

112TH CONGRESS  
1ST SESSION

# S. 985

To amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

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## IN THE SENATE OF THE UNITED STATES

MAY 12, 2011

Ms. MIKULSKI introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

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 “Law Enforcement Offi-  
5       cers Retirement Equity Act of 2011”.

6       **SEC. 2. AMENDMENTS.**

7       (a) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—

1           (1) IN GENERAL.—Section 8401(17) of title 5,  
2 United States Code, is amended—

3           (A) in subparagraph (C), by striking  
4 “and” at the end; and

5           (B) by adding at the end the following:

6           “(E) an employee (not otherwise covered  
7 by this paragraph)—

8           “(i) the duties of whose position in-  
9 clude the investigation or apprehension of  
10 individuals suspected or convicted of of-  
11 fenses against the criminal laws of the  
12 United States; and

13           “(ii) who is authorized to carry a fire-  
14 arm; and

15           “(F) an employee of the Internal Revenue  
16 Service, the duties of whose position are pri-  
17 marily the collection of delinquent taxes and the  
18 securing of delinquent returns;”.

19           (2) CONFORMING AMENDMENT.—Section  
20 8401(17)(C) of title 5, United States Code, is  
21 amended by striking “(A) and (B)” and inserting  
22 “(A), (B), (E), and (F)”.

23           (b) CIVIL SERVICE RETIREMENT SYSTEM.—Section  
24 8331(20) of title 5, United States Code, is amended in  
25 the matter before subparagraph (A) by inserting after

1 “position.” the following: “For the purpose of this para-  
 2 graph, the employees described in the preceding provision  
 3 of this paragraph (in the matter before ‘including’) shall  
 4 be considered to include an employee (not otherwise cov-  
 5 ered by this paragraph) who satisfies clauses (i) and (ii)  
 6 of section 8401(17)(E) and an employee of the Internal  
 7 Revenue Service the duties of whose position are as de-  
 8 scribed in section 8401(17)(F).”.

9 (c) EFFECTIVE DATE.—Except as provided in section  
 10 3, the amendments made by this section shall take effect  
 11 on the date of enactment of this Act, and shall apply only  
 12 in the case of any individual first appointed (or seeking  
 13 to be first appointed) as a law enforcement officer (within  
 14 the meaning of those amendments) on or after such date.

15 **SEC. 3. TREATMENT OF SERVICE PERFORMED BY INCUM-**  
 16 **BENTS.**

17 (a) LAW ENFORCEMENT OFFICER AND SERVICE DE-  
 18 SCRIBED.—

19 (1) LAW ENFORCEMENT OFFICER.—Any ref-  
 20 erence to a law enforcement officer described in this  
 21 subsection refers to an individual who satisfies the  
 22 requirements under section 8331(20) or 8401(17) of  
 23 title 5, United States Code (relating to the definition  
 24 of a law enforcement officer) by virtue of the amend-  
 25 ments made by section 2.

1           (2) SERVICE.—Any reference to service de-  
2           scribed in this subsection refers to service performed  
3           as a law enforcement officer as described in this  
4           subsection.

5           (b) INCUMBENT AND PRIOR SERVICE DEFINED.—

6           (1) INCUMBENT.—For purposes of this section,  
7           the term “incumbent” means an individual who—

8                   (A) is first appointed as a law enforcement  
9                   officer as described in subsection (a) before the  
10                  date of enactment of this Act; and

11                  (B) is serving as such a law enforcement  
12                  officer on such date.

13           (2) PRIOR SERVICE.—For purposes of this sec-  
14           tion, the term “prior service” means, with respect to  
15           any individual who makes an election under sub-  
16           section (c)(2), service described in subsection (a)  
17           performed by such individual before the date as of  
18           which appropriate retirement deductions begin to be  
19           made in accordance with such election.

20           (c) TREATMENT OF SERVICE PERFORMED BY INCUM-  
21           BENTS.—

22           (1) IN GENERAL.—Except as provided in para-  
23           graph (2), service described in subsection (a) which  
24           is performed by an incumbent on or after the date  
25           of enactment of this Act shall be treated for all pur-

1 poses as service performed as a law enforcement of-  
2 ficer (within the meaning of section 8331(20) or  
3 8401(17) of title 5, United States Code, as appro-  
4 priate), irrespective of how such service is treated  
5 under paragraph (2).

6 (2) RETIREMENT.—Service described in sub-  
7 section (a) which is performed by an incumbent be-  
8 fore, on, or after the date of enactment of this Act  
9 shall, for purposes of subchapter III of chapter 83  
10 and chapter 84 of title 5, United States Code, be  
11 treated as service performed as a law enforcement  
12 officer (within the meaning of such section 8331(20)  
13 or 8401(17), as appropriate) if an appropriate writ-  
14 ten election is submitted to the Office of Personnel  
15 Management not later than the earlier of 5 years  
16 after the date of enactment of this Act and the day  
17 before the date on which the incumbent separates  
18 from Government service, whichever is earlier.

19 (d) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-  
20 ICE.—

21 (1) IN GENERAL.—An individual who makes an  
22 election under subsection (c)(2) may, with respect to  
23 prior service performed by such individual, con-  
24 tribute to the Civil Service Retirement and Disability  
25 Fund the difference between the individual contribu-

1 tions that were actually made for such service and  
2 the individual contributions that should have been  
3 made for such service if the amendments made by  
4 section 2 had then been in effect.

5 (2) EFFECT OF NOT CONTRIBUTING.—If no  
6 part of or less than the full amount required under  
7 paragraph (1) is paid, all prior service of the incum-  
8 bent shall remain fully creditable as law enforcement  
9 officer service, but the resulting annuity shall be re-  
10 duced in a manner similar to that described in sec-  
11 tion 8334(d)(2) of title 5, United States Code, to  
12 the extent necessary to make up the amount unpaid.

13 (e) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERV-  
14 ICE.—

15 (1) IN GENERAL.—If an incumbent makes an  
16 election under subsection (c)(2), the agency in or  
17 under which that individual was serving at the time  
18 of any prior service shall remit to the Office of Per-  
19 sonnel Management, for deposit in the Treasury of  
20 the United States to the credit of the Civil Service  
21 Retirement and Disability Fund, the amount re-  
22 quired under paragraph (2) with respect to such  
23 service.

24 (2) AMOUNT REQUIRED.—The amount an agen-  
25 cy is required to remit is, with respect to any prior

1 service, the total amount of additional Government  
2 contributions to the Civil Service Retirement and  
3 Disability Fund (above those actually paid) that  
4 would have been required if the amendments made  
5 by section 2 had then been in effect.

6 (3) CONTRIBUTIONS TO BE MADE RATABLY.—  
7 Government contributions under this subsection on  
8 behalf of an incumbent shall be made by the agency  
9 ratably (on at least an annual basis) over the 10-  
10 year period beginning on the date referred to in sub-  
11 section (b)(2).

12 (f) EXEMPTION FROM MANDATORY SEPARATION.—  
13 Nothing in section 8335(b) or 8425(b) of title 5, United  
14 States Code, shall cause the involuntary separation of a  
15 law enforcement officer as described in subsection (a) be-  
16 fore the end of the 3-year period beginning on the date  
17 of enactment of this Act.

18 (g) REGULATIONS.—The Office of Personnel Man-  
19 agement shall prescribe regulations to carry out this Act,  
20 including—

21 (1) provisions in accordance with which interest  
22 on any amount under subsection (d) or (e) shall be  
23 computed, based on section 8334(e) of title 5,  
24 United States Code; and

1           (2) provisions for the application of this section  
2       in the case of—

3           (A) any individual who—

4                 (i) satisfies subsection (b)(1)(A) and  
5                 does not satisfy subsection (b)(1)(B); and

6                 (ii) serves as a law enforcement offi-  
7                 cer as described in subsection (a) after the  
8                 date of enactment of this Act; and

9           (B) any individual entitled to a survivor  
10       annuity (based on the service of an incumbent,  
11       or of an individual under subparagraph (A),  
12       who dies before making an election under sub-  
13       section (c)(2)), to the extent of any rights that  
14       would then be available to the decedent (if still  
15       living).

16       (h) RULE OF CONSTRUCTION.—Nothing in this sec-  
17       tion shall be considered to apply in the case of a reem-  
18       ployed annuitant.

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