

110TH CONGRESS  
2D SESSION

# S. 2967

To provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 1, 2008

Mrs. FEINSTEIN (for herself, Mr. BENNETT, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, 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. CONTINUED BENEFITS FOR CERTAIN SENATE**  
4        **RESTAURANTS EMPLOYEES.**

5        (a) DEFINITIONS.—In this section:

6            (1) CONTRACTOR.—The term “contractor”  
7        means the private business concern that enters into

1 a food services contract with the Architect of the  
2 Capitol.

3 (2) COVERED INDIVIDUAL.—The term “covered  
4 individual” means any individual who—

5 (A) is a Senate Restaurants employee who  
6 is an employee of the Architect of the Capitol  
7 on the date of enactment of this Act, includ-  
8 ing—

9 (i) a permanent, full-time or part-time  
10 employee;

11 (ii) a temporary, full-time or part-time  
12 employee; and

13 (iii) an employee in a position de-  
14 scribed under the second or third provisos  
15 under the subheading “SENATE OFFICE  
16 BUILDINGS” under the heading “CAPITOL  
17 BUILDINGS AND GROUNDS” under the  
18 heading “ARCHITECT OF THE CAP-  
19 ITOL” in the Legislative Branch Appro-  
20 priations Act, 1972 (2 U.S.C. 2048);

21 (B) becomes an employee of the contractor  
22 under a food services contract on the transfer  
23 date; and

24 (C) with respect to benefits under sub-  
25 section (c)(2) or (3), files an election before the

1 transfer date with the Office of Human Re-  
2 sources of the Architect of the Capitol to have  
3 1 or more benefits continued in accordance with  
4 this section.

5 (3) FOOD SERVICES CONTRACT.—The term  
6 “food services contract” means a contract under  
7 which food services operations of the Senate Res-  
8 taurants are transferred to, and performed by, a pri-  
9 vate business concern.

10 (4) TRANSFER DATE.—The term “transfer  
11 date” means the date on which a contractor begins  
12 the performance of food services operations under a  
13 food services contract.

14 (b) ELECTION OF COVERAGE.—

15 (1) IN GENERAL.—

16 (A) RETIREMENT COVERAGE.—Not later  
17 than the day before the transfer date, an indi-  
18 vidual described under subsection (a)(2)(A) and  
19 (B) may file an election with the Office of  
20 Human Resources of the Architect of the Cap-  
21 itol to continue coverage under the retirement  
22 system under which that individual is covered  
23 on that day.

24 (B) LIFE AND HEALTH INSURANCE COV-  
25 ERAGE.—If the individual files an election

1 under subparagraph (A) to continue retirement  
2 coverage, the individual may also file an elec-  
3 tion with the Office of Human Resources of the  
4 Architect of the Capitol to continue coverage of  
5 any other benefit under subsection (c)(2) or (3)  
6 for which that individual is covered on that day.  
7 Any election under this subparagraph shall be  
8 filed not later than the day before the transfer  
9 date.

10 (2) NOTIFICATION TO THE OFFICE OF PER-  
11 SONNEL MANAGEMENT.—The Office of Human Re-  
12 sources of the Architect of the Capitol shall provide  
13 timely notification to the Office of Personnel Man-  
14 agement of any election filed under paragraph (1).

15 (c) CONTINUITY OF BENEFITS.—

16 (1) PAY.—The rate of basic pay of a covered  
17 individual as an employee of a contractor, or suc-  
18 cessor contractor, during a period of continuous  
19 service may not be reduced to a rate less than the  
20 rate of basic pay paid to that individual as an em-  
21 ployee of the Architect of the Capitol on the day be-  
22 fore the transfer date, except for cause.

23 (2) RETIREMENT AND LIFE INSURANCE BENE-  
24 FITS.—

1 (A) IN GENERAL.—For purposes of chap-  
2 ters 83, 84, and 87 of title 5, United States  
3 Code—

4 (i) any period of continuous service  
5 performed by a covered individual as an  
6 employee of a contractor, or successor con-  
7 tractor, shall be deemed to be a period of  
8 service as an employee of the Architect of  
9 the Capitol; and

10 (ii) the rate of basic pay of the cov-  
11 ered individual during the period described  
12 under clause (i) shall be deemed to be the  
13 rate of basic pay of that individual as an  
14 employee of the Architect of the Capitol on  
15 the date on which the Architect of the  
16 Capitol enters into the food services con-  
17 tract.

18 (B) TREATMENT AS CIVIL SERVICE RE-  
19 TIREMENT OFFSET EMPLOYEES.—In the case of  
20 a covered individual who on the day before the  
21 transfer date is subject to subchapter III of  
22 chapter 83 of title 5, United States Code, but  
23 whose employment with the Architect of the  
24 Capitol is not employment for purposes of title

1           II of the Social Security Act and chapter 21 of  
2           the Internal Revenue Code of 1986—

3                   (i) the employment described under  
4                   subparagraph (A)(i) shall, for purposes of  
5                   subchapter III of chapter 83 of title 5,  
6                   United States Code, be deemed to be—

7                           (I) employment of an individual  
8                           described under section 8402(b)(2) of  
9                           title 5, United States Code; and

10                           (II) Federal service as defined  
11                           under section 8349(c) of title 5,  
12                           United States Code; and

13                   (ii) the basic pay described under sub-  
14                   paragraph (A)(ii) for employment de-  
15                   scribed under subparagraph (A)(i) shall be  
16                   deemed to be Federal wages as defined  
17                   under section 8334(k)(2)(C)(i) of title 5,  
18                   United States Code.

19           (3) HEALTH INSURANCE BENEFITS.—For pur-  
20           poses of chapters 89, 89A, and 89B of title 5,  
21           United States Code, any period of continuous service  
22           performed by a covered individual as an employee of  
23           a contractor, or successor contractor, shall be  
24           deemed to be a period of service as an employee of  
25           the Architect of the Capitol.

1 (4) LEAVE.—

2 (A) CREDIT OF LEAVE.—Subject to section  
3 6304 of title 5, United States Code, annual and  
4 sick leave balances of any covered individual  
5 shall be credited to the leave accounts of that  
6 individual as an employee of the contractor, or  
7 any successor contractor. A food services con-  
8 tract may include provisions similar to regula-  
9 tions prescribed under section 6308 of title 5,  
10 United States Code, to implement this subpara-  
11 graph.

12 (B) ACCRUAL RATE.—During any period  
13 of continuous service performed by a covered in-  
14 dividual as an employee of a contractor, or suc-  
15 cessor contractor, that individual shall continue  
16 to accrue annual and sick leave at rates not less  
17 than the rates applicable to that individual on  
18 the day before the transfer date.

19 (C) TECHNICAL AND CONFORMING AMEND-  
20 MENT.—The second and third provisos under  
21 the subheading “SENATE OFFICE BUILDINGS”  
22 under the heading “CAPITOL BUILDINGS AND  
23 GROUNDS” under the heading “ARCHITECT  
24 OF THE CAPITOL” in the Legislative Branch

1 Appropriations Act, 1972 (2 U.S.C. 2048) are  
2 repealed.

3 (5) TRANSIT SUBSIDY.—For purposes of any  
4 benefit under section 7905 of title 5, United States  
5 Code, any period of continuous service performed by  
6 a covered individual as an employee of a contractor,  
7 or successor contractor, shall be deemed to be a pe-  
8 riod of service as an employee of the Architect of the  
9 Capitol.

10 (6) EMPLOYEE PAY; GOVERNMENT CONTRIBU-  
11 TIONS; TRANSIT SUBSIDY PAYMENTS; AND OTHER  
12 BENEFITS.—

13 (A) PAYMENT BY CONTRACTOR.—A con-  
14 tractor, or any successor to the contractor, shall  
15 pay—

16 (i) the pay of a covered individual as  
17 an employee of a contractor, or successor  
18 contractor, during a period of continuous  
19 service;

20 (ii) Government contributions for the  
21 benefits of a covered individual under  
22 paragraph (2) or (3);

23 (iii) any transit subsidy for a covered  
24 individual under paragraph (5); and

1 (iv) any payment for any other benefit  
 2 for a covered individual in accordance with  
 3 a food services contract.

4 (B) REIMBURSEMENTS AND PAYMENTS BY  
 5 ARCHITECT OF THE CAPITOL.—From appro-  
 6 priations made available to the Architect of the  
 7 Capitol under the heading “SENATE OFFICE  
 8 BUILDINGS” under the heading “ARCHITECT  
 9 OF THE CAPITOL”, the Architect of the Cap-  
 10 itol shall—

11 (i) reimburse a contractor, or any suc-  
 12 cessor contractor, for that portion of any  
 13 payment under subparagraph (A) which  
 14 the Architect of the Capitol agreed to pay  
 15 under a food services contract; and

16 (ii) pay a contractor, or any successor  
 17 contractor, for any administrative fee (or  
 18 portion of an administrative fee) which the  
 19 Architect of the Capitol agreed to pay  
 20 under a food services contract.

21 (7) REGULATIONS.—

22 (A) OFFICE OF PERSONNEL MANAGE-  
 23 MENT.—

24 (i) IN GENERAL.—After consultation  
 25 with the Architect of the Capitol, the Di-

1           rector of the Office of Personnel Manage-  
2           ment shall prescribe regulations to provide  
3           for the continuity of benefits under para-  
4           graphs (2) and (3).

5           (ii) CONTENTS.—Regulations under  
6           this subparagraph shall—

7           (I) include regulations relating to  
8           employee deductions and employee  
9           and employer contributions and de-  
10          posits in the Civil Service Retirement  
11          and Disability Fund, the Employees'  
12          Life Insurance Fund, and the Em-  
13          ployees Health Benefits Fund; and

14          (II) provide for the Architect of  
15          the Capitol to perform employer ad-  
16          ministrative functions necessary to en-  
17          sure administration of continued cov-  
18          erage of benefits under paragraphs  
19          (2) and (3), including receipt and  
20          transmission of the deductions, con-  
21          tributions, and deposits described  
22          under subclause (I), the collection and  
23          transmission of such information as  
24          necessary, and the performance of

1                   other administrative functions as may  
2                   be required.

3                   (B) THRIFT SAVINGS PLAN BENEFITS.—

4                   After consultation with the Architect of the  
5                   Capitol, the Executive Director appointed by  
6                   the Federal Retirement Thrift Investment  
7                   Board under section 8474(a) of title 5, United  
8                   States Code, shall prescribe regulations to pro-  
9                   vide for the continuity of benefits under para-  
10                  graph (2) of this subsection relating to sub-  
11                  chapter III of chapter 84 of that title. Regula-  
12                  tions under this subparagraph shall include reg-  
13                  ulations relating to employee deductions and  
14                  employee and employer contributions and de-  
15                  posits in the Thrift Savings Fund.

16                  (d) COVERED INDIVIDUALS NOT ENTITLED TO SEV-  
17                  ERANCE PAY.—

18                  (1) IN GENERAL.—Except as provided under  
19                  paragraph (2), a covered individual shall not be enti-  
20                  tled to severance pay under section 5595 of title 5,  
21                  United States Code, by reason of—

22                         (A) separation from service with the Archi-  
23                         tect of the Capitol and becoming an employee  
24                         of a contractor under a food services contract;  
25                         or

1 (B) termination of employment with a con-  
2 tractor, or successor to a contractor.

3 (2) SEPARATION DURING 90-DAY PERIOD.—

4 (A) IN GENERAL.—

5 (i) COVERED INDIVIDUALS.—Except  
6 as provided under clause (ii), a covered in-  
7 dividual shall be entitled to severance pay  
8 under section 5595 of title 5, United  
9 States Code, if during the 90-day period  
10 following the transfer date the employment  
11 of that individual with a contractor is ter-  
12 minated as provided under a food services  
13 contract.

14 (ii) EXCEPTION.—Clause (i) shall not  
15 apply to a covered individual who is termi-  
16 nated for cause.

17 (B) TREATMENT.—For purposes of section  
18 5595 of title 5, United States Code—

19 (i) any period of continuous service  
20 performed by a covered individual de-  
21 scribed under subparagraph (A) as an em-  
22 ployee of a contractor shall be deemed to  
23 be a period of service as an employee of  
24 the Architect of the Capitol; and

1                   (ii) any termination of employment of  
2                   a covered individual described under sub-  
3                   paragraph (A) with a contractor shall be  
4                   treated as a separation from service with  
5                   the Architect of the Capitol.

6           (e) VOLUNTARY SEPARATION INCENTIVE PAY-  
7   MENTS.—

8                   (1) SUBMISSION OF PLAN.—Not later than 30  
9                   days after the date of enactment of this Act, the Ar-  
10                  chitect of the Capitol shall submit a plan under sec-  
11                  tion 210 of the Legislative Branch Appropriations  
12                  Act, 2005 (2 U.S.C. 60q) to the applicable commit-  
13                  tees as provided under that section.

14                  (2) PLAN.—

15                       (A) IN GENERAL.—Notwithstanding sec-  
16                       tion 210(e) of the Legislative Branch Appro-  
17                       priations Act, 2005 (2 U.S.C. 60q(e)), the plan  
18                       submitted under this subsection shall—

19                               (i) offer a voluntary separation incen-  
20                               tive payment to any employee described  
21                               under subsection (a)(2)(A) of this section  
22                               in accordance with section 210 of that Act;  
23                               and

24                               (ii) offer such a payment to any such  
25                               employee who becomes a covered indi-

1           vidual, if that individual accepts the offer  
2           during the 90-day period following the  
3           transfer date.

4           (B) TREATMENT OF COVERED INDIVID-  
5           UALS.—For purposes of the plan under this  
6           subsection—

7                   (i) any period of continuous service  
8                   performed by a covered individual as an  
9                   employee of a contractor shall be deemed  
10                  to be a period of service as an employee of  
11                  the Architect of the Capitol; and

12                   (ii) any termination of employment of  
13                   a covered individual with a contractor shall  
14                   be treated as a separation from service  
15                   with the Architect of the Capitol.

16           (f) EARLY RETIREMENT TREATMENT FOR CERTAIN  
17           SEPARATED EMPLOYEES.—

18                   (1) IN GENERAL.—This subsection applies to—

19                           (A) an employee of the Senate Restaurants  
20                           of the Office of the Architect of the Capitol  
21                           who—

22                                   (i) voluntarily separates from service  
23                                   on or after the date of enactment of this  
24                                   Act, but prior to the day before the trans-  
25                                   fer date; and

1 (ii) on such date of separation—

2 (I) has completed 25 years of  
3 service as defined under section  
4 8331(12) or 8401(26) of title 5,  
5 United States Code; or

6 (II) has completed 20 years of  
7 such service and is at least 50 years  
8 of age; and

9 (B) except as provided under paragraph  
10 (2), a covered individual—

11 (i) whose employment with a con-  
12 tractor is terminated as provided under a  
13 food services contract during the 90-day  
14 period following the transfer date; and

15 (ii) on the date of such termination—

16 (I) has completed 25 years of  
17 service as defined under section  
18 8331(12) or 8401(26) of title 5,  
19 United States Code; or

20 (II) has completed 20 years of  
21 such service and is at least 50 years  
22 of age.

23 (2) EXCEPTION.—Paragraph (1)(B) shall not  
24 apply to a covered individual who is terminated for  
25 cause.

1 (3) TREATMENT.—

2 (A) ANNUITY.—Notwithstanding any pro-  
3 vision of chapter 83 or 84 of title 5, United  
4 States Code, an employee described under para-  
5 graph (1) is entitled to an annuity which shall  
6 be computed consistent with the provisions of  
7 law applicable to annuities under section  
8 8336(d) or 8414(b) of title 5, United States  
9 Code.

10 (B) SEPARATION DURING 90-DAY PE-  
11 RIOD.—For purposes of chapter 83 or 84 of  
12 title 5, United States Code—

13 (i) any period of continuous service  
14 performed by a covered individual de-  
15 scribed under paragraphs (1)(B) and (2)  
16 as an employee of a contractor shall be  
17 deemed to be a period of service as an em-  
18 ployee of the Architect of the Capitol; and

19 (ii) any termination of employment of  
20 a covered individual described under para-  
21 graphs (1)(B) and (2) with a contractor  
22 shall be treated as a separation from serv-  
23 ice with the Architect of the Capitol.

24 (g) CONGRESSIONAL ACCOUNTABILITY ACT OF  
25 1995.—

1           (1) EMPLOYEES OF THE ARCHITECT OF THE  
2           CAPITOL.—Section 101(5) of the Congressional Ac-  
3           countability Act of 1995 (2 U.S.C. 1301(5)) is  
4           amended by striking “, the Botanic Garden, or the  
5           Senate Restaurant” and inserting “or the Botanic  
6           Garden”.

7           (2) DISABILITIES.—Section 210(a)(7) of the  
8           Congressional Accountability Act of 1995 (2 U.S.C.  
9           1331(a)(7)) is amended by striking “the Senate Res-  
10          taurants and the Botanic Garden” and inserting  
11          “the Botanic Garden”.

12          (3) CONTINUING APPLICATION TO CERTAIN  
13          ACTS AND OMISSIONS.—For purposes of the Con-  
14          gressional Accountability Act of 1995 (2 U.S.C.  
15          1301 et seq.) a covered individual shall be treated as  
16          an employee of the Architect of the Capitol with re-  
17          spect to any act or omission which occurred before  
18          the transfer date.

19          (h) DEPOSIT OF COMMISSIONS.—

20          (1) SENATE RESTAURANTS FOOD SERVICES  
21          CONTRACT.—Any commissions paid by a contractor  
22          under a food services contract shall be deposited in  
23          the miscellaneous items account within the contin-  
24          gent fund of the Senate.

1           (2) USE OF FUNDS.—Any funds deposited  
2           under paragraph (1) shall be available for expendi-  
3           ture in the same manner as funds appropriated into  
4           that account.

5           (i) EFFECTIVE DATE.—This Act shall take effect on  
6           the date of enactment of this Act and apply to the remain-  
7           der of the fiscal year in which enacted and each fiscal year  
8           thereafter.

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