

104TH CONGRESS
1ST SESSION

H. R. 1185

To amend chapters 83 and 84 of title 5, United States Code, to increase the percentage of basic pay required to be contributed by individuals; to change the method for computing “average pay”; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1995

Mr. MICA introduced the following bill; which was referred to the Committee on Government Reform and Oversight

A BILL

To amend chapters 83 and 84 of title 5, United States Code, to increase the percentage of basic pay required to be contributed by individuals; to change the method for computing “average pay”; 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Retirement Reform Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of title 5, United States Code.
 Sec. 3. Individual contributions.
 Sec. 4. Average pay.

1 **SEC. 2. AMENDMENT OF TITLE 5, UNITED STATES CODE.**

2 Except as otherwise expressly provided, whenever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion, the reference shall be considered to be made to a
 6 section or other provision of title 5, United States Code.

7 **SEC. 3. INDIVIDUAL CONTRIBUTIONS.**

8 (a) CSRS.—

9 (1) IN GENERAL.—The table under section
 10 8334(c) is amended—

11 (A) in the matter relating to an employee
 12 by striking

“7 After December 31,
 1969.”

13 and inserting the following:

“7 January 1, 1970, to De-
 cember 31, 1995.

“8 January 1, 1996, to De-
 cember 31, 1996.

“8½ January 1, 1997, to De-
 cember 31, 1997.

“9½ After December 31,
 1997.”;

14 (B) in the matter relating to a Member or
 15 employee for Congressional employee service by
 16 striking

“7½ After December 31,
 1969.”

1 and inserting the following:

- “7½ January 1, 1970, to December 31, 1995.
- “8½ January 1, 1996, to December 31, 1996.
- “9 January 1, 1997, to December 31, 1997.
- “9½ After December 31, 1997.”;

2 (C) in the matter relating to a Member for
3 Member service by striking

- “8 After December 31, 1969.”

4 and inserting the following:

- “8 January 1, 1970, to December 31, 1995.
- “9 January 1, 1996, to December 31, 1996.
- “9½ After December 31, 1996.”;

5 (D) in the matter relating to a law enforce-
6 ment officer for law enforcement service and
7 firefighter for firefighter service by striking

- “7½ After December 31, 1974.”

8 and inserting the following:

- “7½ January 1, 1975, to December 31, 1995.
- “8½ January 1, 1996, to December 31, 1996.
- “9 January 1, 1997, to December 31, 1997.
- “9½ After December 31, 1997.”;

1 (E) in the matter relating to a bankruptcy
2 judge by striking

“8 After December 31,
1983.”

3 and inserting the following:

“8 January 1, 1984, to De-
cember 31, 1995.

“9 January 1, 1996, to De-
cember 31, 1996.

“9½ After December 31,
1996.”;

4 (F) in the matter relating to a judge of the
5 United States Court of Appeals for the Armed
6 Forces for service as a judge of that court by
7 striking

“8 On and after the date of
the enactment of the
Department of De-
fense Authorization
Act, 1984.”

8 and inserting the following:

“8 The date of the enact-
ment of the Depart-
ment of Defense Au-
thorization Act, 1984,
to December 31,
1995.

“9 January 1, 1996, to De-
cember 31, 1996.

“9½ After December 31,
1996.”;

9 (G) in the matter relating to a United
10 States magistrate by striking

“8 After September 30,
1987.”

1 and inserting the following:

“8 October 1, 1987, to De-
cember 31, 1995.

“9 January 1, 1996, to De-
cember 31, 1996.

“9½ After December 31,
1996.”; and

2 (H) in the matter relating to a Claims
3 Court judge by striking

“8 After September 30,
1988.”

4 and inserting the following:

“8 October 1, 1988, to De-
cember 31, 1995.

“9 January 1, 1996, to De-
cember 31, 1996.

“9½ After December 31,
1996.”.

5 (2) DEDUCTIONS.—The first sentence of section
6 8334(a)(1) is amended to read as follows: “The em-
7 ploying agency shall deduct and withhold from the
8 basic pay of an employee, Member, Congressional
9 employee, law enforcement officer, firefighter, bank-
10 ruptcy judge, judge of the United States Court of
11 Appeals for the Armed Forces, United States mag-
12 istrate, or Claims Court judge, as the case may be,
13 the percentage of basic pay applicable under sub-
14 section (c).”.

1 (3) GOVERNMENT CONTRIBUTIONS.—Section
2 8334(a)(1) is amended by inserting after the second
3 sentence the following: “The amount to be contrib-
4 uted under the preceding sentence with respect to
5 any service period occurring after December 31,
6 1995, shall be determined as if the applicable per-
7 centage under subsection (c) for each such period
8 were not greater than the applicable percentage
9 thereunder, for the type of service involved, for cal-
10 endar year 1995.”.

11 (4) OTHER SERVICE.—

12 (A) MILITARY SERVICE.—Section 8334(j)
13 is amended—

14 (i) in paragraph (1)(A) by inserting
15 “and subject to paragraph (5),” after “Ex-
16 cept as provided in subparagraph (B),”;
17 and

18 (ii) by adding at the end the follow-
19 ing:

20 “(5) Effective with respect to any period of military
21 service after December 31, 1995, the percentage of basic
22 pay under section 204 of title 37 payable under paragraph
23 (1) shall be equal to the same percentage as would be ap-
24 plicable under section 8334(c) for that same period for
25 service as an ‘employee’, subject to paragraph (1)(B).”.

1 (B) VOLUNTEER SERVICE.—Section
2 8334(l) is amended—

3 (i) in paragraph (1) by striking the
4 period at the end and inserting “, subject
5 to paragraph (4).”; and

6 (ii) by adding at the end the follow-
7 ing:

8 “(4) Effective with respect to any period of service
9 after December 31, 1995, the percentage of the readjust-
10 ment allowance or stipend (as the case may be) payable
11 under paragraph (1) shall be equal to the same percentage
12 as would be applicable under section 8334(c) for that same
13 period for service as an ‘employee’.”.

14 (b) FERS.—

15 (1) IN GENERAL.—Section 8422(a) is amended
16 by striking paragraph (2) and inserting the follow-
17 ing:

18 “(2) The percentage to be deducted and withheld
19 from basic pay for any pay period shall be equal to—

20 “(A) the applicable percentage under paragraph
21 (3), minus

22 “(B) the percentage then in effect under section
23 3101(a) of the Internal Revenue Code of 1986 (re-
24 lating to rate of tax for old-age, survivors, and dis-
25 ability insurance).

1 “(3) The applicable percentage under this paragraph,
 2 for civilian service after December 31, 1995, shall be as
 3 follows:

	Percent- age of basic pay	Service period
“Employee	8	January 1, 1996, to De- cember 31, 1996.
	“8½	January 1, 1997, to De- cember 31, 1997.
	“9½	After December 31, 1997.
“Congressional employee	8½	January 1, 1996, to De- cember 31, 1996.
	“9	January 1, 1997, to De- cember 31, 1997.
	“9½	After December 31, 1997.
“Member	8½	January 1, 1996, to De- cember 31, 1996.
	“9	January 1, 1997, to De- cember 31, 1997.
	“9½	After December 31, 1997.
“Law enforcement officer	8½	January 1, 1996, to De- cember 31, 1996.
	“9	January 1, 1997, to De- cember 31, 1997.
	“9½	After December 31, 1997.
“Firefighter	8½	January 1, 1996, to De- cember 31, 1996.
	“9	January 1, 1997, to De- cember 31, 1997.
	“9½	After December 31, 1997.
“Air traffic controller	8½	January 1, 1996, to De- cember 31, 1996.
	“9	January 1, 1997, to De- cember 31, 1997.
	“9½	After December 31, 1997.”.

4 (2) OTHER SERVICE.—

5 (A) MILITARY SERVICE.—Section 8422(e)

6 is amended—

1 (i) in paragraph (1)(A) by inserting
2 “and subject to paragraph (5),” after “Ex-
3 cept as provided in subparagraph (B),”;
4 and

5 (ii) by adding at the end the follow-
6 ing:

7 “(5) Effective with respect to any period of military
8 service after December 31, 1995, the percentage of basic
9 pay under section 204 of title 37 payable under paragraph
10 (1) shall be equal to the same percentage as would be ap-
11 plicable under section 8422(a)(3) for that same period for
12 service as an ‘employee’, subject to paragraph (1)(B).”.

13 (B) VOLUNTEER SERVICE.—Section
14 8422(f) is amended—

15 (i) in paragraph (1) by striking the
16 period at the end and inserting “, subject
17 to paragraph (4).”; and

18 (ii) by adding at the end the follow-
19 ing:

20 “(4) Effective with respect to any period of service
21 after December 31, 1995, the percentage of the readjust-
22 ment allowance or stipend (as the case may be) payable
23 under paragraph (1) shall be equal to the same percentage
24 as would be applicable under section 8422(a)(3) for that
25 same period for service as an employee.”.

1 (c) EXEMPTION.—

2 (1) IN GENERAL.—Section 1005(d) of title 39,
3 United States Code, is amended by adding at the
4 end the following:

5 “(3) For purposes of applying chapters 83 and 84
6 of title 5 with respect to any officer or employee of the
7 Postal Service, section 3 of the Federal Retirement Re-
8 form Act of 1995 shall be treated as if it had not been
9 enacted.”.

10 (2) TECHNICAL AMENDMENT.—The second sen-
11 tence of section 1005(d)(1) of title 39, United States
12 Code, is amended by striking the period and insert-
13 ing “, subject to paragraph (3).”.

14 (d) EFFECTIVE DATE.—This section shall take effect
15 on January 1, 1996.

16 **SEC. 4. AVERAGE PAY.**

17 (a) CSRS.—

18 (1) IN GENERAL.—Subchapter III of chapter
19 83 is amended by inserting after section 8339 the
20 following:

21 **“§ 8339a. Special rules relating to average pay**

22 “(a) Notwithstanding section 8331(4), for purposes
23 of any annuity or survivor annuity eligibility for which is
24 based on a separation occurring after December 31, 1995,

1 'average pay' shall be determined in accordance with this
2 section.

3 “(b) For purposes of any computation under this sub-
4 chapter which involves the multiplication of ‘average pay’
5 times a fixed percentage times a period of service (includ-
6 ing any computation under the second sentence of section
7 8339(a)), with respect to any annuity or survivor annuity
8 described in subsection (a), the term ‘average pay’ shall—

9 “(1) with respect to service performed before
10 calendar year 1996, have the meaning given such
11 term by subsection (d)(1);

12 “(2) with respect to service performed during
13 calendar year 1996, have the meaning given such
14 term by subsection (d)(2); and

15 “(3) with respect to service performed after cal-
16 endar year 1996, have the meaning given such term
17 by subsection (d)(3).

18 “(c)(1) For purposes of any computation described
19 in paragraph (2), the term ‘average pay’ shall, if the sepa-
20 ration (on which eligibility for the annuity or survivor an-
21 nuity involved is based) occurs—

22 “(A) during calendar year 1996, have the
23 meaning given such term by subsection (d)(2); or

24 “(B) after calendar year 1996, have the mean-
25 ing given such term by subsection (d)(3).

1 “(2) This subsection shall apply for purposes of any
2 computation under this subchapter involving the mul-
3 tiplication of ‘average pay’ times a specified percentage
4 (where the total percentage to be applied in such computa-
5 tion is specifically stated, rather than to be determined
6 as a function of length of service), such as the computa-
7 tion of any minimum amount under section 8339(e),
8 8339(g)(1), or 8341(d)(1), any maximum amount allow-
9 able under section 8339(f) or 8340(g)(1)(B), and any
10 amount under subparagraph (A) or clause (i) of section
11 8341(e)(2).

12 “(d) For purposes of this section—

13 “(1) the meaning given the term ‘average pay’
14 by this paragraph shall be the meaning given such
15 term by section 8331(4);

16 “(2) the meaning given the term ‘average pay’
17 by this paragraph shall be the meaning such term
18 would have under section 8331(4) if ‘4 consecutive
19 years’ were substituted for ‘3 consecutive years’ and
20 ‘4 years’ were substituted for ‘3 years’; and

21 “(3) the meaning given the term ‘average pay’
22 by this paragraph shall be the meaning such term
23 would have under section 8331(4) if ‘5 consecutive
24 years’ were substituted for ‘3 consecutive years’ and
25 ‘5 years’ were substituted for ‘3 years’.

1 “(e) Nothing in this section shall be considered to
2 apply with respect to any annuity or survivor annuity eligi-
3 bility for which is based on a separation occurring before
4 January 1, 1996.

5 “(f) The Office of Personnel Management shall pre-
6 scribe such regulations as may be necessary to carry out
7 this section, including regulations for the application of
8 section 8339(m) and (p) (and any other provision of this
9 subchapter not otherwise specifically addressed in this sec-
10 tion) in a manner consistent with the purposes of this sec-
11 tion.”.

12 (2) TECHNICAL AMENDMENTS.—

13 (A) Section 8331(4) is amended by strik-
14 ing “effect;” and inserting “effect, subject to
15 section 8339a;”.

16 (B) The table of sections for chapter 83 is
17 amended by inserting after the item relating to
18 section 8339 the following:

“8339a. Special rules relating to average pay.”.

19 (b) FERS.—

20 (1) IN GENERAL.—Chapter 84 is amended by
21 inserting after section 8461 the following:

22 **“§ 8461a. Special rules relating to average pay**

23 “(a) Notwithstanding section 8401(3), for purposes
24 of any annuity or survivor annuity eligibility for which is
25 based on a separation occurring after December 31, 1995,

1 'average pay' shall be determined in accordance with this
2 section.

3 “(b)(1) Except as provided in paragraph (2), for pur-
4 poses of any computation under this chapter which in-
5 volves the multiplication of ‘average pay’ times a fixed per-
6 centage times a period of service, with respect to any an-
7 nuity or survivor annuity described in subsection (a), the
8 term ‘average pay’ shall—

9 “(A) with respect to service performed before
10 calendar year 1996, have the meaning given such
11 term by subsection (d)(1);

12 “(B) with respect to service performed during
13 calendar year 1996, have the meaning given such
14 term by subsection (d)(2); and

15 “(C) with respect to service performed after cal-
16 endar year 1996, have the meaning given such term
17 by subsection (d)(3).

18 “(2) In the case of an annuity or survivor annuity
19 eligibility for which is based on the service of an employee
20 or Member who, as of December 31, 1995, has less than
21 5 years of civilian service creditable under section 8411,
22 for purposes of any computation described in paragraph
23 (1), the term ‘average pay’ shall, if the separation (on
24 which eligibility for such annuity or survivor annuity is
25 based) occurs—

1 “(A) during calendar year 1996, have the
2 meaning given such term by subsection (d)(2); or

3 “(B) after calendar year 1996, have the mean-
4 ing given such term by subsection (d)(3).

5 “(c)(1) For purposes of any computation described
6 in paragraph (2), the term ‘average pay’ shall, if the sepa-
7 ration (on which eligibility for the annuity or survivor an-
8 nuity involved is based) occurs—

9 “(A) during calendar year 1996, have the
10 meaning given such term by subsection (d)(2); or

11 “(B) after calendar year 1996, have the mean-
12 ing given such term by subsection (d)(3).

13 “(2) This subsection shall apply for purposes of any
14 computation under this chapter involving the multiplica-
15 tion of ‘average pay’ times a specified percentage (where
16 the total percentage to be applied in such computation is
17 specifically stated, rather than to be determined as a func-
18 tion of length of service), such as the computation of an
19 amount under section 8442(b)(1)(A)(i) or 8452(a)(1)(A).

20 “(d) For purposes of this section—

21 “(1) the meaning given the term ‘average pay’
22 by this paragraph shall be the meaning given such
23 term by section 8401(3);

24 “(2) the meaning given the term ‘average pay’
25 by this paragraph shall be the meaning such term

1 would have under section 8401(3) if ‘4 consecutive
2 years’ were substituted for ‘3 consecutive years’ and
3 ‘4 years’ were substituted for ‘3 years’; and

4 “(3) the meaning given the term ‘average pay’
5 by this paragraph shall be the meaning such term
6 would have under section 8401(3) if ‘5 consecutive
7 years’ were substituted for ‘3 consecutive years’ and
8 ‘5 years’ were substituted for ‘3 years’.

9 “(e) Nothing in this section shall be considered to
10 apply with respect to any annuity or survivor annuity eligi-
11 bility for which is based on a separation occurring before
12 January 1, 1996.

13 “(f) The Office of Personnel Management shall pre-
14 scribe such regulations as may be necessary to carry out
15 this section, including regulations for the application of
16 section 8415(e) (and any other provision of this chapter
17 not otherwise specifically addressed in this section) in a
18 manner consistent with the purposes of this section.”.

19 (2) TECHNICAL AMENDMENTS.—

20 (A) Section 8401(3) is amended by strik-
21 ing “effect;” and inserting “effect, subject to
22 section 8461a;”.

23 (B) The table of sections for chapter 84 is
24 amended by inserting after the item relating to
25 section 8461 the following:

“8461a. Special rules relating to average pay.”.

1 (c) REGULATIONS.—The Office of Personnel Man-
2 agement shall prescribe such regulations as may be nec-
3 essary to carry out the purposes of this section, including
4 regulations to provide that section 302(a)(6) of the Fed-
5 eral Employees' Retirement System Act of 1986 (5 U.S.C.
6 8331 note) shall be carried out in a manner consistent
7 with the amendments made by this section.

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