

Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1998—Par. (15). Pub. L. 105-382 added par. (15).

1988—Par. (13). Pub. L. 100-238, §211(1), which directed the amendment of par. (13) by striking out “, in the case of death in service or marriage after retirement,” was executed by striking out “, in the case of a death in service or marriage after retirement,” after “annuitant who”, as the probable intent of Congress.

Pub. L. 100-238, §211(2), (3), substituted “9 months” for “one year” and inserted before semicolon at end “, except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if—

“(A) the death of such participant or annuitant was accidental; or

“(B) the surviving spouse of such individual had been previously married to the individual and subsequently divorced and the aggregate time married is at least 9 months”.

1986—Pub. L. 99-335, §402(a)(2), substituted “part” for “subchapter” in provision preceding par. (1).

Par. (3). Pub. L. 99-335, §403, substituted “, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined in section 1301(3) of title 25” for “or of the District of Columbia”.

Par. (10). Pub. L. 99-335, §404(a), inserted “(creditable under part I or II)” after “creditable service” in two places.

Par. (14). Pub. L. 99-335, §402(a)(3), inserted “under this part” after “payable from the Fund” in provision preceding subpar. (A).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-382, §4, Nov. 13, 1998, 112 Stat. 3409, as amended by Pub. L. 106-554, §1(a)(4) [div. B, title I, §145(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-250, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this Act [amending this section and sections 4045, 4046, 4052, 4071a, and 4071d of this title and enacting provisions set out as a note under section 3901 of this title] and the amendments made by this Act—

“(1) shall take effect on the date of the enactment of this Act [Nov. 13, 1998]; and

“(2) shall apply with respect to—

“(A) any individual first appointed on or after that date as a special agent who will have any portion of such individual’s annuity computed in conformance with section 806(a)(6) of the Foreign Service Act [of 1980] [22 U.S.C. 4046(a)(6)]; and

“(B) any individual making an election under subsection (b), subject to the provisions of such subsection.

“(b) ELECTION FOR CURRENT PARTICIPANTS.—

“(1) ELIGIBILITY.—An election under this subsection may be made by any currently employed participant or participant who was serving as of January 1, 1997 under chapter 8 of the Foreign Service Act of 1980 [22 U.S.C. 4041 et seq.] who is serving or has served as a special agent, or by a survivor of a special agent who was eligible to make an election under this section.

“(2) EFFECT OF AN ELECTION.—

“(A) IN GENERAL.—If an individual makes an election under this subsection, the amendments made by this Act [amending this section and sections 4045, 4046, 4052, 4071a, and 4071d of this title] shall become applicable with respect to such individual, subject to subparagraph (B).

“(B) TREATMENT OF PRIOR SERVICE.—

“(i) SPECIAL CONTRIBUTION.—An individual may, after making the election under this subsection,

make a special contribution up to the full amount of the difference between the contributions actually deducted from pay for prior service and the deductions that would have been required if the amendments made by this Act had then been in effect. Any special contributions under this clause shall be computed under regulations based on section 805(d) of the Foreign Service Act of 1980 [22 U.S.C. 4045(d)] (as amended by section 2), including provisions relating to the computation of interest.

“(ii) ACTUARIAL REDUCTION.—

“(I) RULE IF THE SPECIAL CONTRIBUTION IS PAID.—If the full amount of the special contribution under clause (i) is paid, no reduction under this clause shall apply.

“(II) RULE IF LESS THAN THE ENTIRE AMOUNT IS PAID.—If no special contribution under clause (i) is paid, or if less than the entire amount of such special contribution is paid, the recomputed annuity shall be reduced by an amount sufficient to make up the actuarial present value of the shortfall.

“(c) REGULATIONS AND NOTICE.—Not later than 6 months after the date of the enactment of this Act [Nov. 13, 1998], the Secretary of State—

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

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

“(d) ELECTION DEADLINE.—An election under subsection (b) must be made not later than 90 days after the date on which the relevant notice under subsection (c)(2) is provided.

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

[Pub. L. 106-554, §1(a)(4) [div. B, title I, §145(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-250, provided that: “The amendment made by this section [amending section 4 of Pub. L. 105-382, set out above] shall take effect on January 1, 2001.”]

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100-238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§ 4045. Contributions to Fund

(a) Rates and sources; deposits in Fund

(1) Except as otherwise provided in this section, 7.25 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under section 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105-33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-346; 114 Stat. 1356A-54), plus .25 percent of basic salary, and shall be made from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from

basic salary and the amounts contributed by the employing agency.

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) the employing agency shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5, plus an amount equal to .25 percent of basic pay. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the employing agency.

(B) The employing agency shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(e) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B)¹ of title 5, plus an amount equal to .25 percent of basic pay. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the employing agency.

(3) For service as a special agent, paragraph (1) shall be applied by substituting for “7 percent” the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, plus .25 percent.

(b) Consent to deduction; discharge and acquittance of claims and demands

Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant shall be entitled under this chapter, notwithstanding any law, rule, or regulation affecting the salary of the individual.

(c) Transfer of contributions from other Government retirement fund

(1) If a member of the Service who is under another retirement system for Government employees becomes a participant in the System by

direct transfer, the total contributions and deposits of that member that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered by such member prior to becoming a participant in the System.

(2) A member of the Service whose contributions are transferred to the Fund pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by subsection (d).

(d) Contribution for civilian service; creditability of interim service

(1) Any participant credited with civilian service after July 1, 1924—

(A) for which no retirement contributions, deductions, or deposits have been made, or

(B) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited,

may make a special contribution to the Fund. Special contributions for purposes of subparagraph (A) shall equal the following percentages of basic salary received for such service:

Time of service:	Percent of basic salary
July 1, 1924, through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½
January 1, 1970, through December 31, 1998, inclusive	7
January 1, 1999, through December 31, 1999, inclusive	7.25
January 1, 2000, through December 31, 2000, inclusive	7.4
After December 31, 2000	7

Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant.

(2) Notwithstanding paragraph (1), a special contribution for prior nondeposit service as a National Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the schedule in paragraph (1) multiplied by the percentage of such service that is creditable under section 4056 of this title.

(3) Special contributions under this subsection shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is

¹ See References in Text note below.

earlier.² Interest shall be compounded at the annual rate of 4 percent to December 31, 1976, and 3 percent thereafter. No interest shall be charged on special contributions for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary of State.

(4) Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of a participant described in section 4071b(c) of this title shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent.

(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either this section or section 4071e of this title and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.

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

(e) Contribution for military or naval service

(1) Subject to paragraph (5), each participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this part is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

(A) October 17, 1983, or

(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees,—

shall include interest on such amount computed and compounded annually beginning on the date

of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

(5) Effective with respect to any period of military or naval service after December 31, 1998, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) of title 5 for that same period for service as an employee.

(f) Exemption for certain military or naval service

Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under subsection (e) and section 4056(a) of this title, except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 4056 of this title for periods of internment during World War II.

(g) Time of payment; offset against initial annuity accruals

A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

(h) Computation of contributions for participants with certain creditable civilian service

Effective with respect to pay periods beginning after December 31, 1986, in administering this section with respect to a participant described in section 4071b(c) of this title whose service is employment for the purposes of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of title 26, contributions to the Fund and interest thereon shall be computed as if section 8334(k) of title 5 were applicable.

(Pub. L. 96-465, title I, §805, Oct. 17, 1980, 94 Stat. 2104; Ex. Ord. No. 12446, §4(a), Oct. 17, 1983, 48 F.R. 48444; Pub. L. 99-335, title IV, §§402(a)(2), 405, June 6, 1986, 100 Stat. 609, 610; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-238, title II, §212, Jan. 8, 1988, 101 Stat. 1773; Pub. L. 102-499, §4(a), (b), Oct. 24, 1992, 106 Stat. 3265; Pub. L. 105-33, title VII, §7001(d)(2)(C), (D), Aug. 5, 1997, 111 Stat. 660, 661; Pub. L. 105-382, §2(b), (c), Nov. 13, 1998, 112 Stat. 3407; Pub. L. 106-346, §101(a) [title V, §505(d)(2)], Oct. 23, 2000, 114 Stat. 1356, 1356A-53; Pub. L. 107-228, div. A, title III, §322(a)(2), Sept. 30, 2002, 116 Stat. 1384; Pub. L. 112-96, title V, §5001(c)(2)(D), Feb. 22, 2012, 126 Stat. 200.)

AMENDMENT OF SECTION

Section 1(a) and (c) of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, set out as a note under section 4067 of this title, provided that the second sentence of subsec. (d)(3) of this sec-

² See Amendment of Section note below.

tion, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 4059 of this title, as determined by the Secretary of the Treasury.

REFERENCES IN TEXT

Section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001, referred to in subsec. (a)(1), is section 101(a) [title V, § 505(h)] of Pub. L. 106-346, which is set out as a note below.

Section 8422(a)(2) of title 5, referred to in subsec. (a)(2)(B), was amended by Pub. L. 105-33, title VII, § 7001(b)(1)(A), Aug. 5, 1997, 111 Stat. 657, by striking out par. (2) and adding a new par. (2). As so amended, section 8422(a)(2)(B) of Title 5, Government Organization and Employees, no longer specifies the amount to be withheld from the basic pay of a law enforcement officer. However, provisions relating to the amount to be withheld from the basic pay of a law enforcement officer are contained elsewhere in section 8422.

Sections 206(b)(3) and 203(a)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, referred to in subsec. (d)(4), are set out as a note under section 8331 of Title 5, Government Organization and Employees.

The Social Security Act, referred to in subsec. (h), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2012—Subsec. (a)(2)(B). Pub. L. 112-96 substituted “section 8415(e)” for “section 8415(d)”.

2002—Subsec. (a)(1). Pub. L. 107-228, § 322(a)(2)(C), which directed amendment of par. (1) by substituting “employing agency” for “Department” wherever appearing, was executed by making the substitution in two places in the last sentence but not in the second sentence where “Department” appears before “of Transportation and Related Agencies Appropriations Act, 2001”, to reflect the probable intent of Congress.

Pub. L. 107-228, § 322(a)(2)(A), substituted “.725 percent” for “.7 percent” and “The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under section 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105-33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-346; 114 Stat. 1356A-54), plus .25 percent of basic salary, and shall be made” for “An equal amount shall be contributed by the Department”.

Subsec. (a)(2)(A), (B). Pub. L. 107-228, § 322(a)(2)(C), substituted “employing agency” for “Department” wherever appearing.

Pub. L. 107-228, § 322(a)(2)(B), which directed amendment of subpars. (A) and (B) by inserting “, plus an amount equal to .25 percent of basic pay” at end of first sentence, was executed by making the insertion before the period at end of first sentence to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 107-228, § 322(a)(2)(D), which directed amendment of par. (3) by inserting “, plus .25 percent” at the end of the first sentence, was executed by making the insertion before the period at end of first sentence, to reflect the probable intent of Congress.

2000—Subsec. (d)(1). Pub. L. 106-346, in table in concluding provisions, substituted item relating to service period after December 31, 2000, for items relating to service periods January 1, 2001, through December 31, 2002; and after December 31, 2002.

1998—Subsec. (a)(1). Pub. L. 105-382, § 2(b)(2), substituted “Except as otherwise provided in this section,” for “Except as provided in subsection (h) of this section.”

Subsec. (a)(3). Pub. L. 105-382, § 2(b)(1), added par. (3).
Subsec. (d)(6). Pub. L. 105-382, § 2(c), added par. (6).

1997—Subsec. (d)(1). Pub. L. 105-33, § 7001(d)(2)(C), in table in concluding provisions, inserted items relating to service periods January 1, 1970, through December 31, 1998; January 1, 1999, through December 31, 1999; January 1, 2000, through December 31, 2000; January 1, 2001, through December 31, 2002; and after December 31, 2002, and struck out former item relating to service period on and after January 1, 1970.

Subsec. (e)(1). Pub. L. 105-33, § 7001(d)(2)(D)(i), substituted “Subject to paragraph (5), each” for “Each”.

Subsec. (e)(5). Pub. L. 105-33, § 7001(d)(2)(D)(ii), added par. (5).

1992—Subsec. (a). Pub. L. 102-499, § 4(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(5). Pub. L. 102-499, § 4(b), added par. (5).

1988—Subsec. (d)(1). Pub. L. 100-238, in concluding provisions, substituted “Fund. Special contributions for purposes of subparagraph (A) shall equal” for “Fund equal to” and inserted “Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant.”

1986—Subsec. (a). Pub. L. 99-335, § 405(a)(1), inserted “Except as provided in subsection (h) of this section,” before “.7 percent”.

Subsec. (d)(4). Pub. L. 99-335, § 405(b), added par. (4).

Subsec. (e)(1). Pub. L. 99-335, § 402(a)(2), substituted “part” for “subchapter”.

Subsec. (h). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Pub. L. 99-335, § 405(a)(2), added subsec. (h).

1983—Subsecs. (e) to (g). Ex. Ord. No. 12446 added subsecs. (e) and (f), struck out former subsec. (e), and redesignated former subsec. (f) as (g). Prior to amendment, subsec. (e) read as follows: “Contributions shall not be required for any period of military and naval service or for any period for which credit is allowed to individuals of Japanese ancestry under section 4056 of this title for periods of internment during World War II.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-228, div. A, title III, § 322(c)(2), Sept. 30, 2002, 116 Stat. 1385, provided that: “The amendments made by subsections (a)(2) [amending this section] and (b)(2) [amending section 4071e of this title] shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act [Sept. 30, 2002].”

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, § 505(i)] of Pub. L. 106-346, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105-382, as

amended, set out as a note under section 4044 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105-33, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100-238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Ex. Ord. No. 12446 effective Oct. 17, 1983, see section 4(e) of Ex. Ord. No. 12446, set out under section 4067 of this title.

FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM CONTRIBUTIONS, DEDUCTIONS, AND WITHHOLDINGS

Pub. L. 106-346, §101(a) [title V, §505(h)], Oct. 23, 2000, 114 Stat. 1356, 1356A-54, provided that: "Notwithstanding any provision of section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)), during the period beginning on October 1, 2002, through December 31, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

"(1) 7.5 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

"(2) 8 percent of the basic pay of each participant covered under paragraph (2) or (3) of section 805(a) of such Act participating in the Foreign Service Retirement and Disability System,

in lieu of the agency contribution otherwise required under section 805(a) of such Act."

Pub. L. 105-33, title VII, §7001(d)(1)-(2)(B), Aug. 5, 1997, 111 Stat. 659, 660, as amended by Pub. L. 106-346, §101(a) [title V, §505(d)(1)], Oct. 23, 2000, 114 Stat. 1356, 1356A-53, provided that:

"(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 805(a)(1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1) and (2)), during the period beginning on October 1, 1997, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

"(A) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

"(B) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System;

in lieu of the agency contribution otherwise required under section 805(a)(1) and (2) of such Act.

"(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

"(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

"7.25 January 1, 1999, to December 31, 1999.

"7.4 January 1, 2000, to December 31, 2000.

"(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

"7.75 January 1, 1999, to December 31, 1999.

"7.9 January 1, 2000, to December 31, 2000."

§ 4046. Computation of annuities

(a)¹ Measurements; reduction for special contributions; Foreign Service investigator/inspectors

(1) The annuity of a participant shall be equal to 2 percent of his or her average basic salary for the highest 3 consecutive years of service multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with sections 4056 and 4057 of this title, except that the highest 3 years of service shall be used in computing the annuity of any participant who serves an assignment in a position, as described in section 3942(b) of this title, to which the participant was appointed by the President and whose continuity of service in that position is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary of State to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by 10 percent of any special contribution described in section 4045(d) of this title which is due for service for which no contributions were made and which remains unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) utilizing the definition of average pay contained in section 8331(4) of title 5, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of title 5, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position

¹ See Amendment of Section note below.