

CORRECTING MISCALCULATIONS IN VETERANS'  
PENSIONS ACT

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SEPTEMBER 12, 2018.—Committee to the Committee of the whole house on the State  
of the Union and ordered to be printed

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Mr. GOWDY, from the Committee on Oversight and Government  
Reform, submitted the following

R E P O R T

[To accompany H.R. 4431]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom  
was referred the bill (H.R. 4431) to amend title 5, United States  
Code, to provide for interest payments by agencies in the case of  
administrative error in processing certain annuity deposits for  
prior military service, having considered the same, report favorably  
thereon without amendment and recommend that the bill do pass.

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## SUMMARY AND PURPOSE OF THE LEGISLATION

H.R. 4431, the Correcting Miscalculations in Veterans' Pensions Act provides permissive authority to agencies to pay interest accrued on Federal civilian deposits made by former military members if the interest accrued because of an administrative error.

## BACKGROUND AND NEED FOR LEGISLATION

Current Federal retirement law allows former members of the military who become Federal civilian employees to voluntarily elect to pay a deposit into the Federal employee pension fund, also known as the Civil Service Retirement and Disability Fund.<sup>1</sup> A deposit allows time served in the military after 1956 to be counted as creditable service toward annuity eligibility.<sup>2</sup> It also allows an individual to increase the amount of his or her pension upon retirement by counting basic pay during creditable military service in the "high-three" annuity computation.<sup>3</sup>

Under the pre-1986 Civil Service Retirement System (CSRS), military service deposits are equivalent to seven percent of military basic pay.<sup>4</sup> Under the Federal Employees Retirement System (FERS), military service deposits are equivalent to three percent of military basic pay.<sup>5</sup> Military service deposits must be paid before an individual leaves Federal service.<sup>6</sup> Generally, individuals wishing to pay a military service deposit must do so within two years of beginning civilian service. After this grace period, the individual must pay interest on the deposit.<sup>7</sup>

Occasionally, administrative errors arise while processing an individual's military service deposit. A 1996 Government Accountability Office (GAO) decision provides such an example.<sup>8</sup> In 1991, a Department of Energy (DOE) civilian employee applied to make a deposit to his annuity for prior periods of military service.<sup>9</sup> DOE originally calculated his deposit at the three percent required for employees covered by FERS, and upon payment, the employee received a letter stating his deposit had been paid in full.<sup>10</sup> In 1995, however, the agency discovered the employee was actually covered under CSRS, and the deposit should have been calculated at the higher seven percent level.<sup>11</sup> The higher deposit, plus the additional interest that had accrued, was nearly \$14,000.<sup>12</sup>

The employee argued he should not have to pay additional interest caused by DOE's error.<sup>13</sup> As the OPM retirement handbook makes clear, there is no provision in law or regulation for a complete waiver of interest on military deposit accounts.<sup>14</sup> DOE thus requested GAO's decision on whether the agency could use appro-

<sup>1</sup> 5 U.S.C. § 8334(j)(1)(A).

<sup>2</sup> OFFICE OF PERSONNEL MANAGEMENT, CSRS/FERS HANDBOOK 3, 39 (1998) [hereinafter "OPM Retirement Handbook"].

<sup>3</sup> *Id.*

<sup>4</sup> 5 U.S.C. § 8334(j)(1)(A).

<sup>5</sup> U.S.C. § 8422(e)(1)(A).

<sup>6</sup> OPM Retirement Handbook *supra* note 2, at 5, 42.

<sup>7</sup> *Id.*, at 20, 46.

<sup>8</sup> GOV'T ACCOUNTABILITY OFFICE, FILE B-270151.3, MATTER OF GEORGE W. SCHLOSSNAGLE—POST-1956 MILITARY SERVICE DEPOSIT DECISION 1-2 (1996).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> OPM Retirement Handbook, *supra* note 2, at 28, 47.

priated funds to pay for the interest caused by DOE’s error.<sup>15</sup> In making its decision, GAO referred again to OPM’s retirement handbook, which states, “If the agency determines that its errors caused the employee to be liable for additional interest, *and the agency has authorization to spend monies for this purpose*, it may pay, on behalf of the employee, the interest charges caused by its errors.”<sup>16</sup> GAO found no specific authorization for DOE to pay the interest and noted there is no agency obligation under section 8334(j) of title 5, United States Code—relating to military service deposits under CSRS—to pay such interest.<sup>17</sup>

The Correcting Miscalculations in Veterans’ Pensions Act remedies this loophole by authorizing all agencies to pay interest due to administrative errors in calculating and processing a military service deposit. This coverage will extend to both military service deposits under CSRS and FERS and prevent confusion as to whether an agency may pay to fix its own mistakes.

#### STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In accordance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the previous section.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goal or objective of this bill is to provide for interest payments by agencies in the case of administrative error in processing certain annuity deposits for prior military service.

#### LEGISLATIVE HISTORY

On November 16, 2017, Representative Earl “Buddy” Carter (R-GA) introduced H.R. 4431, the Correcting Miscalculations in Veterans’ Pensions Act, with Representatives Jody Hice (R-GA), Jim Banks (R-IN), Mark Meadows (R-NC), Karen Handel (R-GA), Clay Higgins (R-LA), Jimmy Gomez (D-CA), and Peter Welch (D-VT), in addition to Delegate Aumua Amata Coleman Radewagen (R-AS). The bill was referred to the Committee on Oversight and Government Reform, with an additional referral to the Committee on House Administration. The Committee on Oversight and Government Reform considered H.R. 4431 at a business meeting on November 30, 2017, and ordered the bill favorably reported by voice vote.

#### COMMITTEE CONSIDERATION

On November 30, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported by voice vote.

<sup>15</sup> GOV’T ACCOUNTABILITY OFFICE, *supra* note 8.

<sup>16</sup> *Id.*, at 29, 47 (emphasis added).

<sup>17</sup> GAO Decision, *supra* note 8, at 4–5.

## ROLL CALL VOTES

There were no roll call votes requested or conducted during Committee consideration of H.R. 4431.

## EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative Elijah Cummings (D-MD), the Ranking Minority Member of the Committee, offered an amendment to provide permissive authority to the Office of Personnel Management to pay interest assessed on Federal Government civilian pension deposits made by former Peace Corps and AmeriCorps members. Following debate, Mr. Cummings withdrew his amendment.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill provides for interest payments by agencies in the case of administrative error in processing certain annuity deposits for prior military service, without regard to which branch of government in which the employee is employed. Therefore, provisions of the bill relate to terms and conditions of employment of legislative branch employees. In satisfaction of the requirement of Section 102(b)(3)(A), provisions of this bill could affect retirement benefits of certain employees in the legislative branch in the same manner as they would affect benefits of employees in the executive branch.

## DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

This bill directs the Director of the Office of Personnel Management to issue such regulations as are necessary to carry out the bill.

## FEDERAL ADVISORY COMMITTEE ACT

The Committee finds the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

## UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the *Congressional Budget Act of 1974* the Committee has included a letter received from the Congressional Budget Office below.

## EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

## COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974*.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the *Congressional Budget Act of 1974* is as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 10, 2018.*

Hon. TREY GOWDY,  
*Chairman, Committee on Oversight and Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4431, the Correcting Miscalculations in Veterans' Pensions Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Amber Marcellino.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 4431—Correcting Miscalculations in Veterans' Pensions Act*

H.R. 4431 would allow federal agencies to pay the interest owed by any former employees who chose to count their prior military service for civilian retirement benefits, if the interest results from an administrative error.

Under current law, federal employees may include years of prior military service in the calculation of their civil service retirement benefits if they pay a deposit to cover the retirement contributions they would have paid if that period of military service had been civilian service. Administrative errors occur when employees receive inaccurate information about the amount or the due date of the deposit. If employees owe additional funds to convert their period of military service because of an administrative error, they also owe interest on the amount due.

Based on a small sample of cases and information from the Merit Systems Protection Board, CBO estimates that H.R. 4431 would affect just a few federal retirees each year and that the average amount of interest accrued in each case would be about \$15,000.

Enacting H.R. 4431 would allow federal agencies the option to make those interest payments on behalf of their former employees using funds appropriated for salaries and expenses. Considering the small number of retirees that would be affected and that some agencies already have the authority to make such payments, CBO estimates that implementing the provision would cost less than \$500,000 over the 2019–2023 period. Any such spending would be subject to the availability of appropriated funds.

Allowing federal agencies to pay the interest costs associated with administrative errors in converting military service could make it more likely that some retirees would pay their deposit (or corrected deposit) and thus receive a higher retirement benefit. (In those cases, the higher benefit payments would be partially offset by the deposit payments, which are recorded as revenues.) However, given the limited number of retirees that could be affected, CBO estimates that the increases in direct spending and revenues would each be less than \$500,000 over the 2019–2028 period.

Because enacting H.R. 4431 would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting H.R. 4431 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 4431 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Amber G. Marcellino. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 designates the short title of the bill—the “Correcting Miscalculations in Veterans’ Pensions Act.”

##### *Sec. 2. Interest payment as a result of error in processing of annuity deposit amounts*

Section 2 amends section 8334(j) of title 5, United States Code, to authorize Federal agencies to pay interest assessed on the military service deposits of their employees, Members, or annuitants in the event of an administrative error by the agency. The Director of the Office of Personnel Management is directed to implement such regulations as are necessary to carry out the amendments made by this bill. Similar provisions are added for both the Civil Service Retirement System and the Federal Employees Retirement System to ensure all individuals covered by the Federal Government’s main retirement systems are covered by the amendments made by this bill.

## COMMITTEE CORRESPONDENCE

TREY GOWDY, SOUTH CAROLINA  
CHAIRMAN

ONE HUNDRED FIFTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND  
RANKING MINORITY MEMBER**Congress of the United States****House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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WASHINGTON, DC 20515-6143

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June 26, 2018

The Honorable Gregg Harper  
Chairman, Committee on House Administration  
U.S. House of Representatives  
Washington, D.C. 20515

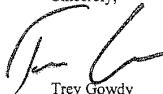
Dear Mr. Chairman:

On November 16, 2017, the Committee on Oversight and Government Reform ordered reported H.R. 4431, the *Correcting Miscalculations in Veterans' Pensions Act* without amendment, by voice vote. The bill was referred primarily to the Committee on Oversight and Government Reform, with additional referral to the Committee on House Administration.

I ask you allow the Committee on the House Administration to be discharged from further consideration of the bill to expedite floor consideration. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on House Administration represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Oversight and Government Reform, as well as in the *Congressional Record* during floor consideration, to memorialize our understanding.

Thank you for your consideration of my request.

Sincerely,



Trey Gowdy

cc: The Honorable Paul D. Ryan, Speaker  
The Honorable Elijah E. Cummings  
The Honorable Robert Brady  
The Honorable Thomas J. Wickham, Parliamentarian

GREGG HARPER, MISSISSIPPI  
CHAIRMAN

RODNEY DAVIS, ILLINOIS  
VICE CHAIRMAN

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BARRY LOUDERMILK, GEORGIA

SEAN MORAN, STAFF DIRECTOR

**Congress of the United States**

**House of Representatives  
COMMITTEE ON HOUSE ADMINISTRATION**

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RANKING MINORITY MEMBER

ZOE LOFGREN, CALIFORNIA  
JAMIE RASKIN, MARYLAND

ONE HUNDRED FIFTEENTH  
CONGRESS

JAMIE FLEET, MINORITY STAFF DIRECTOR

June 27, 2018

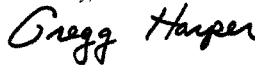
The Honorable Trey Gowdy  
Chairman, Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 4431, *The Correcting Miscalculations in Veterans Pensions Act*. As you know, certain provisions of the bill fall within the Jurisdiction of Committee on House Administration.

I realize that discharging the Committee on House Administration from further consideration of H.R. 4431 will serve in the best interest of the House of Representatives and agree to do so. It is the understanding of the Committee on House Administration that forgoing action on H.R. 4431 will not prejudice the Committee with respect to appointment of conferees or any future jurisdictional claim. I request that your letter and this response be included in the bill report filed by your Committee, as well as in the *Congressional Record*.

Sincerely,



Gregg Harper  
Chairman

GH/kb

cc: The Honorable Paul D. Ryan, Speaker  
The Honorable Robert Brady  
The Honorable Elijah E. Cummings  
The Honorable Thomas J. Wickham, Jr., Parliamentarian



## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**SUBPART G—INSURANCE AND ANNUITIES**

\* \* \* \* \*

**CHAPTER 83—RETIREMENT**

\* \* \* \* \*

**SUBCHAPTER III—CIVIL SERVICE RETIREMENT**

\* \* \* \* \*

**§ 8334. Deductions, contributions, and deposits**

(a)(1)(A) The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, Court of Federal Claims judge, member of the Capitol Police, member of the Supreme Court Police, nuclear materials courier, or customs and border protection officer, as the case may be, the percentage of basic pay applicable under subsection (c).

(B)(i) Except as provided in clause (ii), an equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.

(2) The amounts so deducted and withheld, together with the amounts so contributed, shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Secretary of the Treasury may prescribe. Deposits made by an employee or Member also shall be credited to the Fund.

(b) Each employee or Member is deemed to consent and agree to these deductions from basic pay. Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less

these deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to the benefits to which the employee or Member is entitled under this subchapter.

(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

	Percentage of basic pay	Service period
Employee	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7	After December 31, 2000.
	Member or employee for Congressional employee service	2 1/2
3 1/2		July 1, 1926, to June 30, 1942.
5		July 1, 1942, to June 30, 1948.
6		July 1, 1948, to October 31, 1956.
6 1/2		November 1, 1956, to December 31, 1969.
7.5		January 1, 1970, to December 31 1998.
7.75		January 1, 1999, to December 31, 1999.
7.9		January 1, 2000, to December 31, 2000.
7.5		After December 31, 2000.
Member for Member service		2 1/2
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to August 1, 1946.
	6	August 2, 1946, to October 31, 1956.
	7 1/2	November 1, 1956, to December 31, 1969.
	8	January 1, 1970, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.4	January 1, 2000, to December 31, 2000.
	8.5	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
Law enforcement officer for law enforcement service, member of the Supreme Court Police for Supreme Court Police service, and firefighter for firefighter service	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1974.

	Percentage of basic pay	Service period
Bankruptcy judge	7.5	January 1, 1975, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	7.5	After December 31, 2000.
	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 3, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1983.
Judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court	8	January 1, 1984, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.4	January 1, 2000, to December 31, 2000.
	8	After December 31, 2000.
	6	May 5, 1950, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to (but not including) the date of the enactment of the Department of Defense Authorization Act, 1984
	8	The date of enactment of the Department of Defense Authorization Act, 1984, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.4	January 1, 2000, to December 31, 2000.
United States Magistrate judge	8	After December 31, 2000.
	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1987.
	8	October 1, 1987, to December 31, 1998
	8.25	January 1, 1999, to December 31, 1999.
	8.4	January 1, 2000, to December 31, 2000.
Court of Federal Claims Judge	8	After December 31, 2000.
	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1988.
	8	October 1, 1988, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.

	Percentage of basic pay	Service period
Member of the Capitol Police	8.4	January 1, 2000, to December 31, 2000.
	8	After December 31, 2000.
	2.5	August 1, 1920, to June 30, 1926.
	3.5	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7.5	January 1, 1970, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
Nuclear materials courier	7.5	After December 31, 2000
	7	October 1, 1977 to October 16, 1998.
	7.5	October 17, 1998 to December 31, 1998.
	7.75	January 1, 1999 to December 31, 1999.
	7.9	January 1, 2000 to December 31, 2000.
Customs and border protection officer	7.5	After December 31, 2000.
	7.5	After June 29, 2008.

Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of an individual described in section 8402(b)(2) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent, and, with respect to any such service performed after December 31, 1986, be equal to the amount that would have been deducted from the employee's basic pay under subsection (k) of this section if the employee's pay had been subject to that subsection during such period.

(d)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which he may be allowed credit under this subchapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

(2)(A) This paragraph applies with respect to any employee or Member who—

(i) separates before March 1, 1991, and receives (or elects, in accordance with applicable provisions of this subchapter, to receive) a refund (described in paragraph (1)) which relates to a period of service ending before March 1, 1991;

(ii) is entitled to an annuity under this subchapter (other than a disability annuity) which is based on service of such employee or Member, and which commences on or after December 2, 1990; and

(iii) does not make the deposit (described in paragraph (1)) required in order to receive credit for the period of service with respect to which the refund relates.

(B) Notwithstanding the second sentence of paragraph (1), the annuity to which an employee or Member under this paragraph is entitled shall (subject to adjustment under section 8340) be equal to an amount which, when taken together with the unpaid amount referred to in subparagraph (A)(iii), would result in the present value of the total being actuarially equivalent to the present value of the annuity which would otherwise be provided the employee or Member under this subchapter, as computed under subsections (a)-(i) and (n) of section 8339 (treating, for purposes of so computing the annuity which would otherwise be provided under this subchapter, the deposit referred to in subparagraph (A)(iii) as if it had been timely made).

(C) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this paragraph.

(e)(1) Interest under subsection (c), (d)(1), (j), (k), or (l) of this section is computed in accordance with paragraphs (2) and (3) of this subsection and regulations prescribed by the Office of Personnel Management.

(2) Interest accrues annually on the outstanding portion of any amount that may be deposited under subsection (c), (d)(1), (j), (k), or (l) of this section, and is compounded annually, until the portion is deposited. Such interest is computed from the mid-point of each service period included in the computation, or from the date refund was paid. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

(3) The rate of interest is 4 percent a year through December 31, 1947, and 3 percent a year beginning January 1, 1948, through December 31, 1984. Thereafter, the rate of interest for any calendar year shall be equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 8348(c), (d), and (e) of this title, as determined by the Secretary.

(f) Under such regulations as the Office of Personnel Management may prescribe, amounts deducted under subsection (a) or (k) of this section and deposited under subsections (c) and (d)(1) of this section shall be entered on individual retirement records.

(g) Deposit may not be required for—

- (1) service before August 1, 1920;
- (2) military service, except to the extent provided under section 8332(c) or section 8334(j) of this title;
- (3) service for the Panama Railroad Company before January 1, 1924;
- (4) service performed before October 29, 1983,, by natives of the Pribilof Islands in the taking and curing of fur seal skins and other activities in connection with the administration of the Pribilof Islands except where deductions, contributions, and deposits were made before October 29, 1983;
- (5) days of unused sick leave credited under section 8339(m) of this title; or
- (6) any period for which credit is allowed under section 8332(l) of this title.

(h) For the purpose of survivor annuities, deposits authorized by subsections (c), (d)(1), (j), and (k) of this section may also be made by a survivor of an employee or Member.

(i)(1) The Director of the Administrative Office of the United States Courts shall pay to the Fund the amount which an employee may deposit under subsection (c) of this section for service creditable under section 8332(b)(12) of this title if such creditable service immediately precedes service as an employee subject to this subchapter with a break in service of no more than ninety working days. The Director shall pay such amount from any appropriation available to him as a necessary expense of the appropriation concerned.

(2) The amount the Director pays in accordance with paragraph (1) of this subsection shall be reduced by the amount of any refund to the employee under section 376 of title 28. Except to the extent of such reduction, the amount the Director pays to the Fund shall satisfy the deposit requirement of subsection (c) of this section.

(3) Notwithstanding any other provision of law, the amount the Director pays under this subsection shall constitute an employer contribution to the Fund, excludable under section 402 of the Internal Revenue Code of 1986 from the employee's gross income until such time as the contribution is distributed or made available to the employee, and shall not be subject to refund or to lump-sum payment to the employee.

(4) Notwithstanding any other provision of law, a bankruptcy judge or magistrate judge who is covered by section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 shall not be subject to deductions and contributions to the Fund, if the judge or magistrate judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such an election, the judge or magistrate judge shall be entitled to a lump-sum credit under section 8342(a) of this title.

(5) Notwithstanding any other provision of law, a judge who is covered by section 7296 of title 38 shall not be subject to deductions and contributions to the Fund, if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.

(6) Notwithstanding any other provision of law, a judge of the United States Court of Federal Claims who is covered by section 178 of title 28 shall not be subject to deductions and contributions to the Fund if the judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.

(j)(1)(A) Except as provided in subparagraph (B), and subject to paragraph (5), each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office shall issue, to the agency by which the employee is employed, or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate, an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 to the employee

or Member 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 employee or Member may provide, or if the Office determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Office under paragraph (4).

(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.

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

(A) October 1, 1983; or

(B) the date on which the employee or Member making the deposit first becomes an employee or Member following the period of military service for which such deposit is due, shall include interest on such amount computed and compounded annually beginning on the date of the 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 subsection (e) of this section.

(3) Any payment received by an agency, the Secretary of the Senate, or the Chief Administrative Officer of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.

(5) Effective with respect to any period of military service after December 31, 1998, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for that same period for service as an employee, subject to paragraph (1)(B).

*(6)(A) In calculating and processing the deposit under paragraph (1) with respect to an employee, Member, or annuitant, if the employing agency of such employee, Member, or annuitant makes an administrative error, such employing agency may pay, on behalf of the employee, Member, or annuitant, any additional interest assessed due to the administrative error.*

*(B) For purposes of subparagraph (A), the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate, shall be considered the employing agency of a Member or Congressional employee.*

*(C) The Director of the Office of Personnel Management shall issue such regulations as are necessary to carry out this paragraph.*

(k)(1) Effective with respect to pay periods beginning after December 31, 1986, in administering this section in the case of an individual described in section 8402(b)(2) of this title—

(A) the amount to be deducted and withheld by the employing agency shall be determined in accordance with paragraph (2) of this subsection instead of subsection (a)(1)(A); and

(B) the amount of the contribution under subparagraph (B) of subsection (a)(1) shall be the amount which would have been contributed under such subparagraph if this subsection had not been enacted.

(2)(A) With respect to Federal wages of an employee or Member (or that portion thereof) not exceeding the contribution and benefit base during the calendar year involved, the appropriate amount to be deducted and withheld under this subsection is the amount by which—

(i) the total deduction for those wages (or for that portion) exceeds;

(ii) the OASDI contribution with respect to those wages (or that portion).

(B) With respect to any portion of Federal wages of an employee or Member which exceed the contribution and benefit base during the calendar year involved, the appropriate amount to be deducted and withheld under this subsection is an amount equal to the total deduction for that portion.

(C) For purposes of this paragraph—

(i) the term “Federal wages” means basic pay for service as an employee or Member, as the case may be;

(ii) the term “contribution and benefit base” means the contribution and benefit base in effect with respect to the period involved, as determined under section 230 of the Social Security Act;

(iii) the term “total deduction”, as used with respect to any Federal wages (or portion thereof), means an amount equal to the amount of those wages (or of that portion), multiplied by the percentage which (but for this subsection) would apply under subsection (a)(1)(A) with respect to the individual involved; and

(iv) the term “OASDI contribution”, with respect to any income, means the amount of tax which may be imposed under section 3101(a) of the Internal Revenue Code of 1986 with respect to such income (determined without regard to any income which is not a part of Federal wages).

(3) The amount of a deposit under subsection (c) of this section for any service with respect to which paragraph (1) of this subsection applies shall be equal to an amount determined based on the preceding provisions of this subsection, and shall include interest.

(4) In administering paragraphs (1) through (3)—

(A) the term “an individual described in section 8402(b)(2) of this title” shall be considered to include any individual—

(i) who is subject to this subchapter as a result of a provision of law described in section 8347(o), and

(ii) whose employment (as described in section 8347(o)) is also employment for purposes of title II of the Social Se-



curity Act and chapter 21 of the Internal Revenue Code of 1986; and

(B) the term “Federal wages”, as applied with respect to any individual to whom this subsection applies as a result of subparagraph (A), means basic pay for any employment referred to in subparagraph (A)(ii).

(1)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, as a full-time volunteer enrolled in a program of at least 1 year’s duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, an amount equal to 7 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Act of 1964 or section 5(c) or 6(1) of the Peace Corps Act or the stipend paid to the employee or Member under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, for each period of service as such a volunteer or volunteer leader. This paragraph shall be subject to paragraph (4).

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

(A) October 1, 1993; or

(B) the date on which the employee or Member making the deposit first becomes an employee or Member, shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-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 subsection (e).

(3) The Director of the Peace Corps and the Chief Executive Officer of the Corporation for National and Community Service shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.

(4) Effective with respect to any period of service after December 31, 1998, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for the same period for service as an employee.

(m) A Member who has served in a position in the executive branch for which the rate of basic pay was reduced for the duration of the service of the Member to remove the impediment to the appointment of the Member imposed by article I, section 6, clause 2 of the Constitution, or the survivor of such a Member, may deposit to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the Member during that period of service and the amount that would have been deducted if the rate of basic pay which would otherwise have been in effect during that period had been in effect, plus interest computed under subsection (e).

(n) Notwithstanding subsection (c), no deposit may be made with respect to service credited under section 8332(b)(17).

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**CHAPTER 84—FEDERAL EMPLOYEES’ RETIREMENT SYSTEM**

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**SUBCHAPTER II—BASIC ANNUITY**

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**§ 8422. Deductions from pay; contributions for other service; deposits**

(a)(1) The employing agency shall deduct and withhold from basic pay of each employee and Member a percentage of basic pay determined in accordance with paragraph (2).

(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

(A) the applicable percentage under paragraph (3), minus (B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

(3)(A) The applicable percentage under this paragraph for civilian service by employees or Members other than revised annuity employees or further revised annuity employees shall be as follows:

Employee	7	January 1, 1987, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7	After December 31, 2000.
Congressional employee	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	7.5	After December 31, 2000.
Member	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Law enforcement officer, firefighter, member of the Capitol Police, member of the Supreme Court Police, or air traffic controller	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	7.5	After December 31, 2000.
Nuclear materials courier	7	January 1, 1987, to October 16, 1998.

	7.5	October 17, 1998, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
Customs and border protection officer	7.5	After December 31, 2000.
	7.5	After June 29, 2008.

(B) The applicable percentage under this paragraph for civilian service by revised annuity employees shall be as follows:

Employee	9.3	After December 31, 2012.
Congressional employee	9.3	After December 31, 2012.
Member	9.3	After December 31, 2012.
Law enforcement officer, firefighter, member of the Capitol Police, member of the Supreme Court Police, or air traffic controller	9.8	After December 31, 2012.
Nuclear materials courier	9.8	After December 31, 2012.
Customs and border protection officer	9.8	After December 31, 2012.

(C) The applicable percentage under this paragraph for civilian service by further revised annuity employees shall be as follows:

Employee	10.6.	After December 31, 2013.
Congressional employee	10.6.	After December 31, 2013.
Member	10.6.	After December 31, 2013.
Law enforcement officer, firefighter member of the Capitol Police, member of the Supreme Court Police, or air traffic controller	11.1.	After December 31, 2013.
Nuclear materials courier	11.1.	After December 31, 2013.
Customs and border protection officer	11.1.	After December 31, 2013.

(b) Each employee or Member is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter, or under subchapter IV or V of this chapter, based on the service of the employee or Member.

(c) The amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Secretary of the Treasury may prescribe. Deposits made by an employee, Member, or survivor also shall be credited to the Fund.

(d)(1) Under such regulations as the Office may prescribe, amounts deducted under subsection (a) shall be entered on individual retirement records.

(2) Deposit may not be required for days of unused sick leave credited under section paragraph (1) or (2) of section 8415(m).

(e)(1)(A) Except as provided in subparagraph (B), and subject to paragraph (6), each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office shall issue, to the agency by which the employee is employed, or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate, an amount equal to 3 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member 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 employee or Member may provide, or if the Office determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based on estimates of such basic pay provided to the Office under paragraph (4).

(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.

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

(A) January 1, 1987; or

(B) the date on which the employee or Member making the deposit first becomes an employee or Member following the period of military service for which such deposit is due,

shall include interest on such amount computed and compounded annually beginning on the date of the 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).

(3) Any payment received by an agency, the Secretary of the Senate, or the Chief Administrative Officer of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.

(5) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.

(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent; and

(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent.

(7)(A) *In calculating and processing the deposit under paragraph (1) with respect to an employee, Member, or annuitant, if the employing agency of such employee, Member, or annuitant makes an administrative error, such employing agency may pay, on behalf of the employee, Member, or annuitant, any additional interest assessed due to the administrative error.*

(B) *For purposes of subparagraph (A), the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate, shall be considered the employing agency of a Member or Congressional employee.*

(C) *The Director of the Office of Personnel Management shall issue such regulations as are necessary to carry out this paragraph.*

(f)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, as a full-time volunteer enrolled in a program of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, an amount equal to 3 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Service Act of 1964 or section 5(c) or 6(1) of the Peace Corps Act or the stipend paid to the employee or Member under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, for each period of service as such a volunteer or volunteer leader. This paragraph shall be subject to paragraph (4).

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

(A) October 1, 1993, or

(B) the date on which the employee or Member making the deposit first becomes an employee or Member, shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-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).

(3) The Director of the Peace Corps and the Chief Executive Officer of the Corporation for National and Community Service shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.

(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent; and

(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent.

(g) A Member who has served in a position in the executive branch for which the rate of basic pay was reduced for the duration

of the service of the Member to remove the impediment to the appointment of the Member imposed by article I, section 6, clause 2 of the Constitution, or the survivor of such a Member, may deposit to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the Member during that period of service and the amount that would have been deducted if the rate of basic pay which would otherwise have been in effect during that period had been in effect, plus interest computed under section 8334(e).

(h) No deposit may be made with respect to service credited under section 8411(b)(6).

(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.

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