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APPROVED

SEP 3 - 1976

89/3/76

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: September 7

September 2, 1976

Posted 9/6

To AR: HVE: 9/7

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *J.C.*

SUBJECT:

H.R. 3650 - Reemployed Annuitants

Attached for your consideration is H.R. 3650, sponsored by Representative Henderson.

The enrolled bill requires Federal agencies to deposit the annuity equivalent withheld from the salary of a reemployed annuitant in the U.S. Treasury to the credit of the Civil Service Retirement Fund. The bill would also make several clarifying changes in the treatment of pay and annuities of involuntarily separated annuitants who are reemployed and of annuitants reemployed part-time or who become Presidential appointees.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 3650 at Tab B.

SEP 3 1976



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 3650 - Reemployed Annuitants
Sponsor - Rep. Henderson (D) North Carolina

Last Day for Action

September 7, 1976 - Tuesday

Purpose

Requires Federal agencies to deposit the annuity equivalent withheld from the salary of a reemployed annuitant in the U.S. Treasury to the credit of the Civil Service Retirement Fund, and makes certain clarifying changes governing other aspects of reemployed annuitant service.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Department of Defense	Approval

Discussion

Under existing law, civil service annuitants who are reemployed by the Federal Government continue to receive their retirement annuities, but an amount equivalent to the annuities must be deducted from their salaries by the employing agency. Thus, the agency bears only a part of the annuitant's services; the full cost is shared with the Civil Service Retirement and Disability Fund.

The principal purpose of H.R. 3650 is to require the employing agency to deposit the annuity equivalent withheld from the annuitant's salary in the U.S. Treasury to the credit of the civil service retirement (CSR) Fund. The law already imposes such a deposit requirement when a retired Member of Congress is reemployed on an intermittent service basis, and its extension to all reemployed annuitant service was recommended by the Comptroller General in a May 1968 GAO report to Congress. The GAO concluded that the lack of a deposit requirement benefits the employing agency at the expense of the CSR Fund which partially finances the reemployed annuitant's salary through continuation of his annuity. The report held that such reemployment of an annuitant, at less than full salary cost to the agency, masks true personnel costs and makes impossible the full disclosure of the financial results of agency activities required by the Accounting and Auditing Act of 1950.

The Administration supported enactment of H.R. 3650 and the predecessor 93rd Congress bill, stating, however, that the preferred approach would be to require deposit of funds withheld from the salary of reemployed annuitants in the General Fund of the Treasury, rather than to the credit of the CSR Fund. The rationale for this position is that the amount so withheld represents a saving to agency funds appropriated for salary and expenses--for which the General Fund is the source--rather than a reimbursement owed the CSR Fund, inasmuch as the Fund is obligated to pay annuities to retired employees, regardless of their employment. However, the requirement in H.R. 3650 that the deposits be credited to the CSR Fund has been expressly endorsed by the congressional committees concerned and represents an improvement over the present situation.

As of July 1975, there were approximately 3,000 annuitants reemployed by the Government. This bill is likely to deter agencies from reemploying as many in the future. Based on an assumption of continued employment of about 3,000 annuitants, however, the Congressional Budget Office has estimated--and CSC informally concurs--that the deposit provision of H.R. 3650 would have no effect on budget outlays, but would create additional budget authority of \$45.5 million in fiscal year 1977 (representing added income to the CSR Fund).

The enrolled bill would also make several clarifying changes in the treatment of pay and annuities of involuntarily separated annuitants who are reemployed, and of annuitants reemployed part-time or who become Presidential appointees.

All the amendments in the bill would be effective October 1, 1976.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

Mr. J. -

9/10

10 add to the

files, pls.

Kate

To: J. Johnston
9-1-76
5:50 P.M.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 3650 - Reemployed Annuitants
Sponsor - Rep. Henderson (D) North Carolina

Last Day for Action

September 7, 1976 - Tuesday

Purpose

Requires Federal agencies to deposit the annuity equivalent withheld from the salary of a reemployed annuitant in the U.S. Treasury to the credit of the Civil Service Retirement Fund, and makes certain clarifying changes governing other aspects of reemployed annuitant service.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Department of Defense	Approval

Discussion

Under existing law, civil service annuitants who are reemployed by the Federal Government continue to receive their retirement annuities, but an amount equivalent to the annuities must be deducted from their salaries by the employing agency. Thus, the agency bears only a part of the annuitant's services; the full cost is shared with the Civil Service Retirement and Disability Fund.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10370 - Canaveral
National Seashore, Florida
Sponsors - Rep. Chappell (D) Florida and
Rep. Frey (R) Florida

Last Day for Action

September 7, 1976 - Tuesday

Purpose

Amends the Canaveral National Seashore Act of 1975 to increase from five to six the membership of the Canaveral National Seashore Advisory Commission.

Agency Recommendations

Office of Management and Budget Approval

Department of the Interior Approval

Discussion

The Canaveral National Seashore Act of 1975 provided for a five-member advisory commission to be appointed by the Secretary of the Interior. The advisory commission has no administrative authority, but does consult with and advise the National Park Service with respect to the Canaveral National Seashore.

To date, the Secretary has appointed four members, two on the recommendation of the Governor of Florida and two members representing the two counties (Brevard and Volusia) in which the

10-
J. Johnson
9-1-76
5:30 p.m.

seashore is located. However, Interior has informally advised that appointment of a fifth member representing the general public has been delayed because both Congressmen Chappell and Frey have sought to have their own candidates appointed to the advisory commission (the seashore is contained within their congressional districts).

The enrolled bill would resolve the problem cited above by increasing the commission's membership from five to six, and by stipulating that a representative of the general public be included from each county in which the seashore is located. As a practical matter, this will enable the Secretary to appoint a general public member from each congressional district.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosure

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: ~~September~~ 1

Time: 600pm

FOR ACTION:

David Leach
Baul Leach
Max Friedersdorf
Ken Lazarus *ml*

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

Sjd 9/3/76

DUE: Date:

~~September~~ 2

Time:

500pm

SUBJECT:

H.R. 3650-~~Reemployed~~ Annuitants

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

WASHINGTON

September 3, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M. L. F.*
SUBJECT: HR 3650 - Reemployed Annuitants

The Office of Legislative Affairs concurs with the agencies that the subject bill be approved.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 1

Time: 600pm

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 2

Time: 500pm

SUBJECT:

H.R. 3650-Reemployed Annuitants

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection -- Ken Lazarus 9/2/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED

If you have any questions or if you anticipate a delay in submitting the required material, please

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 1

Time: 600pm

FOR ACTION: David Lissy ✓
Paul Leach
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 2

Time: 500pm

SUBJECT:

H.R. 3650-Reemployed Annuitants

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

OK
Bill R. H.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

August 30, 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the Commission's views on enrolled bill, H.R. 3650, "To clarify the application of section 8344 of title 5, United States Code, relating to civil service retirement annuities and pay on reemployment, and for other purposes."

An employee who retires under the Civil Service Retirement law is not barred from reemployment by the Government because of retired status and, generally, continues to receive annuity during reemployment. The employing agency, however, is required to reduce the salary paid by an amount equal to the annuity allocable to the period(s) of reemployment. Neither the retirement law nor its legislative history gives any direction as to the disposition of the annuity equivalent withheld by the agency from the salary of a reemployed annuitant, except with regard to certain reemployed retired Members of Congress.

In the case of a retired Member of Congress, section 8344(b)(2) of title 5, United States Code, provides that if reemployment is on an intermittent basis (generally, reemployment in an appointive or elective position results in suspension of annuity payments during the reemployment period), (1) the Member's annuity payments are continued during reemployment, (2) the reemployment salary is reduced by the amounts of annuity paid during the actual period(s) of reemployment, and (3) the equivalent of the annuity payments so withheld from the Member's salary by the employing agency is deposited in the United States Treasury to the credit of the Retirement Fund. The reason for requiring agencies to deposit these withholdings in the Retirement Fund is to assure that the total cost of any salary expense for intermittently reemployed Members of Congress be charged as a payroll cost to the agency, rather than be charged in whole or in part to the Civil Service Retirement and Disability Fund (H.R. Rep. No. 832, 86th Cong., 1st Sess. 3 (1959)). This is the only type of case in which the

equivalent of annuity payments withheld from reemployment salary is deposited in the Retirement Fund. In all other cases where such withholdings are made, employing agencies retain the salary savings in their appropriations, with the result that the total salary cost for reemployed retired employees (unlike such cost for reemployed Members of Congress) is not being charged as a payroll expense to agencies.

H.R. 3650 would, among other things, amend 5 U.S.C. 8344(a) to require that the amounts so deducted by the agencies be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

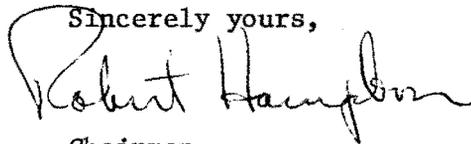
The Commission agrees that agencies should bear the full payroll costs of the salaries of reemployed annuitants; therefore, we have no objection to this provision.

The enrolled bill would further amend 5 U.S.C. 8344 to make a number of technical perfecting and clarifying amendments relating to the treatment of pay and annuity for a reemployed annuitant, and, additionally, would provide for supplemental annuities or recomputations earned on the basis of part-time reemployment when the reemployment is the equivalent of present full-time reemployment requirements. The Commission has no objection to these amendments.

In summary, the Commission supports enactment of H.R. 3650 and recommends that the President sign the enrolled bill.

By direction of the Commission:

Sincerely yours,

A handwritten signature in cursive script that reads "Robert Hampton". The signature is written in dark ink and is positioned above the printed name "Chairman".

Chairman



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

27 August 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Executive Office Building
Washington, D. C. 20503

Dear Mr. Lynn:

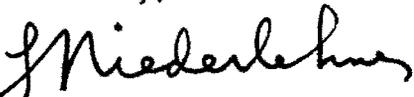
Reference is made to your request of August 26, 1976, for the views of the Department of Defense with respect to the enrolled enactment of H. R. 3650, 94th Congress, an act "To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes."

The major purpose of H. R. 3650 is to impose a requirement that employing agencies deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to the amount of annuity payments withheld by them from the salaries of reemployed retired employees.

Employees who retire under the Civil Service Retirement Law are not barred from reemployment by the Government because of their retired status and, generally, they continue to receive their annuities during reemployment. Employing agencies, however, are required to reduce the salaries paid to these reemployed annuitants by amounts equal to the annuities allocable to the periods of reemployment. There has been no requirement as to the disposition to be made of the annuity equivalent withheld by agencies, and therefore the employing agencies have retained the salary savings in their appropriations. The net effect has been that the Civil Service Retirement and Disability Fund subsidized the salary costs attributable to agencies' utilization of the services of retired employees. The enactment of this bill will bring to an end the present practice which permits funds intended for the payment of retirement benefits to be used to offset salary costs of reemployed retired employees.

The Department of Defense endorses this legislation and recommends that the President approve H. R. 3650.

Sincerely,


for Richard A. Wiley

REEMPLOYED ANNUITANTS

JULY 9, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WHITE, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 3650]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

“(a) If an annuitant receiving annuity from the Fund, except—

“(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

“(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation of an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

“(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

“(4) a Member receiving annuity from the Fund;

becomes employed in an appointee or elective position, his services on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

“(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

"(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under his subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter."

(b) Section 8344 of title 5, United States Code, is amended—

- (1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and
- (2) by inserting immediately after subsection (a) thereof the following new subsections:

"(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

"(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment."

(c) Section 8344(d) of title 5, United States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out "8344(b)(1)" and inserting in lieu thereof "8344(d)(1)".

SEC. 2. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of the enactment of this Act and shall apply to annuitants serving in appointive or elective positions on and after the date of the enactment of this Act.

(b) The amendment made by subsection (c) of the first section of this Act shall become effective on the date of the enactment of this Act but shall not apply to any annuitant reemployed before the date of the enactment of this Act.

EXPLANATION OF AMENDMENT

The committee amendment to H.R. 3650 substitutes an entirely new text for the text of the introduced bill. The explanation of the provisions of the substitute text is contained in the explanation of the bill as set forth hereinafter in this report.

PURPOSE

The primary purposes of H.R. 3650 are to—

- (1) clarify the intent of Congress with respect to the treatment of reemployed annuitants whose annuities are based upon involuntary separations, and
- (2) require agencies to deposit to the credit of the civil service retirement fund the amounts of annuity deducted from the salaries of reemployed annuitants.

COMMITTEE ACTION

A hearing on H.R. 3650 was held by the Subcommittee on Retirement and Employee Benefits on April 23, 1975 (Hearing No. 94-25). On June 9, 1975, the Subcommittee, by a unanimous voice vote, approved the bill, with amendments, for full Committee consideration. H.R. 3650, as amended, was ordered reported by a unanimous voice vote of the full committee on June 19, 1975.

STATEMENT

Prior to May 29, 1930, the Civil Service Retirement Act contained a general prohibition against the reemployment of an annuitant. In the act of May 29, 1930, that prohibition was partially relaxed to permit reemployment of deferred annuitants and those annuitants whose annuities were based on involuntary separations. In those cases annuities were terminated upon reemployment in any position.

Over the years the retirement provisions have been amended substantially so that now no employee or Members of Congress who retires under the civil service retirement law is barred from reemployment by the Government solely because of his retired status. In fact the Civil Service Commission reports that at any given time there are approximately 3,000 reemployed annuitants on the rolls of Government agencies.

Notwithstanding the numerous changes that have been made in the reemployment provisions of the civil service retirement law, these provisions remain deficient in two major respects. The primary purpose of this legislation is to correct these deficiencies.

The first deficiency relates to the treatment of reemployed annuitants whose annuities are based upon involuntary separations. The problem stems from the fact that the existing law is silent with respect to the treatment of such annuitants. The existing provisions of section 8344(a), relating to annuities and pay upon reemployment, apply only to annuitants who voluntarily retired. Under these provisions, the reemployed annuitant continues to receive his annuity, retirement contributions are not withheld from his pay, but an amount equal to his annuity allocable to the period of reemployment is deducted from his salary.

While the existing law does not contain specific provisions applicable to involuntarily retired annuitants, neither does it provide that such an annuitant may receive both his annuity and the full salary of the position upon subsequent reemployment. Therefore, in the absence of specific statutory language governing this category of annuitants, the Civil Service Commission has exercised its regulatory authority under section 8347(a) of title 5, United States Code, to cover these cases.

Under the Commission's regulations, if an involuntarily separated annuitant is reemployed in a position in which he is subject to the civil service retirement law, his annuity is terminated, retirement contributions are withheld from his pay, and future annuity rights are determined under the law in effect upon subsequent separation. If the annuitant is reemployed in a position in which he is not subject to the retirement law, such as a temporary appointment, his annuity pay-

ments continue, his salary is reduced by the amount of his annuity, and no retirement deductions are made.

The committee believes that the regulations of the Civil Service Commission provide for a logical and equitable treatment of involuntarily separated annuitants who are reemployed by the Government. The reported bill, H.R. 3650, in effect, incorporates such regulations into the reemployment provisions of section 8344 of title 5.

Unfortunately, the Civil Service Commission was unable, under its regulatory authority, to extend to involuntarily separated annuitants two benefits that, by law, are granted to voluntarily separated annuitants who are reemployed by the Government. Under existing law a reemployed annuitant (voluntarily separated) who serves for an additional period of at least one year is entitled to a supplemental annuity based on the period of his additional service. If the period of reemployment continues for at least 5 years, the annuitant may elect to deposit the retirement contributions which ordinarily would have been deducted from his salary during the period of reemployment and have his annuity recomputed on the basis of his total service under the retirement law in effect at the time of his separation from reemployment. This right of recomputation enables the annuitant to take advantage of any increase in average salary or retirement law liberalizations that may have occurred since his previous separation.

As indicated earlier, the existing law extends the supplemental annuity benefit and the right of recomputation after 5 years of service only to reemployed annuitants who voluntarily retired. H.R. 3650 eliminates this inequity by extending the same rights to involuntarily separated annuitants who are reemployed in positions in which they are not subject to the civil service retirement provisions.

In addition the committee bill amends the existing law to allow a supplemental annuity or annuity recomputation to be based on periods of part-time service equivalent to 1 year or 5 years of full-time service, as the case may be.

The other major deficiency in the existing reemployment provisions relates to the disposition of the amounts, equal to annuities, that are deducted from the salaries of reemployed annuitants. Under existing law Federal agencies are permitted to retain the salary savings in their appropriations which, in effect, results in the retirement fund subsidizing agency operations. This committee believes that Federal agencies should bear the full payroll costs of reemployed annuitants' services. There is no justification for requiring the retirement fund to bear any part of the cost of the salaries of reemployed annuitants. Thus, H.R. 3650 amends the existing law to require that the amounts deducted from the salaries of reemployed annuitants shall be deposited in the Treasury of the United States to the credit of the civil service retirement fund. In addition to improving the financial condition of the retirement fund, the committee believes that this requirement will serve to ensure that agencies will reemploy annuitants only when they are essential to carrying out the agency's mission.

In addition to the major changes discussed above, H.R. 3650 proposes to—

- (1) provide for termination of the annuity of an annuitant (other than a retired Member) who is appointed by the President to a position in which he is subject to the civil service retire-

ment provisions, thereby enabling such annuitant to acquire a new annuity entitlement after completing 1 year of service; and

- (2) delete the current statutory provision which allows a retired Member of Congress who is appointed by the President to a position not requiring Senate confirmation to continue to draw his full retirement annuity as well as the full salary of the position to which appointed.

SECTION ANALYSIS

FIRST SECTION

Subsection (a) of the first section of the bill amends section 8344(a) of title 5, United States Code, so as to clarify the intent of Congress with respect to the treatment of reemployed annuitants whose annuities are based upon involuntary separations.

The existing provisions of section 8344(a) exempt involuntarily separated annuitants from the provisions governing the treatment of annuities and pay upon reemployment. While the Civil Service Commission's regulations do contain provisions covering the reemployment of annuitants whose annuities are based upon voluntary separations, such regulations are not based upon specific statutory provisions.

Under the amended language of section 8344(a), an involuntary retiree who is reemployed in a position in which he is not subject to the civil service retirement provisions, such as a temporary appointment, will continue to receive his full annuity but his salary will be reduced by an amount equal to his annuity allocable to the period of actual employment. If such annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant will be entitled to a supplemental annuity based on the period of reemployment. If the period of reemployment continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the annuitant may elect to deposit in the retirement fund an amount computed in accordance with section 8334(c) of title 5 and have his annuity recomputed on the basis of his total service, including the period of reemployment. Under existing law the right to a supplemental annuity, or recomputation after 5 years of service, extends only to annuitants whose annuities are based on voluntary separations.

In addition to the above, the amendment to section 8344(a) contains one other significant change in the language of the existing provision. At present the law is silent as to the disposition of the amounts, equal to annuities, that are deducted from the salaries of reemployed annuitants. Under the amendment to section 8344(a), agencies will be required to deposit such amounts in the Treasury of the United States to the credit of the civil service retirement fund.

The committee assumes that the Civil Service Commission will prescribe appropriate procedures governing the deposit of such amounts. However, with respect to annuitants reemployed by the House of Representatives or a Member thereof, it is the committee's intent that the appropriate procedures be prescribed by the Committee on House Administration, and that such procedures may provide for payment from the contingent fund to cover the amounts to be deposited in the Treasury to the credit of the retirement fund.

Subsection (b) of the first section of the bill amends section 8344 of title 5 by redesignating existing subsections (b) and (c) thereof as subsections (d) and (e), respectively, and by inserting new-subsections (b) and (c).

Under the new subsection (b), if an annuitant, whose annuity is based on an involuntary separation, is reemployed in a position in which he is subject to the civil service retirement provisions, the payment of his annuity terminates on reemployment. This provision is not applicable to a Member who is receiving an annuity from the Fund nor is the provision applicable in the case of an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency.

Under the new subsection (b) the annuitant's annuity will be terminated upon reemployment, the employing agency will withhold retirement deductions from the annuitant's pay, and future annuity rights will be determined under the law in effect at the time of separation from reemployment.

Similarly, under the new subsection (c), if an annuitant (other than a Member receiving an annuity from the fund) is appointed by the President to a position in which he is subject to the civil service retirement provisions, payment of his annuity will terminate upon reemployment. Such an annuitant will be treated in the exact manner as one reemployed under the new subsection (b), discussed immediately above.

Subsection (c) of the first section of the bill amends the former section 8344(b) of title 5, redesignated as subsection (d) by this bill, by striking out the last sentence thereof. The existing section 8344(b) contains provisions governing the reemployment of a Member of Congress who is receiving an annuity from the civil service retirement fund. Generally, the annuity of a retired Member who subsequently serves in an appointive or elective position is discontinued during the period of reemployment and is resumed in the same amount upon termination of reemployment. However, if the Member serves in an appointive position in which he is subject to the retirement provisions, he may elect to have his annuity recomputed as if the additional service had been performed prior to his separation as a Member. By virtue of the last sentence of section 8344(b), redesignated as (d) under this bill, these reemployment provisions do not apply to a retired Member who is appointed by the President to a position not requiring Senate confirmation. Such a Member is entitled to receive his full annuity as well as the salary of the position to which appointed.

The amendment made by subsection (c) of the bill would delete this exception and apply the same reemployment provisions to all retired Members of Congress.

Subsection (d) of the first section of the bill is a technical amendment made necessary by the redesignation of section 8344(b) as 8344(d).

SECTION 2

Section 2 of the bill sets forth the effective dates of the amendments made by the bill. The amendments made by subsections (a), (b), and (d) of the first section are effective on the date of enactment and will apply to annuitants serving in appointive or elective positions on and after the date of enactment. The amendment made by subsection (c) of

the bill is effective on the date of enactment but shall not apply to any annuitant reemployed prior to the date of enactment.

COSTS

The committee has determined that any additional costs to the Government resulting from the enactment of this legislation would be negligible. The provision requiring agencies to deposit to the credit of the retirement fund the amounts of annuity deducted from the salaries of reemployed annuitants will result in Federal agencies bearing the full payroll cost of any salary expenses of reemployed annuitants and would result in a corresponding savings to the civil service retirement fund.

INFLATIONARY IMPACT STATEMENT

Pursuant to House Rule XI, clause 2(1)(4), the committee has determined that the enactment of this legislation will not have an inflationary impact on the national economy in view of the negligible costs involved.

COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of clause 2(1)(3) of House Rule XI—

(a) the Subcommittee on Retirement and Employee Benefits reviewed the provisions of law relating to reemployed annuitants and concluded that the law should be amended in the manner provided under this legislation;

(b) since section 308(a) of the Congressional Budget Act of 1974 is not yet in effect, no statement under this paragraph is furnished;

(c) no estimate or comparison of cost has been received by the committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974; and

(d) the committee has received no report from the Committee on Government Operations of oversight findings or recommendations arrived at pursuant to clause 2(b)(2) of House Rule X.

AGENCY VIEWS

There are set forth below various reports on H.R. 3650.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 23, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 3650, a bill "To clarify the application of section 8344 of title 5, United States Code, relating to civil service retirement annuities and pay on reemployment, and for other purposes."

An employee who retires under the civil service retirement law is not barred from reemployment by the Government because of retired status and, generally, continues to receive annuity during reemployment. The employing agency, however, is required to reduce the salary

paid by an amount equal to the annuity allocable to the period(s) of reemployment. Neither the retirement law nor its legislative history gives any direction as to the disposition of the annuity equivalent withheld by the agency from the salary of a reemployed annuitant, except with regard to certain reemployed retired Members of Congress.

In the case of a retired Member of Congress, section 8344(b)(2) of title 5, United States Code, provides that if reemployment is on an intermittent basis (generally, reemployment in an appointive or elective position results in suspension of annuity payments during the reemployment period), (1) the Member's annuity payments are continued during reemployment, (2) the reemployment salary is reduced by the amounts of annuity paid during the actual period(s) of reemployment, and (3) the equivalent of the annuity payments so withheld from the Member's salary by the employing agency is deposited in the United States Treasury to the credit of the Retirement Fund. The reason for requiring agencies to deposit these withholdings in the Retirement Fund is to assure that the total cost of any salary expense for intermittently reemployed Members of Congress be charged as a payroll cost to the agency, rather than be charged in whole or in part to the Civil Service Retirement and Disability Fund (H.R. Rept. No. 832, 86th Cong., 1st Sess. 3 (1959)). This is the only type of case in which the equivalent of annuity payments withheld from reemployment salary is deposited in the retirement fund. In all other cases where such withholdings are made, employing agencies retain the the salary savings in their appropriations, with the result that the total salary cost for reemployed retired employees (unlike such cost for reemployed Members of Congress) is not being charged as a payroll expense to agencies.

Section 1 of H.R. 3650 would, among other things, amend 5 U.S.C. 8344(a) to require that the amounts so deducted by the agencies be deposited in the Treasury of the United States to the credit of the civil service retirement and disability fund.

The Commission agrees that agencies should bear the full payroll costs of the salaries of reemployed annuitants. However, we recommend that the salary withholdings be deposited to the General Fund of the Treasury.

Additionally, section 1 of the bill would further amend 5 U.S.C. 8344 to make a number of technical perfecting and clarifying amendments relating to the treatment of pay and annuity for a reemployed annuitant. Section 2 of the bill would amend 5 U.S.C. 8332 to allow credit for post-1956 military service in the computation of civil service retirement annuity for certain individuals who, before becoming eligible for military retired pay, leave active military service to accept a Federal civil service appointment by the President which requires Senate confirmation. The Commission has no objection to these amendments.

In summary, the Commission supports enactment of H.R. 3650, modified as indicated above.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 23, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to the committee's request for the views of this Office on H.R. 3650, "To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes."

The purpose of the bill is to require that amounts withheld from the salaries of reemployed annuitants be deposited to the credit of the civil service retirement fund. In its report the Civil Service Commission states its reasons for recommending enactment of the bill and recommends that the amounts withheld be deposited to the General Fund of the Treasury rather than to the credit of the Retirement Fund.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 3650 provided it is amended as indicated above.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 24, 1975.

B-130150.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives.

DEAR MR. CHAIRMAN: In your letter of March 3, 1975, you requested our report on H.R. 3650, 94th Congress, a bill to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

The bill would make one major substantive amendment: it would require reimbursement of the civil service retirement and disability fund in an amount equal to the annuity payments made to reemployed annuitants and withheld from the pay due them in the positions in which reemployed. In addition the bill would make certain clarifying amendments and minor revisions to 5 U.S.C. 8344 concerning the annuities and compensation of reemployed annuitants.

Section 1 of the bill would amend 5 U.S.C. 8344(a) to provide that an amount equal to the annuity allocable to the period of actual employment which under current law must be deducted from the annuitant's pay in a position in which he is reemployed shall be deposited in the Treasury of the United States to the credit of the Retirement Fund under such procedure as the Comptroller General of the United States shall prescribe. At present agencies are permitted to retain the savings realized from the deduction requirement, thus, in effect, permitting the retirement fund to subsidize agency operations. We support

this provision of H.R. 3650, since it would require the agencies to pay the full cost of employees' services; would result in agency budgets that reflect the true costs of operation, and it would make the retirement fund whole.

H.R. 3650 provides that the annuity of a reemployed annuitant who served on a part-time basis for periods equivalent to at least 1 year of full-time service be increased on termination of employment by an amount based on the period of employment and the basic pay, before deduction, averaged during that employment. Under current law, an annuitant must be reemployed on a full-time basis for at least 1 year to qualify for a supplemental annuity. Whether equivalent part-time service should also qualify for an increased annuity is a matter on which we have no specific comments.

H.R. 3650 provides that if an annuitant whose annuity is based on an involuntary separation becomes reemployed, the annuity terminates upon reemployment. According to the Civil Service Commission, this practice is already in effect by administrative regulation, and existing legislation does not give specific guidance on the matter. The effect of this treatment of involuntarily-retired annuitants upon reemployment is that they are able to have their annuities redetermined when the reemployment ends thereby being able to take advantage of any increases in their pay average, benefit liberalizations, etc., occurring since their previous retirement. This practice appears equitable in view of the fact that the annuitants were initially retired involuntarily and presumably would otherwise have remained employed.

H.R. 3650 provides that if an annuitant is appointed by the President to a position subject to the reemployment provisions, payment of his annuity terminates on reemployment. The effect of this change would be to grant Presidential appointees the advantage of having their annuities recalculated at the end of the reemployment period. This is a matter on which we have no comments.

H.R. 3650 would delete the current provision that the reemployment rules do not apply to a retired Member of Congress if he is appointed to a position that does not require confirmation by the Senate. Under current law, the annuity of a retired Member of Congress who subsequently serves in an appointive or elective position is discontinued during the employment period and resumed in the same amount at termination. The Member may elect to have his annuity recomputed as if the additional service had been performed before his retirement. These provisions do not apply, however, to a Member who is appointed by the President to a position not requiring Senate confirmation. H.R. 3650 would apply the same reemployment provisions to all retired Members of Congress regardless of whether appointment required Senate confirmation. This is a matter on which we have no comments.

H.R. 3650 would provide that creditable service used in calculating the civil service annuity payable to a retiree at age 62 shall include military service performed by an individual who, for purposes of accepting an appointment by the President to a position requiring Senate confirmation, obtained a discharge or separation prior to becoming entitled to military retired pay. In general, periods of military service are considered as creditable service in determining civil service retirement annuities. Current law provides, however, that the annuity must be recalculated when the annuitant becomes age 62 to exclude such service if he is entitled to old age or survivors insurance benefits (So-

cial Security). The change proposed by H.R. 3650 appears to be intended to provide an inducement for military personnel to forego military retirement benefits to accept a Presidential appointment to a position covered by civil service retirement. The Civil Service Commission has been able to identify only two individuals who would be currently affected by this change—former astronauts Andrews and Collins.

We understand that the primary intent of the subject bill is to correct an anomalous situation which, due to an omission in the retirement law, permits agencies to retain the difference between a reemployed annuitant's salary and annuity. Although we believe that the correction of this anomaly is advisable for the previously stated reasons and it may also encourage agencies to reemploy annuitants only where they are essential to carrying out the agency's mission, we believe that this anomaly represents only one employment problem growing out of a more serious problem which we think merits Congressional action. This is the question of the rehiring of retired annuitants for longer than is necessary to satisfy an emergency situation which a particular agency may face. We have come to the conclusion that this practice constitutes a circumvention of the legal intent of Congress in establishing the freeze on the salaries of high-level officials in the Government. This situation arose out of the spiraling high rate of inflation coupled with the automatic cost-of-living increases for annuitants and the freeze on salaries. For the reasons stated, we believe that legislation which would correct this problem deserves the consideration of the Congress.

Enclosed for your consideration is a proposed amendment to 5 U.S.C. 3323 (b) which we believe should be considered by the committee.

Sincerely yours,

LEWIS B. STAATS,
Comptroller General of the United States.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C., April 29, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of April 3, 1975 requesting comments from the Committee on House Administration on H.R. 3650.

Attached is a Ramseyer draft of a portion of subparagraph (4) on Page 2, lines 8 through 23, reflecting some additional suggested language that would be applicable to the Congress.

In addition it may be appropriate to include within the accompanying report on this bill that the procedures prescribed by the Committee on House Administration may well include, but not limited to, payments from the contingent fund to cover "amounts so deducted" to be deposited in the Treasury of the United States to the credit of the fund.

With kind regards, I am
Very sincerely yours,

WAYNE L. HAYS,
Chairman.

[Attachment retained in committee files.]

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
May 9, 1975.

MEMORANDUM

Subject: Report on H.R. 3650.
From: W. Pat Jennings, Clerk,
U.S. House of Representatives.
To: Hon. David N. Henderson, Chairman,
Committee on Post Office and Civil Service,
U.S. House of Representatives.

H.R. 3650 amends section 8344 of title 5, United States Code, which governs payments to reemployed annuitants. My report outlines two important ramifications pertaining to annuitants reemployed in the U.S. House of Representatives.

The first major change requires an agency which reemploys an annuitant to reimburse the Civil Service Retirement Fund an amount equal to the annuity received by the reemployed annuitant. Therefore, it would become necessary to reimburse the Retirement Fund from appropriated funds of the House for the amount of the annuity paid to reemployed annuitants. As an example, rather than reemploying an annuitant who has a \$5,000 annual annuity at a rate of \$15,000 per annum and paying him only \$10,000 from House appropriated funds, this legislation would require the House to reimburse the Retirement Fund in the amount of \$5,000, representing the amount of the annuity.

The following schedule illustrates the recent growth in the number of reemployed annuitants on the House of Representatives' payrolls and the respective dollar amount of their annuity:

	Reemployed annuitants	Monthly annuity	Annual annuity
June 30, 1972.....	54	\$42,580	\$510,960
June 30, 1973.....	71	61,969	743,628
June 30, 1974.....	113	117,950	1,415,500

As of January 31, 1975, the number of reemployed annuitants on the House payrolls was 136 persons receiving total annuity payments of \$167,269 per month or \$20,007,228 annually.

H.R. 3650 also changes existing procedures allowing reemployed annuitants to earn supplemental annuity benefits. A supplemental annuity is in addition to the regular annuity, received upon separation, if the employee has at least one year of continuous service as a reemployed annuitant. Under existing interpretation of the law, only those individuals who retired voluntarily were eligible for supplemental annuities. H.R. 3650 extends this privilege to an annuitant who *retires* involuntarily. If passed, this may encourage involuntary retirees to try for reemployment to establish entitlement to the supplemental annuity.

Inasmuch as it affords involuntary retirees the privileges of voluntary retirees, this bill is a relaxation of age and service requirements for retirement for Congressional employees.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

Chapter 83—RETIREMENT

* * * * *

Subchapter III—CIVIL SERVICE RETIREMENT

§ 8339. Computation of annuity

(a) * * *

* * * * *

(f) The annuity computed under subsections (a)–(e) of this section may not exceed 80 percent of—

- (1) the average pay of the employee; or
- (2) the greatest of—

(A) the final basic pay of the Member;

(B) the average pay of the Member; or

(C) the final basic pay of the appointive position of a former Member who elects to have his annuity computed or re-computed under section 8344**[b]**(d) (1) of this title.

§ 8344. Annuities and pay on reemployment

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

(2) an annuitant whose annuity **[is]**, based on an involuntary separation **[from the service other than an automatic separation; or]** (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

[(3) a Member receiving annuity from the Fund; becomes employed after September 30, 1956, or on July 31, 1956, was serving, in an appointive or elective position, his service on and after the date he was or is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. If the annuitant serves on a full-time basis, except as President, for at least 1 year in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

[(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employ-

ment and the basic pay, before deduction, averaged during that employment; and

[(B) his lump-sum credit may not be reduced by annuity paid during that employment.]

¶ If the described employment of the annuitant continues for at least 5 years, he may elect, instead of the benefits provided by this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. Notwithstanding the restrictions contained in section 115 of the Social Security Amendments of 1954 (68 Stat. 1087), a similar right to redetermination after deposit is applicable to an annuitant—

[(i) whose annuity is based on an involuntary separation from the service; and

[(ii) who is separated after July 11, 1960, following such a period of employment on a full-time basis that began before October, 1956.]

¶ If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the annuitant dies while still reemployed and the described reemployment had continued for at least 5 years, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.]

(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

(4) a Member receiving annuity from the Fund; becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331 (1) (i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

[(b)](d) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after separation as a Member in an appointive position in which he is subject to this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

(B) the day after the date of separation from the appointive position; whichever is later;

(2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent-service basis—

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;

(B) retirement deductions may not be withheld from his pay;

(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title; and

(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund:

(3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and

(4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

【This subsection does not apply to a Member appointed by the President to a position not requiring confirmation by the Senate.】

【(c)】 (e) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

* * * * *

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REEMPLOYED ANNUITANTS

MAY 14, 1976.—Ordered to be printed
Reported under authority of the order of the Senate on May 13, 1976

Mr. McGEE, from the Committee on Post Office and Civil Service,
submitted the following

REPORT

[To accompany H.R. 3650]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

Under existing law, when a Federal civil service annuitant is reemployed by the Federal Government, his annuity is continued, but an amount equal to his annuity is deducted from his salary. Thus, Federal agencies which reemploy an annuitant obtain his services at a reduced cost; in effect, those agencies bear only a part of the cost of his services. The full cost is shared with the civil service retirement fund. A major purpose of H.R. 3650 is to rectify this anomaly. Accordingly, the bill provides that agencies reemploying annuitants would be required to deposit to the credit of the retirement fund the amounts of annuity deducted from the salaries of reemployed annuitants.

Further, the bill makes clear the intent of Congress with regard to the conditions of employment of reemployed annuitants whose annuities are based upon involuntary separation.

STATEMENT

Under existing law allowing an agency to retain the amount of an annuity deducted from the salary of a reemployed annuitant, the re-

retirement funds, in effect, subsidizes the agency operation. This is certainly not a legitimate purpose for the retirement fund, upon which sufficient intended demands are already being made. The full payroll cost of the services of a reemployed annuitant should be borne by the agency, so that the agency's manpower strength can be truly reflected by its total payroll expenditures and so that agencies will not be induced to reemploy annuitants solely because their services can be obtained at a reduced rate.

To correct this major deficiency in existing law, H.R. 3650 requires that the amounts deducted from the salaries of reemployed annuitants shall be deposited in the Treasury of the United States to the credit of the civil service retirement fund. The committee believes that this change is desirable and needed; it will not only benefit the retirement fund but also place payroll costs where they belong—with the employing agency.

Annuityants involuntarily separated, existing law or practice

Section 8344 (a) of title 5 governing annuities and pay upon retirement, is applicable only to annuitants who retired voluntarily. In the case of a voluntarily retired annuitant:

The annuity continues to be paid;

Retirement contributions are not withheld;

An amount equal to the annuity allocable to the period of reemployment is deducted from the salary.

Further, the law provides two additional benefits to reemployed annuitants voluntarily retired:

1. If a voluntarily separated annuitant serves for an additional period of at least 1 year, he is entitled to a supplemental annuity based on the period of additional service.

2. If the reemployment period continues for at least 5 years, the annuitant may elect to deposit the retirement contributions which ordinarily would have been deducted from his salary during the period of reemployment and have his annuity recomputed on the basis of his total salary under the retirement law in effect at the time of his separation from reemployment. This right of recomputation enables the annuitant to take advantage of any increase in average salary or retirement law liberalization that may have been enacted since his initial separation.

The law is silent on how reemployed involuntarily retired annuitants should be treated. But, in view of the requirements of law governing annuitants who retired voluntarily, there is no justification for allowing such an annuitant to receive both his salary and his annuity.

Accordingly, the Civil Service Commission, in the absence of specific statutory language, has issued regulations governing this class of retirees under 5 USC 8347, which allows the Commission to perform such acts and prescribe such regulations as are necessary and proper.

The Commission's regulations apply to two classes of employees who retired involuntarily:

1. an annuitant who retired involuntarily and is reemployed in a position subject to the civil service retirement law.

S.R. 877

2. an annuitant who retired involuntarily and is reemployed in a position not subject to the civil service retirement law, such as a temporary appointment.

In the case of the annuitant involuntarily retired who is reemployed in a position subject to the retirement law, the regulations provide that

The annuity is terminated upon reemployment;

Retirement contributions are withheld from the pay;

Future annuity rights are determined under the law in effect upon subsequent separation.

In the case of the annuitant involuntarily retired who is reemployed in a position *not* subject to the retirement law, the regulations provide that:

the annuity continues;

the salary is reduced by the amount of the annuity;

no retirement deductions are made.

Annuityants involuntarily separated, H.R. 3650

In the case of an annuitant involuntarily separated who is reemployed in a position subject to the retirement law, H.R. 3650 affirms statutorially the practice established by civil service regulations. The annuity is terminated, retirement contributions are withheld, and future annuity rights are determined under the law in effect upon subsequent separation.

In the case of an annuitant involuntarily separated who is reemployed in a position *not* subject to the retirement law, such as a temporary appointment, H.R. 3650 provides the same terms for reemployment as those governing the reemployment of an annuitant voluntarily retired. Such a reemployed annuitant would continue to receive his full annuity, but his salary would be reduced by an amount equal to his annuity allocable to the period of actual employment. If such annuitant serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant would be entitled to a supplemental annuity based on the period of reemployment. If the period of reemployment continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the annuitant may elect to deposit in the retirement fund an amount computed in accordance with the provisions of law and have his annuity recomputed on the basis of his total service, including the period of reemployment. As noted above, under existing law the right to a supplemental annuity, or recomputation after 5 years of service, extends only to annuitants whose annuities are based on voluntary separations.

H.R. 3650 also amends existing law to alter the terms of reemployment for the following classes of annuitants:

A non-member annuitant reemployed in a position subject to retirement coverage by Presidential appointment

Present law. Pay in the reemployment position is reduced by the amount of annuity allocable to the period of reemployment. No current retirement deductions are taken from pay. If the annuitant serves

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on a full-time basis for at least 1 year, he becomes entitled to a supplemental annuity; if the same annuitant continues to serve on a full-time basis for at least 5 years, he may elect to deposit in the retirement fund the retirement deductions which were not withheld from his pay and have a complete recomputation (new retirement rights) of his annuity.

H.R. 3650. Annuity is terminated. Retirement deductions are taken. If subsequent separation occurs before the 1 out of last 2 years covered service requirement is met, retirement deductions are refunded, and the terminated annuity is resumed in the same amount. If subsequent separation occurs after the 1 out of last 2 years covered service requirement is met, after reemployment, annuity is recomputed (new retirement right).

A member annuitant who is reemployed by Presidential appointment not requiring confirmation by the Senate

Present law. Annuity continues and the annuitant also gets full pay. (Such cases have been rare.) If reemployment is subject to retirement coverage, retirement deductions are withheld from pay and additional annuity benefits are earned. If reemployment is not subject to retirement coverage, retirement deductions are not withheld and no additional annuity benefits are earned.

H.R. 3650. Annuity and pay would not be payable simultaneously and the member annuitant would be treated like any other retired Member of Congress who now becomes reemployed.

CHARGING ALLOWANCES

The committee is cognizant of the fact that the provisions of this bill will affect the allowances for administrative and clerical assistants to Senators and legislative assistance to Senators. Since this legislation requires that the appropriation accounts must be charged with the full salary costs, these allowances must also be charged with the full amount of the annual salary of a re-employed annuitant rather than the current practice of charging the allowances with the net amount after reduction for the annuity. However, it is the judgment of the committee that this matter should be reviewed and considered by the proper Senate Committee; namely, the Subcommittee on Legislative Branch Appropriations of the Committee on Appropriations inasmuch as that committee considers all matters relating to senatorial allowances.

Cost

The Congressional Budget Office reports that: "Enactment of H.R. 3650 would result in a transfer of funds from Federal agencies employing civil service annuitants to the civil service retirement and disability fund. This transfer would create additional budget authority (income to retirement fund) of \$45.5 million annually plus interest accrued."

Following is the full report of the Congressional Budget Office:

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CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 22, 1976.

HON. GALE MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate,
Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3650, a bill relating to civil service annuities and pay upon reemployment.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,
Director.

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

April 16, 1976.

1. Bill Number: H.R. 3650.
2. Purpose of bill: The purpose of this bill is to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.
3. Cost estimate: Enactment of H.R. 3650 would result in a transfer of funds from Federal agencies employing civil service annuitants to the civil service retirement and disability fund. This transfer would create additional budget authority (income to retirement fund) of \$45.5 million annually plus interest accrued. There is no impact on benefit payments to individual annuitants (outlays) since there are no new expenditures associated with the increases in budget authority.

	BUDGET IMPACT				
	(In millions of dollars; fiscal years)				
	1977	1978	1979	1980	1981
Budget authority	45.5	49.1	53.0	57.3	61.9
Outlays	NA	NA	NA	NA	NA

NA Not available.

4. Basis for estimate: The critical variables in estimating the cost of H.R. 3650 are the number of reemployed civil service annuitants and their average annual annuities. The values for these variables were provided by the Civil Service Commission at the request of CBO.

A. Approximate number of reemployed annuitants	3,000
Average annuity (March 1975)	\$13,156
Cost-of-living adjustments (percent)	5.1-5.4
B. Adjusted annuity (\$13,156 × 1.051 × 1.054)	\$14,574
C. Annual interest rate (percent) (for new fund investments)	8
Annual budget authority (derived from multiplying (A × B × C) × ½ yr.) (millions)	\$45.5

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The budget authority figures for fiscal years 1977-1981 (see table below) assume a distribution factor of .5 for the first year of interest and an annual return of 8 percent in subsequent years.

5-YEAR BUDGET AUTHORITY					
[In millions of dollars; fiscal years]					
	1977	1978	1979	1980	1981
	145.47	3.64	3.93	4.24	4.58
		145.47	3.64	3.93	4.24
			145.47	3.64	3.93
				145.47	3.64
					145.47
Total.....	45.47	49.11	53.04	57.28	61.86

† Subsequent entries in this row represent annual accrual of interest.

5. Estimate comparison: None.
6. Previous CBO estimate: None.
7. Estimate prepared by: David M. Delquadro (225-5228).
8. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Following are the views of the Civil Service Commission and the General Accounting Office on H.R. 3650:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., November 26, 1975.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 3650, a bill "To clarify the application of section 8344 of title 5, United States Code, relating to civil service retirement annuities and pay on reemployment, and for other purposes." H.R. 3650 passed the House on July 21, 1975.

An employee who retires under the civil service retirement law is not barred from reemployment by the Government because of retired status and, generally, continues to receive annuity during reemployment. The employing agency, however, is required to reduce the salary paid by an amount equal to the annuity allocable to the period(s) of reemployment. Neither the retirement law nor its legislative history gives any direction as to the disposition of the annuity equivalent withheld by the agency from the salary of a reemployed annuitant, except with regard to certain reemployed retired Members of Congress.

In the case of a retired Member of Congress, section 8344(b)(2) of title 5, United States Code, provides that if reemployment is on an intermittent basis (generally, reemployment in an appointive or elective position results in suspension of annuity payments during the reemployment period), (1) the Member's annuity payments are continued during reemployment, (2) the reemployment salary is reduced by the amounts of annuity paid during the actual period(s) of reemployment, and (3) the equivalent of the annuity payments so with-

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held from the Member's salary by the employing agency is deposited in the U.S. Treasury to the credit of the retirement fund. The reason for requiring agencies to deposit these withholdings in the retirement fund is to assure that the total cost of any salary expense for intermittently reemployed Members of Congress be charged as a payroll cost to the agency, rather than be charged in whole or in part to the civil service retirement and disability fund (H.R. Rept. No. 832, 86th Cong., 1st Sess. 3) (1959)). This is the only type of case in which the equivalent of annuity payments withheld from reemployment salary is deposited in the retirement fund. In all other cases where such withholdings are made, employing agencies retain the salary savings in their appropriations, with the result that the total salary cost for reemployed retired employees (unlike such cost for reemployed Members of Congress) is not being charged as a payroll expense to agencies.

H.R. 3650 would, among other things, amend 5 U.S.C. 8344(a) to require that the amounts so deducted by the agencies be deposited in the Treasury of the United States to the credit of the civil service retirement and disability fund.

The Commission agrees that agencies should bear the full payroll costs of the salaries of reemployed annuitants. However, we recommend that the salary withholdings be deposited to the general fund of the Treasury.

Additionally, the bill would further amend 5 U.S.C. 8344 to make a number of technical perfecting and clarifying amendments relating to the treatment of pay and annuity for a reemployed annuitant. The Commission has no objection to these amendments.

In summary, the Commission supports enactment of H.R. 3650, modified as indicated above.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., August 20, 1975.

B-130150.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate.

DEAR MR. CHAIRMAN: In your letter of July 25, 1975, you requested our views on H.R. 3650, 94th Congress, a bill "[t]o clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes."

H.R. 3650, which was passed by the House of Representatives on July 21, 1975, would make one major substantive amendment: it would require reimbursement of the civil service retirement and disability fund in an amount equal to the annuity payments made to reemployed annuitants and withheld from the pay due them in the positions in which reemployed. In addition it would make certain clarifying

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amendments and minor revisions to 5 U.S.C. 8344 concerning the annuities and compensation of reemployed annuitants.

Section 1 of the bill would amend 5 U.S.C. 8344(a) to provide that an amount equal to the annuity allocable to the period of actual employment which under current law must be deducted from the annuitant's pay in a position in which he is reemployed shall be deposited in the Treasury of the United States to the credit of the retirement fund. At present agencies are permitted to retain the savings realized from the deduction requirement, thus, in effect, permitting the retirement fund to subsidize agency operations. We support this provision of H.R. 3650, since it would: (1) require the agencies to pay the full cost of employees' services; (2) result in agency budgets that reflect the true costs of operation; and (3) make the retirement fund whole.

H.R. 3650 provides that the annuity of a reemployed annuitant who served on a part-time basis for periods equivalent to at least 1 year of full-time service be increased on termination of employment by an amount based on the period of employment and the basic pay, before deduction, averaged during that employment. Under current law, an annuitant must be reemployed on a *full-time* basis for at least 1 year to qualify for a supplemental annuity. Whether equivalent part-time service should also qualify for an increased annuity is a matter on which we have no specific comments.

H.R. 3650 provides that if an annuitant whose annuity is based on an involuntary separation becomes reemployed, the annuity terminates upon reemployment. According to the Civil Service Commission, this practice is already in effect by administrative regulation, and existing legislation does not give specific guidance on the matter. The effect of this treatment of involuntarily retired annuitants upon reemployment is that they are able to have their annuities redetermined when the reemployment ends thereby being able to take advantage of any increases in their pay average, benefit liberalizations, etc., occurring since their previous retirement. This practice appears equitable in view of the fact that the annuitants were initially retired involuntarily and presumably would otherwise have remained employed.

H.R. 3650 provides that if an annuitant is appointed by the President to a position subject to the reemployment provisions, payment of his annuity terminates on reemployment. The effect of this change would be to grant Presidential appointees the advantage of having their annuities recalculated at the end of the reemployment period. This is a matter on which we have no comments.

H.R. 3650 would delete the current provision that the reemployment rules do not apply to a retired Member of Congress if he is appointed to a position that does not require confirmation by the Senate. Under current law, the annuity of a retired Member of Congress who subsequently serves in an appointive or elective position is discontinued during the employment period and resumed in the same amount at termination. The Member may elect to have his annuity recomputed as if the additional service had been performed before his retirement. These provisions do not apply, however, to a Member who is appointed by the President to a position not requiring Senate confirmation. H.R. 3650 would apply the same reemployment provisions to all retired

Members of Congress regardless of whether appointment required Senate confirmation. This is a matter on which we have no comments.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General
of the United States.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be emitted is enclosed in black brackets; new matter is shown in italic):

TITLE 5, UNITED STATES CODE

Chapter 83—Retirement

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

§ 8339. Computation of annuity

(a) * * *

(f) The annuity computed under subsections (a)–(e) of this section may not exceed 80 percent of—

- (1) the average pay of the employee; or
- (2) the greatest of—

- (A) the final basic pay of the Member;
- (B) the average pay of the Member; or
- (C) the final basic pay of the appointive position of a former Member who elects to have his annuity computed or recomputed under section 8344**[b]**(d) (1) of this title.

§ 8344. Annuities and pay on reemployment

- (a) If an annuitant receiving annuity from the Fund, except—
- (1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;
 - (2) an annuitant whose annuity **[is]**, based on an involuntary separation **[from the service other than an automatic separation; or]** (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

[(3) a Member receiving annuity from the Fund; becomes employed after September 30, 1956, or in July 31, 1956, was serving, in an appointive or elective position, his service on and after the date he was or is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment

shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. If the annuitant serves on a full-time basis, except as President, for at least 1 year in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

[(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, average during that employment; and

[(B) his lump-sum credit may not be reduced by annuity paid during that employment.

¶If the described employment of the annuitant continues for at least 5 years, he may elect, instead of the benefits provided by this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. Notwithstanding the restrictions contained in section 115 of the Social Security Amendments of 1954 (68 Stat. 1087), a similar right to redetermination after deposit is applicable to an annuitant—

[(i) whose annuity is based on an involuntary separation from the service; and

[(ii) who is separated after July 11, 1960, following such a period of employment on a full-time basis that began before October, 1956.

¶If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the annuitant dies while still reemployed and the described reemployment had continued for at least 5 years, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights determined under this subchapter.¶

(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

(4) a Member receiving annuity from the Fund; becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allowable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not

excluding him from coverage under section 8331 (1) (i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay before deduction, average during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

[(b)](d) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after separation as a Member in an appointive position in which he is subject to this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

(B) the day after the date of separation from the appointive position;
whichever is later;

(2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent-service basis—

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;

(B) retirement deductions may not be withheld from his pay;

(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title; and

(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund :

(3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and

(4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

[This subsection does not apply to a Member appointed by the President to a position not requiring confirmation by the Senate.]

[(c)](e) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

* * * * *



CIVIL SERVICE ANNUITIES AND REEMPLOYMENT PAY AMENDMENTS OF 1976

JULY 2 (legislative day, JUNE 18), 1976.—Ordered to be printed

Mr. McGEE, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 3650]

The Committee on Appropriations, to which was referred the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code relating to civil service annuities and pay upon reemployment, and for other purposes, reports the same to the Senate without amendment and presents herewith an explanation of the contents of the bill.

H.R. 3650 passed the House of Representatives on July 21, 1975, was referred to the Senate Committee on Post Office and Civil Service on July 22, 1975, and reported to the Senate, without amendment, on May 14, 1976.

In accordance with Section 401(b)(2) of the Congressional Budget and Impoundment Control Act of 1974 (covering the disposition of entitlements), H.R. 3650 was referred to the Committee on Appropriations on June 22, 1976. The referral to the Committee on Appropriations was necessary because the Committee on Post Office and Civil Service in a report dated May 28, 1976, on Section 302(b) allocations did not allow any additional amounts for new legislation which would increase the cost of the Civil Service Retirement System. H.R. 3650 would, in fact, increase those costs in fiscal year 1977, and if enacted as reported, would cause the new budget authority amounts allocated to the Committee on Post Office and Civil Service (as set forth in the First Concurrent Resolution) to be exceeded. While the total of such spending is not large, such bills must, nonetheless, be reviewed separately by this Committee.

H.R. 3650 proposes to transfer funds to the Civil Service Retirement and Disability Fund from agencies that rehire certain Civil Service annuitants.

The Congressional Budget Office has estimated the enactment of H.R. 3650 would require an additional \$45.5 million in new budget authority for fiscal year 1977; however, no new fiscal year 1977 outlays are expected if it is enacted.

The Committee on Appropriations considered the bill and reported it to the Senate without amendment. In recommending no amendment, the Committee notes that the amount of mandated new budget authority is not of great size in the context of the overall allocations to the Committee on Post Office and Civil Service, and the possible distortions in the operation of this particular piece of legislation caused by any amendment at this date. This Committee fully expects to review and amend all future entitlements to the extent necessary to assure the maintenance of the integrity of the Congressional budget process.



Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

“(a) If an annuitant receiving annuity from the Fund, except—

“(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

“(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

“(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

“(4) a Member receiving annuity from the Fund; becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

“(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

“(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter.

If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.”

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

“(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

“(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.”

(c) Section 8344(d) of title 5, United States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out “8344(b)(1)” and inserting in lieu thereof “8344(d)(1)”.

Sec. 2. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of the enactment of this Act or October 1, 1976, whichever is later, and shall apply to annuitants serving in appointive or elective positions on and after such date.

(b) The amendment made by subsection (c) of the first section of this Act shall become effective on the date of the enactment of this Act or October 1, 1976, whichever is later, but shall not apply to any annuitant reemployed before such date.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*