

106TH CONGRESS  
1ST SESSION

# S. 1232

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## AN ACT

To provide for the correction of retirement coverage errors  
under chapters 83 and 84 of title 5, United States Code.

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 Erroneous Retirement Coverage Corrections  
6       Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.  
 Sec. 3. Applicability.  
 Sec. 4. Irrevocability of elections.

TITLE I—DESCRIPTION OF RETIREMENT COVERAGE ERRORS TO  
 WHICH THIS ACT APPLIES AND MEASURES FOR THEIR REC-  
 TIFICATION

Subtitle A—Employees and Annuitants Who Should Have Been FERS Cov-  
 ered, but Who Were Erroneously CSRS Covered or CSRS-Offset Covered  
 Instead, and Survivors of Such Employees and Annuitants

Sec. 101. Employees.  
 Sec. 102. Annuitants and survivors.

Subtitle B—Employee Who Should Have Been FERS Covered, CSRS-Offset  
 Covered, or CSRS Covered, but Who Was Erroneously Social Security-Only  
 Covered Instead

Sec. 111. Applicability.  
 Sec. 112. Correction mandatory.

Subtitle C—Employee Who Should or Could Have Been Social Security-Only  
 Covered but Who Was Erroneously CSRS-Offset Covered or CSRS Covered  
 Instead

Sec. 121. Employee who should be Social Security-Only covered, but who is er-  
 roneously CSRS or CSRS-Offset covered instead.

Subtitle D—Employee Who Was Erroneously FERS Covered.

Sec. 131. Employee who should be Social Security-Only covered, CSRS covered,  
 or CSRS-Offset covered and is not FERS-eligible, but who is  
 erroneously FERS covered instead.  
 Sec. 132. FERS-Eligible Employee Who Should Have Been CSRS Covered,  
 CSRS-Offset Covered, or Social Security-Only Covered, but  
 Who Was Erroneously FERS Covered Instead Without an  
 Election.  
 Sec. 133. Retroactive effect.

Subtitle E—Employee Who Should Have Been CSRS-Offset Covered, but  
 Who Was Erroneously CSRS Covered Instead

Sec. 141. Applicability.  
 Sec. 142. Correction mandatory.

Subtitle F—Employee Who Should Have Been CSRS Covered, but Who Was  
 Erroneously CSRS-Offset Covered Instead

Sec. 151. Applicability.  
 Sec. 152. Correction mandatory.

TITLE II—GENERAL PROVISIONS

- Sec. 201. Identification and notification requirements.
- Sec. 202. Information to be furnished to and by authorities administering this Act.
- Sec. 203. Service credit deposits.
- Sec. 204. Provisions related to Social Security coverage of misclassified employees.
- Sec. 205. Thrift Savings Plan treatment for certain individuals.
- Sec. 206. Certain agency amounts to be paid into or remain in the CSRDF.
- Sec. 207. CSRS coverage determinations to be approved by OPM.
- Sec. 208. Discretionary actions by Director.
- Sec. 209. Regulations.

### TITLE III—OTHER PROVISIONS

- Sec. 301. Provisions to authorize continued conformity of other Federal retirement systems.
- Sec. 302. Authorization of payments.
- Sec. 303. Individual right of action preserved for amounts not otherwise provided for under this Act.

### TITLE IV—TAX PROVISIONS

- Sec. 401. Tax provisions.

### TITLE V—MISCELLANEOUS RETIREMENT PROVISIONS

- Sec. 501. Federal Reserve Board portability of service credit.
- Sec. 502. Certain transfers to be treated as a separation from service for purposes of the Thrift Savings Plan.

### TITLE VI—EFFECTIVE DATE

- Sec. 601. Effective date.

## 1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

3 (1) **ANNUITANT.**—The term “annuitant” has  
 4 the meaning given such term under section 8331(9)  
 5 or 8401(2) of title 5, United States Code.

6 (2) **CSRS.**—The term “CSRS” means the Civil  
 7 Service Retirement System.

8 (3) **CSRDF.**—The term “CSRDF” means the  
 9 Civil Service Retirement and Disability Fund.

10 (4) **CSRS COVERED.**—The term “CSRS cov-  
 11 ered”, with respect to any service, means service

1 that is subject to the provisions of subchapter III of  
2 chapter 83 of title 5, United States Code, other than  
3 service subject to section 8334(k) of such title.

4 (5) CSRS-OFFSET COVERED.—The term  
5 “CSRS-Offset covered”, with respect to any service,  
6 means service that is subject to the provisions of  
7 subchapter III of chapter 83 of title 5, United  
8 States Code, and to section 8334(k) of such title.

9 (6) EMPLOYEE.—The term “employee” has the  
10 meaning given such term under section 8331(1) or  
11 8401(11) of title 5, United States Code.

12 (7) EXECUTIVE DIRECTOR.—The term “Execu-  
13 tive Director of the Federal Retirement Thrift In-  
14 vestment Board” or “Executive Director” means the  
15 Executive Director appointed under section 8474 of  
16 title 5, United States Code.

17 (8) FERS.—The term “FERS” means the  
18 Federal Employees’ Retirement System.

19 (9) FERS COVERED.—The term “FERS cov-  
20 ered”, with respect to any service, means service  
21 that is subject to chapter 84 of title 5, United States  
22 Code.

23 (10) FORMER EMPLOYEE.—The term “former  
24 employee” means an individual who was an em-  
25 ployee, but who is not an annuitant.

1           (11) OASDI TAXES.—The term “OASDI  
2       taxes” means the OASDI employee tax and the  
3       OASDI employer tax.

4           (12) OASDI EMPLOYEE TAX.—The term  
5       “OASDI employee tax” means the tax imposed  
6       under section 3101(a) of the Internal Revenue Code  
7       of 1986 (relating to Old-Age, Survivors and Dis-  
8       ability Insurance).

9           (13) OASDI EMPLOYER TAX.—The term  
10      “OASDI employer tax” means the tax imposed  
11      under section 3111(a) of the Internal Revenue Code  
12      of 1986 (relating to Old-Age, Survivors and Dis-  
13      ability Insurance).

14          (14) OASDI TRUST FUNDS.—The term  
15      “OASDI trust funds” means the Federal Old-Age  
16      and Survivors Insurance Trust Fund and the Fed-  
17      eral Disability Insurance Trust Fund.

18          (15) OFFICE.—The term “Office” means the  
19      Office of Personnel Management.

20          (16) RETIREMENT COVERAGE DETERMINA-  
21      TION.—The term “retirement coverage determina-  
22      tion” means a determination by an employee or  
23      agent of the Government as to whether a particular  
24      type of Government service is CSRS covered, CSRS-

1       Offset covered, FERS covered, or Social Security-  
2       Only covered.

3           (17) RETIREMENT COVERAGE ERROR.—The  
4       term “retirement coverage error” means an erro-  
5       neous retirement coverage determination that was in  
6       effect for a minimum period of 3 years of service  
7       after December 31, 1986.

8           (18) SOCIAL SECURITY-ONLY COVERED.—The  
9       term “Social Security-Only covered”, with respect to  
10      any service, means Government service that—

11           (A) constitutes employment under section  
12           210 of the Social Security Act (42 U.S.C. 410);  
13           and

14           (B)(i) is subject to OASDI taxes; but  
15           (ii) is not subject to CSRS or FERS.

16           (19) SURVIVOR.—The term “survivor” has the  
17      meaning given such term under section 8331(10) or  
18      8401(28) of title 5, United States Code.

19           (20) THRIFT SAVINGS FUND.—The term  
20      “Thrift Savings Fund” means the Thrift Savings  
21      Fund established under section 8437 of title 5,  
22      United States Code.

1   **SEC. 3. APPLICABILITY.**

2           (a) IN GENERAL.—This Act shall apply with respect  
3 to retirement coverage errors that occur before, on, or  
4 after the date of enactment of this Act.

5           (b) LIMITATION.—Except as otherwise provided in  
6 this Act, this Act shall not apply to any erroneous retire-  
7 ment coverage determination that was in effect for a pe-  
8 riod of less than 3 years of service after December 31,  
9 1986.

10   **SEC. 4. IRREVOCABILITY OF ELECTIONS.**

11           Any election made (or deemed to have been made)  
12 by an employee or any other individual under this Act  
13 shall be irrevocable.

1 **TITLE I—DESCRIPTION OF RE-**  
 2 **TIREMENT COVERAGE ER-**  
 3 **RORS TO WHICH THIS ACT AP-**  
 4 **PLIES AND MEASURES FOR**  
 5 **THEIR RECTIFICATION**

6 **Subtitle A—Employees and Annu-**  
 7 **itants Who Should Have Been**  
 8 **FERS Covered, but Who Were**  
 9 **Erroneously CSRS Covered or**  
 10 **CSRS-Offset Covered Instead,**  
 11 **and Survivors of Such Employ-**  
 12 **ees and Annuitants**

13 **SEC. 101. EMPLOYEES.**

14 (a) **APPLICABILITY.**—This section shall apply in the  
 15 case of any employee or former employee who should be  
 16 (or should have been) FERS covered but, as a result of  
 17 a retirement coverage error, is (or was) CSRS covered or  
 18 CSRS-Offset covered instead.

19 (b) **UNCORRECTED ERROR.**—

20 (1) **APPLICABILITY.**—This subsection applies if  
 21 the retirement coverage error has not been corrected  
 22 before the effective date of the regulations described  
 23 under paragraph (3). As soon as practicable after  
 24 discovery of the error, and subject to the right of an  
 25 election under paragraph (2), if CSRS covered or

1 CSRS-Offset covered, such individual shall be treat-  
2 ed as CSRS-Offset covered, retroactive to the date  
3 of the retirement coverage error.

4 (2) COVERAGE.—

5 (A) ELECTION.—Upon written notice of a  
6 retirement coverage error, an individual may  
7 elect to be CSRS-Offset covered or FERS cov-  
8 ered, effective as of the date of the retirement  
9 coverage error. Such election shall be made not  
10 later than 180 days after the date of receipt of  
11 such notice.

12 (B) NONELECTION.—If the individual does  
13 not make an election by the date provided  
14 under subparagraph (A), a CSRS-Offset cov-  
15 ered individual shall remain CSRS-Offset cov-  
16 ered and a CSRS covered individual shall be  
17 treated as CSRS-Offset covered.

18 (3) REGULATIONS.—The Office shall prescribe  
19 regulations to carry out this subsection.

20 (c) CORRECTED ERROR.—

21 (1) APPLICABILITY.—This subsection applies if  
22 the retirement coverage error was corrected before  
23 the effective date of the regulations described under  
24 subsection (b).

25 (2) COVERAGE.—

1 (A) ELECTION.—

2 (i) CSRS-OFFSET COVERED.—Not  
3 later than 180 days after the date of en-  
4 actment of this Act, the Office shall pre-  
5 scribe regulations authorizing individuals  
6 to elect, during the 18-month period imme-  
7 diately following the effective date of such  
8 regulations, to be CSRS-Offset covered, ef-  
9 fective as of the date of the retirement cov-  
10 erage error.

11 (ii) THRIFT SAVINGS FUND CON-  
12 TRIBUTIONS.—If under this section an in-  
13 dividual elects to be CSRS-Offset covered,  
14 all employee contributions to the Thrift  
15 Savings Fund made during the period of  
16 FERS coverage (and earnings on such  
17 contributions) may remain in the Thrift  
18 Savings Fund in accordance with regula-  
19 tions prescribed by the Executive Director,  
20 notwithstanding any limit that would oth-  
21 erwise be applicable.

22 (B) PREVIOUS SETTLEMENT PAYMENT.—

23 An individual who previously received a pay-  
24 ment ordered by a court or provided as a settle-  
25 ment of claim for losses resulting from a retire-

ment coverage error shall not be entitled to make an election under this subsection unless that amount is waived in whole or in part under section 208, and any amount not waived is repaid.

(C) INELIGIBILITY FOR ELECTION.—An individual who, subsequent to correction of the retirement coverage error, received a refund of retirement deductions under section 8424 of title 5, United States Code, or a distribution under section 8433 (b), (c), or (h)(1)(A) of title 5, United States Code, may not make an election under this subsection.

(3) CORRECTIVE ACTION TO REMAIN IN EFFECT.—If an individual is ineligible to make an election or does not make an election under paragraph (2) before the end of any time limitation under this subsection, the corrective action taken before such time limitation shall remain in effect.

## **SEC. 102. ANNUITANTS AND SURVIVORS.**

(a) IN GENERAL.—This section shall apply in the case of an individual who is—

(1) an annuitant who should have been FERS covered but, as a result of a retirement coverage

1 error, was CSRS covered or CSRS-Offset covered in-  
2 stead; or

3 (2) a survivor of an employee who should have  
4 been FERS covered but, as a result of a retirement  
5 coverage error, was CSRS covered or CSRS-Offset  
6 covered instead.

7 (b) COVERAGE.—

8 (1) ELECTION.—Not later than 180 days after  
9 the date of enactment of this Act, the Office shall  
10 prescribe regulations authorizing an individual de-  
11 scribed under subsection (a) to elect CSRS-Offset  
12 coverage or FERS coverage, effective as of the date  
13 of the retirement coverage error.

14 (2) TIME LIMITATION.—An election under this  
15 subsection shall be made not later than 18 months  
16 after the effective date of the regulations prescribed  
17 under paragraph (1).

18 (3) REDUCED ANNUITY.—

19 (A) AMOUNT IN ACCOUNT.—If the indi-  
20 vidual elects CSRS-Offset coverage, the amount  
21 in the employee's Thrift Savings Fund account  
22 under subchapter III of chapter 84 of title 5,  
23 United States Code, on the date of retirement  
24 that represents the Government's contributions  
25 and earnings on those contributions (whether or

not such amount was subsequently distributed from the Thrift Savings Fund) will form the basis for a reduction in the individual's annuity, under regulations prescribed by the Office.

(B) REDUCTION.—The reduced annuity to which the individual is entitled shall be equal to an amount which, when taken together with the amount referred to in subparagraph (A), would result in the present value of the total being actuarially equivalent to the present value of an unreduced CSRS-Offset annuity that would have been provided the individual.

(4) REDUCED BENEFIT.—If—

(A) a surviving spouse elects CSRS-Offset benefits; and

(B) a FERS basic employee death benefit under section 8442(b) of title 5, United States Code, was previously paid;

then the survivor's CSRS-Offset benefit shall be subject to a reduction, under regulations prescribed by the Office. The reduced annuity to which the individual is entitled shall be equal to an amount which, when taken together with the amount of the payment referred to under subparagraph (B) would result in the present value of the total being actuari-

1 ally equivalent to the present value of an unreduced  
2 CSRS-Offset annuity that would have been provided  
3 the individual.

4 (5) PREVIOUS SETTLEMENT PAYMENT.—An in-  
5 dividual who previously received a payment ordered  
6 by a court or provided as a settlement of claim for  
7 losses resulting from a retirement coverage error  
8 may not make an election under this subsection un-  
9 less repayment of that amount is waived in whole or  
10 in part under section 208, and any amount not  
11 waived is repaid.

12 (c) NONELECTION.—If the individual does not make  
13 an election under subsection (b) before any time limitation  
14 under this section, the retirement coverage shall be subject  
15 to the following rules:

16 (1) CORRECTIVE ACTION PREVIOUSLY  
17 TAKEN.—If corrective action was taken before the  
18 end of any time limitation under this section, that  
19 corrective action shall remain in effect.

20 (2) CORRECTIVE ACTION NOT PREVIOUSLY  
21 TAKEN.—If corrective action was not taken before  
22 such time limitation, the employee shall be CSRS-  
23 Offset covered, retroactive to the date of the retire-  
24 ment coverage error.

1 **Subtitle B—Employee Who Should**  
 2 **Have Been FERS Covered,**  
 3 **CSRS-Offset Covered, or CSRS**  
 4 **Covered, but Who Was Erro-**  
 5 **neously Social Security-Only**  
 6 **Covered Instead**

7 **SEC. 111. APPLICABILITY.**

8 This subtitle shall apply in the case of any employee  
 9 who—

10 (1) should be (or should have been) FERS cov-  
 11 ered but, as a result of a retirement coverage error,  
 12 is (or was) Social Security-Only covered instead;

13 (2) should be (or should have been) CSRS-Off-  
 14 set covered but, as a result of a retirement coverage  
 15 error, is (or was) Social Security-Only covered in-  
 16 stead; or

17 (3) should be (or should have been) CSRS cov-  
 18 ered but, as a result of a retirement coverage error,  
 19 is (or was) Social Security-Only covered instead.

20 **SEC. 112. CORRECTION MANDATORY.**

21 (a) **UNCORRECTED ERROR.**—If the retirement cov-  
 22 erage error has not been corrected, as soon as practicable  
 23 after discovery of the error, such individual shall be cov-  
 24 ered under the correct retirement coverage, effective as of  
 25 the date of the retirement coverage error.

1 (b) CORRECTED ERROR.—If the retirement coverage  
 2 error has been corrected, the corrective action previously  
 3 taken shall remain in effect.

4 **Subtitle C—Employee Who Should**  
 5 **or Could Have Been Social Se-**  
 6 **curity-Only Covered but Who**  
 7 **Was Erroneously CSRS-Offset**  
 8 **Covered or CSRS Covered In-**  
 9 **stead**

10 **SEC. 121. EMPLOYEE WHO SHOULD BE SOCIAL SECURITY-**  
 11 **ONLY COVERED, BUT WHO IS ERRONEOUSLY**  
 12 **CSRS OR CSRS-OFFSET COVERED INSTEAD.**

13 (a) APPLICABILITY.—This section applies in the case  
 14 of a retirement coverage error in which a Social Security-  
 15 Only covered employee was erroneously CSRS covered or  
 16 CSRS-Offset covered.

17 (b) UNCORRECTED ERROR.—

18 (1) APPLICABILITY.—This subsection applies if  
 19 the retirement coverage error has not been corrected  
 20 before the effective date of the regulations described  
 21 in paragraph (3).

22 (2) COVERAGE.—In the case of an individual  
 23 who is erroneously CSRS covered, as soon as prac-  
 24 ticable after discovery of the error, and subject to  
 25 the right of an election under paragraph (3), such

1 individual shall be CSRS-Offset covered, effective as  
2 of the date of the retirement coverage error.

3 (3) ELECTION.—

4 (A) IN GENERAL.—Upon written notice of  
5 a retirement coverage error, an individual may  
6 elect to be CSRS-Offset covered or Social Secu-  
7 rity-Only covered, effective as of the date of the  
8 retirement coverage error. Such election shall  
9 be made not later than 180 days after the date  
10 of receipt of such notice.

11 (B) NONELECTION.—If the individual does  
12 not make an election before the date provided  
13 under subparagraph (A), the individual shall re-  
14 main CSRS-Offset covered.

15 (C) REGULATIONS.—The Office shall pre-  
16 scribe regulations to carry out this paragraph.

17 (c) CORRECTED ERROR.—

18 (1) APPLICABILITY.—This subsection applies if  
19 the retirement coverage error was corrected before  
20 the effective date of the regulations described under  
21 subsection (b)(3).

22 (2) ELECTION.—Not later than 180 days after  
23 the date of enactment of this Act, the Office shall  
24 prescribe regulations authorizing individuals to elect,  
25 during the 18-month period immediately following

1 the effective date of such regulations, to be CSRS-  
 2 Offset covered or Social Security-Only covered, effec-  
 3 tive as of the date of the retirement coverage error.

4 (3) NONELECTION.—If an eligible individual  
 5 does not make an election under paragraph (2) be-  
 6 fore the end of any time limitation under this sub-  
 7 section, the corrective action taken before such time  
 8 limitation shall remain in effect.

## 9 **Subtitle D—Employee Who Was** 10 **Erroneously FERS Covered**

11 **SEC. 131. EMPLOYEE WHO SHOULD BE SOCIAL SECURITY-**  
 12 **ONLY COVERED, CSRS COVERED, OR CSRS-**  
 13 **OFFSET COVERED AND IS NOT FERS-ELIGI-**  
 14 **BLE, BUT WHO IS ERRONEOUSLY FERS COV-**  
 15 **ERED INSTEAD.**

16 (a) APPLICABILITY.—This section applies in the case  
 17 of a retirement coverage error in which a Social Security-  
 18 Only covered, CSRS covered, or CSRS-Offset covered em-  
 19 ployee not eligible to elect FERS coverage under authority  
 20 of section 8402(c) of title 5, United States Code, was erro-  
 21 neously FERS covered.

22 (b) UNCORRECTED ERROR.—

23 (1) APPLICABILITY.—This subsection applies if  
 24 the retirement coverage error has not been corrected

1 before the effective date of the regulations described  
2 in paragraph (2).

3 (2) COVERAGE.—

4 (A) ELECTION.—

5 (i) IN GENERAL.—Upon written notice  
6 of a retirement coverage error, an indi-  
7 vidual may elect to remain FERS covered  
8 or to be Social Security-Only covered,  
9 CSRS covered, or CSRS-Offset covered, as  
10 would have applied in the absence of the  
11 erroneous retirement coverage determina-  
12 tion, effective as of the date of the retire-  
13 ment coverage error. Such election shall be  
14 made not later than 180 days after the  
15 date of receipt of such notice.

16 (ii) TREATMENT OF FERS ELEC-  
17 TION.—An election of FERS coverage  
18 under this subsection is deemed to be an  
19 election under section 301 of the Federal  
20 Employees Retirement System Act of 1986  
21 (5 U.S.C. 8331 note; Public Law 99-335;  
22 100 Stat. 599).

23 (B) NONELECTION.—If the individual does  
24 not make an election before the date provided  
25 under subparagraph (A), the individual shall re-

1           main FERS covered, effective as of the date of  
2           the retirement coverage error.

3           (3) EMPLOYEE CONTRIBUTIONS IN THRIFT SAV-  
4           INGS FUND.—If under this section, an individual  
5           elects to be Social Security-Only covered, CSRS cov-  
6           ered, or CSRS-Offset covered, all employee contribu-  
7           tions to the Thrift Savings Fund made during the  
8           period of erroneous FERS coverage (and all earn-  
9           ings on such contributions) may remain in the  
10          Thrift Savings Fund in accordance with regulations  
11          prescribed by the Executive Director, notwith-  
12          standing any limit under section 8351 or 8432 of  
13          title 5, United States Code.

14          (4) REGULATIONS.—Except as provided under  
15          paragraph (3), the Office shall prescribe regulations  
16          to carry out this subsection.

17          (c) CORRECTED ERROR.—

18           (1) APPLICABILITY.—This subsection applies if  
19           the retirement coverage error was corrected before  
20           the effective date of the regulations described under  
21           paragraph (2).

22           (2) ELECTION.—Not later than 180 days after  
23           the date of enactment of this Act, the Office shall  
24           prescribe regulations authorizing individuals to elect,  
25           during the 18-month period immediately following

the effective date of such regulations to remain Social Security-Only covered, CSRS covered, or CSRS-Offset covered, or to be FERS covered, effective as of the date of the retirement coverage error.

(3) NONELECTION.—If an eligible individual does not make an election under paragraph (2), the corrective action taken before the end of any time limitation under this subsection shall remain in effect.

(4) TREATMENT OF FERS ELECTION.—An election of FERS coverage under this subsection is deemed to be an election under section 301 of the Federal Employees Retirement System Act of 1986 (5 U.S.C. 8331 note; Public Law 99–335; 100 Stat. 599).

**SEC. 132. FERS-ELIGIBLE EMPLOYEE WHO SHOULD HAVE BEEN CSRS COVERED, CSRS-OFFSET COVERED, OR SOCIAL SECURITY-ONLY COVERED, BUT WHO WAS ERRONEOUSLY FERS COVERED INSTEAD WITHOUT AN ELECTION.**

(a) IN GENERAL.—

(1) FERS ELECTION PREVENTED.—If an individual was prevented from electing FERS coverage because the individual was erroneously FERS covered during the period when the individual was eligi-

1       ble to elect FERS under title III of the Federal Em-  
2       ployees Retirement System Act or the Federal Em-  
3       ployees' Retirement System Open Enrollment Act of  
4       1997 (Public Law 105–61; 111 Stat. 1318 et seq.),  
5       the individual—

6               (A) is deemed to have elected FERS cov-  
7       erage; and

8               (B) shall remain covered by FERS, unless  
9       the individual declines, under regulations pre-  
10      scribed by the Office, to be FERS covered.

11           (2) DECLINING FERS COVERAGE.—If an indi-  
12      vidual described under paragraph (1)(B) declines to  
13      be FERS covered, such individual shall be CSRS  
14      covered, CSRS-Offset covered, or Social Security-  
15      Only covered, as would apply in the absence of a  
16      FERS election, effective as of the date of the erro-  
17      neous retirement coverage determination.

18           (b) EMPLOYEE CONTRIBUTIONS IN THRIFT SAVINGS  
19      FUND.—If under this section, an individual declines to be  
20      FERS covered and instead is Social Security-Only cov-  
21      ered, CSRS covered, or CSRS-Offset covered, as would  
22      apply in the absence of a FERS election, all employee con-  
23      tributions to the Thrift Savings Fund made during the  
24      period of erroneous FERS coverage (and all earnings on  
25      such contributions) may remain in the Thrift Savings

1 Fund in accordance with regulations prescribed by the Ex-  
 2 ecutive Director, notwithstanding any limit that would  
 3 otherwise be applicable.

4 (c) INAPPLICABILITY OF DURATION OF ERRONEOUS  
 5 COVERAGE.—This section shall apply regardless of the  
 6 length of time the erroneous coverage determination re-  
 7 mained in effect.

8 **SEC. 133. RETROACTIVE EFFECT.**

9 This subtitle shall be effective as of January 1, 1987,  
 10 except that section 132 shall not apply to individuals who  
 11 made or were deemed to have made elections similar to  
 12 those provided in this section under regulations prescribed  
 13 by the Office before the effective date of this Act.

14 **Subtitle E—Employee Who Should**  
 15 **Have Been CSRS-Offset Cov-**  
 16 **ered, but Who Was Erroneously**  
 17 **CSRS Covered Instead**

18 **SEC. 141. APPLICABILITY.**

19 This subtitle shall apply in the case of any employee  
 20 who should be (or should have been) CSRS-Offset covered  
 21 but, as a result of a retirement coverage error, is (or was)  
 22 CSRS covered instead.

23 **SEC. 142. CORRECTION MANDATORY.**

24 (a) UNCORRECTED ERROR.—If the retirement cov-  
 25 erage error has not been corrected, as soon as practicable

1 after discovery of the error, such individual shall be cov-  
 2 ered under the correct retirement coverage, effective as of  
 3 the date of the retirement coverage error.

4 (b) CORRECTED ERROR.—If the retirement coverage  
 5 error has been corrected before the effective date of this  
 6 Act, the corrective action taken before such date shall re-  
 7 main in effect.

8 **Subtitle F—Employee Who Should**  
 9 **Have Been CSRS Covered, but**  
 10 **Who Was Erroneously CSRS-Off-**  
 11 **set Covered Instead**

12 **SEC. 151. APPLICABILITY.**

13 This subtitle shall apply in the case of any employee  
 14 who should be (or should have been) CSRS covered but,  
 15 as a result of a retirement coverage error, is (or was)  
 16 CSRS-Offset covered instead.

17 **SEC. 152. CORRECTION MANDATORY.**

18 (a) UNCORRECTED ERROR.—If the retirement cov-  
 19 erage error has not been corrected, as soon as practicable  
 20 after discovery of the error, such individual shall be cov-  
 21 ered under the correct retirement coverage, effective as of  
 22 the date of the retirement coverage error.

23 (b) CORRECTED ERROR.—If the retirement coverage  
 24 error has been corrected before the effective date of this

1 Act, the corrective action taken before such date shall re-  
2 main in effect.

## 3 **TITLE II—GENERAL PROVISIONS**

### 4 **SEC. 201. IDENTIFICATION AND NOTIFICATION REQUIRE-** 5 **MENTS.**

6 Government agencies shall take all such measures as  
7 may be reasonable and appropriate to promptly identify  
8 and notify individuals who are (or have been) affected by  
9 a retirement coverage error of their rights under this Act.

### 10 **SEC. 202. INFORMATION TO BE FURNISHED TO AND BY AU-** 11 **THORITIES ADMINISTERING THIS ACT.**

12 (a) **APPLICABILITY.**—The authorities identified in  
13 this subsection are—

14 (1) the Director of the Office of Personnel  
15 Management;

16 (2) the Commissioner of Social Security; and

17 (3) the Executive Director of the Federal Re-  
18 tirement Thrift Investment Board.

19 (b) **AUTHORITY TO OBTAIN INFORMATION.**—Each  
20 authority identified in subsection (a) may secure directly  
21 from any department or agency of the United States infor-  
22 mation necessary to enable such authority to carry out its  
23 responsibilities under this Act. Upon request of the au-  
24 thority involved, the head of the department or agency in-

1   volved shall furnish that information to the requesting au-  
 2   thority.

3       (c) **AUTHORITY TO PROVIDE INFORMATION.**—Each  
 4   authority identified in subsection (a) may provide directly  
 5   to any department or agency of the United States all in-  
 6   formation such authority believes necessary to enable the  
 7   department or agency to carry out its responsibilities  
 8   under this Act.

9       (d) **LIMITATION; SAFEGUARDS.**—Each of the respec-  
 10   tive authorities under subsection (a) shall—

11           (1) request or provide only such information as  
 12           that authority considers necessary; and

13           (2) establish, by regulation or otherwise, appro-  
 14           priate safeguards to ensure that any information ob-  
 15           tained under this section shall be used only for the  
 16           purpose authorized.

17   **SEC. 203. SERVICE CREDIT DEPOSITS.**

18       (a) **CSRS DEPOSIT.**—In the case of a retirement cov-  
 19   erage error in which—

20           (1) a FERS covered employee was erroneously  
 21           CSRS covered or CSRS-Offset covered;

22           (2) the employee made a service credit deposit  
 23           under the CSRS rules; and

24           (3) there is a subsequent retroactive change to  
 25           FERS coverage;

1 the excess of the amount of the CSRS civilian or military  
 2 service credit deposit over the FERS civilian or military  
 3 service credit deposit, together with interest computed in  
 4 accordance with paragraphs (2) and (3) of section 8334(e)  
 5 of title 5, United States Code, and regulations prescribed  
 6 by the Office, shall be paid to the employee, the annuitant  
 7 or, in the case of a deceased employee, to the individual  
 8 entitled to lump-sum benefits under section 8424(d) of  
 9 title 5, United States Code.

10 (b) FERS DEPOSIT.—

11 (1) APPLICABILITY.—This subsection applies in  
 12 the case of an erroneous retirement coverage deter-  
 13 mination in which—

14 (A) the employee owed a service credit de-  
 15 posit under section 8411(f) of title 5, United  
 16 States Code; and

17 (B)(i) there is a subsequent retroactive  
 18 change to CSRS or CSRS-Offset coverage; or

19 (ii) the service becomes creditable under  
 20 chapter 83 of title 5, United States Code.

21 (2) REDUCED ANNUITY.—

22 (A) IN GENERAL.—If at the time of com-  
 23 mencement of an annuity there is remaining  
 24 unpaid CSRS civilian or military service credit  
 25 deposit for service described under paragraph

1 (1), the annuity shall be reduced based upon  
2 the amount unpaid together with interest com-  
3 puted in accordance with section 8334(e) (2)  
4 and (3) of title 5, United States Code, and reg-  
5 ulations prescribed by the Office.

6 (B) AMOUNT.—The reduced annuity to  
7 which the individual is entitled shall be equal to  
8 an amount that, when taken together with the  
9 amount referred to under subparagraph (A),  
10 would result in the present value of the total  
11 being actuarially equivalent to the present value  
12 of the unreduced annuity benefit that would  
13 have been provided the individual.

14 (3) SURVIVOR ANNUITY.—

15 (A) IN GENERAL.—If at the time of com-  
16 mencement of a survivor annuity, there is re-  
17 maining unpaid any CSRS service credit de-  
18 posit described under paragraph (1), and there  
19 has been no actuarial reduction in an annuity  
20 under paragraph (2), the survivor annuity shall  
21 be reduced based upon the amount unpaid to-  
22 gether with interest computed in accordance  
23 with section 8334(e) (2) and (3) of title 5,  
24 United States Code, and regulations prescribed  
25 by the Office.

(B) AMOUNT.—The reduced survivor annuity to which the individual is entitled shall be equal to an amount that, when taken together with the amount referred to under subparagraph (A), would result in the present value of the total being actuarially equivalent to the present value of an unreduced survivor annuity benefit that would have been provided the individual.

**SEC. 204. PROVISIONS RELATED TO SOCIAL SECURITY COVERAGE OF MISCLASSIFIED EMPLOYEES.**

(a) DEFINITIONS.—In this section, the term—

(1) “covered individual” means any employee, former employee, or annuitant who—

(A) is or was employed erroneously subject to CSRS coverage as a result of a retirement coverage error; and

(B) is or was retroactively converted to CSRS-offset coverage, FERS coverage, or Social Security-only coverage; and

(2) “excess CSRS deduction amount” means an amount equal to the difference between the CSRS deductions withheld and the CSRS-Offset or FERS deductions, if any, due with respect to a covered individual during the entire period the individual was

1       erroneously subject to CSRS coverage as a result of  
2       a retirement coverage error.

3       (b) REPORTS TO COMMISSIONER OF SOCIAL SECUR-  
4       RITY.—

5           (1) IN GENERAL.—In order to carry out the  
6       Commissioner of Social Security’s responsibilities  
7       under title II of the Social Security Act, the Com-  
8       missioner may request the head of each agency that  
9       employs or employed a covered individual to report  
10      (in coordination with the Office of Personnel Man-  
11      agement) in such form and within such timeframe as  
12      the Commissioner may specify, any or all of—

13           (A) the total wages (as defined in section  
14       3121(a) of the Internal Revenue Code of 1986)  
15       paid to such individual during each year of the  
16       entire period of the erroneous CSRS coverage;  
17       and

18           (B) such additional information as the  
19       Commissioner may require for the purpose of  
20       carrying out the Commissioner’s responsibilities  
21       under title II of the Social Security Act (42  
22       U.S.C. 401 et seq.).

23       (2) COMPLIANCE.—The head of an agency or  
24       the Office shall comply with a request from the  
25       Commissioner under paragraph (1).

1           (3) WAGES.—For purposes of section 201 of  
2           the Social Security Act (42 U.S.C. 401), wages re-  
3           ported under this subsection shall be deemed to be  
4           wages reported to the Secretary of the Treasury or  
5           the Secretary’s delegates pursuant to subtitle F of  
6           the Internal Revenue Code of 1986.

7           (c) PAYMENT RELATING TO OASDI EMPLOYEE  
8           TAXES.—

9           (1) IN GENERAL.—The Office shall transfer  
10          from the Civil Service Retirement and Disability  
11          Fund to the General Fund of the Treasury an  
12          amount equal to the lesser of the excess CSRS de-  
13          duction amount or the OASDI taxes due for covered  
14          individuals (as adjusted by amounts transferred re-  
15          lating to applicable OASDI employee taxes as a re-  
16          sult of corrections made, including corrections made  
17          before the date of enactment of this Act). If the ex-  
18          cess CSRS deductions exceed the OASDI taxes, any  
19          difference shall be paid to the covered individual or  
20          survivors, as appropriate.

21          (2) TRANSFER.—Amounts transferred under  
22          this subsection shall be determined notwithstanding  
23          any limitation under section 6501 of the Internal  
24          Revenue Code of 1986.

25          (d) PAYMENT OF OASDI EMPLOYER TAXES.—

1           (1) IN GENERAL.—Each employing agency shall  
2       pay an amount equal to the OASDI employer taxes  
3       owed with respect to covered individuals during the  
4       applicable period of erroneous coverage (as adjusted  
5       by amounts transferred for the payment of such  
6       taxes as a result of corrections made, including cor-  
7       rections made before the date of enactment of this  
8       Act).

9           (2) PAYMENT.—Amounts paid under this sub-  
10      section shall be determined subject to any limitation  
11      under section 6501 of the Internal Revenue Code of  
12      1986.

13      (e) APPLICATION OF OASDI TAX PROVISIONS OF  
14      THE INTERNAL REVENUE CODE OF 1986 TO AFFECTED  
15      INDIVIDUALS AND EMPLOYING AGENCIES.—A covered in-  
16      dividual and the individual's employing agency shall be  
17      deemed to have fully satisfied in a timely manner their  
18      responsibilities with respect to the taxes imposed by sec-  
19      tions 3101(a), 3102(a), and 3111(a) of the Internal Rev-  
20      enue Code of 1986 on the wages paid by the employing  
21      agency to such individual during the entire period such  
22      individual was erroneously subject to CSRS coverage as  
23      a result of a retirement coverage error based on the pay-  
24      ments and transfers made under subsections (c) and (d).

1 No credit or refund of taxes on such wages shall be al-  
 2 lowed as a result of this subsection.

3 **SEC. 205. THRIFT SAVINGS PLAN TREATMENT FOR CER-**  
 4 **TAIN INDIVIDUALS.**

5 (a) **APPLICABILITY.**—This section applies to an indi-  
 6 vidual who—

7 (1) is eligible to make an election of coverage  
 8 under section 101 or 102, and only if FERS cov-  
 9 erage is elected (or remains in effect) for the em-  
 10 ployee involved; or

11 (2) is described in section 111, and makes or  
 12 has made retroactive employee contributions to the  
 13 Thrift Savings Fund under regulations prescribed by  
 14 the Executive Director.

15 (b) **PAYMENT INTO THRIFT SAVINGS FUND.**—

16 (1) **IN GENERAL.**—

17 (A) **PAYMENT.**—With respect to an indi-  
 18 vidual to whom this section applies, the employ-  
 19 ing agency shall pay to the Thrift Savings  
 20 Fund under subchapter III of chapter 84 of  
 21 title 5, United States Code, for credit to the ac-  
 22 count of the employee involved, an amount  
 23 equal to the earnings which are disallowed  
 24 under section 8432a(a)(2) of such title on the

1 employee's retroactive contributions to such  
2 Fund.

3 (B) AMOUNT.—Earnings under subpara-  
4 graph (A) shall be computed in accordance with  
5 the procedures for computing lost earnings  
6 under section 8432a of title 5, United States  
7 Code. The amount paid by the employing agen-  
8 cy shall be treated for all purposes as if that  
9 amount had actually been earned on the basis  
10 of the employee's contributions.

11 (C) EXCEPTIONS.—If an individual made  
12 retroactive contributions before the effective  
13 date of the regulations under section 101(c),  
14 the Director may provide for an alternative cal-  
15 culation of lost earnings to the extent that a  
16 calculation under subparagraph (B) is not ad-  
17 ministratively feasible. The alternative calcula-  
18 tion shall yield an amount that is as close as  
19 practicable to the amount computed under sub-  
20 paragraph (B), taking into account earnings  
21 previously paid.

22 (2) ADDITIONAL EMPLOYEE CONTRIBUTION.—  
23 In cases in which the retirement coverage error was  
24 corrected before the effective date of the regulations  
25 under section 101(c), the employee involved shall

1 have an additional opportunity to make retroactive  
 2 contributions for the period of the retirement cov-  
 3 erage error (subject to applicable limits), and such  
 4 contributions (including any contributions made  
 5 after the date of the correction) shall be treated in  
 6 accordance with paragraph (1).

7 (c) REGULATIONS.—

8 (1) EXECUTIVE DIRECTOR.—The Executive Di-  
 9 rector shall prescribe regulations appropriate to  
 10 carry out this section relating to retroactive em-  
 11 ployee contributions and payments made on or after  
 12 the effective date of the regulations under section  
 13 101(c).

14 (2) OFFICE.—The Office, in consultation with  
 15 the Federal Retirement Thrift Investment Board,  
 16 shall prescribe regulations appropriate to carry out  
 17 this section relating to the calculation of lost earn-  
 18 ings on retroactive employee contributions made be-  
 19 fore the effective date of the regulations under sec-  
 20 tion 101(c).

21 **SEC. 206. CERTAIN AGENCY AMOUNTS TO BE PAID INTO OR**  
 22 **REMAIN IN THE CSRDF.**

23 (a) CERTAIN EXCESS AGENCY CONTRIBUTIONS TO  
 24 REMAIN IN THE CSRDF.—

1           (1) IN GENERAL.—Any amount described under  
2       paragraph (2) shall—

3                   (A) remain in the CSRDF; and

4                   (B) may not be paid or credited to an  
5       agency.

6           (2) AMOUNTS.—Paragraph (1) refers to any  
7       amount of contributions made by an agency under  
8       section 8423 of title 5, United States Code, on be-  
9       half of any employee, former employee, or annuitant  
10      (or survivor of such employee, former employee, or  
11      annuitant) who makes an election to correct a retire-  
12      ment coverage error under this Act, that the Office  
13      determines to be excess as a result of such election.

14      (b) ADDITIONAL EMPLOYEE RETIREMENT DEDUC-  
15      TIONS TO BE PAID BY AGENCY.—If a correction in a re-  
16      tirement coverage error results in an increase in employee  
17      deductions under section 8334 or 8422 of title 5, United  
18      States Code, that cannot be fully paid by a reallocation  
19      of otherwise available amounts previously deducted from  
20      the employee's pay as employment taxes or retirement de-  
21      ductions, the employing agency—

22                   (1) shall pay the required additional amount  
23      into the CSRDF; and

1           (2) shall not seek repayment of that amount  
 2           from the employee, former employee, annuitant, or  
 3           survivor.

4 **SEC. 207. CSRS COVERAGE DETERMINATIONS TO BE AP-**  
 5 **PROVED BY OPM.**

6           No agency shall place an individual under CSRS cov-  
 7           erage unless—

8           (1) the individual has been employed with  
 9           CSRS coverage within the preceding 365 days; or

10          (2) the Office has agreed in writing that the  
 11          agency's coverage determination is correct.

12 **SEC. 208. DISCRETIONARY ACTIONS BY DIRECTOR.**

13          (a) IN GENERAL.—The Director of the Office of Per-  
 14          sonnel Management may—

15          (1) extend the deadlines for making elections  
 16          under this Act in circumstances involving an individ-  
 17          ual's inability to make a timely election due to a  
 18          cause beyond the individual's control;

19          (2) provide for the reimbursement of necessary  
 20          and reasonable expenses incurred by an individual  
 21          with respect to settlement of a claim for losses re-  
 22          sulting from a retirement coverage error, including  
 23          attorney's fees, court costs, and other actual ex-  
 24          penses;

1           (3) compensate an individual for monetary  
2       losses that are a direct and proximate result of a re-  
3       irement coverage error, excluding claimed losses re-  
4       lating to forgone contributions and earnings under  
5       the Thrift Savings Plan under subchapter III of  
6       chapter 84 of title 5, United States Code, and all  
7       other investment opportunities; and

8           (4) waive payments required due to correction  
9       of a retirement coverage error under this Act.

10       (b) SIMILAR ACTIONS.—In exercising the authority  
11   under this section, the Director shall, to the extent prac-  
12   ticable, provide for similar actions in situations involving  
13   similar circumstances.

14       (c) JUDICIAL REVIEW.—Actions taken under this  
15   section are final and conclusive, and are not subject to  
16   administrative or judicial review.

17       (d) REGULATIONS.—The Office of Personnel Man-  
18   agement shall prescribe regulations regarding the process  
19   and criteria used in exercising the authority under this  
20   section.

21       (e) REPORT.—The Office of Personnel Management  
22   shall, not later than 180 days after the date of enactment  
23   of this Act, and annually thereafter for each year in which  
24   the authority provided in this section is used, submit a

1 report to each House of Congress on the operation of this  
2 section.

3 **SEC. 209. REGULATIONS.**

4 (a) IN GENERAL.—In addition to the regulations spe-  
5 cifically authorized in this Act, the Office may prescribe  
6 such other regulations as are necessary for the administra-  
7 tion of this Act.

8 (b) FORMER SPOUSE.—The regulations prescribed  
9 under this Act shall provide for protection of the rights  
10 of a former spouse with entitlement to an apportionment  
11 of benefits or to survivor benefits based on the service of  
12 the employee.

13 **TITLE III—OTHER PROVISIONS**

14 **SEC. 301. PROVISIONS TO AUTHORIZE CONTINUED CON-**  
15 **FORMITY OF OTHER FEDERAL RETIREMENT**  
16 **SYSTEMS.**

17 (a) FOREIGN SERVICE.—Sections 827 and 851 of the  
18 Foreign Service Act of 1980 (22 U.S.C. 4067 and 4071)  
19 shall apply with respect to this Act in the same manner  
20 as if this Act were part of—

21 (1) the Civil Service Retirement System, to the  
22 extent this Act relates to the Civil Service Retire-  
23 ment System; and

1           (2) the Federal Employees' Retirement System,  
2           to the extent this Act relates to the Federal Employ-  
3           ees' Retirement System.

4           (b) CENTRAL INTELLIGENCE AGENCY.—Sections  
5   292 and 301 of the Central Intelligence Agency Retire-  
6   ment Act (50 U.S.C. 2141 and 2151) shall apply with re-  
7   spect to this Act in the same manner as if this Act were  
8   part of—

9           (1) the Civil Service Retirement System, to the  
10          extent this Act relates to the Civil Service Retire-  
11          ment System; and

12          (2) the Federal Employees' Retirement System,  
13          to the extent this Act relates to the Federal Employ-  
14          ees' Retirement System.

15   **SEC. 302. AUTHORIZATION OF PAYMENTS.**

16          All payments authorized or required by this Act to  
17   be paid from the Civil Service Retirement and Disability  
18   Fund, together with administrative expenses incurred by  
19   the Office in administering this Act, shall be deemed to  
20   have been authorized to be paid from that Fund, which  
21   is appropriated for the payment thereof.

1 **SEC. 303. INDIVIDUAL RIGHT OF ACTION PRESERVED FOR**  
2 **AMOUNTS NOT OTHERWISE PROVIDED FOR**  
3 **UNDER THIS ACT.**

4 Nothing in this Act shall preclude an individual from  
5 bringing a claim against the Government of the United  
6 States which such individual may have under section  
7 1346(b) or chapter 171 of title 28, United States Code,  
8 or any other provision of law (except to the extent the  
9 claim is for any amounts otherwise provided for under this  
10 Act).

11 **TITLE IV—TAX PROVISIONS**

12 **SEC. 401. TAX PROVISIONS.**

13 (a) **PLAN QUALIFICATION.**—No retirement plan of  
14 the United States (or any agency thereof) shall fail to be  
15 treated as a qualified plan under the Internal Revenue  
16 Code of 1986 by reason of—

17 (1) any failure to follow plan terms as ad-  
18 dressed by this Act; or

19 (2) any action taken under this Act.

20 (b) **TRANSFERS.**—For purposes of the Internal Rev-  
21 enue Code of 1986, no amount shall be includible in the  
22 gross income of any individual in any tax year by reason  
23 of any direct transfer under this Act between funds or any  
24 Government contribution under this Act to any fund or  
25 account in any such tax year.

1       **TITLE V—MISCELLANEOUS**  
 2       **RETIREMENT PROVISIONS**

3   **SEC. 501. FEDERAL RESERVE BOARD PORTABILITY OF**  
 4       **SERVICE CREDIT.**

5       (a) CREDITABLE SERVICE.—

6           (1) IN GENERAL.—Section 8411(b) of title 5,  
 7       United States Code, is amended—

8           (A) by striking “and” at the end of para-  
 9       graph (3);

10          (B) in paragraph (4)—

11           (i) by striking “of the preceding provi-  
 12       sions” and inserting “other paragraph”;  
 13       and

14           (ii) by striking the period at the end  
 15       and inserting “; and”; and

16          (C) by adding at the end the following:

17           “(5) a period of service (other than any service  
 18       under any other paragraph of this subsection, any  
 19       military service, and any service performed in the  
 20       employ of a Federal Reserve Bank) that was cred-  
 21       itable under the Bank plan (as defined in subsection  
 22       (i)), if the employee waives credit for such service  
 23       under the Bank plan and makes a payment to the  
 24       Fund equal to the amount that would have been de-  
 25       ducted from pay under section 8422(a) had the em-

1        ployee been subject to this chapter during such pe-  
 2        riod of service (together with interest on such  
 3        amount computed under paragraphs (2) and (3) of  
 4        section 8334(e)).

5 Paragraph (5) shall not apply in the case of any employee  
 6 as to whom subsection (g) (or, to the extent subchapter  
 7 III of chapter 83 is involved, section 8332(n)) otherwise  
 8 applies.”.

9            (2) BANK PLAN DEFINED.—Section 8411 of  
 10        title 5, United States Code, is amended by adding  
 11        at the end the following:

12        “(i) For purposes of subsection (b)(5), the term  
 13        ‘Bank plan’ means the benefit structure—

14            “(1) in which employees of the Board of Gov-  
 15        ernors of the Federal Reserve System appointed on  
 16        or after January 1, 1984, participate; and

17            “(2) that is a component of the Retirement  
 18        Plan for Employees of the Federal Reserve System,  
 19        established under section 10 of the Federal Reserve  
 20        Act (and any redesignated or successor version of  
 21        such benefit structure, if so identified in writing by  
 22        the Board of Governors of the Federal Reserve Sys-  
 23        tem for purposes of this chapter).”.

24        (b) EXCLUSION FROM CHAPTER 84.—

1           (1) IN GENERAL.—Paragraph (2) of section  
 2       8402(b) of title 5, United States Code, is amended  
 3       by striking the matter before subparagraph (B) and  
 4       inserting the following:

5           “(2)(A) any employee or Member who has sepa-  
 6       rated from the service after—

7           “(i) having been subject to—

8           “(I) subchapter III of chapter 83 of  
 9       this title;

10          “(II) subchapter I of chapter 8 of title  
 11       I of the Foreign Service Act of 1980 (22  
 12       U.S.C. 4041 et seq.); or

13          “(III) the benefit structure for em-  
 14       ployees of the Board of Governors of the  
 15       Federal Reserve System appointed before  
 16       January 1, 1984, that is a component of  
 17       the Retirement Plan for Employees of the  
 18       Federal Reserve System, established under  
 19       section 10 of the Federal Reserve Act; and

20          “(ii) having completed—

21          “(I) at least 5 years of civilian service  
 22       creditable under subchapter III of chapter  
 23       83 of this title;

24          “(II) at least 5 years of civilian serv-  
 25       ice creditable under subchapter I of chap-

ter 8 of title I of the Foreign Service Act  
of 1980 (22 U.S.C. 4041 et seq.); or

“(III) at least 5 years of civilian service (other than any service performed in the employ of a Federal Reserve Bank) creditable under the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act,

determined without regard to any deposit or re-deposit requirement under either such subchapter or under such benefit structure, or any requirement that the individual become subject to either such subchapter or to such benefit structure after performing the service involved; or”.

(2) EXCEPTION.—Subsection (d) of section 8402 of title 5, United States Code, is amended to read as follows:

“(d) Paragraph (2) of subsection (b) shall not apply to an individual who—

1 “(1) becomes subject to—

2 “(A) subchapter II of chapter 8 of title I  
3 of the Foreign Service Act of 1980 (22 U.S.C.  
4 4071 et seq.) (relating to the Foreign Service  
5 Pension System) pursuant to an election; or

6 “(B) the benefit structure in which em-  
7 ployees of the Board of Governors of the Fed-  
8 eral Reserve System appointed on or after Jan-  
9 uary 1, 1984, participate, which benefit struc-  
10 ture is a component of the Retirement Plan for  
11 Employees of the Federal Reserve System, es-  
12 tablished under section 10 of the Federal Re-  
13 serve Act (and any redesignated or successor  
14 version of such benefit structure, if so identified  
15 in writing by the Board of Governors of the  
16 Federal Reserve System for purposes of this  
17 chapter); and

18 “(2) subsequently enters a position in which,  
19 but for paragraph (2) of subsection (b), such indi-  
20 vidual would be subject to this chapter.”.

21 (c) PROVISIONS RELATING TO CERTAIN FORMER  
22 EMPLOYEES.—A former employee of the Board of Gov-  
23 ernors of the Federal Reserve System who—

24 (1) has at least 5 years of civilian service (other  
25 than any service performed in the employ of a Fed-

1       eral Reserve Bank) creditable under the benefit  
2       structure for employees of the Board of Governors  
3       of the Federal Reserve System appointed before  
4       January 1, 1984, that is a component of the Retirement  
5       Plan for Employees of the Federal Reserve  
6       System, established under section 10 of the Federal  
7       Reserve Act;

8               (2) was subsequently employed subject to the  
9       benefit structure in which employees of the Board of  
10      Governors of the Federal Reserve System appointed  
11      on or after January 1, 1984, participate, which benefit  
12      structure is a component of the Retirement Plan  
13      for Employees of the Federal Reserve System, established  
14      under section 10 of the Federal Reserve Act  
15      (and any redesignated or successor version of such  
16      benefit structure, if so identified in writing by the  
17      Board of Governors of the Federal Reserve System  
18      for purposes of chapter 84 of title 5, United States  
19      Code); and

20              (3) after service described in paragraph (2), becomes  
21      subject to and thereafter entitled to benefits  
22      under chapter 84 of title 5, United States Code,  
23      shall, for purposes of section 302 of the Federal Employees'  
24      Retirement System Act of 1986 (5 U.S.C. 8331 note;  
25      Public Law 99-335; 100 Stat. 601) be considered to have

1 become subject to chapter 84 of title 5, United States  
2 Code, pursuant to an election under section 301 of such  
3 Act.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Subject to paragraphs (2)  
6 and (3), this section and the amendments made by  
7 this section shall take effect on the date of enact-  
8 ment of this Act.

9 (2) PROVISIONS RELATING TO CREDITABILITY  
10 AND CERTAIN FORMER EMPLOYEES.—The amend-  
11 ments made by subsection (a) and the provisions of  
12 subsection (c) shall apply only to individuals who  
13 separate from service subject to chapter 84 of title  
14 5, United States Code, on or after the date of enact-  
15 ment of this Act.

16 (3) PROVISIONS RELATING TO EXCLUSION  
17 FROM CHAPTER.—The amendments made by sub-  
18 section (b) shall not apply to any former employee  
19 of the Board of Governors of the Federal Reserve  
20 System who, subsequent to his or her last period of  
21 service as an employee of the Board of Governors of  
22 the Federal Reserve System and prior to the date of  
23 enactment of this Act, became subject to subchapter  
24 III of chapter 83 or chapter 84 of title 5, United

1 States Code, under the law in effect at the time of  
 2 the individual's appointment.

3 **SEC. 502. CERTAIN TRANSFERS TO BE TREATED AS A SEPA-**  
 4 **RATION FROM SERVICE FOR PURPOSES OF**  
 5 **THE THRIFT SAVINGS PLAN.**

6 (a) AMENDMENTS TO CHAPTER 84 OF TITLE 5,  
 7 UNITED STATES CODE.—

8 (1) IN GENERAL.—Subchapter III of chapter  
 9 84 of title 5, United States Code, is amended by in-  
 10 serting before section 8432 the following:

11 **“§ 8431. Certain transfers to be treated as a separa-**  
 12 **tion**

13 “(a) For purposes of this subchapter, separation  
 14 from Government employment includes a transfer from a  
 15 position that is subject to one of the retirement systems  
 16 described in subsection (b) to a position that is not subject  
 17 to any such system.

18 “(b) The retirement systems described in this sub-  
 19 section are—

20 “(1) the retirement system under this chapter;

21 “(2) the retirement system under subchapter  
 22 III of chapter 83; and

23 “(3) any other retirement system under which  
 24 individuals may contribute to the Thrift Savings  
 25 Fund through withholdings from pay.”.

1           (2) CLERICAL AMENDMENT.—The table of sec-  
2           tions for chapter 84 of title 5, United States Code,  
3           is amended by inserting before the item relating to  
4           section 8432 the following:

“8431. Certain transfers to be treated as a separation.”.

5           (b) CONFORMING AMENDMENTS.—Subsection (b) of  
6           section 8351 of title 5, United States Code, is amended  
7           by redesignating paragraph (11) as paragraph (8), and  
8           by adding at the end the following:

9           “(9) For the purpose of this section, separation  
10          from Government employment includes a transfer  
11          described in section 8431.”.

12          (c) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply with respect to transfers occurring  
14          before, on, or after the date of enactment of this Act, ex-  
15          cept that, for purposes of applying such amendments with  
16          respect to any transfer occurring before such date of en-  
17          actment, the date of such transfer shall be considered to  
18          be the date of enactment of this Act. The Executive Direc-  
19          tor (within the meaning of section 8401(13) of title 5,  
20          United States Code) may prescribe any regulations nec-  
21          essary to carry out this subsection.

1       **TITLE VI—EFFECTIVE DATE**

2   **SEC. 601. EFFECTIVE DATE.**

3       Except as otherwise provided in this Act, this Act  
 4 shall take effect on the date of enactment of this Act.

Passed the Senate November 3, 1999.

Attest:

*Secretary.*

106TH CONGRESS  
1ST SESSION

# **S. 1232**

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## **AN ACT**

To provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code.