

# Union Calendar No. 433

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 633

**[Report No. 105-755, Part I]**

To amend the Foreign Service Act of 1980 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1997

Mr. DAVIS of Virginia introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 28, 1998

Reported from the Committee on International Relations with an amendment  
[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 28, 1998

Referral to the Committee on Government Reform and Oversight extended for a period ending not later than September 28, 1998

SEPTEMBER 28, 1998

Additional sponsors: Mr. MORAN of Virginia, Mr. EVANS, Mr. MCGOVERN, Mr. BERMAN, Mr. HORN, Mr. ACKERMAN, Mr. KANJORSKI, Mr. CLEMENT, Mr. BRYANT, Mrs. MORELLA, Mr. HOYER, Mr. WOLF, Mr. HALL of Texas, Mr. MARKEY, Mr. BATEMAN, Mr. KUCINICH, Mr. CARDIN, Mr. HINCHEY, Mr. TRAFICANT, Mr. LANTOS, Mr. NETHERCUTT, Mr. WISE, Mr. HOUGHTON, Mr. EHRLICH, Mr. DELAHUNT, and Mr. SHERMAN

SEPTEMBER 28, 1998

Committee on Government Reform and Oversight discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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# A BILL

To amend the Foreign Service Act of 1980 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Department of State*  
 5 *Special Agents Retirement Act of 1998”.*

6       **SEC. 2. AMENDMENTS RELATING TO THE FOREIGN SERVICE**

7                               **RETIREMENT AND DISABILITY SYSTEM.**

8       *(a) DEFINITION OF A SPECIAL AGENT.—*

9                               *(1) IN GENERAL.—Section 804 of the Foreign*  
 10 *Service Act of 1980 (22 U.S.C. 4044) is amended—*

11                               *(A) by striking “and” at the end of para-*  
 12 *graph (13);*

13                               *(B) by striking the period at the end of*  
 14 *paragraph (14) and inserting “; and”; and*

15                               *(C) by adding at the end the following:*

1           “(15) ‘special agent’ means an employee of the  
2           Department of State with a primary skill code of  
3           2501—

4                   “(A) the duties of whose position—

5                           “(i) are primarily—

6                                   “(I) the investigation, apprehen-  
7                                   sion, or detention of individuals sus-  
8                                   pected or convicted of offenses against  
9                                   the criminal laws of the United States,  
10                                   or

11                                   “(II) the protection of persons  
12                                   pursuant to section 2709(a)(3) of title  
13                                   22, United States Code, against threats  
14                                   to personal safety; and

15                           “(ii) are sufficiently rigorous that em-  
16                           ployment opportunities should be limited to  
17                           young and physically vigorous individuals,  
18                           as determined by the Secretary of State  
19                           pursuant to section 4823 of title 22, United  
20                           States Code;

21                   “(B) performing duties described in sub-  
22                   paragraph (A) before, on, or after the date of the  
23                   enactment of this paragraph; or

24                   “(C) transferred directly to a position  
25                   which is supervisory or administrative in nature

1           *after performing duties described in subpara-*  
2           *graph (A) for at least 3 years.”.*

3           (2) *CONFORMING AMENDMENT.*—*Section 852 of*  
4           *such Act (22 U.S.C. 4071a) is amended—*

5                     (A) *by striking “and” at the end of para-*  
6                     *graph (7);*

7                     (B) *by striking the period at the end of*  
8                     *paragraph (8) and inserting “; and”; and*

9                     (C) *by adding at the end the following:*

10                    “(9) *the term ‘special agent’ has the same mean-*  
11                    *ing given in section 804(15).”.*

12           (b) *CONTRIBUTIONS.*—

13                     (1) *IN GENERAL.*—*Section 805(a) of such Act*  
14                     *(22 U.S.C. 4045(a)) is amended by adding at the end*  
15                     *the following:*

16                     “(3) *For service as a special agent, paragraph (1) shall*  
17                     *be applied by substituting for ‘7 percent’ the percentage that*  
18                     *applies to law enforcement officers under section 8334(a)(1)*  
19                     *of title 5, United States Code.”.*

20                     (2)        *CONFORMING        AMENDMENT.*—*Section*  
21                     *805(a)(1) (22 U.S.C. 4045(a)(1)) of such Act is*  
22                     *amended by striking “Except as provided in sub-*  
23                     *section (h),” and inserting “Except as otherwise pro-*  
24                     *vided in this section,”.*

1           (c) *SPECIAL CONTRIBUTION FOR PRIOR NONDEPOSIT*  
2 *SERVICE.*—Section 805(d) of such Act (22 U.S.C. 4045(d))  
3 is amended by adding at the end the following:

4           “(6) Subject to paragraph (4) and subsection (h), for  
5 purposes of applying this subsection with respect to prior  
6 service as a special agent, the percentages of basic pay set  
7 forth in section 8334(c) of title 5, United States Code, with  
8 respect to a law enforcement officer, shall apply instead of  
9 the percentages set forth in paragraph (1).”.

10          (d) *COMPUTATION OF ANNUITIES.*—

11           (1) *IN GENERAL.*—Section 806(a) of such Act  
12 (22 U.S.C. 4046(a)) is amended—

13                   (A) by redesignating paragraph (6) as  
14 paragraph (7); and

15                   (B) by inserting after paragraph (5) the fol-  
16 lowing:

17           “(6)(A) The annuity of a special agent under this sub-  
18 chapter shall be computed under paragraph (1) except that,  
19 in the case of a special agent described in subparagraph  
20 (B), paragraph (1) shall be applied by substituting for ‘2  
21 percent’—

22                   “(i) the percentage under subparagraph (A) of  
23 section 8339(d)(1) of title 5, United States Code, for  
24 so much of the participant’s total service as is speci-  
25 fied thereunder; and

1           “(ii) the percentage under subparagraph (B) of  
2           section 8339(d)(1) of title 5, United States Code, for  
3           so much of the participant’s total service as is speci-  
4           fied thereunder.

5           “(B) A special agent described in this subparagraph  
6 is any such agent or former agent who—

7           “(i)(I) retires voluntarily or involuntarily under  
8           section 607, 608, 611, 811, 812, or 813, under condi-  
9           tions authorizing an immediate annuity, other than  
10          for cause on charges of misconduct or delinquency, or  
11          retires for disability under section 808; and

12          “(II) at the time of retirement—

13                  “(aa) if voluntary, is at least 50 years of  
14                  age and has completed at least 20 years of serv-  
15                  ice as a special agent; or

16                  “(bb) if involuntary or disability, has com-  
17                  pleted at least 20 years of service as a special  
18                  agent; or

19                  “(ii) dies in Service after completing at least 20  
20                  years of service as a special agent, when an annuity  
21                  is payable under section 809.

22          “(C) For purposes of subparagraph (B), included with  
23          the years of service performed by an individual as a special  
24          agent shall be any service performed by such individual as  
25          a law enforcement officer (within the meaning of section

1 8331(20) or section 8401(17) of title 5, United States Code),  
2 or a member of the Capitol Police.”

3 (2) *SPECIAL RULE FOR THOSE WHO EXERCISED*  
4 *ELECTION RIGHTS UNDER SECTION 860.*—Section  
5 806(a) of such Act (22 U.S.C. 4046(a)), as amended  
6 by paragraph (1), is further amended—

7 (A) by redesignating paragraph (7) (as so  
8 redesignated by paragraph (1)(A)) as paragraph  
9 (8); and

10 (B) by inserting after paragraph (6) (as  
11 added by paragraph (1)) the following:

12 “(7) In the case of a special agent who becomes or be-  
13 came subject to subchapter II pursuant to an election under  
14 section 860—

15 “(A) for purposes of paragraph (6)(B), any serv-  
16 ice performed by the individual as a special agent  
17 (whether under this subchapter or under subchapter  
18 II) shall be creditable; and

19 “(B) if the individual satisfies paragraph (6)(B),  
20 the portion of such individual’s annuity which is at-  
21 tributable to service preceding the effective date of  
22 such election shall be computed in conformance with  
23 paragraph (6).”

24 (3) *TECHNICAL AND CONFORMING AMEND-*  
25 *MENTS.*—

1           (A) Paragraph (8) of section 806(a) of such  
2           Act (22 U.S.C. 4046(a)), as so redesignated by  
3           paragraph (2)(A), is amended by striking “and  
4           (4)” and inserting “(4), and (6)”.

5           (B) Paragraphs (1) and (3) of section  
6           855(b) of such Act (22 U.S.C. 4071d(b)) are each  
7           amended by inserting “611,” after “608.”

8   **SEC. 3. MANDATORY SEPARATION OF SPECIAL AGENTS.**

9           The first sentence of section 812(a)(2) of the Foreign  
10          Service Act of 1980 (22 U.S.C. 4052(a)(2)) is amended to  
11          read as follows: “Notwithstanding paragraph (1)—

12                 “(A) an individual described in section  
13                 4(a)(2)(B) of the Department of State Special Agents  
14                 Retirement Act of 1998 who is otherwise eligible for  
15                 immediate retirement under this chapter, or

16                 “(B) a Foreign Service criminal investigator/in-  
17                 spector of the Office of Inspector General of the Agen-  
18                 cy for International Development who would have  
19                 been eligible for retirement pursuant to either section  
20                 8336(c) or 8412(d) of title 5, United States Code, as  
21                 applicable, had the employee remained in civil serv-  
22                 ice,

23          shall be separated from the Service on the last day of the  
24          month in which such individual under subparagraph (A)  
25          or such Foreign Service criminal investigator/inspector

1 *under subparagraph (B) attains 57 years of age or com-*  
2 *pletes 20 years of service if then over that age.”.*

3 **SEC. 4. EFFECTIVE DATE; APPLICABILITY.**

4 *(a) IN GENERAL.—Except as provided in subsection*  
5 *(b), this Act and the amendments made by this Act—*

6 *(1) shall take effect on the date of the enactment*  
7 *of this Act; and*

8 *(2) shall apply with respect to—*

9 *(A) any individual first appointed on or*  
10 *after that date as a special agent; and*

11 *(B) any individual making an election*  
12 *under subsection (b), subject to the provisions of*  
13 *such subsection.*

14 *(b) ELECTION FOR CURRENT PARTICIPANTS.—*

15 *(1) ELIGIBILITY.—An election under this sub-*  
16 *section may be made by any currently employed par-*  
17 *ticipant under chapter 8 of the Foreign Service Act*  
18 *of 1980 who is serving or has served as a special*  
19 *agent, or by a survivor of a special agent who was*  
20 *eligible to make an election under this section.*

21 *(2) EFFECT OF AN ELECTION.—*

22 *(A) IN GENERAL.—If an individual makes*  
23 *an election under this subsection, the amend-*  
24 *ments made by this Act shall become applicable*

1           *with respect to such individual, subject to sub-*  
2           *paragraph (B).*

3           *(B) TREATMENT OF PRIOR SERVICE.—*

4                   *(i) SPECIAL CONTRIBUTION.—An indi-*  
5                   *vidual may, after making the election under*  
6                   *this subsection, make a special contribution*  
7                   *up to the full amount of the difference be-*  
8                   *tween the contributions actually deducted*  
9                   *from pay for prior service and the deduc-*  
10                   *tions that would have been required if the*  
11                   *amendments made by this Act had then*  
12                   *been in effect. Any special contributions*  
13                   *under this clause shall be computed under*  
14                   *regulations based on section 805(d) of the*  
15                   *Foreign Service Act of 1980 (as amended by*  
16                   *section 2), including provisions relating to*  
17                   *the computation of interest.*

18                   *(ii) ACTUARIAL REDUCTION.—*

19                           *(I) RULE IF THE SPECIAL CON-*  
20                           *TRIBUTION IS PAID.—If the full*  
21                           *amount of the special contribution*  
22                           *under clause (i) is paid, no reduction*  
23                           *under this clause shall apply.*

24                           *(II) RULE IF LESS THAN THE EN-*  
25                           *TIRE AMOUNT IS PAID.—If no special*

1                   *contribution under clause (i) is paid,*  
2                   *or if less than the entire amount of*  
3                   *such special contribution is paid, the*  
4                   *recomputed annuity shall be reduced*  
5                   *by an amount sufficient to make up*  
6                   *the actuarial present value of the short-*  
7                   *fall.*

8           (c) *REGULATIONS AND NOTICE.*—*Not later than 6*  
9 *months after the date of the enactment of this Act, the Sec-*  
10 *retary of State—*

11                   (1) *shall promulgate such regulations as may be*  
12                   *necessary to carry out this Act; and*

13                   (2) *shall take measures reasonably designed to*  
14                   *provide notice to participants as to any rights they*  
15                   *might have under this Act.*

16           (d) *ELECTION DEADLINE.*—*An election under sub-*  
17 *section (b) must be made not later than 90 days after the*  
18 *date on which the relevant notice under subsection (c)(2)*  
19 *is provided.*

20           (e) *DEFINITION.*—*For purposes of this section, the*  
21 *term “special agent” has the meaning given such term*  
22 *under section 804(15) of the Foreign Service Act of 1980*  
23 *(22 U.S.C. 4044(15)), as amended by section 2(a).*

Union Calendar No. 433

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 633**

[Report No. 105-755, Part I]

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**A BILL**

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