

106TH CONGRESS
1ST SESSION

S. 1232

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

IN THE SENATE OF THE UNITED STATES

JUNE 17, 1999

Mr. COCHRAN (for himself and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

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”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 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 RECTIFICATION

Subtitle A—Employees and Annuitants Who Should Have Been FERS Covered, 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 erroneously 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 permit continued conformity of other Federal retirement systems.
 Sec. 302. Authorization and appropriation.
 Sec. 303. Individual right of action preserved for amounts not otherwise provided for under this Act.
 Sec. 304. Effective date.

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.

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

15 (5) CSRS-OFFSET COVERED.—The term
 16 “CSRS-Offset covered”, with respect to any service,

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

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

9 (7) FERS.—The term “FERS” means the
10 Federal Employees’ Retirement System.

11 (8) FERS COVERED.—The term “FERS cov-
12 ered”, with respect to any service, means service
13 that is subject to chapter 84 of title 5, United States
14 Code.

15 (9) FORMER EMPLOYEE.—The term “former
16 employee” means an individual who formerly was a
17 Government employee, but who is not an annuitant.

18 (10) OASDI TAXES.—The term “OASDI
19 taxes” means the OASDI employee tax and the
20 OASDI employer tax.

21 (11) OASDI EMPLOYEE TAX.—The term
22 “OASDI employee tax” means the tax imposed
23 under section 3101(a) of the Internal Revenue Code
24 of 1986 (relating to Old-Age, Survivors and Dis-
25 ability Insurance).

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

6 (13) OASDI TRUST FUNDS.—The term
7 “OASDI trust funds” means the Federal Old-Age
8 and Survivors Insurance Trust Fund and the Fed-
9 eral Disability Insurance Trust Fund.

10 (14) OFFICE.—The term “Office” means the
11 Office of Personnel Management.

12 (15) RETIREMENT COVERAGE DETERMINA-
13 TION.—The term “retirement coverage determina-
14 tion” means a determination by an employee or
15 agent of the Government as to whether a particular
16 type of Government service is CSRS covered, CSRS-
17 Offset covered, FERS covered, or Social Security-
18 Only covered.

19 (16) RETIREMENT COVERAGE ERROR.—The
20 term “retirement coverage error” means an erro-
21 neous retirement coverage determination that was in
22 effect for a minimum period of 3 years of service
23 after December 31, 1986.

1 (17) SOCIAL SECURITY-ONLY COVERED.—The
2 term “Social Security-Only covered”, with respect to
3 any service, means Government service that—

4 (A) constitutes employment under section
5 210 of the Social Security Act (42 U.S.C. 410);
6 and

7 (B)(i) is subject to OASDI taxes; but

8 (ii) is not subject to CSRS or FERS.

9 (18) SURVIVOR.—The term “survivor” has the
10 meaning given such term under section 8331(10) or
11 8401(28) of title 5, United States Code.

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

16 **SEC. 3. APPLICABILITY.**

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

20 (b) LIMITATION.—Except as otherwise provided in
21 this Act, this Act shall not apply to any erroneous retire-
22 ment coverage determination that was in effect for a pe-
23 riod of less than 3 years of service after December 31,
24 1986.

1 **SEC. 4. IRREVOCABILITY OF ELECTIONS.**

2 Any election made (or deemed to have been made)
3 by an employee or any other individual under this Act
4 shall be irrevocable.

5 **TITLE I—DESCRIPTION OF RE-**
6 **TIREMENT COVERAGE ER-**
7 **RORS TO WHICH THIS ACT AP-**
8 **PLIES AND MEASURES FOR**
9 **THEIR RECTIFICATION**

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

17 **SEC. 101. EMPLOYEES.**

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

23 (b) **UNCORRECTED ERROR.**—

24 (1) **APPLICABILITY.**—This subsection applies if
25 the retirement coverage error has not been corrected
26 before the effective date of the regulations described

1 under paragraph (3). As soon as practicable after
2 discovery of the error, and subject to the right of an
3 election under paragraph (2), if CSRS covered or
4 CSRS-Offset covered, such individual shall be treat-
5 ed as CSRS-Offset covered, retroactive to the date
6 of the retirement coverage error.

7 (2) COVERAGE.—

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

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

21 (3) REGULATIONS.—The Office shall promul-
22 gate regulations to carry out this subsection.

23 (c) CORRECTED ERROR.—

24 (1) APPLICABILITY.—This subsection applies if
25 the retirement coverage error was corrected before

1 the effective date of the regulations described under
2 subsection (b).

3 (2) COVERAGE.—

4 (A) ELECTION.—

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

14 (ii) THRIFT SAVINGS FUND CON-
15 TRIBUTIONS.—If an individual elects to be
16 CSRS-Offset covered, all employee con-
17 tributions to the Thrift Savings Fund
18 made during the period of FERS coverage,
19 and earnings thereon, may remain in that
20 Fund, notwithstanding any limit that
21 would otherwise 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-

1 ment coverage error shall not be entitled to
2 make an election under this subsection unless
3 that amount is waived in whole or in part under
4 section 208, and any amount not waived is re-
5 paid.

6 (C) INELIGIBILITY FOR ELECTION.—An
7 individual who, subsequent to correction of the
8 retirement coverage error, received a refund of
9 retirement deductions under section 8424 of
10 title 5, United States Code, or a distribution
11 under section 8433 of title 5, United States
12 Code, may not make an election under this sub-
13 section.

14 (3) CORRECTIVE ACTION TO REMAIN IN EF-
15 FECT.—If an individual is ineligible to make an elec-
16 tion or does not make an election under paragraph
17 (2) before the end of any time limitation under this
18 subsection, the corrective action taken before such
19 time limitation shall remain in effect.

20 **SEC. 102. ANNUITANTS AND SURVIVORS.**

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

23 (1) an annuitant who should have been FERS
24 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 promulgate 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 promul-
17 gated 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

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

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

13 (4) REDUCED BENEFIT.—If—

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

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

19 then the survivor's CSRS-Offset benefit shall be sub-
20 ject to a reduction, under regulations promulgated
21 by the Office. The reduced annuity to which the in-
22 dividual is entitled shall be equal to an amount
23 which, when taken together with the amount of the
24 payment referred to under subparagraph (B) would
25 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 pro-
16 mulgate regulations to carry out this para-
17 graph.

18 (c) CORRECTED ERROR.—

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

23 (2) ELECTION.—Not later than 180 days after
24 the date of enactment of this Act, the Office shall
25 promulgate regulations authorizing individuals to

1 elect, during the 18-month period immediately fol-
 2 lowing the effective date of such regulations, to be
 3 CSRS-Offset covered or Social Security-Only cov-
 4 ered, effective as of the date of the retirement cov-
 5 erage error.

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

11 **Subtitle D—Employee Who Was** 12 **Erroneously FERS Covered**

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

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

24 (b) UNCORRECTED ERROR.—

1 (1) APPLICABILITY.—This subsection applies if
2 the retirement coverage error has not been corrected
3 before the effective date of the regulations described
4 in paragraph (2).

5 (2) COVERAGE.—

6 (A) ELECTION.—Upon written notice of a
7 retirement coverage error, an individual may
8 elect to remain FERS covered or to be Social
9 Security-Only covered, CSRS covered, or
10 CSRS-Offset covered, as would have applied in
11 the absence of the erroneous retirement cov-
12 erage determination, effective as of the date of
13 the retirement coverage error. Such election
14 shall be made not later than 180 days after the
15 date of receipt of such notice.

16 (B) NONELECTION.—If the individual does
17 not make an election before the date provided
18 under subparagraph (A), the individual shall re-
19 main FERS covered, effective as of the date of
20 the retirement coverage error.

21 (3) EMPLOYEE CONTRIBUTIONS IN THRIFT SAV-
22 INGS FUND.—If under this section, an individual
23 elects to be Social Security-Only covered, CSRS cov-
24 ered, or CSRS-Offset covered, all employee contribu-
25 tions to the Thrift Savings Fund made during the

1 period of erroneous FERS coverage (and all earn-
2 ings on such contributions) may remain in the
3 Thrift Savings Fund in accordance with regulations
4 promulgated by the Executive Director, notwith-
5 standing any limit under section 8351 or 8432 of
6 title 5, United States Code.

7 (4) REGULATIONS.—Except as provided under
8 paragraph (3), the Office shall promulgate regula-
9 tions to carry out this subsection.

10 (c) CORRECTED ERROR.—

11 (1) APPLICABILITY.—This subsection applies if
12 the retirement coverage error was corrected before
13 the effective date of the regulations described under
14 paragraph (2).

15 (2) ELECTION.—Not later than 180 days after
16 the date of enactment of this Act, the Office shall
17 promulgate regulations authorizing individuals to
18 elect, during the 18-month period immediately fol-
19 lowing the effective date of such regulations to re-
20 main Social Security-Only covered, CSRS covered,
21 or CSRS-Offset covered, or to be FERS covered, ef-
22 fective as of the date of the retirement coverage
23 error.

24 (3) NONELECTION.—If an eligible individual
25 does not make an election under paragraph (2), the

1 corrective action before the end of any time limita-
2 tion under this subsection shall remain in effect.

3 **SEC. 132. FERS-ELIGIBLE EMPLOYEE WHO SHOULD HAVE**
4 **BEEN CSRS COVERED, CSRS-OFFSET COV-**
5 **ERED, OR SOCIAL SECURITY-ONLY COVERED,**
6 **BUT WHO WAS ERRONEOUSLY FERS COV-**
7 **ERED INSTEAD WITHOUT AN ELECTION.**

8 (a) IN GENERAL.—

9 (1) FERS ELECTION PREVENTED.—If an indi-
10 vidual was prevented from electing FERS coverage
11 because the individual was erroneously FERS cov-
12 ered during the period when the individual was eligi-
13 ble to elect FERS under title III of the Federal Em-
14 ployees Retirement System Act or the Federal Em-
15 ployees' Retirement System Open Enrollment Act of
16 1997 (Public Law 105–61; 111 Stat. 1318 et seq.),
17 the individual—

18 (A) is deemed to have elected FERS cov-
19 erage; and

20 (B) shall remain covered by FERS, unless
21 the individual declines, under regulations pro-
22 mulgated by the Office, to be FERS covered.

23 (2) DECLINING FERS COVERAGE.—If an indi-
24 vidual described under paragraph (1)(B) declines to
25 be FERS covered, such individual shall be CSRS

1 covered, CSRS-Offset covered, or Social Security-
2 Only covered, as would apply in the absence of a
3 FERS election, effective as of the date of the erro-
4 neous retirement coverage determination.

5 (b) EMPLOYEE CONTRIBUTIONS IN THRIFT SAVINGS
6 FUND.—If under this section, an individual declines to be
7 FERS covered and instead is Social Security-Only cov-
8 ered, CSRS covered, or CSRS-Offset covered, as would
9 apply in the absence of a FERS election, all employee con-
10 tributions to the Thrift Savings Fund made during the
11 period of erroneous FERS coverage (and all earnings on
12 such contributions) may remain in the Thrift Savings
13 Fund in accordance with regulations promulgated by the
14 Executive Director, notwithstanding any limit that would
15 otherwise be applicable.

16 (c) INAPPLICABILITY OF DURATION OF ERRONEOUS
17 COVERAGE.—This section shall apply regardless of the
18 length of time the erroneous coverage determination re-
19 mained in effect.

20 **SEC. 133. RETROACTIVE EFFECT.**

21 This subtitle shall be effective as of January 1, 1987,
22 except that section 132 shall not apply to individuals who
23 made or were deemed to have made elections similar to
24 those provided in this section under regulations promul-
25 gated by the Office before the effective date of this Act.

1 **Subtitle E—Employee Who Should**
2 **Have Been CSRS-Offset Cov-**
3 **ered, but Who Was Erroneously**
4 **CSRS Covered Instead**

5 **SEC. 141. APPLICABILITY.**

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

10 **SEC. 142. CORRECTION MANDATORY.**

11 (a) **UNCORRECTED ERROR.**—If the retirement cov-
12 erage error has not been corrected, as soon as practicable
13 after discovery of the error, such individual shall be cov-
14 ered under the correct retirement coverage, effective as of
15 the date of the retirement coverage error.

16 (b) **CORRECTED ERROR.**—If the retirement coverage
17 error has been corrected before the effective date of this
18 Act, the corrective action taken before such date shall re-
19 main in effect.

1 **Subtitle F—Employee Who Should**
 2 **Have Been CSRS Covered, but**
 3 **Who Was Erroneously CSRS-Off-**
 4 **set Covered Instead**

5 **SEC. 151. APPLICABILITY.**

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

10 **SEC. 152. CORRECTION MANDATORY.**

11 (a) **UNCORRECTED ERROR.**—If the retirement cov-
 12 erage error has not been corrected, as soon as practicable
 13 after discovery of the error, such individual shall be cov-
 14 ered under the correct retirement coverage, effective as of
 15 the date of the retirement coverage error.

16 (b) **CORRECTED ERROR.**—If the retirement coverage
 17 error has been corrected before the effective date of this
 18 Act, the corrective action taken before such date shall re-
 19 main in effect.

20 **TITLE II—GENERAL PROVISIONS**

21 **SEC. 201. IDENTIFICATION AND NOTIFICATION REQUIRE-**
 22 **MENTS.**

23 Government agencies shall take all such measures as
 24 may be reasonable and appropriate to promptly identify

1 and notify individuals who are (or have been) affected by
2 a retirement coverage error of their rights under this Act.

3 **SEC. 202. INFORMATION TO BE FURNISHED TO AND BY AU-**
4 **THORITIES ADMINISTERING THIS ACT.**

5 (a) **APPLICABILITY.**—The authorities identified in
6 this subsection are—

7 (1) the Director of the Office of Personnel
8 Management;

9 (2) the Commissioner of Social Security; and

10 (3) the Executive Director of the Federal Re-
11 tirement Thrift Investment Board.

12 (b) **AUTHORITY TO OBTAIN INFORMATION.**—Each
13 authority identified in subsection (a) may secure directly
14 from any department or agency of the United States infor-
15 mation necessary to enable such authority to carry out its
16 responsibilities under this Act. Upon request of the au-
17 thority involved, the head of the department or agency in-
18 volved shall furnish that information to the requesting au-
19 thority.

20 (c) **AUTHORITY TO PROVIDE INFORMATION.**—Each
21 authority identified in subsection (a) may provide directly
22 to any department or agency of the United States all in-
23 formation such authority believes necessary to enable the
24 department or agency to carry out its responsibilities
25 under this Act.

1 (d) LIMITATION; SAFEGUARDS.—Each of the respec-
2 tive authorities under subsection (a) shall—

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

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

9 **SEC. 203. SERVICE CREDIT DEPOSITS.**

10 (a) CSRS DEPOSIT.—In the case of a retirement cov-
11 erage error in which—

12 (1) a FERS covered employee was erroneously
13 CSRS covered or CSRS-Offset covered;

14 (2) the employee made a service credit deposit
15 under the CSRS rules; and

16 (3) there is a subsequent retroactive change to
17 FERS coverage;

18 the excess of the amount of the CSRS civilian or military
19 service credit deposit over the FERS civilian or military
20 service credit deposit, together with interest computed in
21 accordance with paragraphs (2) and (3) of section 8334(e)
22 of title 5, United States Code, and regulations prescribed
23 by the Office, shall be paid to the employee, the annuitant
24 or, in the case of a deceased employee, to the individual

1 entitled to lump-sum benefits under section 8342(c) or
2 8424(d) of title 5, United States Code, as applicable.

3 (b) FERS DEPOSIT.—

4 (1) APPLICABILITY.—This subsection applies in
5 the case of an erroneous retirement coverage deter-
6 mination in which—

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

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

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

14 (2) REDUCED ANNUITY.—

15 (A) IN GENERAL.—If at the time of com-
16 mencement of an annuity there is remaining
17 unpaid CSRS civilian or military service credit
18 deposit for service described under paragraph
19 (1), the annuity shall be reduced based upon
20 the amount unpaid together with interest com-
21 puted in accordance with section 8334(e) (2)
22 and (3) of title 5, United States Code, and reg-
23 ulations prescribed by the Office.

24 (B) AMOUNT.—The reduced annuity to
25 which the individual is entitled shall be equal to

1 an amount that, when taken together with the
2 amount referred to under subparagraph (A),
3 would result in the present value of the total
4 being actuarially equivalent to the present value
5 of the unreduced annuity benefit that would
6 have been provided the individual.

7 (3) SURVIVOR ANNUITY.—

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

19 (B) AMOUNT.—The reduced survivor an-
20 nuity to which the individual is entitled shall be
21 equal to an amount that, when taken together
22 with the amount referred to under subpara-
23 graph (A), would result in the present value of
24 the total being actuarially equivalent to the
25 present value of an unreduced survivor annuity

1 benefit that would have been provided the indi-
2 vidual.

3 **SEC. 204. PROVISIONS RELATED TO SOCIAL SECURITY COV-**
4 **ERAGE OF MISCLASSIFIED EMPLOYEES.**

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

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

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

11 (B) is or was retroactively converted to
12 CSRS-offset coverage, FERS coverage, or So-
13 cial Security-only coverage; and

14 (2) “excess CSRS deduction amount” means an
15 amount equal to the difference between the CSRS
16 deductions withheld and the CSRS-Offset or FERS
17 deductions, if any, due with respect to a covered in-
18 dividual during the entire period the individual was
19 erroneously subject to CSRS coverage as a result of
20 a retirement coverage error.

21 (b) REPORTS TO COMMISSIONER OF SOCIAL SECU-
22 RITY.—

23 (1) IN GENERAL.—In order to carry out the
24 Commissioner of Social Security’s responsibilities
25 under title II of the Social Security Act, the Com-

1 missioner may request the head of each agency that
2 employs or employed a covered individual to report
3 (in coordination with the Office of Personnel Man-
4 agement) in such form and within such timeframe as
5 the Commissioner may specify, any or all of—

6 (A) the total wages (as defined in section
7 3121(a) of the Internal Revenue Code of 1986)
8 paid to such individual during each year of the
9 entire period of the erroneous CSRS coverage;
10 and

11 (B) such additional information as the
12 Commissioner may require for the purpose of
13 carrying out the Commissioner’s responsibilities
14 under title II of the Social Security Act (42
15 U.S.C. 401 et seq.).

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

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

1 (c) PAYMENT RELATING TO OASDI EMPLOYEE
2 TAXES.—

3 (1) IN GENERAL.— The Director of the Office
4 of Personnel Management shall transfer from the
5 Civil Service Retirement and Disability Fund to the
6 OASDI trust funds an amount equal to the excess
7 CSRS deduction amount for covered individuals (as
8 adjusted by amounts transferred relating to applica-
9 ble OASDI employee taxes as a result of corrections
10 made, including corrections made before the date of
11 enactment of this Act).

12 (2) TRANSFER.—Amounts transferred under
13 this subsection—

14 (A) shall be deposited in the OASDI trust
15 funds in the proportions indicated under section
16 201 (a) and (b) of the Social Security Act (42
17 U.S.C. 401 (a) and (b)); and

18 (B) shall be determined notwithstanding
19 any limitation under section 6501 of the Inter-
20 nal Revenue Code of 1986.

21 (d) PAYMENT OF OASDI EMPLOYER TAXES.—

22 (1) IN GENERAL.—Each employing agency shall
23 pay into the OASDI trust funds an amount equal to
24 OASDI employer taxes owed with respect to covered
25 individuals during the applicable period of erroneous

1 coverage (as adjusted by amounts transferred for
2 the payment of such taxes as a result of corrections
3 made, including corrections made before the date of
4 enactment of this Act).

5 (2) TRANSFER.—Amounts transferred under
6 this subsection—

7 (A) shall be deposited in the OASDI trust
8 funds in the proportions indicated under section
9 201 (a) and (b) of the Social Security Act (42
10 U.S.C. 401 (a) and (b)); and

11 (B) shall be determined subject to any lim-
12 itation under section 6501 of the Internal Rev-
13 enue Code of 1986.

14 (e) APPLICATION OF OASDI TAX PROVISIONS OF
15 THE INTERNAL REVENUE CODE OF 1986 TO AFFECTED
16 INDIVIDUALS AND EMPLOYING AGENCIES.—A covered in-
17 dividual and the individual's employing agency shall be
18 deemed to have fully satisfied in a timely manner their
19 responsibilities with respect to the taxes imposed by sec-
20 tions 3101(a), 3102(a), and 3111(a) of the Internal Rev-
21 enue Code of 1986 on the wages paid by the employing
22 agency to such individual during the entire period such
23 individual was erroneously subject to CSRS coverage as
24 a result of a retirement coverage error. No credit or refund

1 of taxes on such wages shall be allowed as a result of this
2 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;

11 (2) is described in section 111; or

12 (3) is a former employee, annuitant, or survivor
13 (subject to conditions similar to those in sections
14 101 and 102) in the case of a retirement coverage
15 error in which a FERS covered employee was erro-
16 neously Social Security-Only covered and is cor-
17 rected to FERS coverage.

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

19 (1) **IN GENERAL.**—

20 (A) **PAYMENT.**—With respect to an indi-
21 vidual to whom this section applies, the employ-
22 ing agency shall pay to the Thrift Savings
23 Fund under subchapter III of chapter 84 of
24 title 5, United States Code, for credit to the ac-
25 count of the employee involved, an amount

1 equal to the earnings which are disallowed
2 under section 8432a of such title on the em-
3 ployee's retroactive contributions to such Fund.

4 (B) AMOUNT.—The amount paid under
5 subparagraph (A) shall represent earnings, on
6 such retroactive contributions, during the pe-
7 riod of the retirement coverage error and con-
8 tinuing through the date on which the amount
9 is paid by the employing agency (and based on
10 distributions from the employee's Thrift Sav-
11 ings Plan account).

12 (C) EARNINGS.—Earnings under subpara-
13 graph (B) shall be computed in accordance with
14 the procedures for computing lost earnings
15 under section 8432a of title 5, United States
16 Code. The amount paid by the employing agen-
17 cy shall be treated for all purposes as if that
18 amount had actually been earned on the basis
19 of the employee's contributions.

20 (2) ADDITIONAL EMPLOYEE CONTRIBUTION.—
21 In cases in which the retirement coverage error was
22 corrected before the effective date of the regulations
23 under section 101(c), the employee involved (includ-
24 ing an employee described in subsection (a)(2)) shall
25 have an additional opportunity to make retroactive

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

6 (c) REGULATIONS.—The Office, in consultation with
7 the Federal Retirement Thrift Investment Board, shall
8 prescribe regulations appropriate to carry out this section.

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

11 (a) CERTAIN EXCESS AGENCY CONTRIBUTIONS TO
12 REMAIN IN THE CSRDF.—

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

15 (A) remain in the CSRDF; and

16 (B) may not be paid or credited to an
17 agency.

18 (2) AMOUNTS.—Paragraph (1) refers to any
19 amount of contributions made by an agency under
20 section 8423 of title 5, United States Code, on be-
21 half of any employee, former employee, or annuitant
22 (or survivor of such employee, former employee, or
23 annuitant) who makes an election to correct a retire-
24 ment coverage error under this Act, that the Office
25 determines to be excess as a result of such election.

1 (b) ADDITIONAL EMPLOYEE RETIREMENT DEDUC-
 2 TIONS TO BE PAID BY AGENCY.—If a correction in a re-
 3 tirement coverage error results in an increase in employee
 4 deductions under section 8334 or 8422 of title 5, United
 5 States Code, that cannot be fully paid by a reallocation
 6 of otherwise available amounts previously deducted from
 7 the employee’s pay as employment taxes or retirement de-
 8 ductions, the employing agency—

9 (1) shall pay the required additional amount
 10 into the CSRDF; and

11 (2) shall not seek repayment of that amount
 12 from the employee, former employee, annuitant, or
 13 survivor.

14 **SEC. 207. CSRS COVERAGE DETERMINATIONS TO BE AP-**
 15 **PROVED BY OPM.**

16 No agency shall place an individual under CSRS cov-
 17 erage unless—

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

20 (2) the Office has agreed in writing that the
 21 agency’s coverage determination is correct.

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

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

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

5 (2) provide for the reimbursement of necessary
6 and reasonable expenses incurred by an individual
7 with respect to settlement of a claim for losses re-
8 sulting from a retirement coverage error, including
9 attorney's fees, court costs, and other actual ex-
10 penses;

11 (3) compensate an individual for monetary
12 losses that are a direct and proximate result of a re-
13 tirement coverage error, excluding claimed losses re-
14 lating to forgone contributions and earnings under
15 the Thrift Savings Plan under subchapter III of
16 chapter 84 of title 5, United States Code, and all
17 other investment opportunities; and

18 (4) waive repayments otherwise required under
19 this Act.

20 (b) SIMILAR ACTIONS.—In exercising the authority
21 under this section, the Director shall, to the extent prac-
22 ticable, provide for similar actions in situations involving
23 similar circumstances.

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

4 (d) REGULATIONS.—The Office of Personnel Man-
5 agement shall prescribe regulations regarding the process
6 and criteria used in exercising the authority under this
7 section.

8 (e) REPORT.—The Office of Personnel Management
9 shall, not later than 180 days after the date of enactment
10 of this Act, and annually thereafter for each year in which
11 the authority provided in this section is used, submit a
12 report to each House of Congress on the operation of this
13 section.

14 **SEC. 209. REGULATIONS.**

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

19 (b) FORMER SPOUSE.—The regulations prescribed
20 under this Act shall provide for protection of the rights
21 of a former spouse with entitlement to an apportionment
22 of benefits or to survivor benefits based on the service of
23 the employee.

1 **TITLE III—OTHER PROVISIONS**

2 **SEC. 301. PROVISIONS TO PERMIT CONTINUED CON-**
3 **FORMITY OF OTHER FEDERAL RETIREMENT**
4 **SYSTEMS.**

5 (a) FOREIGN SERVICE.—Sections 827 and 851 of the
6 Foreign Service Act of 1980 (22 U.S.C. 4067 and 4071)
7 shall apply with respect to this Act in the same manner
8 as if this Act were 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 (b) CENTRAL INTELLIGENCE AGENCY.—Sections
16 292 and 301 of the Central Intelligence Agency Retire-
17 ment Act (50 U.S.C. 2141 and 2151) shall apply with re-
18 spect to this Act in the same manner as if this Act were
19 part of—

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

23 (2) the Federal Employees' Retirement System,
24 to the extent this Act relates to the Federal Employ-
25 ees' Retirement System.

1 **SEC. 302. AUTHORIZATION AND APPROPRIATION.**

2 All payments permitted or required by this Act to be
3 paid from the Civil Service Retirement and Disability
4 Fund, together with administrative expenses incurred by
5 the Office in administering this Act, shall be deemed to
6 have been authorized to be paid from that Fund, which
7 is appropriated for the payment thereof.

8 **SEC. 303. INDIVIDUAL RIGHT OF ACTION PRESERVED FOR**
9 **AMOUNTS NOT OTHERWISE PROVIDED FOR**
10 **UNDER THIS ACT.**

11 Nothing in this Act shall preclude an individual from
12 bringing a claim against the Government of the United
13 States which such individual may have under section
14 1346(b) or chapter 171 of title 28, United States Code,
15 or any other provision of law (except to the extent the
16 claim is for any amounts otherwise provided for under this
17 Act).

18 **SEC. 304. EFFECTIVE DATE.**

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

21 **TITLE IV—TAX PROVISIONS**

22 **SEC. 401. TAX PROVISIONS.**

23 (a) **PLAN QUALIFICATION.**—No retirement plan of
24 the United States (or any agency thereof) shall fail to be
25 treated as a qualified plan under the Internal Revenue

1 Code of 1986 by reason of any action taken under this
2 Act.

3 (b) TRANSFERS.—For purposes of the Internal Rev-
4 enue Code of 1986, no amount shall be includible in the
5 gross income of any individual in any tax year by reason
6 of any direct transfer under this Act between funds or any
7 Government contribution under this Act to any fund or
8 account in any such tax year.

9 **TITLE V—MISCELLANEOUS**
10 **RETIREMENT PROVISIONS**

11 **SEC. 501. FEDERAL RESERVE BOARD PORTABILITY OF**
12 **SERVICE CREDIT.**

13 (a) CREDITABLE SERVICE.—

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

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

18 (B) in paragraph (4)—

19 (i) by striking “of the preceding provi-
20 sions” and inserting “other paragraph”;
21 and

22 (ii) by striking the period at the end
23 and inserting “; and”; and

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

1 “(5) a period of service (other than any service
2 under any other paragraph of this subsection, any
3 military service, and any service performed in the
4 employ of a Federal Reserve Bank) that was cred-
5 itable under the Bank Plan (as defined in subsection
6 (i)), if the employee waives credit for such service
7 under the Bank Plan and makes a payment to the
8 Fund equal to the amount that would have been de-
9 ducted from pay under section 8422(a) had the em-
10 ployee been subject to this chapter during such pe-
11 riod of service (together with interest on such
12 amount computed under paragraphs (2) and (3) of
13 section 8334(e)).

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

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

21 “(i) For purposes of subsection (b)(5), the term
22 ‘Bank Plan’ means the benefit structure in which employ-
23 ees of the Board of Governors of the Federal Reserve Sys-
24 tem appointed on or after January 1, 1984, participate,
25 which benefit structure is a component of the Retirement

1 Plan for Employees of the Federal Reserve System, estab-
2 lished under section 10 of the Federal Reserve Act (and
3 any redesignated or successor version of such benefit
4 structure, if so identified in writing by the Board of Gov-
5 ernors of the Federal Reserve System for purposes of this
6 chapter).”.

7 (b) EXCLUSION FROM CHAPTER 84.—

8 (1) IN GENERAL.—Paragraph (2) of section
9 8402(b) of title 5, United States Code, is amended
10 by striking the matter before subparagraph (B) and
11 inserting the following:

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

14 “(i) having been subject to—

15 “(I) subchapter III of chapter 83 of
16 this title;

17 “(II) subchapter I of chapter 8 of title
18 I of the Foreign Service Act of 1980; or

19 “(III) the benefit structure for em-
20 ployees of the Board of Governors of the
21 Federal Reserve System appointed before
22 January 1, 1984, that is a component of
23 the Retirement Plan for Employees of the
24 Federal Reserve System, established under
25 section 10 of the Federal Reserve Act; and

1 “(ii) having completed—

2 “ (I) at least 5 years of civilian service
3 creditable under subchapter III of chapter
4 83 of this title;

5 “ (II) at least 5 years of civilian serv-
6 ice creditable under subchapter I of chap-
7 ter 8 of title I of the Foreign Service Act
8 of 1980; or

9 “ (III) at least 5 years of civilian serv-
10 ice (other than any service performed in
11 the employ of a Federal Reserve Bank)
12 creditable under the benefit structure for
13 employees of the Board of Governors of
14 the Federal Reserve System appointed be-
15 fore January 1, 1984, that is a component
16 of the Retirement Plan for Employees of
17 the Federal Reserve System, established
18 under section 10 of the Federal Reserve
19 Act,

20 determined without regard to any deposit or re-
21 deposit requirement under either such sub-
22 chapter or under such benefit structure, or any
23 requirement that the individual become subject
24 to either such subchapter or to such benefit

1 structure after performing the service involved;
2 or”.

3 (2) EXCEPTION.—Subsection (d) of section
4 8402 of title 5, United States Code, is amended to
5 read as follows:

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

8 “(1) becomes subject to—

9 “(A) subchapter II of chapter 8 of title I
10 of the Foreign Service Act of 1980 (relating to
11 the Foreign Service Pension System) pursuant
12 to an election; or

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

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

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

7 (1) has at least 5 years of civilian service (other
8 than any service performed in the employ of a Fed-
9 eral Reserve Bank) creditable under the benefit
10 structure for employees of the Board of Governors
11 of the Federal Reserve System appointed before
12 January 1, 1984, that is a component of the Retire-
13 ment Plan for Employees of the Federal Reserve
14 System, established under section 10 of the Federal
15 Reserve Act;

16 (2) was subsequently employed subject to the
17 benefit structure in which employees of the Board of
18 Governors of the Federal Reserve System appointed
19 on or after January 1, 1984, participate, which ben-
20 efit structure is a component of the Retirement Plan
21 for Employees of the Federal Reserve System, estab-
22 lished under section 10 of the Federal Reserve Act
23 (and any redesignated or successor version of such
24 benefit structure, if so identified in writing by the
25 Board of Governors of the Federal Reserve System

1 for purposes of chapter 84 of title 5, United States
2 Code); and

3 (3) after service described in paragraph (2), be-
4 comes subject to and thereafter entitled to benefits
5 under chapter 84 of title 5, United States Code,
6 shall, for purposes of section 302 of the Federal Employ-
7 ees' Retirement System Act of 1986 (100 Stat. 601; 5
8 U.S.C. 8331 note) be considered to have become subject
9 to chapter 84 of title 5, United States Code, pursuant to
10 an election under section 301 of such Act.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Subject to succeeding provi-
13 sions of this subsection, this section and the amend-
14 ments made by this section shall take effect on the
15 date of enactment of this Act.

16 (2) PROVISIONS RELATING TO CREDITABILITY
17 AND CERTAIN FORMER EMPLOYEES.—The amend-
18 ments made by subsection (a) and the provisions of
19 subsection (c) shall apply only to individuals who
20 separate from service subject to chapter 84 of title
21 5, United States Code, on or after the date of enact-
22 ment of this Act.

23 (3) PROVISIONS RELATING TO EXCLUSION
24 FROM CHAPTER.—The amendments made by sub-
25 section (b) shall not apply to any former employee

1 of the Board of Governors of the Federal Reserve
 2 System who, subsequent to his or her last period of
 3 service as an employee of the Board of Governors of
 4 the Federal Reserve System and prior to the date of
 5 enactment of this Act, became subject to subchapter
 6 III of chapter 83 or chapter 84 of title 5, United
 7 States Code, under the law in effect at the time of
 8 the individual's appointment.

9 **SEC. 502. CERTAIN TRANSFERS TO BE TREATED AS A SEPA-**
 10 **RATION FROM SERVICE FOR PURPOSES OF**
 11 **THE THRIFT SAVINGS PLAN.**

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

14 (1) IN GENERAL.—Subchapter III of chapter
 15 84 of title 5, United States Code, is amended by in-
 16 serting before section 8432 the following:

17 **“§ 8431. Certain transfers to be treated as a separa-**
 18 **tion**

19 “(a) For purposes of this subchapter, separation
 20 from Government employment includes a transfer from a
 21 position that is subject to one of the retirement systems
 22 described in subsection (b) to a position that is not subject
 23 to any of them.

24 “(b) The retirement systems described in this sub-
 25 section are—

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

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

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

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

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

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

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

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to transfers occurring
20 before, on, or after the date of enactment of this Act, ex-
21 cept that, for purposes of applying such amendments with
22 respect to any transfer occurring before such date of en-
23 actment, the date of such transfer shall be considered to
24 be the date of enactment of this Act. The Executive Direc-
25 tor (within the meaning of section 8401(13) of title 5,

- 1 United States Code) may prescribe any regulations nec-
- 2 essary to carry out this subsection.

○