

110TH CONGRESS
2D SESSION

S. 2967

AN ACT

To provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CONTINUED BENEFITS FOR CERTAIN SENATE**
2 **RESTAURANTS EMPLOYEES.**

3 (a) DEFINITIONS.—In this section:

4 (1) CONTRACTOR.—The term “contractor”
5 means the private business concern that enters into
6 a food services contract with the Architect of the
7 Capitol.

8 (2) COVERED INDIVIDUAL.—The term “covered
9 individual” means any individual who—

10 (A) is a Senate Restaurants employee who
11 is an employee of the Architect of the Capitol
12 on the date of enactment of this Act, includ-
13 ing—

14 (i) a permanent, full-time or part-time
15 employee;

16 (ii) a temporary, full-time or part-time
17 employee; and

18 (iii) an employee in a position de-
19 scribed under the second or third provisos
20 under the subheading “SENATE OFFICE
21 BUILDINGS” under the heading “CAPITOL
22 BUILDINGS AND GROUNDS” under the
23 heading “ARCHITECT OF THE CAP-
24 ITOL” in the Legislative Branch Appro-
25 priations Act, 1972 (2 U.S.C. 2048);

1 (B) becomes an employee of the contractor
2 under a food services contract on the transfer
3 date; and

4 (C) with respect to benefits under sub-
5 section (c)(2) or (3), files an election before the
6 transfer date with the Office of Human Re-
7 sources of the Architect of the Capitol to have
8 1 or more benefits continued in accordance with
9 this section.

10 (3) FOOD SERVICES CONTRACT.—The term
11 “food services contract” means a contract under
12 which food services operations of the Senate Res-
13 taurants are transferred to, and performed by, a pri-
14 vate business concern.

15 (4) TRANSFER DATE.—The term “transfer
16 date” means the date on which a contractor begins
17 the performance of food services operations under a
18 food services contract.

19 (b) ELECTION OF COVERAGE.—

20 (1) IN GENERAL.—

21 (A) RETIREMENT COVERAGE.—Not later
22 than the day before the transfer date, an indi-
23 vidual described under subsection (a)(2)(A) and
24 (B) may file an election with the Office of
25 Human Resources of the Architect of the Cap-

itol to continue coverage under the retirement system under which that individual is covered on that day.

(B) LIFE AND HEALTH INSURANCE COVERAGE.—If the individual files an election under subparagraph (A) to continue retirement coverage, the individual may also file an election with the Office of Human Resources of the Architect of the Capitol to continue coverage of any other benefit under subsection (c)(2) or (3) for which that individual is covered on that day. Any election under this subparagraph shall be filed not later than the day before the transfer date.

(2) NOTIFICATION TO THE OFFICE OF PERSONNEL MANAGEMENT.—The Office of Human Resources of the Architect of the Capitol shall provide timely notification to the Office of Personnel Management of any election filed under paragraph (1).

(c) CONTINUITY OF BENEFITS.—

(1) PAY.—The rate of basic pay of a covered individual as an employee of a contractor, or successor contractor, during a period of continuous service may not be reduced to a rate less than the rate of basic pay paid to that individual as an em-

1 ployee of the Architect of the Capitol on the day be-
2 fore the transfer date, except for cause.

3 (2) RETIREMENT AND LIFE INSURANCE BENE-
4 FITS.—

5 (A) IN GENERAL.—For purposes of chap-
6 ters 83, 84, and 87 of title 5, United States
7 Code—

8 (i) any period of continuous service
9 performed by a covered individual as an
10 employee of a contractor, or successor con-
11 tractor, shall be deemed to be a period of
12 service as an employee of the Architect of
13 the Capitol; and

14 (ii) the rate of basic pay of the cov-
15 ered individual during the period described
16 under clause (i) shall be deemed to be the
17 rate of basic pay of that individual as an
18 employee of the Architect of the Capitol on
19 the date on which the Architect of the
20 Capitol enters into the food services con-
21 tract.

22 (B) TREATMENT AS CIVIL SERVICE RE-
23 TIREMENT OFFSET EMPLOYEES.—In the case of
24 a covered individual who on the day before the
25 transfer date is subject to subchapter III of

chapter 83 of title 5, United States Code, but whose employment with the Architect of the Capitol is not employment for purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986—

(i) the employment described under subparagraph (A)(i) shall, for purposes of subchapter III of chapter 83 of title 5, United States Code, be deemed to be—

(I) employment of an individual described under section 8402(b)(2) of title 5, United States Code; and

(II) Federal service as defined under section 8349(c) of title 5, United States Code; and

(ii) the basic pay described under subparagraph (A)(ii) for employment described under subparagraph (A)(i) shall be deemed to be Federal wages as defined under section 8334(k)(2)(C)(i) of title 5, United States Code.

(3) HEALTH INSURANCE BENEFITS.—For purposes of chapters 89, 89A, and 89B of title 5, United States Code, any period of continuous service performed by a covered individual as an employee of

1 a contractor, or successor contractor, shall be
2 deemed to be a period of service as an employee of
3 the Architect of the Capitol.

4 (4) LEAVE.—

5 (A) CREDIT OF LEAVE.—Subject to section
6 6304 of title 5, United States Code, annual and
7 sick leave balances of any covered individual
8 shall be credited to the leave accounts of that
9 individual as an employee of the contractor, or
10 any successor contractor. A food services con-
11 tract may include provisions similar to regula-
12 tions prescribed under section 6308 of title 5,
13 United States Code, to implement this subpara-
14 graph.

15 (B) ACCRUAL RATE.—During any period
16 of continuous service performed by a covered in-
17 dividual as an employee of a contractor, or suc-
18 cessor contractor, that individual shall continue
19 to accrue annual and sick leave at rates not less
20 than the rates applicable to that individual on
21 the day before the transfer date.

22 (C) TECHNICAL AND CONFORMING AMEND-
23 MENT.—The second and third provisos under
24 the subheading “SENATE OFFICE BUILDINGS”
25 under the heading “CAPITOL BUILDINGS AND

1 “GROUNDS” under the heading “ARCHITECT
2 OF THE CAPITOL” in the Legislative Branch
3 Appropriations Act, 1972 (2 U.S.C. 2048) are
4 repealed.

5 (5) TRANSIT SUBSIDY.—For purposes of any
6 benefit under section 7905 of title 5, United States
7 Code, any period of continuous service performed by
8 a covered individual as an employee of a contractor,
9 or successor contractor, shall be deemed to be a pe-
10 riod of service as an employee of the Architect of the
11 Capitol.

12 (6) EMPLOYEE PAY; GOVERNMENT CONTRIBU-
13 TIONS; TRANSIT SUBSIDY PAYMENTS; AND OTHER
14 BENEFITS.—

15 (A) PAYMENT BY CONTRACTOR.—A con-
16 tractor, or any successor to the contractor, shall
17 pay—

18 (i) the pay of a covered individual as
19 an employee of a contractor, or successor
20 contractor, during a period of continuous
21 service;

22 (ii) Government contributions for the
23 benefits of a covered individual under
24 paragraph (2) or (3);

(iii) any transit subsidy for a covered individual under paragraph (5); and

(iv) any payment for any other benefit for a covered individual in accordance with a food services contract.

(B) REIMBURSEMENTS AND PAYMENTS BY ARCHITECT OF THE CAPITOL.—From appropriations made available to the Architect of the Capitol under the heading “SENATE OFFICE BUILDINGS” under the heading “ARCHITECT OF THE CAPITOL”, the Architect of the Capitol shall—

(i) reimburse a contractor, or any successor contractor, for that portion of any payment under subparagraph (A) which the Architect of the Capitol agreed to pay under a food services contract; and

(ii) pay a contractor, or any successor contractor, for any administrative fee (or portion of an administrative fee) which the Architect of the Capitol agreed to pay under a food services contract.

(7) REGULATIONS.—

(A) OFFICE OF PERSONNEL MANAGEMENT.—

1 (i) IN GENERAL.—After consultation
2 with the Architect of the Capitol, the Di-
3 rector of the Office of Personnel Manage-
4 ment shall prescribe regulations to provide
5 for the continuity of benefits under para-
6 graphs (2) and (3).

7 (ii) CONTENTS.—Regulations under
8 this subparagraph shall—

9 (I) include regulations relating to
10 employee deductions and employee
11 and employer contributions and de-
12 posits in the Civil Service Retirement
13 and Disability Fund, the Employees'
14 Life Insurance Fund, and the Em-
15 ployees Health Benefits Fund; and

16 (II) provide for the Architect of
17 the Capitol to perform employer ad-
18 ministrative functions necessary to en-
19 sure administration of continued cov-
20 erage of benefits under paragraphs
21 (2) and (3), including receipt and
22 transmission of the deductions, con-
23 tributions, and deposits described
24 under subclause (I), the collection and
25 transmission of such information as

1 necessary, and the performance of
2 other administrative functions as may
3 be required.

4 (B) THRIFT SAVINGS PLAN BENEFITS.—

5 After consultation with the Architect of the
6 Capitol, the Executive Director appointed by
7 the Federal Retirement Thrift Investment
8 Board under section 8474(a) of title 5, United
9 States Code, shall prescribe regulations to pro-
10 vide for the continuity of benefits under para-
11 graph (2) of this subsection relating to sub-
12 chapter III of chapter 84 of that title. Regula-
13 tions under this subparagraph shall include reg-
14 ulations relating to employee deductions and
15 employee and employer contributions and de-
16 posits in the Thrift Savings Fund.

17 (d) COVERED INDIVIDUALS NOT ENTITLED TO SEV-
18 ERANCE PAY.—

19 (1) IN GENERAL.—Except as provided under
20 paragraph (2), a covered individual shall not be enti-
21 tled to severance pay under section 5595 of title 5,
22 United States Code, by reason of—

23 (A) separation from service with the Archi-
24 tect of the Capitol and becoming an employee

1 of a contractor under a food services contract;
2 or

3 (B) termination of employment with a con-
4 tractor, or successor to a contractor.

5 (2) SEPARATION DURING 90-DAY PERIOD.—

6 (A) IN GENERAL.—

7 (i) COVERED INDIVIDUALS.—Except
8 as provided under clause (ii), a covered in-
9 dividual shall be entitled to severance pay
10 under section 5595 of title 5, United
11 States Code, if during the 90-day period
12 following the transfer date the employment
13 of that individual with a contractor is ter-
14 minated as provided under a food services
15 contract.

16 (ii) EXCEPTION.—Clause (i) shall not
17 apply to a covered individual who is termi-
18 nated for cause.

19 (B) TREATMENT.—For purposes of section
20 5595 of title 5, United States Code—

21 (i) any period of continuous service
22 performed by a covered individual de-
23 scribed under subparagraph (A) as an em-
24 ployee of a contractor shall be deemed to

1 be a period of service as an employee of
2 the Architect of the Capitol; and

3 (ii) any termination of employment of
4 a covered individual described under sub-
5 paragraph (A) with a contractor shall be
6 treated as a separation from service with
7 the Architect of the Capitol.

8 (e) VOLUNTARY SEPARATION INCENTIVE PAY-
9 MENTS.—

10 (1) SUBMISSION OF PLAN.—Not later than 30
11 days after the date of enactment of this Act, the Ar-
12 chitect of the Capitol shall submit a plan under sec-
13 tion 210 of the Legislative Branch Appropriations
14 Act, 2005 (2 U.S.C. 60q) to the applicable commit-
15 tees as provided under that section.

16 (2) PLAN.—

17 (A) IN GENERAL.—Notwithstanding sec-
18 tion 210(e) of the Legislative Branch Appro-
19 priations Act, 2005 (2 U.S.C. 60q(e)), the plan
20 submitted under this subsection shall—

21 (i) offer a voluntary separation incen-
22 tive payment to any employee described
23 under subsection (a)(2)(A) of this section
24 in accordance with section 210 of that Act;
25 and

1 (ii) offer such a payment to any such
2 employee who becomes a covered indi-
3 vidual, if that individual accepts the offer
4 during the 90-day period following the
5 transfer date.

6 (B) TREATMENT OF COVERED INDIVID-
7 UALS.—For purposes of the plan under this
8 subsection—

9 (i) any period of continuous service
10 performed by a covered individual as an
11 employee of a contractor shall be deemed
12 to be a period of service as an employee of
13 the Architect of the Capitol; and

14 (ii) any termination of employment of
15 a covered individual with a contractor shall
16 be treated as a separation from service
17 with the Architect of the Capitol.

18 (f) EARLY RETIREMENT TREATMENT FOR CERTAIN
19 SEPARATED EMPLOYEES.—

20 (1) IN GENERAL.—This subsection applies to—

21 (A) an employee of the Senate Restaurants
22 of the Office of the Architect of the Capitol
23 who—

24 (i) voluntarily separates from service
25 on or after the date of enactment of this

1 Act, but prior to the day before the trans-
2 fer date; and

3 (ii) on such date of separation—

4 (I) has completed 25 years of
5 service as defined under section
6 8331(12) or 8401(26) of title 5,
7 United States Code; or

8 (II) has completed 20 years of
9 such service and is at least 50 years
10 of age; and

11 (B) except as provided under paragraph
12 (2), a covered individual—

13 (i) whose employment with a con-
14 tractor is terminated as provided under a
15 food services contract during the 90-day
16 period following the transfer date; and

17 (ii) on the date of such termination—

18 (I) has completed 25 years of
19 service as defined under section
20 8331(12) or 8401(26) of title 5,
21 United States Code; or

22 (II) has completed 20 years of
23 such service and is at least 50 years
24 of age.

1 (2) EXCEPTION.—Paragraph (1)(B) shall not
2 apply to a covered individual who is terminated for
3 cause.

4 (3) TREATMENT.—

5 (A) ANNUITY.—Notwithstanding any pro-
6 vision of chapter 83 or 84 of title 5, United
7 States Code, an employee described under para-
8 graph (1) is entitled to an annuity which shall
9 be computed consistent with the provisions of
10 law applicable to annuities under section
11 8336(d) or 8414(b) of title 5, United States
12 Code.

13 (B) SEPARATION DURING 90-DAY PE-
14 RIOD.—For purposes of chapter 83 or 84 of
15 title 5, United States Code—

16 (i) any period of continuous service
17 performed by a covered individual de-
18 scribed under paragraphs (1)(B) and (2)
19 as an employee of a contractor shall be
20 deemed to be a period of service as an em-
21 ployee of the Architect of the Capitol; and

22 (ii) any termination of employment of
23 a covered individual described under para-
24 graphs (1)(B) and (2) with a contractor

1 shall be treated as a separation from serv-
2 ice with the Architect of the Capitol.

3 (g) CONGRESSIONAL ACCOUNTABILITY ACT OF
4 1995.—

5 (1) EMPLOYEES OF THE ARCHITECT OF THE
6 CAPITOL.—Section 101(5) of the Congressional Ac-
7 countability Act of 1995 (2 U.S.C. 1301(5)) is
8 amended by striking “, the Botanic Garden, or the
9 Senate Restaurant” and inserting “or the Botanic
10 Garden”.

11 (2) DISABILITIES.—Section 210(a)(7) of the
12 Congressional Accountability Act of 1995 (2 U.S.C.
13 1331(a)(7)) is amended by striking “the Senate Res-
14 taurants and the Botanic Garden” and inserting
15 “the Botanic Garden”.

16 (3) CONTINUING APPLICATION TO CERTAIN
17 ACTS AND OMISSIONS.—For purposes of the Con-
18 gressional Accountability Act of 1995 (2 U.S.C.
19 1301 et seq.) a covered individual shall be treated as
20 an employee of the Architect of the Capitol with re-
21 spect to any act or omission which occurred before
22 the transfer date.

23 (h) DEPOSIT OF COMMISSIONS.—

24 (1) SENATE RESTAURANTS FOOD SERVICES
25 CONTRACT.—Any commissions paid by a contractor

1 under a food services contract shall be deposited in
2 the miscellaneous items account within the contin-
3 gent fund of the Senate.

4 (2) USE OF FUNDS.—Any funds deposited
5 under paragraph (1) shall be available for expendi-
6 ture in the same manner as funds appropriated into
7 that account.

8 (i) EFFECTIVE DATE.—This Act shall take effect on
9 the date of enactment of this Act and apply to the remain-
10 der of the fiscal year in which enacted and each fiscal year
11 thereafter.

Passed the Senate June 3, 2008.

Attest:

Secretary.

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To provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes.