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X

97TH CONGRESS  
1ST SESSION

S. 888

To provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 7 (legislative day, FEBRUARY 16), 1981

Mr. DURENBERGER (for himself, Mr. PACKWOOD, Mr. HATFIELD, Mrs. KASSEBAUM, Mr. LEVIN, Mr. HEINZ, Mr. MOYNIHAN, Mr. MELCHER, Mr. MATSUNAGA, Mr. TSONGAS, and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Finance

+ Labor

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A BILL

To provide effective programs to assure equality of economic opportunities for women and men, 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,*
- 3 *That this Act may be cited as the "Economic Equity Act".*

1 TITLE I—TAX AND RETIREMENT MATTERS  
2 DEDUCTION FOR CONTRIBUTIONS TO INDIVIDUAL  
3 RETIREMENT PLANS

4 SEC. 101. (a) GENERAL RULE.—Paragraph (2) of sec-  
5 tion 219(c) of the Internal Revenue Code of 1954 (relating to  
6 married individuals) is amended to read as follows:

7 “(2) MARRIED INDIVIDUALS.—

8 “(A) COMPUTATION OF MAXIMUM DEDUC-  
9 TION.—The maximum deduction under subsection  
10 (b)(1) shall be computed separately for each indi-  
11 vidual who is married (within the meaning of sec-  
12 tion 143(a)).

13 “(B) COMMUNITY PROPERTY LAWS.—This  
14 section shall be applied without regard to any  
15 community property laws.

16 “(C) HIGHER COMPENSATION USED.—In  
17 the case of a married individual who has no com-  
18 pensation or whose compensation is less than that  
19 of the individual's spouse, the maximum deduction  
20 under subsection (b)(1) shall be determined as if  
21 such individual's compensation were the same as  
22 that of such individual's spouse.”.

23 (b) TREATMENT OF ALIMONY AS COMPENSATION.—  
24 Paragraph (1) of section 219(c) of such Code (defining com-  
25 pensation) is amended by inserting before the period at the

1 end thereof the following: "and periodic payments includible  
2 in gross income under section 71".

3 (c) EFFECTIVE DATE.—The amendments made by this  
4 section shall apply to taxable years beginning after December  
5 31, 1980.

6 JOINT AND SURVIVOR ANNUITY REQUIREMENTS

7 SEC. 102. (a) AMENDMENTS TO ERISA.—

8 (1) Section 205 of the Employee Retirement  
9 Income Security Act of 1974 (relating to joint and sur-  
10 vivor annuity requirement) is amended by striking out  
11 subsections (b) and (c) and inserting in lieu thereof the  
12 following:

13 "(b) A plan which provides that the normal form of  
14 benefit is an annuity shall, with respect to any participant  
15 who under the plan is credited with at least 10 years of serv-  
16 ice for vesting purposes under section 203 and who dies  
17 before the annuity starting date, provide a survivor's annuity  
18 for the participant's spouse—

19 "(1) which begins on the annuity starting date  
20 (determined as if the participant had lived until the  
21 earliest retirement age under the plan, or the partici-  
22 pant's actual date of death if later, and had retired on  
23 such date prior to death), if the spouse is living on  
24 such date, and

1           “(2) the payments under which are not less than  
2           the payments which would have been made under the  
3           survivor's annuity to which such spouse would have  
4           been entitled if the participant had terminated employ-  
5           ment on his date of death, had survived and retired on  
6           such annuity starting date, and had died on the day  
7           following such date.”.

8           (2) Subsection (e) of section 205 of such Act is  
9           amended to read as follows:

10          “(e) A plan shall not be treated as satisfying the require-  
11          ments of this section unless, under the plan—

12               “(1) each participant has a reasonable period (as  
13               prescribed by the Secretary of the Treasury by regula-  
14               tions) before the annuity starting date during which he  
15               may elect in writing (after having received a written  
16               explanation of the terms and conditions of the joint and  
17               survivor annuity and the effect of an election under  
18               this subsection) not to take such joint and survivor  
19               annuity,

20               “(2) such an election will not be effective unless  
21               the spouse of the individual (as of the time such elec-  
22               tion is made) consents in writing to such an election  
23               and such consent is witnessed by a plan representative  
24               or a notary public.”.

1           (3) Subsection (f) of section 205 of such Act is  
2 hereby repealed.

3           (b) AMENDMENTS OF THE INTERNAL REVENUE CODE  
4 OF 1954.—

5           (1) Paragraph (11) of section 401(a) of the Inter-  
6 nal Revenue Code of 1954 (relating to qualified pen-  
7 sion, profit-sharing, and stock-bonus plans) is amended  
8 by striking out subparagraphs (B) and (C), and inserting  
9 in lieu thereof the following:

10           “(B) A plan which provides that the normal  
11 form of benefit is an annuity shall, with respect to  
12 any participant who under the plan is credited  
13 with at least 10 years of service for vesting pur-  
14 poses under section 411(a) and who dies before  
15 the annuity starting date, provide a survivor's an-  
16 nuity for the participant's spouse—

17           “(i) which begins on the annuity start-  
18 ing date (determined as if the participant had  
19 lived until the earliest retirement age under  
20 the plan, or the participant's actual date of  
21 death if later, and had retired on such date  
22 prior to death), if the spouse is living on such  
23 date, and

24           “(ii) the payments under which are not  
25 less than the payments which would have

1           been made under the survivor's annuity to  
2           which such spouse would have been entitled  
3           if the participant had terminated employment  
4           on his date of death, had survived and re-  
5           tired on such annuity starting date, and had  
6           died on the day following such date."

7           (2) Subparagraph (E) of section 401(a)(11) of such  
8           Code is amended to read as follows:

9           “(E) A plan shall not be treated as satisfying  
10          the requirements of this section unless, under the  
11          plan—

12               “(i) each participant has a reasonable  
13               period (as prescribed by the Secretary by  
14               regulations) before the annuity starting date  
15               during which he may elect in writing (after  
16               having received a written explanation of the  
17               terms and conditions of the joint and survi-  
18               vor annuity and the effect of an election  
19               under this paragraph) not to take such joint  
20               and survivor annuity,

21               “(ii) such an election will not be effec-  
22               tive unless the spouse of the individual (as of  
23               the time such election is made) consents in  
24               writing to such an election and such consent

1 is witnessed by a plan representative or a  
2 notary public.”.

3 (3) Subparagraph (F) of section 401(a)(11) of such  
4 Code is hereby repealed.

5 (c) EFFECTIVE DATE.—The amendments made by this  
6 section shall apply with respect to plan years beginning more  
7 than one year after the date of the enactment of this Act.

8 PROHIBITION AGAINST ASSIGNMENT NOT TO APPLY IN  
9 DIVORCE, ETC., PROCEEDINGS

10 SEC. 103. (a) AMENDMENT OF ERISA.—Subsection  
11 (d) of section 206 of the Employee Retirement Income Secu-  
12 rity Act of 1974 is amended by adding at the end thereof the  
13 following new paragraph:

14 “(3) Paragraph (1) shall not apply in the case of a judg-  
15 ment, decree, or order (including an approval of a property  
16 settlement agreement) relating to child support, alimony pay-  
17 ments, or marital property rights, pursuant to a State domes-  
18 tic relations law (whether of the common law or community  
19 property type), which—

20 “(A) creates or recognizes the existence of an in-  
21 dividual’s right to receive all or a portion of the bene-  
22 fits to which a participant’s designated beneficiary  
23 would otherwise be entitled under a pension plan,

24 “(B) clearly identifies such participant, the  
25 amount or percentage of such benefits to be paid to

1 such individual, the number of payments to which such  
2 judgment, decree, or order applies, and the name and  
3 mailing address of such individuals, and

4 “(C) does not require such plan to alter the effec-  
5 tive date, timing, form, duration, or amount of any  
6 benefit payments under the plan or to honor any elec-  
7 tion which is not provided for under the plan or which  
8 is made by a person other than a participant or  
9 beneficiary.”.

10 (b) AMENDMENT OF THE INTERNAL REVENUE CODE  
11 OF 1954.—Paragraph (13) of section 401(a) of the Internal  
12 Revenue Code of 1954 is amended by adding at the end  
13 thereof the following new sentence: “This paragraph shall  
14 not apply in the case of any judgment, decree, or order pur-  
15 suant to a State domestic relations law if such judgment,  
16 decree, or order is described in section 206(d)(3) of the Em-  
17 ployee Retirement Income Security Act of 1974.”.

18 (c) EFFECTIVE DATE.—The amendments made by this  
19 section shall take effect on the date of the enactment of this  
20 Act.

21 LOWERING OF AGE LIMITATION FOR MINIMUM  
22 PARTICIPATION STANDARDS

23 SEC. 104. (a) AMENDMENT OF ERISA.—Subpara-  
24 graphs (A)(i) and (B)(ii) of section 202(a)(1) of the Employee

1 Retirement Income Security Act of 1974 are each amended  
2 by striking out "25" and inserting in lieu thereof "21".

3 (b) AMENDMENT OF THE INTERNAL REVENUE CODE  
4 OF 1954.—Subparagraphs (A)(i) and (B)(ii) of section  
5 410(a)(1) of the Internal Revenue Code of 1954 are each  
6 amended by striking out "25" and inserting in lieu thereof  
7 "21".

8 (c) EFFECTIVE DATE.—The amendments made by this  
9 section shall apply to plan years beginning more than 90  
10 days after the date of the enactment of this Act.

11 ACCRUALS CONTINUE WHILE INDIVIDUAL ON APPROVED  
12 MATERNITY OR PATERNITY LEAVE

13 SEC. 105. (a) AMENDMENT OF ERISA.—Subsection (b)  
14 of section 202 of the Employee Retirement Income Security  
15 Act of 1974 is amended by adding at the end thereof the  
16 following new paragraph:

17 "(5)(A) For purposes of this section and sections 203  
18 and 204, for each week of an approved maternity or paterni-  
19 ty leave, the individual shall be deemed to have performed 20  
20 hours of service for the employer.

21 "(B) For purposes of subparagraph (A), the term 'ap-  
22 proved maternity or paternity leave' means any period (not to  
23 exceed 52 weeks) during which the individual is absent from  
24 work if—

1           “(i) such absence is by reason of the birth of a  
2           child of the individual or for purposes of caring for a  
3           child of the individual, and

4           “(ii) such absence is approved by the employer.

5           “(C) Subparagraph (A) shall not apply unless the indi-  
6           vidual continues to perform service for the employer after the  
7           end of the approved maternity or paternity leave or offers to  
8           do so but is not reemployed by the employer.”.

9           (b) AMENDMENT OF THE INTERNAL REVENUE CODE  
10          OF 1954.—Subsection (a) of section 410 of the Internal Rev-  
11          enue Code of 1954 is amended by adding at the end thereof  
12          the following new paragraph:

13                 “(6) APPROVED MATERNITY OR PATERNITY  
14          LEAVE.—

15                 “(A) IN GENERAL.—For purposes of this  
16                 section and section 411, for each week of an ap-  
17                 proved maternity or paternity leave, the individual  
18                 shall be deemed to have performed 20 hours of  
19                 service for the employer.

20                 “(B) APPROVED MATERNITY OR PATERNITY  
21                 LEAVE DEFINED.—For purposes of subparagraph  
22                 (A), the term ‘approved maternity or paternity  
23                 leave’ means any period (not to exceed 52 weeks)  
24                 during which the individual is absent from work  
25                 if—

1           “(i) such absence is by reason of the  
2           birth of a child of the individual or for pur-  
3           poses of caring for a child of the individual,  
4           and

5           “(ii) such absence is approved by the  
6           employer.

7           “(C) INDIVIDUAL MUST CONTINUE TO PER-  
8           FORM SERVICES AFTER THE LEAVE.—Subpara-  
9           graph (A) shall not apply unless the individual  
10          continues to perform service for the employer  
11          after the end of the approved maternity or pater-  
12          nity leave or offers to do so but is not reemployed  
13          by the employer.”.

14          (c) EFFECTIVE DATE.—The amendments made by this  
15          section shall apply to plan years beginning more than 1 year  
16          after the date of the enactment of this Act.

17          ZERO BRACKET AMOUNT FOR HEADS OF HOUSEHOLDS

18          SEC. 106. (a) IN GENERAL.—Subsection (d) of section  
19          63 of the Internal Revenue Code of 1954 (relating to zero  
20          bracket amount) is amended to read as follows:

21          “(d) ZERO BRACKET AMOUNT.—For purposes of this  
22          subtitle, the term ‘zero bracket amount’ means—

23                 “(1) \$3,400 in the case of—

24                 “(A) a joint return under section 6013,

1           “(B) a surviving spouse (as defined in section  
2           2(a)), or

3           “(C) the head of a household (as defined in  
4           section 2(b)),

5           “(2) \$2,300 in the case of an individual who is  
6           not married, who is not a surviving spouse (as so de-  
7           fined), and who is not the head of a household (as so  
8           defined),

9           “(3) \$1,700 in the case of a married individual  
10          filing a separate return, and

11          “(4) zero in any other case.”.

12          (b) CONFORMING AMENDMENTS.—

13           (1) TAX RATE TABLE.—Subsection (b) of section  
14          1 of such Code (relating to tax imposed on heads of  
15          households) is amended by striking out the table there-  
16          in and inserting in lieu thereof the following new table:

| “If taxable income is:                    | The tax is:                                |
|-------------------------------------------|--------------------------------------------|
| Not over \$3,400.....                     | No tax.                                    |
| Over \$3,400 but not over \$5,500 .....   | 14% of excess over \$3,400.                |
| Over \$5,500 but not over \$7,600 .....   | \$294, plus 16% of excess over \$5,500.    |
| Over \$7,600 but not over \$9,800 .....   | \$630, plus 18% of excess over \$7,600.    |
| Over \$9,800 but not over \$12,900 .....  | \$1,026, plus 22% of excess over \$9,800.  |
| Over \$12,900 but not over \$16,100 ..... | \$1,708, plus 24% of excess over \$12,900. |
| Over \$16,100 but not over \$19,300 ..... | \$2,476, plus 26% of excess over \$16,100. |
| Over \$19,300 but not over \$24,600 ..... | \$3,308, plus 31% of excess over \$19,300. |
| Over \$24,600 but not over \$29,900 ..... | \$4,951, plus 36% of excess over \$24,600. |
| Over \$29,900 but not over \$35,200 ..... | \$6,859, plus 42% of excess over \$29,900. |
| Over \$35,200 but not over \$45,800 ..... | \$9,085, plus 46% of excess over \$35,200. |

**"If taxable income is:****The tax is:**

|                                           |                                               |
|-------------------------------------------|-----------------------------------------------|
| Over \$45,800 but not over \$61,700 ..... | \$13,961, plus 54% of excess over \$45,800.   |
| Over \$61,700 but not over \$82,900 ..... | \$22,547, plus 59% of excess over \$61,700.   |
| Over \$82,900 but not over \$109,400....  | \$35,055, plus 63% of excess over \$82,900.   |
| Over \$109,400 but not over \$162,400..   | \$51,750, plus 68% of excess over \$109,400.  |
| Over \$162,400 .....                      | \$87,790, plus 70% of excess over \$162,400." |

1           (2) WITHHOLDING.—Paragraph (1) of section  
2       3402(f) of such Code (relating to withholding exemp-  
3       tions) is amended—

4           (A) by striking out "and" at the end of sub-  
5       paragraph (F),

6           (B) by striking out the period at the end of  
7       subparagraph (G) and inserting in lieu thereof a  
8       semicolon and the word "and",

9           (C) by adding at the end thereof the follow-  
10      ing new subparagraph:

11           “(H) in the case of an employee who is the  
12      head of a household (as defined in section 2(b))  
13      and who elects the application of this subpara-  
14      graph, an additional zero bracket allowance.”, and

15           (D) by inserting "or (H)" after "(G)" in the  
16      last sentence thereof.

17           (3) FILING.—Paragraph (1) of section 6012(a) of  
18      such Code (relating to persons required to make re-  
19      turns of income) is amended—

1 (A) by inserting “, is not the head of a  
2 household (as defined in section 2(b)),” immediate-  
3 ly before “and” in subparagraph (A)(i),

4 (B) by striking out “or” at the end of sub-  
5 paragraph (A)(ii),

6 (C) by striking out the period at the end of  
7 clause (iii) and inserting in lieu thereof a comma  
8 and “or”, and

9 (D) by inserting immediately after clause (iii)  
10 of subparagraph (A) the following new clause:

11 “(iv) who is the head of a household (as  
12 defined in section 2(b)) and for the taxable  
13 year has gross income of less than \$5,400.”.

14 (c) EFFECTIVE DATE.—The amendments made by this  
15 section shall apply with respect to taxable years beginning  
16 after December 31, 1980.

#### 17 MILITARY RETIREMENT

18 SEC. 107. (a)(1) Chapter 73 of title 10, United States  
19 Code, relating to annuities based on retired or retainer pay,  
20 is amended by adding after subchapter II the following new  
21 subchapter:

#### 22 “SUBCHAPTER III—FORMER SPOUSE SHARE OF 23 RETIRED OR RETAINER PAY

“Sec.

“1461. Definitions.

“1462. Former spouse share of retired or retainer pay.

“1463. Reduction in retired or retainer pay.

“1464. Spousal agreements and court orders.

“1465. Nonpreemption of State law.

## 1 "§ 1461. Definitions

2 "In this subchapter and in subchapter II of this chapter:

3 "(1) 'Former spouse' means a former wife or hus-  
4 band of a member or former member who was married  
5 to that member or former member for not less than ten  
6 years during which that member or former member  
7 performed creditable service.

8 "(2) 'Court' means a court of a State or of the  
9 District of Columbia.

10 "(3) 'Court order' means a court decree of divorce  
11 or annulment, or a court order or court approved prop-  
12 erty settlement agreement incident to a final court  
13 decree of divorce or annulment, which orders that a  
14 portion of the retired or retainer pay of a member or  
15 former member, or a survivor annuity based on the  
16 service of such member or former member, be paid to a  
17 former spouse by the member or former member, by  
18 the Secretary concerned, or by the Government.

19 "(4) 'Pro rata share', in the case of a former  
20 spouse of a member or former member entitled to re-  
21 tired or retainer pay, means the percentage that is  
22 equal to the percentage that (A) the number of years  
23 during which the former spouse was married to the  
24 member or former member during the creditable serv-

1 ice of that member or former member is of (B) the  
2 total number of years of such creditable service.

3 “(5) ‘Spousal agreement’ means any written  
4 agreement between a member or former member and  
5 that member or former member’s spouse or former  
6 spouse which is in writing and acknowledged before a  
7 notary public.

8 “(6) ‘Creditable service’ means service credited to  
9 a member or former member for the purpose of deter-  
10 mining the eligibility of that member or former member  
11 for retired or retainer pay.

12 “§1462. Former spouse share of retired or retainer pay

13 “(a) Unless otherwise expressly provided by any spousal  
14 agreement or court order described in section 1464 of this  
15 title, a former spouse of a member or former member who is  
16 entitled to retired or retainer pay is entitled to an annuity—

17 “(1) if married to the member or former member  
18 throughout the creditable service of the member or  
19 former member, equal to 50 percent of the retired or  
20 retainer pay of the member or former member; or

21 “(2) if not married to the member or former  
22 member throughout the creditable service of the  
23 member or former member, equal to the former  
24 spouse’s pro rata share of 50 percent of the retired or  
25 retainer pay of the member or former member.

1       “(b) The amount of retired or retainer pay used for the  
2 computation of an annuity under this section shall be deter-  
3 mined after any reduction in such retired or retainer pay re-  
4 quired under section 1452 of this title.

5       “(c) A former spouse is not qualified for an annuity  
6 under this section if before the commencement of the annuity  
7 the former spouse remarries before becoming 60 years of age.

8       “(d)(1) An annuity of a former spouse under this section  
9 commences on the later of the day after the member or  
10 former member upon whose service the annuity is based be-  
11 comes entitled to retired or retainer pay or the first day of  
12 the month in which the divorce or annulment involved be-  
13 comes final.

14       “(2) Such annuity and the right to such annuity  
15 terminate—

16               “(A) on the last day of the month before the  
17 former spouse dies or remarries before becoming 60  
18 years of age; or

19               “(B) on the date the retired or retainer pay of the  
20 member or former member upon whose service the an-  
21 nuity is based dies.

22       “(e) A former spouse is not entitled to an annuity under  
23 this subchapter based upon the service of a member or former  
24 member unless the former spouse elects to receive it instead  
25 of any other annuity to which the former spouse may be enti-

1 tled under this chapter or any retirement system for Govern-  
2 ment employees on the basis of a marriage to someone other  
3 than the member or former member.

4 "§ 1463. Reduction in retired or retainer pay

5 "The retired or retainer pay of a member or former  
6 member shall be reduced by the amount of an annuity under  
7 this subchapter paid to a former spouse of that member or  
8 former member based on the service of that member or  
9 former member. Such reduction shall be disregarded in calcu-  
10 lating any annuity under subchapter II of this chapter and in  
11 calculating any reduction in retired or retainer pay under sec-  
12 tion 1452 of this title.

13 "§ 1464. Spousal agreements and court orders

14 "(a)(1)(A) In the case of any member or former member  
15 who has a former spouse who is covered by a court order or  
16 who is a party to a spousal agreement—

17 "(i) any right of the former spouse to an annuity  
18 under section 1462 of this title in connection with the  
19 retired or retainer pay of the member or former  
20 member, and the amount of any such annuity; and

21 "(ii) any right of the former spouse to a survivor  
22 annuity under subchapter II of this chapter, and the  
23 amount of any such annuity,

1 shall be determined in accordance with that spousal agree-  
2 ment or court order, if and to the extent expressly provided  
3 for in the terms of that spousal agreement or court order.

4 “(B) This paragraph shall not apply in the case of any  
5 spousal agreement or court order which, as determined by  
6 the Secretary concerned is inconsistent with the requirements  
7 of this chapter.

8 “(2) Except with respect to obligations between mem-  
9 bers or former members and former spouses, payments under  
10 this chapter which would otherwise be made to a member or  
11 former member based upon that member or former member's  
12 service shall be paid (in whole or in part) by the Secretary  
13 concerned to another natural person to the extent expressly  
14 provided for in the terms of any order or any court decree of  
15 legal separation, or the terms of any court order or court-  
16 approved property settlement agreement incident to any  
17 court decree of legal separation.

18 “(3) Paragraphs (1) and (2) shall apply only to payments  
19 made under this chapter for periods beginning after the date  
20 of receipt by the Secretary concerned of written notice of  
21 such decree, order, or agreement, and such additional infor-  
22 mation and such documentation as the Secretary concerned  
23 may require.

24 “(b) Any payment under this subsection to any person  
25 bars recovery by any other person.

1       “(c) No spousal agreement or court order involving a  
 2 member or former member may provide for an annuity or any  
 3 combination of annuities under this subchapter which exceeds  
 4 the amount of the retired or retainer pay of the member or  
 5 former member, nor may any such court order relating to an  
 6 annuity under this subchapter be given effect if it is issued  
 7 more than 12 months after the date the divorce or annulment  
 8 involved becomes final.

9       “(d) After the death of a member or former member, a  
 10 court order may not adjust the amount of the annuity of a  
 11 former spouse under this subchapter or subchapter II of this  
 12 chapter.

### 13   “§ 1465. Nonpreemption of State law

14       “The 10-year requirement of section 1461(1) of this  
 15 title, or any other provision of this chapter, shall not be con-  
 16 strued to affect the rights any spouse or person formerly mar-  
 17 ried to a member or former member may have, under any law  
 18 or rule of law of any State or the District of Columbia, with  
 19 respect to the retired or retainer pay of the member or former  
 20 member.”.

21       (2) The table of subchapters at the beginning of chapter  
 22 73 of title 10, United States Code, is amended by adding at  
 23 the end thereof the following new item:

“III. Former Spouse Share of Retired or Retainer Pay ..... 1461”

1 (b) Section 1447 of title 10, United States Code, relat-  
2 ing to definitions applicable to the Survivor Benefit Plan, is  
3 amended—

4 (1) by striking out “by the person providing the  
5 annuity” in paragraph (2) and inserting in lieu thereof  
6 “in accordance with section 1448(a)(3) of this title”;  
7 and

8 (2) by adding at the end thereof the following new  
9 paragraph:

10 “(6) ‘Former spouse’, ‘pro rata share’, ‘spousal agree-  
11 ment’, ‘court order’, and ‘creditable service’ have the mean-  
12 ings given such terms in section 1461 of this title.”.

13 (c)(1) Subsection (a) of section 1448 of title 10, United  
14 States Code, relating to the application of the Survivor Bene-  
15 fit Plan, is amended—

16 (A) in paragraph (2)—

17 (i) by inserting “except to the extent other-  
18 wise provided under paragraph (3),” in clause (A)  
19 before “to a person”;

20 (ii) by striking out “is married” both places  
21 it appears and inserting in lieu thereof “is mar-  
22 ried, has a former spouse,”; and

23 (iii) by striking out “, unless he elects” in  
24 clause (A) and all that follows through “that  
25 pay”;

1 (B) by inserting "except to the extent otherwise  
2 provided under paragraph (4)," in clause (B) after  
3 "(iii)"; and

4 (C) by striking out paragraphs (3) and (4) and  
5 inserting in lieu thereof the following:

6 "(3)(A) Before becoming eligible for retired or retainer  
7 pay, a married person eligible under paragraph (1)(A) to par-  
8 ticipate in the Plan and such person's spouse may jointly  
9 elect not to participate in the Plan, to participate in the Plan  
10 at a reduced level, or to provide an annuity for a dependent  
11 child but not for the spouse. Any such election shall be in  
12 writing and shall be acknowledged before a notary public. In  
13 the event the marriage is dissolved following an election to  
14 participate at such a reduced level and the spouse qualifies as  
15 a former spouse, the base amount used in calculating an an-  
16 nuity as a former spouse under section 1450 of this title may  
17 not exceed the base amount designated under this subpara-  
18 graph. An election under this subparagraph not to participate  
19 in the Plan is irrevocable if not revoked before the date on  
20 which the person first becomes entitled to retired or retainer  
21 pay.

22 "(B) A person eligible under paragraph (1)(B) to partici-  
23 pate in the Plan who is married may not make an election  
24 under subclause (iii) of such paragraph to participate in the  
25 Plan at a reduced level or to provide an annuity for a depend-

1 ent child but not for the spouse without the agreement of the  
2 spouse. Any such agreement shall be in writing and shall be  
3 acknowledged before a notary public. In the event the mar-  
4 riage is dissolved following an election for participation in the  
5 Plan at a reduced level and the spouse qualifies as a former  
6 spouse, the base amount used in calculating any annuity of  
7 the former spouse under section 1450 of this title may not  
8 exceed the base amount designated under this subparagraph.  
9 An election under this subparagraph is irrevocable if not re-  
10 voked before the end of the 90-day period referred to in such  
11 paragraph.

12       “(C) If a person who is eligible to participate in the Plan  
13 has a former spouse, the person and such former spouse may  
14 jointly elect by spousal agreement under section 1464 of this  
15 title not to participate in the Plan with respect to an annuity  
16 under section 1450 of this title for that former spouse if the  
17 election is made (i) before the end of the 12-month period  
18 after the divorce or annulment involving that former spouse  
19 becomes final, or (ii) at the time the person becomes eligible  
20 to participate in the Plan, whichever occurs first. Such an  
21 election is irrevocable after the expiration of the time  
22 described in the preceding sentence for the making of such  
23 election.

24       “(4) Regulations prescribed under section 1455 of this  
25 title may authorize a person eligible to participate in the Plan

1 to make an election under paragraph (3) without the person's  
2 spouse or former spouse if the person establishes to the satis-  
3 faction of the Secretary concerned that the person does not  
4 know, and has taken all reasonable steps to determine, the  
5 whereabouts of the spouse or former spouse."

6 (2) Subsection (b) of such section is amended by striking  
7 out "who is not married" and inserting in lieu thereof "who  
8 is not married, does not have a former spouse,".

9 (3) Subsection (d) of such section is amended by striking  
10 out "to which the otherwise eligible spouse" and all that  
11 follows and inserting in lieu thereof "which the member  
12 would have received if he had been eligible for that pay on  
13 the day before he died, based upon his years of active service.  
14 If such a member has a former spouse at the time of death,  
15 the Secretary concerned shall pay to the former spouse an  
16 annuity equal to 55 percent of the amount of the annuity  
17 which would have been payable to the former spouse under  
18 section 1462 if the member had been eligible for retired or  
19 retainer pay on the day before he died, and the annuity of the  
20 surviving spouse under the preceding sentence shall be re-  
21 duced by the amount of the annuity paid to the former  
22 spouse."

23 (4) Such section is further amended by adding at the end  
24 thereof the following new subsection:

1       “(f)(1) In the case of any person providing an annuity  
2 under the Plan for a former spouse—

3               “(A) such person may elect, or

4               “(B) a spousal agreement or court order may pro-  
5 vide for,

6 an additional annuity under the Plan for any other former  
7 spouse or spouse surviving the person, if the person satisfac-  
8 torily passes a physical examination as prescribed by the Sec-  
9 retary concerned.

10       “(2) Neither the total amount of annuity or annuities  
11 under this subsection with respect to any person participating  
12 in the Plan, nor the annuity or annuities for any one surviv-  
13 ing spouse or former spouse of such person under the Plan,  
14 may exceed 55 percent of the full amount of the person’s  
15 retired or retainer pay.

16       “(3)(A) In accordance with regulations prescribed under  
17 section 1455 of this title, the person involved may provide for  
18 an annuity under this subsection—

19               “(i) by a reduction in the retired or retainer pay  
20 or an allotment from the basic pay of the person,

21               “(ii) by a lump sum payment or installment pay-  
22 ments, or

23               “(iii) by any combination thereof.

24       “(B) The present value of the total amount to accrue to  
25 the United States under subparagraph (A) to provide an an-

1 nuity under this subsection shall be actuarially equivalent  
 2 value to such annuity, as calculated upon such tables of mo  
 3 tality as may from time to time be prescribed for such pu  
 4 pose under section 1455 of this title.

5 “(C) If a former spouse predeceases the person involve  
 6 or remarries before attaining age 60 (or, in the case of  
 7 spouse, the spouse does not qualify as a former spouse upo  
 8 dissolution of the marriage)—

9 “(i) if a reduction in retired or retainer pay or a  
 10 allotment of basic pay under subparagraph (A) is  
 11 effect for that spouse or former spouse, the retired o  
 12 retainer pay shall be recomputed and paid as if it ha  
 13 not been reduced or the basic pay allotment termina  
 14 ed, as the case may be, and

15 “(ii) any amount accruing to the United State  
 16 under subparagraph (A) shall be refunded, but only  
 17 the extent that such amount may have exceeded th  
 18 actuarial cost of providing benefits under this subsec  
 19 tion for the period such benefits were provided, as de  
 20 termined under regulations prescribed under sectio  
 21 1455 of this title.

22 “(D) Under regulations prescribed under section 1455  
 23 this title, retired or retainer pay shall be recomputed (or  
 24 allotment of basic pay terminated or adjusted), and a refu  
 25 provided (if appropriate), in a manner comparable to that p

1 vided under subparagraph (C), in order to reflect a termina-  
2 tion or reduction of future benefits under this subsection for a  
3 spouse in the event a former spouse of the person involved  
4 dies or remarries before attaining age 60 and an increased  
5 annuity is provided for that spouse in accordance with this  
6 chapter.

7 “(4) An annuity payable under this subsection to a  
8 spouse or former spouse shall commence on the day after the  
9 person dies and shall terminate on the last day of the month  
10 before the spouse or former spouse’s death or remarriage  
11 before attaining age 60.

12 “(5) Section 1451(c) of this title shall not apply to any  
13 annuity under this subsection, unless authorized under regu-  
14 lations prescribed under section 1455 of this title.”.

15 (d) Section 1450 of title 10, United States Code, relat-  
16 ing to beneficiaries under the Survivor Benefit Plan, is  
17 amended—

18 (1) in subsection (a)—

19 (A) in clause (1), by inserting after “or wid-  
20 ower” the following: “and any eligible former  
21 spouse”; and

22 (B) in clause (2), by striking out “if the eligi-  
23 ble widow or widower is dead, dies, or otherwise  
24 becomes ineligible” and inserting in lieu thereof  
25 “if the eligible widow or widower and any eligible

1 former spouse are dead, die, or otherwise become  
2 ineligible”;

3 (2) in subsection (b), by inserting “or former  
4 spouse” after “widow or widower” each place it ap-  
5 pears; and

6 (3) by striking out the first two sentences of sub-  
7 section (e) and inserting in lieu thereof “If no annuity  
8 under this section is payable to a widow or widower  
9 because of subsection (c), any amount deducted from  
10 the retired or retainer pay of the deceased under sec-  
11 tion 1452 of this title shall be refunded to the widow  
12 or widower. If, because of subsection (c), the annuity  
13 payable to the widow or widower is less than the  
14 amount established under section 1451 of this title, the  
15 annuity shall be recalculated under that section.”.

16 (e)(1) Paragraph (1) of subsection (a) of section 1451  
17 title 10, United States Code, relating to the amount of annu-  
18 ities under the Survivor Benefit Plan, is amended to read as  
19 follows:

20 “(1)(A)(i) Subject to paragraphs (2) and (3), the monthly  
21 annuity payable to a widow or widower who is entitled under  
22 section 1450(a)(1) of this title to an annuity shall be—

23 “(I) 55 percent of the base amount, as adjusted  
24 from time to time under section 1401a of this title,

1 the annuity is provided by virtue of eligibility under  
2 section 1448(a)(1)(A) of this title; or

3 “(II) a lesser percentage (determined by the Sec-  
4 retary of Defense in accordance with subsection (d)) of  
5 the base amount, as adjusted from time to time under  
6 section 1401a of this title, on or after the date the  
7 person becomes entitled to retired pay under chapter  
8 67 of this title, if the annuity is provided by virtue of  
9 eligibility under section 1448(a)(1)(B) of this title.

10 “(ii) Notwithstanding clause (i), the amount of an annu-  
11 ity calculated under clause (i) for a widow or widower in a  
12 case in which there is also a surviving former spouse who  
13 qualifies for an annuity under section 1450(a)(1) of this title  
14 may not exceed 55 percent (or the applicable percentage de-  
15 termined in accordance with subsection (d)) of the portion (if  
16 any) of the base amount that remains available under subec-  
17 tion (e)(2).

18 “(B) Subject to paragraphs (2) and (3), the monthly an-  
19 nuity payable to a former spouse who is entitled under sec-  
20 tion 1450(a)(1) of this title to an annuity shall be a pro rata  
21 share of the amount of an annuity of a widow or widower  
22 computed under the first sentence of subparagraph (A)(i).

23 “(C) The monthly annuity payable to a dependent child  
24 who is entitled under section 1450(a) of this title to an annu-  
25 ity shall be—

1           “(i) 55 percent of the base amount, as adjusted  
2           from time to time under section 1401a of this title, if  
3           the annuity is provided by virtue of eligibility under  
4           section 1448(a)(1)(A) of this title; or

5           “(ii) a lesser percentage (determined by the Secre-  
6           tary of Defense in accordance with subsection (d)) of  
7           the base amount, as adjusted from time to time under  
8           section 1401a of this title, on or after the date the  
9           person becomes entitled to retired pay under chapter  
10          67 of this title, if the annuity is provided by virtue of  
11          eligibility under section 1448(a)(1)(B) of this title.”.

12          (2) Paragraph (2) of such subsection is amended by in-  
13          serting “female former spouse” after “widow” both places it  
14          appears.

15          (3) Paragraph (3) of such subsection is amended by  
16          striking out “widow or widower” each place it appears and  
17          inserting in lieu thereof “widow, widower, or former  
18          spouse”.

19          (4) Subsection (c) of such section is amended by striking  
20          out “section, or section 1448(d) of this title,” and inserting in  
21          lieu thereof “subchapter”.

22          (5) Such section is further amended by adding at the end  
23          thereof the following new subsection:

24          “(e)(1) Except for an annuity provided by virtue of sec-  
25          tion 1448(f) of this title, the maximum annuity or combina-

1 tion of annuities under this section (or under section 1448(d)  
2 of this title) with respect to any member or former member  
3 may not exceed 55 percent of the full amount of the member  
4 or former member's retired or retainer pay.

5       “(2) Once an annuity has been provided for under the  
6 Plan for any former spouse, an annuity may thereafter be  
7 provided for under the Plan with respect to a member or  
8 former member only for that portion (if any) of the maximum  
9 base amount of the member or former member which is not  
10 committed for survivor benefits for any former spouse whose  
11 prospective right to such annuity has not terminated by  
12 reason of death or remarriage.”.

13       (f) Section 1452 of title 10, United States Code, relating  
14 to reductions in retired or retainer pay, is amended—

15               (1) in subsection (a)—

16                       (A) by striking out “a spouse and a depend-  
17 ent child” in the first sentence and inserting in  
18 lieu thereof “a former spouse” and by inserting  
19 “and former spouse (if any)” after “in favor of his  
20 spouse”;

21                       (B) by inserting “or an eligible former spouse  
22 and a dependent child” in the second sentence  
23 after “an eligible spouse and a dependent child”;  
24 and

1 (C) by inserting "or former spouse" in the  
2 third sentence after "eligible spouse";

3 (2) in subsection (b), by inserting "or former  
4 spouse" after "spouse" each place it appears;

5 (3) in subsection (e), by inserting "or former  
6 spouse" after "spouse"; and

7 (4) by adding after subsection (h) the following  
8 new subsection:

9 "(i)(1) For each full month after a former spouse of a  
10 member or former member dies or remarries before attaining  
11 age 60, the retired or retainer pay of the member or former  
12 member, if reduced to provide an annuity for the former  
13 spouse under the Plan, shall be recomputed and paid as if the  
14 annuity had not been so reduced, unless an election is in  
15 effect under paragraph (2).

16 "(2) Subject to section 1451(e) of this title, the member  
17 or former member may elect in writing within one year after  
18 receipt of notice of the death or remarriage of the former  
19 spouse to continue the reduction in order to provide a higher  
20 annuity under the Plan for a spouse of the member or former  
21 member."

22 (g) Section 1455 of title 10, United States Code, relat-  
23 ing to regulations to carry out the Survivor Benefit Plan, is  
24 amended—

1 (1) by inserting "and subchapter III of this chap-  
2 ter" after "this subchapter";

3 (2) by striking out paragraph (1) of such section  
4 and inserting in lieu thereof the following:

5 "(1) provide that the member and the spouse and  
6 former spouse (if any) of the member shall, before the  
7 date the member becomes entitled to retired or retainer  
8 pay, be informed of the elections available under sec-  
9 tion 1448(a) of this title and the effects of such elec-  
10 tions; and".

11 (h)(1) Any member of the uniformed services who on the  
12 effective date of this Act has a former spouse shall receive  
13 retired pay at a reduced rate and provide a survivor annuity  
14 for such former spouse under subchapter II of chapter 73 of  
15 title 10, United States Code, as amended by this Act, if—

16 (A) the member so elects by means of a spousal  
17 agreement, or

18 (B) a court order so provides.

19 (2)(A) If the member has not become entitled to retired  
20 pay on or before the effective date of this Act, an election  
21 under subsection (h)(1)(A) may be made, or a court order  
22 under subsection (h)(1)(B) may be issued, at any time before  
23 the member becomes so entitled.

24 (B) If the member is entitled to retired pay on or before  
25 the effective date of this Act, an election under subsection

1 (h)(1)(A) may be made, or a court order under subsection  
2 (h)(1)(B) may be issued, within such period after such effec-  
3 tive date as the Secretary concerned may prescribe.

4 (C) In any case in which a member is married and has  
5 been married for more than one year, an election under sub-  
6 section (h)(1)(A) may only be made with the written concur-  
7 rence of the spouse of the member.

8 (D) For purposes of applying chapter 73 of title 10, any  
9 such election or court order shall be treated the same as if it  
10 were a spousal agreement or court order under section 1464  
11 of such title.

12 (3)(A) An election under subsection (h)(1)(A) may pro-  
13 vide for a survivor benefit based on all or any portion of that  
14 part of the retired pay of the member which is not designated  
15 or committed as a base amount (as such term is defined in  
16 section 1447(2) of such title) for survivor benefits for a  
17 spouse or any other former spouse of the member. The  
18 member and the spouse of the member may make an election  
19 under paragraph (3) of section 1448(a) of such title before the  
20 member becomes eligible to participate in the Survivor Bene-  
21 fit Plan under such section for the purpose of allowing survi-  
22 vor benefits to be provided under this subsection.

23 (B) A court order under subsection (h)(1)(B) may provide  
24 for an annuity for a former spouse which does not exceed

1 that former spouse's pro rata share of 55 percent of the full  
2 amount of the retired pay of the member.

3 (4) The amount of the reduction in the retired pay of the  
4 member under this subsection shall be determined in accord-  
5 ance with section 1452 of such title and shall be effective as  
6 of—

7 (A) the commencing date of the retired pay in the  
8 case of an election under subsection (h)(2)(A); or

9 (B) the effective date of this Act, in the case of an  
10 election under subsection (h)(2)(B).

11 (5) In the case of a member who died before the effec-  
12 tive date of this Act after becoming entitled to retired pay  
13 and who—

14 (A) at the time the member became entitled to re-  
15 tired pay was married and did not elect not to partici-  
16 pate in the Survivor Benefit Plan;

17 (B) subsequently was divorced from the spouse  
18 who was the member's beneficiary under the Survivor  
19 Benefit Plan at such time; and

20 (C) died without a beneficiary under the Survivor  
21 Benefit Plan,

22 the individual to whom the member was married at the time  
23 the member became entitled to retired pay shall be entitled to  
24 an annuity under the Survivor Benefit Plan as if married to

1 the member at the time of death if the individual is qualified  
2 as a former spouse.

3 (6) For the purposes of this subsection:

4 (A) The terms "former spouse", "spousal agree-  
5 ment", "court order", and "State court" have the  
6 meanings given such terms in section 1461 of title 10,  
7 United States Code.

8 (B) The terms "uniformed services" and "Secre-  
9 tary concerned" have the meanings given such terms  
10 in section 101 of title 37, United States Code.

11 (C) The term "member" includes a former  
12 member entitled to retired pay.

13 (D) The term "retired pay" includes retainer pay.

14 (i)(1) This section and the amendments made by this  
15 section shall take effect at the end of the 120-day period  
16 beginning on the date of the enactment of this Act.

17 (2)(A) Subchapter III of chapter 73 of title 10, United  
18 States Code, as added by this section, shall apply in the case  
19 of any individual who after the effective date of this section  
20 becomes a former spouse (as defined in section 1461(1) of  
21 such title) of an individual who becomes entitled to retired or  
22 retainer pay after the effective date of this section.

23 (B) Except to the extent provided in subsection (h), the  
24 provisions of the Survivor Benefit Plan (subchapter JJ of such  
25 chapter) regarding the rights of former spouses to receive

1 survivor annuities shall apply in the case of any individual  
2 who after the effective date of this section becomes a former  
3 spouse (as defined in section 1461(1) of title 10, United  
4 States Code) of a member or former member of the uniformed  
5 services.

6 CIVIL SERVICE SPOUSE RETIREMENT PROVISIONS

7 SEC. 108. (a)(1) Section 8331 of title 5, United States  
8 Code, relating to definitions for purposes of civil service re-  
9 tirement, is amended by adding at the end thereof the follow-  
10 ing new paragraphs:

11 “(23) ‘court’ means any court of any State or of  
12 the District of Columbia;

13 “(24) ‘court order’ means any court decree of di-  
14 vorce or annulment, or any court order or court ap-  
15 proved property settlement agreement incident to any  
16 court decree of divorce or annulment which orders that  
17 a portion of the annuity of an employee or Member, or  
18 survivor benefit based on the service of such employee  
19 or Member, be paid to that spouse by such employee  
20 or Member, the Director of the Office of Personnel  
21 Management, or the Government;

22 “(25) ‘former spouse’ means a former wife or hus-  
23 band of an individual who was married to such individ-  
24 ual for not less than 10 years during periods of service

1 by that individual which are creditable under section  
2 8332 of this title;

3 “(26) ‘pro rata share’, in the case of any former  
4 spouse of any individual, means a percentage which is  
5 equal to the percentage that (A) the number of years  
6 during which the former spouse was married to the in-  
7 dividual during the creditable service of that individual  
8 is of (B) the total number of years of such creditable  
9 service; and

10 “(27) ‘spousal agreement’ means any agreement  
11 between an individual and that individual’s spouse or  
12 former spouse which is in writing and acknowledged  
13 before a notary public.”.

14 (2) Such section 8331 of title 5, United States Code, is  
15 further amended—

16 (A) by striking out “and” at the end of paragraph  
17 (21), and

18 (B) by striking out the period at the end of para-  
19 graph (22) and inserting in lieu thereof a semicolon.

20 (b)(1) Subchapter III of chapter 83 of title 5, United  
21 States Code, relating to civil service retirement, is amended  
22 by inserting after section 8341 the following new section:  
23 “§ 8341A. Former spouse annuities

24 “(a)(1) Unless otherwise expressly provided by any  
25 spousal agreement or court order under section 8345(k) of

1 this title, a former spouse of an employee or Member retired  
2 under this subchapter is entitled to an annuity—

3       “(A) if married to the employee or Member  
4 throughout that employee’s or Member’s period of  
5 creditable service, equal to 50 percent of the annuity  
6 (determined without regard to the reduction under  
7 paragraph (5) of this subsection) to which such em-  
8 ployee or Member is entitled, or

9       “(B) if not married to the employee or Member  
10 throughout the period of creditable service, equal to  
11 that former spouse’s pro rata share of 50 percent of  
12 such annuity.

13       “(2) A former spouse shall not be qualified for an annu-  
14 ity under this subsection if before the commencement of that  
15 annuity the former spouse remarries before becoming 60  
16 years of age.

17       “(3) The annuity of a former spouse under this subsec-  
18 tion commences on the later of the day the employee or  
19 Member upon whose service the annuity is based becomes  
20 entitled to an annuity under this subchapter or the first day of  
21 the month in which the divorce or annulment involved be-  
22 comes final. The annuity of such former spouse and the right  
23 thereto terminate on—

24       “(A) the last day of the month before the former  
25 spouse dies or remarries before 60 years of age; or

1           “(B) the date the annuity of the employee or  
2       Member terminates (except in the case of an annuity  
3       subject to paragraph (5)(B)).

4           “(4) No spousal agreement or court order under section  
5       8345(k) of this title involving any employee or Member may  
6       provide for an annuity or any combination of annuities under  
7       this subsection which exceeds the annuity of the employee or  
8       Member, nor may any such court order relating to an annuity  
9       under this subsection be given effect if it is issued more than  
10      12 months after the date the divorce or annulment involved  
11      becomes final.

12          “(5)(A) The annuity payable to any employee or  
13      Member shall be reduced by the amount of an annuity under  
14      this subsection paid to any former spouse based upon the  
15      service of that employee or Member. Such reduction shall be  
16      disregarded in calculating the survivor annuity for any  
17      spouse, former spouse, or other survivor under this sub-  
18      chapter, and in calculating any reduction in the annuity of  
19      the employee or Member to provide survivor benefits under  
20      subsection (b) or section 8341(b)(1) of this title.

21          “(B) If any disability annuitant whose annuity is re-  
22      duced under subparagraph (A) becomes reinstated or reap-  
23      pointed in the civil service, the pay of that annuitant shall be  
24      reduced by the same amount as the annuity would have been  
25      reduced if it had continued. Amounts equal to the reductions

1 under this subparagraph shall be deposited in the Treasury of  
2 the United States to the credit of the Fund.

3 “(6) Notwithstanding paragraph (3), in the case of any  
4 former spouse of a disability annuitant—

5 “(A) the annuity of that former spouse shall com-  
6 mence on the date the employee or Member would  
7 qualify on the basis of the employee's or Member's  
8 creditable service for an annuity under this subchapter  
9 (other than a disability annuity) or the date the disabil-  
10 ity annuity begins, whichever is later, and

11 “(B) the amount of the annuity of the former  
12 spouse shall be calculated on the basis of the annuity  
13 for which the employee or Member would otherwise so  
14 qualify.

15 “(b)(1) Subject to any election under section 8339(j) of  
16 this title and unless otherwise expressly provided by any  
17 spousal agreement or court order under section 8345(k) of  
18 this title, if a former employee or Member who is entitled to  
19 receive an annuity is survived by a former spouse, the former  
20 spouse shall be entitled to a survivor annuity—

21 “(A) if married to the employee or Member  
22 throughout the creditable service of the employee or  
23 Member, equal to 55 percent of the full amount of the  
24 employee's or Member's annuity, as computed under  
25 section 8339 of this title, or

1           “(B) if not married to the employee or Member  
2           throughout such creditable service, equal to that former  
3           spouse’s pro rata share of 55 percent of the full  
4           amount of such annuity.

5           “(2) A former spouse shall not be qualified for an annu-  
6           ity under this subsection if before the commencement of that  
7           annuity the former spouse remarries before becoming 60  
8           years of age.

9           “(3) An annuity payable from the Fund to a surviving  
10          former spouse under this subsection shall commence on the  
11          day after the annuitant dies and shall terminate on the last  
12          day of the month before the former spouse’s death or remar-  
13          riage before attaining age 60. If such a survivor annuity is  
14          terminated because of remarriage, it shall be restored at the  
15          same rate commencing on the date such remarriage is termi-  
16          nated if any lump sum paid upon termination of the annuity is  
17          returned to the Fund.

18          “(4)(A) The maximum survivor annuity or combination  
19          of survivor annuities under this section (and section 8341(b))  
20          with respect to any employee or Member may not exceed 55  
21          percent of the full amount of the employee’s or Member’s  
22          annuity, as calculated under section 8339 of this title.

23          “(B) Once a survivor annuity has been provided for  
24          under this subsection for any former spouse, a survivor annu-  
25          ity may thereafter be provided for under this subsection (or

1 section 8341(b)) with respect to an employee or Member only  
2 for that portion (if any) of the maximum available which is  
3 not committed for survivor benefits for any former spouse  
4 whose prospective right to such annuity has not terminated  
5 by reason of death or remarriage.

6 “(C) After the death of an employee or Member, a court  
7 order under section 8345(k) of this title may not adjust the  
8 amount of the annuity of any former spouse under this  
9 subsection.

10 “(5)(A) For each full month after a former spouse of an  
11 employee or Member dies or remarries before attaining age  
12 60, the annuity of the employee or Member, if reduced to..  
13 provide a survivor annuity for that former spouse, shall be  
14 recomputed and paid as if the annuity had not been so re-  
15 duced, unless an election is in effect under subparagraph (B).

16 “(B) Subject to paragraph (4)(B), the employee or  
17 Member may elect in writing within one year after receipt of  
18 notice of the death or remarriage of the former spouse to  
19 continue the reduction in order to provide a higher survivor  
20 annuity under section 8341(b) of this title for any spouse of  
21 the employee or Member.

22 “(c)(1) In the case of any employee or Member provid-  
23 ing a survivor annuity benefit under subsection (b) for a  
24 former spouse—

25 “(A) such employee or Member may elect, or

1           “(B) a spousal agreement or court order under  
2           section 8345(k) of this title may provide for,  
3           an additional survivor annuity under this subsection for any  
4           other former spouse or spouse surviving the employee or  
5           Member, if the employee or Member satisfactorily passes a  
6           physical examination as prescribed by the Office of Personnel  
7           Management.

8           “(2) Neither the total amount of survivor annuity or an-  
9           nuities under this subsection with respect to any employee or  
10          Member, nor the survivor annuity or annuities for any one  
11          surviving spouse or former spouse of such employee or  
12          Member under this section and section 8341 of this title, shall  
13          exceed 55 percent of the full amount of the employee's or  
14          Member's annuity, as computed under section 8339 of this  
15          title.

16          “(3)(A) In accordance with regulations which the Office  
17          shall prescribe, the employee or Member involved may pro-  
18          vide for any annuity under this subsection—

19                 “(i) by a reduction in the annuity or an allotment  
20                 from the pay of the employee or Member,

21                 “(ii) by a lump sum payment or installment pay-  
22                 ments to the Fund, or

23                 “(iii) by any combination thereof.

24          “(B) The present value of the total amount to accrue to  
25          the Fund under subparagraph (A) to provide any annuity

1 under this subsection shall be actuarially equivalent in value  
2 to such annuity, as calculated upon such tables of mortality  
3 as may from time to time be prescribed for this purpose by  
4 the Office.

5 “(C) If a former spouse predeceases the employee or  
6 Member or remarries before attaining age 60 (or, in the case  
7 of a spouse, the spouse does not qualify as a former spouse  
8 upon dissolution of the marriage)—

9 “(i) if an annuity reduction or salary allotment  
10 under subparagraph (A) is in effect for that spouse or  
11 former spouse, the annuity shall be recomputed and  
12 paid as if it had not been reduced or the salary allot-  
13 ment terminated, as the case may be, and

14 “(ii) any amount accruing to the Fund under sub-  
15 paragraph (A) shall be refunded, but only to the extent  
16 that such amount may have exceeded the actuarial cost  
17 of providing benefits under this subsection for the  
18 period such benefits were provided, as determined  
19 under regulations prescribed by the Office.

20 “(D) Under regulations prescribed by the Office, an an-  
21 nuity shall be recomputed (or salary allotment terminated or  
22 adjusted), and a refund provided (if appropriate), in a manner  
23 comparable to that provided under subparagraph (C), in order  
24 to reflect a termination or reduction of future benefits under  
25 this subsection for a spouse in the event a former spouse of