwise expressly provided by a spousal agreement or court order governing disposition of benefits payable under subchapter II or V of chapter 84 of title 5, United States Code, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of all benefits otherwise payable to such employee under subchapter II or V of chapter 84 of title 5, United States Code.

"(B) **AMOUNT OF SHARE.**—The share referred to in subparagraph (A) equals—

"(i) 50 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 50, United States Code; or

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

"(2) **ANNUITY SUPPLEMENT.**—The benefits payable to an employee under subchapter II of chapter 84 of title 5, United States Code, shall include, for purposes of this subsection, any

annuity supplement payable to such employee under sections 8421 and 8421a of such title.

"(3) **DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.**—A qualified former spouse shall not be entitled to any benefit under this subsection if, before the commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.

"(4) **COMMENCEMENT AND TERMINATION.**—

"(A) **COMMENCEMENT.**—The benefits of a qualified former spouse under this subsection commence on the later of—

"(i) the day on which the employee upon whose service the benefits are based becomes entitled to the benefits; or

"(ii) the first day of the second month beginning after the date on which the Director receives written notice of the court order or spousal agreement, together with such additional information or documentation as the Director may prescribe.

"(B) **TERMINATION.**—The benefits of the qualified former spouse and the right thereto terminate on—

"(i) the last day of the month before the qualified former spouse remarries before 55 years of age or dies; or

"(ii) the date on which the retired employee's benefits terminate (except in the case of benefits subject to paragraph (5)(B)).

"(5) **PAYMENTS TO RETIRED EMPLOYEES.**—

"(A) **CALCULATION OF SURVIVOR ANNUITY.**—Any reduction in payments to a retired employee as a result of payments to a qualified former spouse under this subsection shall be disregarded in calculating—

"(i) the survivor annuity for any spouse, former spouse (qualified or otherwise), or other survivor under chapter 84 of title 5, United States Code, and

"(ii) any reduction in the annuity of the retired employee to provide survivor benefits under subsection (d) of this section or under sections 8442 or 8445 of title 5, United States Code.

"(B) **REDUCTION IN BASIC PAY UPON RECALL TO SERVICE.**—If a retired employee whose annuity is reduced under paragraph (1) is recalled to service under section 302(c), the basic pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

"(6) **SPECIAL RULES FOR DISABILITY ANNUITANTS.**—Notwithstanding paragraphs (1) and (4), in the case of any qualified former spouse of a disability annuitant—

"(A) the annuity of such former spouse shall commence on the date on which the employee would qualify, on the basis of the employee's creditable service, for benefits under

subchapter II of chapter 84 of title 5, United States Code, or on the date on which the disability annuity begins, whichever is later; and

"(B) the amount of the annuity of the qualified former spouse shall be calculated on the basis of the benefits for which the employee would otherwise qualify under subchapter II of chapter 84 of such title.

"(7) **PRO RATA SHARE IN CASE OF EMPLOYEES TRANSFERRED TO FERS.**—Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the share of such employee's qualified former spouse shall equal the sum of—

"(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

"(B) if applicable, 50 percent of the employee's benefits under chapter 84 of title 5, United States Code, or section 302(a) of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

"(8) **TREATMENT OF PRO RATA SHARE UNDER INTERNAL REVENUE CODE.**—For purposes of the Internal Revenue Code of 1986, payments to a qualified former spouse under this subsection shall be treated as income to the qualified former spouse and not to the employee.

"(d) **QUALIFIED FORMER SPOUSE SURVIVOR BENEFITS.**—

"(1) **ENTITLEMENT.**—

"(A) **IN GENERAL.**—Subject to an election under section 8416(a) of title 5, United States Code, and unless otherwise expressly provided by any spousal agreement or court order governing survivor benefits payable under this subsection to a qualified former spouse, such former spouse is entitled to a share, determined under subparagraph (B), of all survivor benefits that would otherwise be payable under subchapter IV of chapter 84 of title 5, United States Code, to an eligible surviving spouse of the employee.

"(B) **AMOUNT OF SHARE.**—The share referred to in subparagraph (A) equals—

"(i) 100 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 5, United States Code; or

*"(ii) a pro rata share of 100 percent, if the qualified former spouse was not married to the employee throughout such creditable service.*

**"(2) SURVIVOR BENEFITS.—**

*"(A) The survivor benefits payable under this subsection to a qualified former spouse shall include the amount payable under section 8442(b)(1)(A) of title 5, United States Code, and any supplementary annuity under section 8442(f) of such title that would be payable if such former spouse were a widow or widower entitled to an annuity under such section.*

*"(B) Any calculation under section 8442(f) of title 5, United States Code, of the supplementary annuity payable to a widow or widower of an employee referred to in section 302(a) shall be based on an 'assumed CIARDS annuity' rather than an 'assumed CSRS annuity' as stated in section 8442(f) of such title. For the purpose of this subparagraph, the term 'assumed CIARDS annuity' means the amount of the survivor annuity to which the widow or widower would be entitled under title II of this Act based on the service of the deceased annuitant determined under section 8442(f)(5) of such title.*

**"(3) DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.—**  
*A qualified former spouse shall not be entitled to any benefit under this subsection if, before commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.*

**"(4) RESTORATION.—***If the survivor annuity payable under this subsection to a surviving qualified former spouse is terminated because of remarriage before becoming age 55, the annuity shall be restored at the same rate commencing on the date such remarriage is dissolved by death, divorce, or annulment, if—*

*"(A) such former spouse elects to receive this survivor annuity instead of any other survivor benefit to which such former spouse may be entitled under subchapter IV of chapter 84 of title 5, United States Code, or under another retirement system for Government employees by reason of the remarriage; and*

*"(B) any lump sum paid on termination of the annuity is returned to the Civil Service Retirement and Disability Fund.*

**"(5) MODIFICATION OF COURT ORDER OR SPOUSAL AGREEMENT.—***A modification in a court order or spousal agreement to adjust a qualified former spouse's share of the survivor benefits shall not be effective if issued after the retirement or death of the employee, former employee, or annuitant, whichever occurs first.*

**"(6) EFFECT OF TERMINATION OF QUALIFIED FORMER SPOUSE'S ENTITLEMENT.—***After a qualified former spouse of a retired employee remarries before becoming age 55 or dies, the reduction in the retired employee's annuity for the purpose of providing a survivor annuity for such former spouse shall be terminated. The annuitant may elect, in a signed writing re-*



ceived by the Director within 2 years after the qualified former spouse's remarriage or death, to continue the reduction in order to provide or increase the survivor annuity for such annuitant's spouse. The annuitant making such election shall pay a deposit in accordance with the provisions of section 8418 of title 5, United States Code.

**"(7) PRO RATA SHARE IN CASE OF EMPLOYEES TRANSFERRED TO FERS.**—Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the share of such employee's qualified former spouse to survivor benefits shall equal the sum of—

**"(A)** 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

**"(B)** if applicable—

**"(i)** 50 percent of the employee's annuity under chapter 84 of title 5, United States Code, or section 302(a) of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), plus

**"(ii)** the survivor benefits referred to in subsection (d)(2)(A),

multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

**"(e) QUALIFIED FORMER SPOUSE THRIFT SAVINGS PLAN BENEFIT.**—

**"(1) ENTITLEMENT.**—

**"(A) IN GENERAL.**—Unless otherwise expressly provided by a spousal agreement or court order governing disposition of the balance of an account in the Thrift Savings Fund under subchapter III of chapter 84 of title 5, United States Code, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of the balance in the employee's account in the Thrift Savings Fund on the date the divorce of the qualified former spouse and employee becomes final.

**"(B) AMOUNT OF SHARE.**—The share referred to in subparagraph (A) equals 50 percent of the employee's account balance in the Thrift Savings Fund that accrued during the period of marriage. For purposes of this subsection, the employee's account balance shall not include the amount of any outstanding loan.

**"(2) PAYMENT OF BENEFIT.**—

**"(A) TIME OF PAYMENT.**—The entitlement of a qualified former spouse under paragraph (1) shall be effective on

the date the divorce of the qualified former spouse and employee becomes final. The qualified former spouse's benefit shall be payable after the date on which the Director receives the divorce decree or any applicable court order or spousal agreement, together with such additional information or documentation as the Director may require.

"(B) **METHOD OF PAYMENT.**—The qualified former spouse's benefit under this subsection shall be paid in a lump sum.

"(C) **LIMITATION.**—A spousal agreement or court order may not provide for payment to a qualified former spouse under this subsection of an amount that exceeds the employee's account balance in the Thrift Savings Fund.

"(D) **DEATH OF QUALIFIED FORMER SPOUSE.**—If the qualified former spouse dies before payment of the benefit provided under this subsection, such payment shall be made to the estate of the qualified former spouse.

"(E) **BAR TO RECOVERY.**—Any payment under this subsection to an individual bars recovery by any other individual.

"(3) **CLOSED ACCOUNT.**—No payment under this subsection may be made by the Director if the date on which the divorce becomes final is after the date on which the total amount of the employee's account balance has been withdrawn or transferred, or the date on which an annuity contract has been purchased, in accordance with section 8433 of title 5, United States Code.

"(f) **PRESERVATION OF RIGHTS OF QUALIFIED FORMER SPOUSES.**—An employee may not make an election or modification of election under section 8417 or 8418 of title 5, United States Code, or other section relating to the employee's annuity under subchapter II of chapter 84 of title 5, United States Code, that would diminish the entitlement of a qualified former spouse to any benefit granted to such former spouse by this section or by court order or spousal agreement.

"(g) **PAYMENT OF SHARE OF LUMP-SUM CREDIT.**—Whenever an employee or former employee becomes entitled to receive the lump-sum credit under section 8424(a) of title 5, United States Code, a share (determined under subsection (c)(1)(B) of this section) of that lump-sum credit shall be paid to any qualified former spouse of such employee, unless otherwise expressly provided by any spousal agreement or court order governing disposition of the lump-sum credit involved.

"(h) **PAYMENT TO QUALIFIED FORMER SPOUSES UNDER COURT ORDER OR SPOUSAL AGREEMENT.**—In the case of any employee or retired employee who has a qualified former spouse who is covered by a court order or who is a party to a spousal agreement—

"(1) any right of the qualified former spouse to any retirement benefits under subsection (c) and to any survivor benefits under subsection (d), and the amount of any such benefits;

"(2) any right of the qualified former spouse to any Thrift Savings Plan benefit under subsection (e), and the amount of any such benefit; and

*“(3) any right of the qualified former spouse to any payment of a lump-sum credit under subsection (g), and the amount of any such payment;*

*shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this section.*

*“(i) APPLICABILITY OF CIARDS FORMER SPOUSE BENEFITS.—*

*“(1) Except as provided in paragraph (2), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the provisions of sections 224 and 225 shall apply to such employee’s former spouse (as defined in section 102(a)(3)) who would otherwise be eligible for benefits under sections 224 and 225 but for the employee having elected to become subject to such chapter.*

*“(2) For the purposes of computing such former spouse’s benefits under sections 224 and 225—*

*“(A) the retirement benefits shall be equal to the amount determined under subsection (c)(7)(A); and*

*“(B) the survivor benefits shall be equal to 55 percent of the full amount of the employee’s annuity computed in accordance with section 302(a) of the Federal Employees’ Retirement System Act of 1986 or regulations prescribed under section 307 of this Act.*

*“(3) Benefits provided pursuant to this subsection shall be payable from the Central Intelligence Agency Retirement and Disability Fund.*

#### **“SEC. 305. ADMINISTRATIVE PROVISIONS.**

*“(a) FINALITY OF DECISIONS OF DIRECTOR.—Section 201(c) of this Act shall apply in the administration of chapter 84 of title 5, United States Code, with respect to employees of the Agency.*

*“(b) EXCEPTION.—Notwithstanding subsection (a), section 8461(e) of title 5, United States Code, shall apply with respect to employees of the Agency who are not participants in the Central Intelligence Agency Retirement and Disability System and are not designated under section 302(a).*

#### **“SEC. 306. REGULATIONS.**

*“(a) REQUIREMENT.—The Director shall prescribe in regulations appropriate procedures to carry out this title. Such regulations shall be prescribed in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board.*

*“(b) CONGRESSIONAL REVIEW.—The Director shall submit regulations prescribed under subsection (a) to the congressional intelligence committees before they take effect.*

#### **“SEC. 307. TRANSITION REGULATIONS.**

*“(a) REGULATIONS.—The Director shall prescribe regulations providing for the transition from the Central Intelligence Agency Retirement and Disability System to the Federal Employees’ Retirement System provided in chapter 84 of title 5, United States Code, in a manner consistent with sections 301 through 304 of the Federal Employees’ Retirement System Act of 1986.*

*"(b) CONGRESSIONAL REVIEW.—The Director shall submit regulations prescribed under subsection (a) to the congressional intelligence committees before they take effect."*

**SEC. 803. CONFORMING AMENDMENTS.**

**(a) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—**

**(1) SECTION 14.**—Section 14(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403n(a)) is amended by striking out "sections 204, 221(b)(1)–(3), 221(f), 221(g)(2), 221(l), 221(m), 221(n), 221(o), 222, 223, 224, 225, 232(b), 234(c), 234(d), 234(e), and 263(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "sections 102, 221(b)(1)–(3), 221(f), 221(g), 221(h)(2), 221(i), 221(l), 222, 223, 224, 225, 232(b), 241(b), 241(d), and 264(b) of the Central Intelligence Agency Retirement Act".

**(2) SECTION 18.**—Section 18(a) of such Act (50 U.S.C. 403r(a)) is amended by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act".

**(3) SECTION 19.**—Section 19 of such Act (50 U.S.C. 403s) is amended—

**(A) in subsection (a)—**

**(i)** by inserting "OFFICERS AND EMPLOYEES TO WHOM CIARDS SECTION 231 RULES APPLY.—" after "(a)";

**(ii)** by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended" in clause (ii) and inserting in lieu thereof "the Central Intelligence Agency Retirement Act";

**(iii)** by inserting "such" in clause (iii) before "section 203";

**(iv)** by striking out "such section 231" in the matter after clause (iv) and inserting in lieu thereof "section 231 of such Act"; and

**(v)** by redesignating clauses (i) through (iv) as paragraphs (1) through (4), respectively;

**(B) in subsection (b)—**

**(i)** by inserting "SURVIVORS OF OFFICERS AND EMPLOYEES TO WHOM CIARDS SECTION 231 RULES APPLY.—" after "(b)";

**(ii)** by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended" in clause (ii) and inserting in lieu thereof "the Central Intelligence Agency Retirement Act";

**(iii)** by striking out "widow or widower, former spouse, and/or child or children as defined in section 204 and section 232 of such the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in clause (iv) and inserting in lieu thereof "surviving spouse, former spouse, or child as defined in section 102 of the Central Intelligence Agency Retirement Act";

**(iv)** by striking out "widow or widower, former spouse, and/or child or children" in the matter after

clause (iv) and inserting in lieu thereof "surviving spouse, former spouse, or child";

(v) by striking out "such section 232" in the matter after clause (iv) and inserting in lieu thereof "section 231 of such Act"; and

(vi) by redesignating clauses (i) through (iv) as paragraphs (1) through (4), respectively;

(C) by striking out subsections (c) and (d); and

(D) by redesignating subsection (e) as subsection (c) and in that subsection—

(i) by striking out "(1)" and inserting in lieu thereof "ANNUITIES UNDER THIS SECTION DEEMED ANNUITIES UNDER CSRS.—";

(ii) by striking out "established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "maintained pursuant to section 202 of the Central Intelligence Agency Retirement Act"; and

(iii) by striking out paragraph (2).

(b) NATIONAL SECURITY AGENCY ACT OF 1959.—Section 9(b)(3) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act".

(c) TITLE 5, UNITED STATES CODE.—Sections 8347(n)(4)(A) and 8423(a)(1)(B)(i) of title 5, United States Code, are amended by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act".

(d) TITLE 10, UNITED STATES CODE.—Section 1605(a) of title 10, United States Code, is amended in the second sentence—

(1) striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act"; and

(2) by inserting "(50 U.S.C. 403r)" after "the Central Intelligence Agency Act of 1949".

#### SEC. 804. SAVINGS PROVISIONS.

(a) PRIOR ELECTIONS.—Any election made under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before the effective date specified in section 805 shall not be affected by the amendment made by section 802 and shall be deemed to have been made under the corresponding provision of that Act as restated by section 802 as the Central Intelligence Agency Retirement Act.

(b) REFERENCES.—Any reference in any other Act, or in any Executive order, rule, or regulation, to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, or to a provision of that Act, shall be deemed to refer to that Act and to the corresponding provision of that Act, as restated by section 802 as the Central Intelligence Agency Retirement Act.

#### SEC. 805. EFFECTIVE DATE.

The amendments made by sections 802 and 803 shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence:

DAVE MCCURDY,  
CHARLES WILSON,  
BARBARA KENNELLY,  
DAN GLICKMAN,  
NICHOLAS MAVROULES,  
BILL RICHARDSON,  
STEPHEN SOLARZ,  
NORM DICKS,  
RONALD K. DELLUMS,  
DAVID E. BONIOR,  
MARTIN OLAV SABO,  
WAYNE OWENS,  
BUD SHUSTER  
(except for subsection 404(f)),  
LARRY COMBEST  
(except for subsection 404(f)),  
DOUG BEREUTER  
(except for subsection 404(f)),  
R.K. DORNAN  
(except for subsection 404(f)),  
BILL YOUNG  
(except for subsection 404(f)),  
DAVID O'B. MARTIN  
(except for subsection 404(f)),  
GEORGE W. GEKAS  
(except for subsection 404(f)),

From the Committee on Armed Services (for the consideration of Department of Defense tactical intelligence and related activities):

LES ASPIN,  
IKE SKELTON,  
*Managers on the Part of the House.*

DAVID L. BOREN,  
FRITZ HOLLINGS,  
BILL BRADLEY,  
ALAN CRANSTON,  
DENNIS DECONCINI,  
JOHN GLENN,  
BOB KERREY,  
FRANK H. MURKOWSKI,  
JOHN WARNER,  
ALFONSE D'AMATO,  
JACK DANFORTH,  
WARREN B. RUDMAN,  
SLADE GORTON,  
JOHN CHAFEE,

From the Committee on Armed Services:

SAM NUNN,  
STROM THURMOND,  
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for the intelligence and intelligence-related activities of the United States Government, the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

### TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DoD intelligence related activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate, and consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the National Defense Authorization Act for Fiscal Year 1993. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for

TIARA programs which fall into the appropriation category of Military Pay.

#### SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1993 and establish personnel ceilings applicable to such activities.

#### SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances.

The conferees emphasize that the authority conveyed by section 103 is not intended to permit the wholesale raising of personnel strength in each or any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees from retirement, resignation, and so forth. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this Act.

#### SECTION 104

Section 104 of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1993 for the Community Management Staff and provides for administration of the staff during fiscal year 1993 in the same manner as the Central Intelligence Agency. The conference report authorizes \$86.9 million and 161 personnel.

The Community Management Staff will perform some of the tasks associated with the responsibilities the Director of Central Intelligence (DCI) has for the management of the intelligence community. These tasks were previously performed by the Intelligence Community Staff. At the time the House considered the budget request for the Community Management Staff, it was the position of the DCI that these funding and personnel levels should not be made public. As a result of a disagreement with this position, no funds for the Community Management Staff were included in the House bill.

The conferees note that the position of the DCI on this matter changed prior to the drafting of the Senate amendment. The inclusion of Section 104 in the conference report reflects this change.

The levels recommended by the conferees for funding and personnel in section 104 exceed those necessary for the core responsibilities of the Community Management Staff as envisioned by the DCI. As detailed more fully in the classified annex to this Joint Explanatory Statement, the additional funds and personnel recom-



mended in section 104 will be used for such community-wide activities as a measurements and signatures intelligence (MASINT) committee, a Foreign Language Committee, an Open Source Coordinator's Office, and an Advanced Research and Development Committee.

## **TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

### **SECTION 201**

Section 201 of the conference report authorizes appropriations for fiscal year 1993 of \$168,900,000 for the Central Intelligence Agency Retirement and Disability Fund. Section 201 is identical to section 201 of the House bill and section 201 of the Senate amendment.

## **TITLE III—GENERAL PROVISIONS**

### **SECTION 301**

Section 301 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in compensation or benefits authorized by law. Section 301 is identical to section 301 of the House bill and to section 601 of the Senate amendment.

### **SECTION 302**

Section 302 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 302 is identical to section 302 of the House bill and section 602 of the Senate amendment.

### **SECTION 303**

Section 303 of the conference report expresses the "sense of Congress" that beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and the amount spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner. Section 303 is identical to section 603 of the Senate amendment and section 701 of the Intelligence Authorization Act for Fiscal Year 1992. The House bill did not contain a similar provision.

In adopting section 303 the conferees reiterate their hope that the intelligence committees, working with the President, will, in 1993, be able to make available to the American people, in a manner that does not jeopardize U.S. national security interests, the total amounts of funding for intelligence and intelligence-related activities.

**SECTION 304**

Section 304 of the conference report corrects technical drafting errors in the National Security Agency Act of 1959 and the Intelligence Authorization Act, Fiscal Year 1991. Section 304 is identical to section 306 of the House bill. The Senate amendment did not contain a similar provision.

**SECTION 305**

Section 305 of the conference report authorizes funds for an advanced airborne reconnaissance system. Section 305 is identical to section 307 of the House bill and is consistent with action taken by the Senate on this matter as reflected in the classified Schedule of Authorizations which accompanies the Senate amendment.

**TITLE IV—DEPARTMENT OF DEFENSE****SECTION 401**

Section 401 of the conference report provides discretionary authority to the Secretary of Defense to utilize appropriated funds to provide assistance to certain former Defense Intelligence Agency employees for up to five years after leaving such employment. The assistance may be provided if the Secretary determines it is essential to avoid circumstances that might lead to the unlawful disclosure of classified information to which the employee to be assisted had access. The Secretary must report annually to the congressional appropriations and intelligence committees any expenditures made pursuant to this authority, beginning not later than 12 months after the date of enactment.

Section 401 is identical, except for technical drafting changes, to section 301 of the Senate amendment. A similar provision, section 305, was contained in the House bill.

**SECTION 402**

Section 402 of the conference report authorizes the Secretary of Defense to include senior executive service positions within the existing Civilian Intelligence Personnel Management System (CIPMS) of the military departments. The Secretary is also authorized to establish, by regulation, the requirements for such positions, to provide for pay and benefits, and to provide for the appointment to and removal from such positions, consistent with the statutory requirements for the Senior Executive Service generally. Senior Executive Service positions within CIPMS may not exceed 0.5 percent of the total CIPMS work force.

Section 402 is identical to section 302 of the Senate amendment. The House bill did not contain a similar provision.

**SECTION 403**

Section 403 of the conference report requires that reports regularly sent to the congressional armed services committees concerning certain Department of Defense real property transactions and construction projects shall be provided as well to the congressional intelligence committees when such reports involve transactions or

projects affecting intelligence components of the Department of Defense.

Section 403 is identical to section 304 of the House bill. The Senate amendment did not contain a similar provision.

#### SECTION 404

Section 404 of the conference report contains minor amendments to the National Security Education Act of 1991 (title VIII of the Intelligence Authorization Act, Fiscal Year 1992). Subsections (a), (c), (d), and (e) are substantively identical to subsections 304(a) (1), (2), (3), (5), (6), and section 604 of the Senate amendment. Subsection 404(u) is a revision of subsection 304(a) (4) of the Senate amendment. The House bill did not contain similar provisions.

The National Security Education Act (NSEA) amendments in section 404 will produce the following results:

- the minimum period in which an undergraduate student receiving NSEA assistance must participate in a foreign study program will be one academic semester or equivalent term, rather than one academic semester;

- graduate students receiving NSEA assistance will be able to study abroad if that study is part of a graduate degree program of a United States institution of higher learning;

- the Secretary of Defense may enter into not more than ten personal service contracts, for periods of up to one year, in order to assist in the administration of the NSEA program;

- the requirement in existing law for the Secretary of Defense to administer the program through the Defense Intelligence College is eliminated. In eliminating this requirement, which has proven to be impractical, the conferees note that pursuant to section 803 of the Act, the National Security Education Board established by the Act retains authority to establish policy governing the program and retains the responsibility for reviewing its administration. Thus, while the Secretary of Defense is given overall responsibility for carrying out the program, under the Act, the Secretary is obliged to do so in accordance with policies approved by the Board, regardless of the instrumentalities used for the purpose;

- the size of the National Security Education Board will be increased from ten to thirteen by adding the chairperson of the National Endowment for the Humanities and two additional education experts who are not federal employees;

- the Secretary of the Treasury shall invest in full the amount in the National Security Education Trust Fund that is not immediately necessary for expenditure, rather than for obligation as in current law;

- the National Security Education Act of 1991 is redesignated the "David L. Boren National Security Education Act of 1991" in recognition of Senator Boren's role in the development and enactment of this legislation; and

- the authorization of appropriations for fiscal year 1993 to the National Security Education Trust Fund is \$30 million.

## SECTION 405

Section 405 of the conference report provides compensation authority to the Secretary of Defense sufficient to ensure that the National Security Agency (NSA) is able to recruit and retain the skilled personnel needed to carry out its mission. Section 405 makes clear that civil service level employees of the NSA may not receive basic pay at a rate which is above the rate paid to employees at Executive Level IV. In addition, section 405 authorizes the Secretary of Defense (or the Secretary's designee) to provide to NSA's officers and employees, compensation, benefits, incentives, and allowances at levels which do not exceed those authorized by title 5, United States Code.

Section 405 is identical to section 305 of the Senate amendment. The House bill did not contain a similar provision.

## SECTION 406

Section 406 is similar to subsection 106(c) as contained in section 731 of the Senate amendment. It provides that nothing in this Act or any other provision of law shall be construed to require the disclosure of the names, titles, salaries, or number of persons employed by, or assigned or detailed to, the National Reconnaissance Office (NRO).

The conferees, in consultation with the NRO, have determined that a somewhat narrower provision than that in the Senate amendment is appropriate, given that the functions and activities of the NRO, beyond those which have recently been acknowledged publicly, remain classified and are thus potentially subject to exemption from public disclosure under the (b)(1) exemption to the Freedom of Information Act. The conferees also believed it desirable to clarify that the authority to withhold information does not apply to requests from the Congress.

## TITLE V—FEDERAL BUREAU OF INVESTIGATION

## SECTION 501

Section 501 of the conference report authorizes the Director of the Federal Bureau of Investigation, during fiscal year 1993, to accept on behalf of the FBI bequests of personal property or devises of real property under certain conditions.

Section 501 is identical to section 401 of the Senate amendment. The House bill did not contain a similar provision.

## TITLE VI—CENTRAL INTELLIGENCE AGENCY

## SECTION 601

Section 601 amends section 17(e)(3) of the Central Intelligence Agency Act of 1949 to make clear that the Inspector General may receive and investigate complaints or information from any person relating to the CIA's programs, operations and activities.

Section 601 is identical to section 303 of the House bill and, except for a technical drafting difference, to section 501 of the Senate amendment.

## TITLE VII—INTELLIGENCE ORGANIZATION ACT OF 1992

Title VII amends the National Security Act of 1947 by providing for: the participation of the Director of Central Intelligence (DCI) in the National Security Council; the appointment of the Director and Deputy Director of Central Intelligence; the responsibilities and authorities of the Director of Central Intelligence; the responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program; and certain administrative arrangements pertaining to elements of the Department of Defense within the intelligence community.

Except for technical drafting differences and modifications described below, title VII is similar to title VII of the Senate amendment. The House bill contained no similar provisions.

The conferees take note of the general concern raised by the Administration that title VII might be viewed as creating legislative "charters" for the elements of the intelligence community, and thereby limit the flexibility of the President in carrying out intelligence activities. It is not the intent of the conferees to establish legislative charters, and, in fact, title VII does not limit presidential flexibility. Thus, the President is authorized to shape the composition of the intelligence community as he or she sees fit. The responsibilities of the DCI, set forth in this title, are made subject to the direction of the President or the National Security Council. Finally, the Secretary of Defense is explicitly provided discretion to utilize any element of the Department of Defense to carry out intelligence functions. While it is true that specific elements of the Department of Defense intelligence community are mentioned in title VII as carrying out certain responsibilities of the Secretary, the conference report does not preclude either the President or the Secretary of Defense from assigning such other functions to these elements as they may choose. The conference report also does not prevent the President or Secretary of Defense from assigning these functions to other elements of the Department of Defense as may be appropriate, subject to the possible need for congressional authorization of the funding required to execute such functions. In short, the conferees have made every effort to preserve the flexibility necessary for the President, DCI, and Secretary of Defense to carry out their crucial responsibilities in intelligence without the need to return to the Congress for new legislation. The conferees believe it is important to have in place a statutory framework that accurately reflects, and provides a clear foundation for, the relationships between various elements of the U.S. intelligence community. Existing law, which is now 44 years old, simply does not achieve this result.

### SECTION 701

Section 701 contains the short title of title VII, the Intelligence Organization Act of 1992.

### SECTION 702

Section 702 amends the National Security Act of 1947 to add a new section 3 containing definitions of terms used in the Act.

In subsection 3(2), the definition of "foreign intelligence" has been changed by substituting for the term "foreign powers" the term "foreign governments or elements thereof." This conforms the definition to changes in the definitions of other terms described below.

In subsection 3(3), the definition of "counterintelligence" has been changed by substituting for the term "foreign powers" the term "foreign governments or elements thereof."

In subsection 3(4)(F), the element identified as the "Office of Reconnaissance Support" has been changed to "National Reconnaissance Office," the name of the existing organization. This action was made possible by the recent declassification of the name of this organization.

Subsection 3(5), the definition of "national intelligence" and "intelligence related to national security," is identical to subsection 3(7) as contained in the Senate amendment.

Subsection 3(6), the definition of "National Foreign Intelligence Program," is identical to subsection 3(8) as contained in the Senate amendment.

Subsection 3(6) as contained in the Senate amendment, the definition of "foreign power," has been deleted as unnecessary.

#### SECTION 703

Section 703, concerning the participation of the DCI in the National Security Council, is identical to section 711 of the Senate amendment except for technical drafting differences.

#### SECTION 704

Section 704 is identical to section 721(a) of the Senate amendment except for technical drafting differences. Subsection 721(b) of the Senate amendment, establishing the Director of Central Intelligence at Level I of the Executive Schedule, has been deleted because of Administration objection.

The conferees take particular note of subsection 102(d) as contained in section 704 which makes clear that the Office of the Director of Central Intelligence, while constituting a separate element of the intelligence community, remains, for administrative purposes, within the Central Intelligence Agency.

Accordingly, the Office of the Director of Central Intelligence and the entities contained therein, e.g. the National Intelligence Council, remain governed by, and subject to, the provisions of the National Security Act of 1947, as amended, the Central Intelligence Agency Act of 1949, as amended, and other applicable laws, orders, directives and regulations to the extent they apply to the Central Intelligence Agency.

The conferees intend that the entities within the Office of the Director of Central Intelligence which support the Director in the execution of the DCI's responsibilities for the intelligence community, as well as the National Intelligence Council, remain independent of the CIA in terms of the performance of their respective substantive functions. It is nonetheless the intent of the conferees that these entities be considered administratively a part of CIA for purposes of receiving logistical and other administrative support, and

that the personnel and activities of these entities be subject to the same laws and regulations as the personnel and activities of the Central Intelligence Agency, to include those laws and regulations which provide special authority to CIA for the conduct of intelligence activities. This is consistent with existing law and practice.

The conferees want to make clear, however, that in making the Office of the DCI part of the CIA for administrative purposes, it is not their intent that those elements of that office which provide support in the execution of the DCI's responsibilities as head of the intelligence community, nor the National Intelligence Council which performs functions for the DCI which transcend those of the CIA, be subject, in the execution of substantive responsibilities, to the management, supervision, or control of CIA officials except for responding to the direction of the DCI or DDCI. In short, in providing that the Office of the DCI be considered, for administrative purposes, as part of the CIA, the conferees do not intend to impair the ability of the DCI to act as the impartial head of the intelligence community.

#### SECTION 705

Section 705 adds two new sections to the National Security Act of 1947: section 103, setting forth the responsibilities of the Director of Central Intelligence, and section 104, setting forth the authorities of the Director of Central Intelligence.

Section 103 as contained in section 705 is identical to section 722 of the Senate amendment except for technical drafting differences and the following modifications:

Subsection 103(a) as contained in section 722 of the Senate amendment directed that the DCI "shall be responsible for providing timely, objective national intelligence, independent of political considerations, and based upon all sources available to the intelligence community" to the President, executive branch agencies, and, where appropriate, to Congress. The Administration objected to this provision on the ground that it might, in situations where the objectivity of such intelligence was challenged, subject the DCI to charges (and perhaps even criminal liability) that he or she had "violated the law." The conferees believed this objection to be unfounded, since this provision was not a criminal statute and was not intended to provide any basis for criminal liability to attach to the DCI, or any other official.

Nevertheless, the Administration remained concerned with the wording of the provision. To accommodate this concern, section 103(a) as contained in section 705 was modified to require that the DCI shall be responsible for providing national intelligence to appropriate consumers, and that such intelligence "should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community" (emphasis added). The conferees believed that providing "objective national intelligence, independent of political considerations" is fundamental to the reason for the existence of the Director of Central Intelligence as head of the CIA and the intelligence community, and that it is appropriate to make this responsibility clear in the law.

Section 103(b) as contained in section 705 establishes within the Office of the DCI the National Intelligence Council (NIC). The Senate amendment provided that the NIC "be headed by a Chairman with two deputy chairmen, at least one of whom shall be from the private sector." The Administration objected to this provision on the grounds that it restricted the flexibility of the DCI to organize the NIC as future circumstances might dictate. The conferees agreed to delete this language from the conference report in deference to this concern. The conferees do, however, wish to make clear their strong support for prominent representation on the NIC of individuals from the private sector. The presence of such individuals in senior leadership roles in the NIC structure will be among the factors considered in determining the authorization of future funding for the NIC. The conferees believe that effective use of individuals from outside of government in the NIC is absolutely essential to creating and maintaining the expertise, objectivity, and independence so critical to the production of national intelligence estimates.

Subsection 103(d)(5) as contained in section 705 has been modified to eliminate the concluding phrase pertaining to covert actions as may be authorized pursuant to title V of the National Security Act of 1947. While the conferees agreed that covert actions which may be authorized pursuant to title V of this Act would constitute an example of a function or duty which may be assigned by the President to the DCI as head of the CIA, the conferees believe it unnecessary to provide solely for this one function within the text of the statute. At the same time, the conferees believe it would be disingenuous for Congress not to acknowledge its awareness that covert actions remain an instrument of U.S. policy and a function which may be assigned to the CIA pursuant to this title.

Finally, the conferees wish to make clear that by including within the responsibilities of the Director of Central Intelligence the responsibility to protect intelligence sources and methods from unauthorized disclosure, the conferees take no position with respect to the interpretation of similar language in existing law in *CIA v. Sims*, 471 U.S. 159 (1985). In *Sims*, the U.S. Supreme Court held that existing law permits the DCI to withhold information concerning intelligence sources and methods under the (b)(3) exemption to the Freedom of Information Act (FOIA) (5 U.S.C. 522(b)(3)), where the information is specifically exempted by other law from disclosure, without having to show that the information in question was properly classified, and thus exempt under the FOIA national security (b)(1) exemption.

Whether there is justification to permit the DCI to withhold information concerning intelligence sources and methods which is not classified in response to requests made under the FOIA is a matter which deserves closer, more systematic review by the committees of jurisdiction prior to taking further legislative action. The conferees believe that this conference report, which addresses organizational structure, is not the appropriate vehicle to address this issue. Thus, in enacting subsection 103(c)(5) as contained in section 705, the conferees do not intend their action to constitute an endorsement of the holding in *Sims*.



Section 104 as contained in section 705 is similar to section 104 as contained in section 722 of the Senate amendment. The lead-in clause of subsection (a) has been modified, at the Administration's request, to read "To the extent recommended by the National Security Council and approved by the President . . .". This revised phrasing is used in existing law, and was believed desirable by the conferees to make clear that the practice under existing law is maintained.

In addition paragraph 104(d)(3) has been modified to make clear that funds transferred pursuant to the authority provided by subsection 104(d) shall remain available for the same period as governs the appropriations account to which transferred.

#### SECTION 706

Section 706 amends the National Security Act of 1947 by adding two new sections: section 105, pertaining to the responsibilities of the Secretary of Defense for the National Foreign Intelligence Program; and section 106, providing for certain administrative requirements for elements of the Department of Defense within the intelligence community.

Section 105 as contained in section 706 is identical to section 105 as contained in section 731 of the Senate amendment except for technical drafting differences and the following modifications:

In subsections (b)(2) through (b)(5), the phrase "except as otherwise directed by the President or the National Security Council" has been inserted in parentheses after the identification of the instrumentality concerned. The conferees agreed to these changes at the request of the Administration to make clear that the President or National Security Council could direct the utilization of instrumentalities within the intelligence community, other than those identified, to carry out the functions specified in the affected subsections. The conferees do not intend by these changes to suggest that the President or National Security Council could direct that the functions themselves not be executed, nor by this action do the conferees provide authority to abolish the DoD entities specifically identified. Such actions, should they be desired by a particular Administration, should be undertaken in consultation with the Congress and in accordance with applicable law.

The last phrase in paragraph 105(b) (5) has been deleted. The functions identified in subsection 105(b) for particular elements of the Department of Defense are not intended to be exclusive of other functions which may be assigned to such elements by the Secretary. As this is not made explicit at any other point in the text of the conference report itself, the conferees agreed the last phrase of paragraph 105(b) (5) was unnecessary.

The conferees note that subsection 105(b) (3) as contained in section 706 will recognize in law for the first time the National Reconnaissance Office (NRO) of the Department of Defense, and that the subsection briefly sets forth the functions of that organization. As currently constituted, the Director of the NRO reports to the Secretary of Defense, and the Secretary has ultimate responsibility, which is exercised in concert with the Director of Central Intelligence, for the management and operation of the NRO. The Direc-

tor of the NRO executes the NRO's responsibilities through the Department of Defense and the Central Intelligence Agency. It is not the intention of this subsection to alter or limit the existing roles and responsibilities of the Secretary of Defense or the DCI with respect to the management and operation of the NRO. Instead, the statutory language serves to recognize in law the existence of this Office and the vital role which it plays within the intelligence community.

The conferees applaud the Administration's recent decision to publicly acknowledge the existence and mission of the NRO. The conferees hope that this decision will lead to an expanded role for the NRO in the development of a more realistic United States policy on the sale of reconnaissance technology and systems in foreign markets.

The conferees also note subsection 105(c) as contained in section 706 which authorizes the Secretary of Defense to utilize elements of the Department of Defense as may be appropriate to carry out the functions described in the section, in addition to, or in lieu of, the elements expressly identified. In adopting this subsection, the conferees intend to permit the Secretary sufficient flexibility to utilize elements of the Department of Defense to carry out intelligence activities as may be appropriate, without returning to Congress for new legislation. Obviously, however, if funding had not been previously authorized and appropriated by the Congress to permit the component concerned to undertake the function in question, it would remain incumbent upon the Department to undertake appropriate consultations with the Congress. Thus, a decision by the Secretary to utilize an element of the Department of Defense other than the National Security Agency to form a unified signals intelligence organization would necessitate the authorization and appropriation of funds by the Congress to be used for this purpose.

Section 106 as contained in section 706 is identical to the corresponding section of the Senate amendment, except for technical drafting differences and a change of the reference to the Office of Reconnaissance Support to the National Reconnaissance Office, to conform to the changes made elsewhere in this title.

#### **TITLE VIII—CIARDS TECHNICAL CORRECTIONS ACT OF 1992**

Title VIII restates and revises the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note). It is identical to Subtitle B of Title II of the House bill except for modifications described below. The Senate amendment did not include a similar provision.

Section 221(g)(2)(B)(i) of the restatement is identical to Section 221(g)(2)(B)(i) of the restatement in the House bill except for technical drafting differences. Section 221(g)(2)(B)(ii) of the restatement is modified to specify the deposit required when a retired participant elects to provide a survivor annuity for a new spouse upon remarriage. This modification follows the provisions of section 8339(j)(5)(c) of title 5, United States Code. Section 252(g) of the restatement is modified to reflect the modification in section 221(g)(2)(B)(ii).

Section 252(b)(4) of the restatement in the House bill, which would have been superfluous under the CIA Retirement and Disability System, is deleted. Section 264(a) of the restatement is modified to conform more closely to section 263(a) of current law. Case law is considered settled on the interpretation of the phrase "moneys mentioned in this title" and the restatement is not intended to change this interpretation. The heading of section 281(c) of the restatement, which was "Actuarial Equivalence" in the House bill, is changed to "Value of Benefits."

Section 304 of the restatement is modified to include a new subsection (e) to spell out the treatment of the qualified former spouse thrift savings plan benefit. Unless otherwise expressly provided by a spousal agreement or court order, a qualified former spouse of an employee covered under the Federal Employees' Retirement System is entitled to a share of the balance in the employee's account in the Thrift Savings Fund on the date of divorce equal to 50 percent of the account balance that accrued during the period of the marriage.

The qualified former spouse's benefit is to be paid in a lump sum upon receipt by the Director of Central Intelligence of the divorce decree or any applicable court order or spousal agreement, together with any additional information or documentation the Director may require. If the qualified former spouse dies before payment of the benefit to which he or she is entitled, then payment is to be made to the estate of the qualified former spouse. No payment may be made by the Director if the date on which the divorce becomes final occurs after the date the account has been closed or an annuity contract has been purchased. Payment to one individual bars recovery by any other individual.

Section 304 of the restatement also includes technical changes in conformance with the new subsection (e).

#### PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

##### *Defense Intelligence College*

Section 303 of the Senate amendment authorized the Defense Intelligence College to grant a degree of Bachelor of Science in Intelligence. The House bill did not contain a similar provision. The conferees noted that the United States Department of Education had not determined that the proposed degree program was consistent with its own internal policies. The conferees believe it desirable that such a determination be reached prior to the enactment of legislation providing degree-granting authority. Accordingly, the conferees agreed to exclude the provision from the conference report with the intention of reviewing this matter when Department of Education validation of the program is obtained.

##### *Transfer of Joint Intelligence Center (JIC) Billets*

The House committee report on H.R. 5095 endorsed the future focus of tailored intelligence production in the Joint Intelligence Center (JIC) concept proposed by the Administration. In the wake of changing world circumstances, it is understood that the missions of the ten Unified and Specified Commands would undergo some change, and some corresponding changes in the size of the intelli-

gence components of those commands could occur. Therefore, the House bill recommended a shift of a number of intelligence personnel billets believed to be unmanned from what is now the Strategic Command (STRATCOM) to the Contingency Command. In its report on the bill, the House committee indicated its intention to further consider that recommendation after the completion and evaluation of a JIC study then being conducted by the Administration. The Senate believed transfers were unwarranted at this time and consequently recommended no adjustment to the Administration's proposed request.

The conferees agreed that the proposed transfer would severely restrict the flexibility of the Director of the Defense Intelligence Agency to shift resources according to changes in the threat, force structure, and budget. Accordingly, the House recedes.

From the Permanent Select Committee on Intelligence:

DAVE MCCURDY,  
CHARLES WILSON,  
BARBARA KENNELLY,  
DAN GLICKMAN,  
NICHOLAS MAVROULES,  
BILL RICHARDSON,  
STEPHEN SOLARZ,  
NORM DICKS,  
RONALD K. DELLUMS,  
DAVID E. BONIOR,  
MARTIN OLAV SABO,  
WAYNE OWENS,  
BUD SHUSTER  
(except for subsection 404(f)),  
LARRY COMBEST  
(except for subsection 404(f)),  
DOUG BEREUTER  
(except for subsection 404(f)),  
R.K. DORNAN  
(except for subsection 404(f)),  
BILL YOUNG  
(except for subsection 404(f)),  
DAVID O'B. MARTIN  
(except for subsection 404(f)),  
GEORGE W. GEKAS  
(except for subsection 404(f)),

From the Committee on Armed Services (for the consideration of Department of Defense tactical intelligence and related activities):

LES ASPIN,  
IKE SKELTON,  
*Managers on the Part of the House.*

DAVID L. BOREN,  
FRITZ HOLLINGS,  
BILL BRADLEY,  
ALAN CRANSTON,  
DENNIS DECONCINI,  
JOHN GLENN,  
BOB KERREY,  
FRANK H. MURKOWSKI,  
JOHN WARNER,  
ALFONSE D'AMATO,  
JACK DANFORTH,  
WARREN B. RUDMAN,  
SLADE GORTON,  
JOHN CHAFEE,

From the Committee on Armed Services:

SAM NUNN,  
STROM THURMOND,  
*Managers on the Part of the Senate.*

