

107TH CONGRESS
1ST SESSION

S. 1138

To allow credit under the Federal Employees' Retirement System for certain Government service which was performed abroad after December 31, 1988, and before May 24, 1998.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2001

Mr. ALLEN introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To allow credit under the Federal Employees' Retirement System for certain Government service which was performed abroad after December 31, 1988, and before May 24, 1998.

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

3 **SECTION 1. RETIREMENT CREDIT FOR CERTAIN GOVERN-**
4 **MENT SERVICE PERFORMED ABROAD.**

5 Subject to section 2(a), credit under chapter 84 of
6 title 5, United States Code, shall be allowed for any service
7 performed by an individual if or to the extent that—

8 (1) it was performed by such individual—

1 (A) after December 31, 1988, and before
2 May 24, 1998;

3 (B) at a United States diplomatic mission,
4 consular mission (other than a consular agen-
5 cy), or other Foreign Service post abroad; and

6 (C) under a temporary appointment pursu-
7 ant to sections 309 and 311 of the Foreign
8 Service Act of 1980 (22 U.S.C. 3949 and
9 3951);

10 (2) at the time of performing such service, such
11 individual would have satisfied all eligibility require-
12 ments under regulations of the Department of State
13 (as in effect on the date of the enactment of this
14 Act) for a family member limited noncareer appoint-
15 ment (within the meaning of such regulations, as in
16 effect on such date of enactment), except that, in
17 applying this paragraph, an individual not employed
18 by the Department of State while performing such
19 service shall be treated as if then so employed;

20 (3) such service would have been creditable
21 under section 8411(b)(3) of such title 5 if—

22 (A) it had been performed before January
23 1, 1989; and

1 (B) the deposit requirements of section
 2 8411(f) of such title 5 had been met with re-
 3 spect to such service;

4 (4) such service would not otherwise be cred-
 5 itable under the Federal Employees' Retirement Sys-
 6 tem or any other retirement system for employees of
 7 the United States Government (disregarding title II
 8 of the Social Security Act); and

9 (5) the total amount of service performed by
 10 such individual (satisfying paragraphs (1) through
 11 (4)) is not less than 90 days.

12 **SEC. 2. REQUIREMENTS.**

13 (a) REQUIREMENTS OF THE INDIVIDUAL.—In order
 14 to receive credit under chapter 84 of title 5, United States
 15 Code, for any service described in section 1, the individual
 16 who performed such service (or, if deceased, any person
 17 who is or would be eligible for a survivor annuity under
 18 the Federal Employees' Retirement System based on the
 19 service of such individual)—

20 (1) shall file a written application with the Of-
 21 fice of Personnel Management no later than 36
 22 months after the effective date of the regulations
 23 prescribed to carry out this Act (as specified in
 24 those regulations); and

1 (2) shall remit to the Office (for deposit in the
2 Treasury of the United States to the credit of the
3 Civil Service Retirement and Disability Fund) the
4 total amount that, under section 8422 of such title
5 5, should have been deducted from the basic pay of
6 such individual for such service if such service had
7 then been creditable under such chapter 84.

8 (b) GOVERNMENT CONTRIBUTIONS.—

9 (1) IN GENERAL.—In addition to any other
10 payment that it is required to make under chapter
11 84 of title 5, United States Code, a department,
12 agency, or other instrumentality of the United
13 States shall remit to the Office of Personnel Man-
14 agement (for deposit in the Treasury of the United
15 States to the credit of the Fund) the amount de-
16 scribed in paragraph (2).

17 (2) AMOUNT DESCRIBED.—The amount de-
18 scribed in this paragraph is, with respect to a remit-
19 tance under subsection (a), the total amount of Gov-
20 ernment contributions that would, under section
21 8423 of title 5, United States Code, have been re-
22 quired of the instrumentality involved (to the extent
23 that it was the employing entity during the period
24 of service to which such remittance relates) in con-
25 nection with such service.

1 (3) SPECIAL RULE.—If an amount cannot be
 2 remitted under this subsection because an instru-
 3 mentality has ceased to exist, such amount shall in-
 4 stead be treated as part of the supplemental liability
 5 referred to in section 8423(b)(1) (A) or (B) of title
 6 5, United States Code (whichever would be appro-
 7 priate).

8 (c) RELATED REQUIREMENTS.—Any remittance
 9 under subsection (a) or (b)—

10 (1) shall be made in such time, form, and man-
 11 ner as the Office of Personnel Management may by
 12 regulation require; and

13 (2) shall be computed with interest (in accord-
 14 ance with section 8334(e) of title 5, United States
 15 Code, and such requirements as the Office may by
 16 regulation prescribe).

17 (d) NOTIFICATION AND ASSISTANCE REQUIRE-
 18 MENTS.—

19 (1) IN GENERAL.—The Office of Personnel
 20 Management shall take such action as may be nec-
 21 essary and appropriate to inform individuals entitled
 22 to have any service credited under this Act, or to
 23 have any annuity computed or recomputed under
 24 this Act, of their entitlement to such credit, com-
 25 putation, or recomputation.

1 (2) ASSISTANCE TO INDIVIDUALS.—The Office
2 shall, on request, assist any individual referred to in
3 paragraph (1) in obtaining from any department,
4 agency, or other instrumentality of the United
5 States such information in the possession of such in-
6 strumentality as may be necessary to verify the enti-
7 tlement of such individual to have any service cred-
8 ited, or to have any annuity computed or recom-
9 puted, pursuant to this Act.

10 (3) ASSISTANCE FROM INSTRUMENTALITIES.—
11 Any department, agency, or other instrumentality of
12 the United States which possesses any information
13 with respect to any service described in section 1
14 shall, at the request of the Office, furnish such in-
15 formation to the Office.

16 **SEC. 3. DEFINITIONS.**

17 For purposes of this Act—

18 (1) the term “Civil Service Retirement and Dis-
19 ability Fund” or “Fund” means the Civil Service
20 Retirement and Disability Fund under section 8348
21 of title 5, United States Code;

22 (2) the term “abroad” has the meaning given
23 such term under section 102 of the Foreign Service
24 Act of 1980 (22 U.S.C. 3902);

1 (3) the term “temporary appointment” means
 2 an appointment that is limited by its terms to a pe-
 3 riod of one year or less; and

4 (4) the term “basic pay” has the meaning given
 5 such term under section 8401 of title 5, United
 6 States Code.

7 **SEC. 4. RULE OF CONSTRUCTION.**

8 Nothing in this Act shall be considered to permit or
 9 require the making of any contributions to the Thrift Sav-
 10 ings Fund that would not otherwise have been permitted
 11 or required had this Act not been enacted.

12 **SEC. 5. APPLICABILITY.**

13 (a) ANNUITIES COMMENCING ON OR AFTER EFEC-
 14 TIVE DATE OF IMPLEMENTING REGULATIONS.—An annu-
 15 ity or survivor annuity—

16 (1) which is based on the service of an indi-
 17 vidual who performed service described in section 1,
 18 and

19 (2) which commences on or after the effective
 20 date of the regulations prescribed to carry out this
 21 Act (as determined under section 2(a)(1)),
 22 shall (subject to section 2(a)) be computed taking into ac-
 23 count all service described in section 1 that was performed
 24 by such individual.

1 (b) ANNUITIES WITH COMMENCEMENT DATE PRE-
 2 CEDING EFFECTIVE DATE OF IMPLEMENTING REGULA-
 3 TIONS.—

4 (1) RECOMPUTATION CASES.—An annuity or
 5 survivor annuity—

6 (A) which is based on the service of an in-
 7 dividual who performed service described in sec-
 8 tion 1, and

9 (B) which commences before the effective
 10 date referred to in subsection (a)(2),
 11 shall (subject to section 2(a)) be recomputed taking
 12 into account all service described in section 1 that
 13 was performed by such individual.

14 (2) OTHER CASES.—An annuity or survivor
 15 annuity—

16 (A) which is based on the service of an in-
 17 dividual who performed service described in sec-
 18 tion 1,

19 (B) the requirements for entitlement to
 20 which could not be met without taking into ac-
 21 count service described in section 1, and

22 (C) which (if service described in section 1
 23 had been taken into account, and an appro-
 24 priate application been submitted) would have

1 commenced before the effective date referred to
2 in subsection (a)(2),
3 shall (subject to section 2(a)) be computed taking
4 into account all service described in section 1 that
5 was performed by such individual.

6 (3) RETROACTIVE EFFECT.—Any computation
7 or recomputation of an annuity or survivor annuity
8 pursuant to this subsection shall—

9 (A) if pursuant to paragraph (1), be effective
10 as of the commencement date of the annu-
11 ity or survivor annuity involved; and

12 (B) if pursuant to paragraph (2), be effective
13 as of the commencement date that would
14 have applied if application for the annuity or
15 survivor annuity involved had been submitted
16 on the earliest date possible in order for it to
17 have been approved.

18 (4) LUMP-SUM PAYMENT.—Any amounts which
19 by virtue of paragraph (3) are payable for any
20 months preceding the first month (on or after the
21 effective date referred to in subsection (a)(2)) as of
22 which annuity or survivor annuity payments become
23 payable fully reflecting the computation or recompu-
24 tation under paragraph (1) or (2) (as the case may

1 be) shall be payable in the form of a lump-sum pay-
2 ment.

3 (5) ORDER OF PRECEDENCE.—Section 8424(d)
4 of title 5, United States Code, shall apply in the
5 case of any payment under paragraph (4) payable to
6 an individual who has died.

7 **SEC. 6. IMPLEMENTATION.**

8 The Office of Personnel Management, in consultation
9 with the Secretary of State, shall prescribe such regula-
10 tions and take such action as may be necessary and appro-
11 priate to implement this Act.

