

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 651

To amend title 5, United States Code, to make creditable for civil service retirement purposes certain periods of service performed with Air America, Incorporated, Air Asia Company Limited, or the Pacific Division of Southern Air Transport, Incorporated, while those entities were owned or controlled by the Government of the United States and operated or managed by the Central Intelligence Agency.

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 2005

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

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## A BILL

To amend title 5, United States Code, to make creditable for civil service retirement purposes certain periods of service performed with Air America, Incorporated, Air Asia Company Limited, or the Pacific Division of Southern Air Transport, Incorporated, while those entities were owned or controlled by the Government of the United States and operated or managed by the Central Intelligence Agency.

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. AMENDMENTS.**

2 (a) IN GENERAL.—Section 8332(b) of title 5, United  
3 States Code, is amended—

4 (1) by striking “and” at the end of paragraph  
5 (16);

6 (2) by striking the period at the end of para-  
7 graph (17) and inserting “; and”;

8 (3) by adding after paragraph (17) the fol-  
9 lowing:

10 “(18) any period of service performed before  
11 1977, while a citizen of the United States, in the  
12 employ of Air America, Incorporated, Air Asia Com-  
13 pany Limited (a subsidiary of Air America, Incor-  
14 porated), or the Pacific Division of Southern Air  
15 Transport, Incorporated, at a time when that cor-  
16 poration (or subsidiary) was owned or controlled by  
17 the Government of the United States and operated  
18 or managed by the Central Intelligence Agency.”;  
19 and

20 (4) by adding at the end the following: “For  
21 purposes of this subchapter, service of the type de-  
22 scribed in paragraph (18) of this subsection shall be  
23 considered to have been service as an employee, and  
24 the Office of Personnel Management shall accept the  
25 certification of the Director of the Central Intel-

1       ligence Agency or his designee concerning any such  
2       service.”.

3       (b) EXEMPTION FROM DEPOSIT REQUIREMENT.—  
4       Section 8334(g) of title 5, United States Code, is amend-  
5       ed—

6               (1) by striking “or” at the end of paragraph  
7       (5);

8               (2) by striking the period at the end of para-  
9       graph (6) and inserting “; or”; and

10              (3) by adding after paragraph (6) the following:

11              “(7) any service for which credit is allowed  
12       under section 8332(b)(18) of this title.”.

13       **SEC. 2. APPLICABILITY.**

14       (a) IN GENERAL.—Except as otherwise provided in  
15       this section, the amendments made by this Act shall apply  
16       with respect to annuities commencing on or after the effec-  
17       tive date of this Act.

18       (b) PROVISIONS RELATING TO CURRENT ANNU-  
19       ITANTS.—Any individual who is entitled to an annuity for  
20       the month in which this Act becomes effective may, upon  
21       application submitted to the Office of Personnel Manage-  
22       ment within 2 years after the effective date of this Act,  
23       have the amount of such annuity recomputed as if the  
24       amendments made by this Act had been in effect through-  
25       out all periods of service on the basis of which such annu-

1 ity is or may be based. Any such recomputation shall be  
 2 effective as of the commencement date of the annuity, and  
 3 any additional amounts becoming payable for periods be-  
 4 fore the first month for which the recomputation is re-  
 5 flected in the individual's regular monthly annuity pay-  
 6 ments shall be payable to such individual in the form of  
 7 a lump-sum payment.

8 (c) PROVISIONS RELATING TO INDIVIDUALS ELIGI-  
 9 BLE FOR (BUT NOT CURRENTLY RECEIVING) AN ANNU-  
 10 ITY.—

11 (1) IN GENERAL.—Any individual (not de-  
 12 scribed in subsection (b)) who becomes eligible for  
 13 an annuity or for an increased annuity as a result  
 14 of the enactment of this Act may elect to have such  
 15 individual's rights under subchapter III of chapter  
 16 83 of title 5, United States Code, determined as if  
 17 the amendments made by this Act had been in ef-  
 18 fect, throughout all periods of service on the basis  
 19 of which such annuity is or would be based, by sub-  
 20 mitting an appropriate application to the Office of  
 21 Personnel Management within 2 years after—

22 (A) the effective date of this Act; or

23 (B) if later, the date on which such indi-  
 24 vidual separates from service.

25 (2) COMMENCEMENT DATE, ETC.—

1           (A) IN GENERAL.—Any entitlement to an  
2 annuity or to an increased annuity resulting  
3 from an application under paragraph (1) shall  
4 be effective as of the commencement date of  
5 such annuity (subject to subparagraph (B), if  
6 applicable), and any amounts becoming payable  
7 for periods before the first month for which reg-  
8 ular monthly annuity payments begin to be  
9 made in accordance with the amendments made  
10 by this Act shall be payable to such individual  
11 in the form of a lump-sum payment.

12           (B) RETROACTIVITY.—Any determination  
13 of the amount, or of the commencement date,  
14 of any annuity, all the requirements for entitle-  
15 ment to which (including separation, but dis-  
16 regarding any application requirement) would  
17 have been satisfied before the effective date of  
18 this Act if this Act had then been in effect (but  
19 would not then otherwise have been satisfied  
20 absent this Act) shall be made as if application  
21 for such annuity had been submitted as of the  
22 earliest date that would have been allowable,  
23 after such individual's separation from service,  
24 if such amendments had been in effect through-

1 out the periods of service referred to in the first  
2 sentence of paragraph (1).

3 (d) **RIGHT TO FILE ON BEHALF OF A DECEDENT.**—

4 The regulations under section 4(a) shall include provi-  
5 sions, consistent with the order of precedence set forth in  
6 section 8342(e) of title 5, United States Code, under  
7 which a survivor of an individual who performed service  
8 described in section 8332(b)(18) of such title (as amended  
9 by section 1) shall be allowed to submit an application on  
10 behalf of and to receive any lump-sum payment that would  
11 otherwise have been payable to the decedent under sub-  
12 section (b) or (c). Such an application shall not be valid  
13 unless it is filed within 2 years after the effective date  
14 of this Act or 1 year after the date of the decedent's death,  
15 whichever is later.

16 **SEC. 3. FUNDING.**

17 (a) **LUMP-SUM PAYMENTS.**—Any lump-sum pay-  
18 ments under section 2 shall be payable out of the Civil  
19 Service Retirement and Disability Fund.

20 (b) **UNFUNDED LIABILITY.**—Any increase in the un-  
21 funded liability of the Civil Service Retirement System at-  
22 tributable to the enactment of this Act shall be financed  
23 in accordance with section 8348(f) of title 5, United States  
24 Code.

1 **SEC. 4. REGULATIONS AND SPECIAL RULE.**

2 (a) IN GENERAL.—Except as provided in subsection  
3 (b), the Director of the Office of Personnel Management,  
4 in consultation with the Director of the Central Intel-  
5 ligence Agency, shall prescribe any regulations necessary  
6 to carry out this Act. Such regulations shall include provi-  
7 sions under which rules similar to those established pursu-  
8 ant to section 201 of the Federal Employees' Retirement  
9 System Act of 1986 (Public Law 99–335; 100 Stat. 514)  
10 shall be applied with respect to any service described in  
11 section 8332(b)(18) of title 5, United States Code (as  
12 amended by section 1) that was subject to title II of the  
13 Social Security Act.

14 (b) OTHER REGULATIONS.—The Director of the Cen-  
15 tral Intelligence Agency, in consultation with the Director  
16 of the Office of Personnel Management, shall prescribe  
17 any regulations which may become necessary, with respect  
18 to any retirement system administered by the Director of  
19 the Central Intelligence Agency, as a result of the enact-  
20 ment of this Act.

21 (c) SPECIAL RULE.—For purposes of any application  
22 for any benefit which is computed or recomputed taking  
23 into account any service described in section 8332(b)(18)  
24 of title 5, United States Code (as amended by section 1),  
25 section 8345(i)(2) of such title shall be applied by deeming  
26 the reference to the date of the “other event which gives

1 rise to title to the benefit” to refer to the effective date  
2 of this Act, if later than the date of the event that would  
3 otherwise apply.

4 **SEC. 5. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the terms “unfunded liability”, “survivor”,  
7 and “survivor annuitant” have the meanings given  
8 under section 8331 of title 5, United States Code;  
9 and

10 (2) the term “annuity”, as used in subsections  
11 (b) and (c) of section 2, includes a survivor annuity.

12 **SEC. 6. EFFECTIVE DATE.**

13 This Act shall take effect on the first day of the first  
14 fiscal year beginning after the date of the enactment of  
15 this Act.

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