

Union Calendar No. 360

105TH CONGRESS
2^D SESSION

H. R. 3249

[Report No. 105-625, Parts I and II]

A BILL

To provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes.

JULY 20, 1998

Reported from the Committee on Ways and Means with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1998

Mr. MICA (for himself, Mr. CUMMINGS, Mrs. MORELLA, Mr. PAPPAS, Mr. SESSIONS, Mr. GILMAN, Mr. LEACH, and Mr. FORD) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 14, 1998

Reported from the Committee on Government Reform and Oversight with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 14, 1998

Referral to the Committee on Ways and Means extended for a period ending not later than July 15, 1998

JULY 15, 1998

Referral to the Committee on Ways and Means extended for a period ending not later than July 17, 1998

JULY 17, 1998

Referral to the Committee on Ways and Means extended for a period ending not later than July 20, 1998

JULY 20, 1998

Additional sponsors: Ms. NORTON, Mr. SMITH of Texas, Mr. WOLF, Mr. DAVIS of Illinois, Mr. PACKARD, Ms. GRANGER, and Mrs. LOWEY

JULY 20, 1998

Reported from the Committee on Ways and Means with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on February 24, 1998]

A BILL

To provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Federal Retirement Coverage Corrections Act”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Applicability.

Sec. 4. Restriction relating to future corrections.

Sec. 5. Irrevocability of elections.

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

Subtitle A—Employee Who Should Have Been FERS Covered, But Who Was Erroneously CSRS Covered or CSRS-Offset Covered Instead

Sec. 101. Elections.

Sec. 102. Effect of an election to be transferred from CSRS to FERS to correct a retirement coverage error.

Sec. 103. Effect of an election to be transferred from CSRS-Offset to FERS to correct a retirement coverage error.

Sec. 104. Effect of an election to be transferred from CSRS to CSRS-Offset to correct a retirement coverage error.

Sec. 105. Effect of an election to be restored (or transferred) to CSRS-Offset after having been corrected to FERS from CSRS-Offset (or CSRS).

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. Elections.

Sec. 112. Effect of an election to become FERS covered to correct the retirement coverage error.

Sec. 113. Effect of an election to become CSRS-Offset covered to correct the retirement coverage error.

Sec. 114. Effect of an election to become CSRS covered to correct the retirement coverage error.

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

Sec. 121. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously FERS covered instead.

Sec. 122. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously CSRS-Offset covered instead.

Sec. 123. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously CSRS covered instead.

Sec. 124. Corrected error: situations under sections 121–123.

Sec. 125. Vested employees excepted from automatic exclusion.

Subtitle D—Employee Who Should Have Been CSRS Covered or CSRS-Offset Covered, But Who Was Erroneously FERS Covered Instead

Sec. 131. Elections.

Sec. 132. Effect of an election to be transferred from FERS to CSRS to correct a retirement coverage error.

Sec. 133. Effect of an election to be transferred from FERS to CSRS-Offset to correct a retirement coverage error.

Sec. 134. Effect of an election to be restored to FERS after having been corrected to CSRS.

Sec. 135. Effect of an election to be restored to FERS after having been corrected to CSRS-Offset.

Sec. 136. Disqualification of certain individuals to whom same election was previously available.

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

Sec. 141. Automatic transfer to CSRS-Offset.

Sec. 142. Effect of transfer.

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

Sec. 151. Elections.

Sec. 152. Effect of an election to be transferred from CSRS-Offset to CSRS to correct the retirement coverage error.

Sec. 153. Effect of an election to be restored to CSRS-Offset after having been corrected to CSRS.

Subtitle G—Additional Provisions Relating to Government Agencies

Sec. 161. Repayment required in certain situations.

Sec. 162. Equitable sharing of amounts payable to or from the Government if more than one agency involved.

Sec. 163. Provisions relating to the original responsible agency.

TITLE II—GENERAL PROVISIONS

Sec. 201. Identification and notification requirements.

Sec. 202. Individual appeal rights.

Sec. 203. Information to be furnished by Government agencies to authorities administering this Act.

Sec. 204. Social Security records.

Sec. 205. Conforming amendments respecting Social Security coverage and OASDI taxes.

Sec. 206. Regulations.

Sec. 207. All elections to be approved by OPM.

Sec. 208. Additional transfers to OASDI trust funds in certain cases.

Sec. 209. Technical and conforming amendments.

TITLE III—OTHER PROVISIONS

Sec. 301. Provisions to permit continued conformity of other Federal retirement systems.

Sec. 302. Certain amounts payable out of the general fund of the Treasury or CSRDF.

Sec. 303. Individual right of action preserved for amounts not otherwise provided for under this Act.

Sec. 304. Extension of open enrollment period to employees under the Foreign Service Retirement and Disability System.

TITLE IV—TAX PROVISIONS

Sec. 401. Tax provisions.

1 **SEC. 2. DEFINITIONS.**

2 *For purposes of this Act:*

3 (1) *CSRS.*—*The term “CSRS” means the Civil*
4 *Service Retirement System.*

5 (2) *CSRDF.*—*The term “CSRDF” means the*
6 *Civil Service Retirement and Disability Fund.*

7 (3) *CSRS COVERED.*—*The term “CSRS cov-*
8 *ered”, with respect to any service, means service that*
9 *is subject to the provisions of subchapter III of chap-*
10 *ter 83 of title 5, United States Code, other than those*

1 that apply only with respect to an individual de-
2 scribed in section 8402(b)(2) of such title.

3 (4) *CSRS-OFFSET COVERED.*—The term “CSRS-
4 Offset covered”, with respect to any service, means
5 service that is subject to the provisions of subchapter
6 III of chapter 83 of title 5, United States Code, that
7 apply with respect to an individual described in sec-
8 tion 8402(b)(2) of such title.

9 (5) *EMPLOYEE.*—The term “employee” means
10 any individual serving in an appointive or elective
11 office or position in the executive, legislative, or judi-
12 cial branch of the Government who, by virtue of that
13 service, is permitted or required to be CSRS covered,
14 CSRS-Offset covered, *FERS* covered, or Social Secu-
15 rity-Only covered.

16 (6) *EXECUTIVE DIRECTOR.*—The term “Execu-
17 tive Director of the Federal Retirement Thrift Invest-
18 ment Board” or “Executive Director” means the Ex-
19 ecutive Director appointed under section 8474 of title
20 5, United States Code.

21 (7) *FERS.*—The term “*FERS*” means the Fed-
22 eral Employees’ Retirement System.

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

1 (9) *GOVERNMENT.*—*The term “Government” has*
2 *the meaning given such term by section 8331(7) of*
3 *title 5, United States Code.*

4 (10) *OASDI TAXES.*—*The term “OASDI taxes”*
5 *means the OASDI employee tax and the OASDI em-*
6 *ployer tax.*

7 (11) *OASDI EMPLOYEE TAX.*—*The term*
8 *“OASDI employee tax” means the tax imposed under*
9 *section 3101(a) of the Internal Revenue Code of 1986*
10 *(relating to Old-Age, Survivors and Disability Insur-*
11 *ance).*

12 (12) *OASDI EMPLOYER TAX.*—*The term*
13 *“OASDI employer tax” means the tax imposed under*
14 *section 3111(a) of the Internal Revenue Code of 1986*
15 *(relating to Old-Age, Survivors and Disability Insur-*
16 *ance).*

17 (13) *OASDI TRUST FUNDS.*—*The term “OASDI*
18 *trust funds” means the Federal Old-Age and Sur-*
19 *ivors Insurance Trust Fund and the Federal Disabil-*
20 *ity Insurance Trust Fund.*

21 (14) *PERIOD OF ERRONEOUS COVERAGE.*—*The*
22 *term “period of erroneous coverage” means, in the*
23 *case of a retirement coverage error, the period*
24 *throughout which retirement coverage is in effect pur-*

1 *suant to such error (or would have been in effect, but*
2 *for such error).*

3 (15) *RETIREMENT COVERAGE DETERMINATION.—*

4 *The term “retirement coverage determination” means*
5 *a determination by an employee or agent of the Gov-*
6 *ernment as to whether a particular type of Govern-*
7 *ment service is CSRS covered, CSRS-Offset covered,*
8 *FERS covered, or Social Security-Only covered.*

9 (16) *RETIREMENT COVERAGE ERROR.—The term*
10 *“retirement coverage error” means a retirement cov-*
11 *erage determination that, as a result of any error,*
12 *misrepresentation, or inaction on the part of an em-*
13 *ployee or agent of the Government (including an error*
14 *as described in section 163(b)(2)), causes an individ-*
15 *ual erroneously to be enrolled or not enrolled in a re-*
16 *irement system, as further described in the applicable*
17 *subtitle of title I.*

18 (17) *SOCIAL SECURITY-ONLY COVERED.—The*
19 *term “Social Security-Only covered”, with respect to*
20 *any service, means Government service that con-*
21 *stitutes employment under section 210 of the Social*
22 *Security Act (42 U.S.C. 410), and that—*

23 (A) *is subject to OASDI taxes; but*

1 (B) is not subject to any retirement system
2 for Government employees (disregarding title II
3 of the Social Security Act).

4 (18) *THRIFT SAVINGS FUND.*—The term “Thrift
5 Savings Fund” means the Thrift Savings Fund estab-
6 lished under section 8437 of title 5, United States
7 Code.

8 **SEC. 3. APPLICABILITY.**

9 (a) *IN GENERAL.*—Subject to subsection (b), this Act
10 shall apply with respect to any retirement coverage error
11 that occurs before, on, or after the date of enactment of this
12 Act, excluding any error corrected within 1 year after the
13 date on which it occurs.

14 (b) *LIMITATION.*—Nothing in this Act shall affect any
15 retirement coverage or treatment accorded with respect to
16 any individual in connection with any period beginning
17 before the first day of the first applicable pay period begin-
18 ning on or after January 1, 1984.

19 **SEC. 4. RESTRICTION RELATING TO FUTURE CORREC-**
20 **TIONS.**

21 (a) *IN GENERAL.*—Except as otherwise provided in
22 this Act, any individual who, on or after the date of enact-
23 ment of this Act, becomes or remains affected by a retire-
24 ment coverage error may not be excluded from or made sub-

1 *ject to any retirement system for the sole purpose of correct-*
2 *ing such error.*

3 *(b) COORDINATION WITH OTHER LAWS.—*

4 *(1) IN GENERAL.—Nothing in this Act shall be*
5 *considered to preclude an election under the Federal*
6 *Employees' Retirement System Open Enrollment Act*
7 *of 1997 (Public Law 105–61; 111 Stat. 1318) or any*
8 *other voluntary retirement coverage election author-*
9 *ized by statute.*

10 *(2) REGULATIONS.—The Office of Personnel*
11 *Management shall prescribe any regulations which*
12 *may be necessary to apply this Act in the case of any*
13 *individual who changes retirement coverage pursuant*
14 *to a voluntary election made other than under this*
15 *Act.*

16 **SEC. 5. IRREVOCABILITY OF ELECTIONS.**

17 *Any election made (or deemed to have been made) by*
18 *an employee or any other individual under this Act shall*
19 *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—Employee Who Should**
 7 **Have Been FERS Covered, But**
 8 **Who Was Erroneously CSRS Cov-**
 9 **ered or CSRS-Offset Covered In-**
 10 **stead**

11 **SEC. 101. ELECTIONS.**

12 (a) *APPLICABILITY.*—This subtitle shall apply in the
 13 case of any employee who—

14 (1) should be (or should have been) FERS cov-
 15 ered but, as a result of a retirement coverage error,
 16 is (or was) CSRS covered instead; or

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

20 (b) *UNCORRECTED ERROR.*—If, at the time of making
 21 an election under this section, the retirement coverage error
 22 described in paragraph (1) or (2) of subsection (a) (as ap-
 23 plicable) has not been corrected, the employee affected by
 24 such error may elect—

25 (1) to be FERS covered instead; or

1 (2) to remain (or instead become) CSRS-Offset
2 covered.

3 (c) *CORRECTED ERROR*.—If, at the time of making an
4 election under this section, the retirement coverage error de-
5 scribed in paragraph (1) or (2) of subsection (a) (as appli-
6 cable) has been corrected, the employee affected by such error
7 may elect—

8 (1) to be CSRS-Offset covered instead; or

9 (2) to remain FERS covered.

10 (d) *DEFAULT RULE*.—

11 (1) *IN GENERAL*.—If the employee is given writ-
12 ten notice in accordance with section 201 as to the
13 availability of an election under this section, but does
14 not make any such election within the 6-month period
15 beginning on the date on which such notice is so
16 given, the option under subsection (b)(2) or (c)(2), as
17 applicable, shall be deemed to have been elected on the
18 last day of such period.

19 (2) *CSRS NOT AN OPTION*.—Nothing in this sec-
20 tion shall be considered to afford an employee the op-
21 tion of becoming or remaining CSRS covered.

22 (e) *RETROACTIVE EFFECT*.—An election under this
23 section (including an election by default, and an election
24 to remain covered by the retirement system by which the
25 electing individual is covered as of the date of the election)

1 *shall be effective retroactive to the effective date of the retire-*
 2 *ment coverage error (as referred to in subsection (a)) to*
 3 *which such election relates.*

4 **SEC. 102. EFFECT OF AN ELECTION TO BE TRANSFERRED**
 5 **FROM CSRS TO FERS TO CORRECT A RETIRE-**
 6 **MENT COVERAGE ERROR.**

7 (a) *APPLICABILITY.*—*This section shall apply in the*
 8 *case of any employee affected by an error described in sec-*
 9 *tion 101(a)(1) who elects the option under section 101(b)(1).*

10 (b) *DISPOSITION OF CONTRIBUTIONS TO THE*
 11 *CSRDF.*—

12 (1) *EMPLOYEE CONTRIBUTIONS.*—

13 (A) *TRANSFER TO OASDI TRUST FUNDS.*—

14 *There shall be transferred from the CSRDF to*
 15 *the OASDI trust funds an amount—*

16 (i) *equal to the amount of the OASDI*
 17 *employee tax that should have been deducted*
 18 *and withheld from the Federal wages of the*
 19 *employee for the period of erroneous cov-*
 20 *erage involved; but*

21 (ii) *not to exceed the amount of the em-*
 22 *ployee's lump-sum credit attributable to the*
 23 *period of erroneous coverage involved.*

1 (B) *RULE IF THERE ARE EXCESS CSRDF*
2 *CONTRIBUTIONS.—If the amount described in*
3 *subparagraph (A)(i) exceeds the sum of—*

4 (i) *the amount described in subpara-*
5 *graph (A)(i), plus*

6 (ii) *the amount that should have been*
7 *deducted under section 8422 of title 5,*
8 *United States Code, from pay of such em-*
9 *ployee for the period of erroneous coverage*
10 *involved,*

11 *the excess shall be refunded to the employee.*

12 (C) *RULE IF CSRDF CONTRIBUTIONS ARE*
13 *INSUFFICIENT.—If the amount described in sub-*
14 *paragraph (A)(i) is less than the sum of the re-*
15 *spective amounts described in clauses (i) and (ii)*
16 *of subparagraph (B), the shortfall shall be made*
17 *up (in such manner as the Director of the Office*
18 *of Personnel Management, with the concurrence*
19 *of the Commissioner of Social Security, shall by*
20 *regulation prescribe) by the agency in or under*
21 *which the employee is then employed, out of*
22 *amounts otherwise available in the appropria-*
23 *tion, fund, or account from which any OASDI*
24 *employer tax or contribution to the CSRDF (as*
25 *applicable) may be made.*

1 (D) *DEFINITION OF LUMP-SUM CREDIT.*—
2 For purposes of this paragraph, the term “lump-
3 sum credit” has the meaning given such term by
4 section 8331 of title 5, United States Code.

5 (2) *GOVERNMENT CONTRIBUTIONS.*—

6 (A) *TRANSFER TO OASDI TRUST FUNDS.*—
7 There shall be transferred from the CSRDF to
8 the OASDI trust funds the amount of the OASDI
9 employer tax that should have been paid with re-
10 spect to the employee for the period of erroneous
11 coverage involved.

12 (B) *RULE IF THERE ARE EXCESS CSRDF*
13 *CONTRIBUTIONS.*—If the total Government con-
14 tributions to the CSRDF that were made with
15 respect to the employee for the period of erro-
16 neous coverage involved exceed the sum of—

17 (i) the amount required to be trans-
18 ferred under subparagraph (A), plus

19 (ii) the amount that should have been
20 contributed by the Government under sec-
21 tion 8423 of title 5, United States Code, for
22 such employee with respect to such period,
23 the excess shall be transferred to the agency in or
24 under which the employee is then employed, to
25 the credit of the appropriation, fund, or account

1 *from which any Government contributions to the*
2 *CSRDF may be made (to remain available until*
3 *expended).*

4 (C) *RULE IF CSRDF CONTRIBUTIONS ARE*
5 *INSUFFICIENT.—If the total Government con-*
6 *tributions to the CSRDF that were made with*
7 *respect to the employee for the period of erro-*
8 *neous coverage involved are less than the sum of*
9 *the respective amounts described in clauses (i)*
10 *and (ii) of subparagraph (B), the shortfall shall*
11 *be made up by the agency in or under which the*
12 *employee is then employed, out of amounts other-*
13 *wise available in the appropriation, fund, or ac-*
14 *count referred to in subparagraph (B) in such*
15 *manner as the Director of the Office of Personnel*
16 *Management, with the concurrence of the Com-*
17 *missioner of Social Security, shall by regulation*
18 *prescribe.*

19 (c) *MAKEUP CONTRIBUTIONS TO THE THRIFT SAVINGS*
20 *FUND.—*

21 (1) *IN GENERAL.—An employee to whom this*
22 *section applies is entitled to have contributed to the*
23 *Thrift Savings Fund on such employee's behalf, in*
24 *addition to any regular employee or Government con-*
25 *tributions that would be permitted or required for the*

1 *year in which the contributions under this subsection*
2 *are made, an amount equal to the sum of—*

3 *(A) the amount determined under para-*
4 *graph (2) with respect to such employee for the*
5 *period of erroneous coverage involved;*

6 *(B) an amount equal to the total contribu-*
7 *tions that should have been made for such em-*
8 *ployee under section 8432(c)(1) of title 5, United*
9 *States Code, for the period of erroneous coverage*
10 *involved;*

11 *(C) an amount equal to the total contribu-*
12 *tions that should have been made for such em-*
13 *ployee under section 8432(c)(2) of title 5, United*
14 *States Code, for the period of erroneous coverage*
15 *involved (taking into account both the amount*
16 *referred to in subparagraph (A) and any con-*
17 *tributions to the Thrift Savings Fund actually*
18 *made by such employee with respect to the period*
19 *involved); and*

20 *(D) an amount equal to lost earnings on the*
21 *amounts referred to in subparagraphs (A)*
22 *through (C), determined in accordance with*
23 *paragraph (3).*

1 (2) *AMOUNT BASED ON AVERAGE PERCENTAGE*
2 *OF PAY CONTRIBUTED BY EMPLOYEES DURING PERIOD*
3 *OF ERRONEOUS COVERAGE.—*

4 (A) *IN GENERAL.—The amount determined*
5 *under this paragraph with respect to an em-*
6 *ployee for a period of erroneous coverage shall be*
7 *equal to the amount of the contributions such*
8 *employee would have made if, during each cal-*
9 *endar year in such period, the employee had con-*
10 *tributed the percentage of such employee's basic*
11 *pay for such year specified in subparagraph (B)*
12 *(determined disregarding any contributions ac-*
13 *tually made by such employee with respect to the*
14 *year involved).*

15 (B) *PERCENTAGE TO BE APPLIED.—*

16 (i) *IN GENERAL.—The percentage to be*
17 *applied under this subparagraph in the case*
18 *of any employee with respect to a particular*
19 *year is—*

20 (I) *the average percentage of basic*
21 *pay that was contributed for such year*
22 *under section 8432(a) of title 5, United*
23 *States Code, by full-time FERS cov-*
24 *ered employees who contributed to the*
25 *Thrift Savings Fund in such year and*

1 *for whom a salary rate is recorded (as*
2 *of June 30 of such year) in the central*
3 *personnel data file maintained by the*
4 *Office of Personnel Management; or*

5 *(II) if such average percentage for*
6 *the year in question is unavailable, the*
7 *average percentage for the most recent*
8 *year prior to the year in question that*
9 *is available.*

10 *(ii) PERCENTAGE CONTRIBUTED.—For*
11 *purposes of clause (i)(I), the percentage of*
12 *basic pay for each employee included in the*
13 *average shall be determined by dividing the*
14 *total employee contributions received into*
15 *the Thrift Savings Plan account of that em-*
16 *ployee during such year by the annual sal-*
17 *ary rate for that employee as recorded in*
18 *the central personnel data file (referred to*
19 *in clause (i)(I)) as of June 30 of such year.*

20 *(C) LIMITATIONS.—In no event may the*
21 *amount determined under this paragraph for an*
22 *individual with respect to a year exceed the*
23 *amount that, if added to the amount of the con-*
24 *tributions that were actually made by such indi-*
25 *vidual to the Thrift Savings Fund with respect*

1 to such year (if any), would cause the total to ex-
2 ceed—

3 (i) any limitation under section 415 or
4 any other provision of the Internal Revenue
5 Code of 1986 that would have applied to
6 such employee with respect to such year; or

7 (ii) any limitation under section
8 8432(a) or any other provision of title 5,
9 United States Code, that would have ap-
10 plied to such employee with respect to such
11 year.

12 (3) *LOST EARNINGS.*—

13 (A) *IN GENERAL.*—Lost earnings on any
14 amounts referred to in subparagraph (A), (B), or
15 (C) of paragraph (1) shall, to the extent those
16 amounts are attributable to contributions that
17 should have been made with respect to a particu-
18 lar year, be determined in the same way as if
19 those amounts had in fact been timely contrib-
20 uted and allocated among the TSP investment
21 funds in accordance with—

22 (i) the investment fund election that
23 was accepted by the employing agency be-
24 fore the date the contribution should have

1 *been made and that was still in effect as*
2 *of that date; or*

3 *(ii) if no such election was then in ef-*
4 *fect for the employee, the investment fund*
5 *election attributed to such employee with re-*
6 *spect to such year.*

7 (B) *INVESTMENT FUND ELECTION ATTRIB-*
8 *UTED.—For purposes of subparagraph (A)(ii),*
9 *the investment fund election attributed to an em-*
10 *ployee with respect to a particular year is—*

11 *(i) the average percentage allocation of*
12 *TSP contributions among the TSP invest-*
13 *ment funds from all sources, with respect to*
14 *that year, except that the investment fund*
15 *election attributed to contributions in years*
16 *prior to 1991 shall be the G Fund; or*

17 *(ii) if such average percentage alloca-*
18 *tion for the year in question is unavailable,*
19 *the average percentage allocation for the*
20 *most recent year prior to the year in ques-*
21 *tion that is available.*

22 (C) *DEFINITION OF INVESTMENT FUND*
23 *ELECTION, ETC.—For purposes of this para-*
24 *graph—*

1 (i) the term “investment fund election”
 2 means a choice by a participant concerning
 3 how contributions to the Thrift Savings
 4 Plan shall be allocated among the TSP in-
 5 vestment funds;

6 (ii) the term “participant” means any
 7 person with an account in the Thrift Sav-
 8 ings Plan, or who would have an account in
 9 the Thrift Savings Plan but for an employ-
 10 ing agency error (including an error as de-
 11 scribed in section 163(b)(2));

12 (iii) the term “TSP investment funds”
 13 means the C Fund, the F Fund, the G
 14 Fund, and any other investment fund in the
 15 Thrift Savings Plan created after December
 16 27, 1996; and

17 (iv) the terms “C Fund”, “F Fund”,
 18 and “G Fund” refer to the funds described
 19 in paragraphs (1), (3), and (4), respec-
 20 tively, of section 8438(a) of title 5, United
 21 States Code.

22 (4) MAKEUP CONTRIBUTION TO BE MADE IN A
 23 LUMP SUM.—

24 (A) IN GENERAL.—Any amount to which
 25 an employee is entitled under this subsection

1 *shall be paid promptly by the agency in or*
2 *under which the electing employee is (as of the*
3 *date of the election) employed, in a lump sum,*
4 *upon notification to such agency under subpara-*
5 *graph (B)(ii) as to the amount due.*

6 *(B) BOARD FUNCTIONS.—The regulations*
7 *under paragraph (6) shall include provisions*
8 *under which—*

9 *(i) each employing agency shall be re-*
10 *quired to determine and notify the Federal*
11 *Retirement Thrift Investment Board, in a*
12 *timely manner, as to any amounts under*
13 *paragraph (1)(A)–(C) owed by such agency;*
14 *and*

15 *(ii) the Board shall, based on the infor-*
16 *mation it receives from an agency under*
17 *clause (i), determine lost earnings on those*
18 *amounts and promptly notify such agency*
19 *as to the total amounts due from it under*
20 *this subsection.*

21 *(5) JUSTICES AND JUDGES; MAGISTRATES;*
22 *ETC.—The preceding provisions of this subsection*
23 *shall not apply in the case of any employee who, pur-*
24 *suant to the election referred to in subsection (a), be-*

1 comes subject to section 8440a, 8440b, 8440c, or
2 8440d of title 5, United States Code.

3 (6) *REGULATIONS.*—*The Executive Director of*
4 *the Federal Retirement Thrift Investment Board shall*
5 *prescribe any regulations necessary to carry out this*
6 *subsection.*

7 **SEC. 103. EFFECT OF AN ELECTION TO BE TRANSFERRED**
8 **FROM CSRS-OFFSET TO FERS TO CORRECT A**
9 **RETIREMENT COVERAGE ERROR.**

10 (a) *APPLICABILITY.*—*This section shall apply in the*
11 *case of any employee affected by an error described in sec-*
12 *tion 101(a)(2) who elects the option under section 101(b)(1).*

13 (b) *EFFECT OF ELECTION.*—*In the case of an employee*
14 *described in subsection (a), the following provisions shall*
15 *apply:*

16 (1) *Section 102(b) (relating to disposition of con-*
17 *tributions to the CSRDF), but disregarding provi-*
18 *sions relating to transfers to OASDI trust funds.*

19 (2) *Section 102(c) (relating to makeup contribu-*
20 *tions to the Thrift Savings Fund).*

1 **SEC. 104. EFFECT OF AN ELECTION TO BE TRANSFERRED**
 2 **FROM CSRS TO CSRS-OFFSET TO CORRECT A**
 3 **RETIREMENT COVERAGE ERROR.**

4 (a) *APPLICABILITY.*—*This section shall apply in the*
 5 *case of any employee affected by an error described in sec-*
 6 *tion 101(a)(1) who elects the option under section 101(b)(2).*

7 (b) *SAME AS IN THE CASE OF AN ELECTION TO RATIFY*
 8 *ERRONEOUS CSRS-OFFSET COVERAGE.*—

9 (1) *IN GENERAL.*—*The effect of an election de-*
 10 *scribed in subsection (a) shall be as described in sec-*
 11 *tion 101(b)(2), except that the provisions of section*
 12 *102(b) shall also apply.*

13 (2) *APPROPRIATE PERCENTAGES TO BE USED IN*
 14 *DETERMINING EMPLOYEE AND GOVERNMENT CON-*
 15 *TRIBUTIONS TO CSRDF.*—*For purposes of paragraph*
 16 *(1), section 102(b) shall be applied by substituting*
 17 *“the relevant provisions of section 8334(k)” for “sec-*
 18 *tion 8422” and “section 8423”.*

19 **SEC. 105. EFFECT OF AN ELECTION TO BE RESTORED (OR**
 20 **TRANSFERRED) TO CSRS-OFFSET AFTER HAV-**
 21 **ING BEEN CORRECTED TO FERS FROM CSRS-**
 22 **OFFSET (OR CSRS).**

23 (a) *APPLICABILITY.*—*This section shall apply in the*
 24 *case of any employee affected by an error described in para-*
 25 *graph (1) or (2) of section 101(a) who (after having been*

1 *corrected to FERS coverage) elects the option under section*
2 *101(c)(1).*

3 (b) *DISPOSITION OF CONTRIBUTIONS TO THE*
4 *CSRDF.—*

5 (1) *IN GENERAL.—The provisions of section*
6 *102(b) shall apply in the case of an employee de-*
7 *scribed in subsection (a), subject to paragraph (2).*

8 (2) *NO TRANSFERS FOR AMOUNTS ALREADY PAID*
9 *INTO OASDI, ETC.—For purposes of paragraph (1),*
10 *section 102(b) shall be applied in conformance with*
11 *the following:*

12 (A) *NO DOUBLE PAYMENTS INTO OASDI.—*
13 *To the extent that the appropriate OASDI em-*
14 *ployee or employer tax has already been paid for*
15 *the total period involved (or any portion there-*
16 *of), reduce the respective amounts required by*
17 *paragraphs (1)(A)(i) and (2)(A) of section*
18 *102(b) accordingly.*

19 (B) *APPROPRIATE PERCENTAGES TO BE*
20 *USED IN DETERMINING EMPLOYEE AND GOVERN-*
21 *MENT CONTRIBUTIONS TO CSRDF.—Substitute*
22 *“the relevant provisions of section 8334(k)” for*
23 *“section 8422” and “section 8423”.*

1 (C) *APPROPRIATE LUMP-SUM CREDIT TO BE*
2 *USED.—Substitute “8401” for “8331” in para-*
3 *graph (1)(D) thereof.*

4 (D) *PROVISIONS TO BE APPLIED WITH RE-*
5 *SPECT TO THE TOTAL PERIOD INVOLVED.—Sub-*
6 *stitute “total period involved (as defined by sec-*
7 *tion 105)” for “period of erroneous coverage in-*
8 *volved”.*

9 (c) *DISPOSITION OF EXCESS TSP CONTRIBUTIONS.—*

10 (1) *GOVERNMENT CONTRIBUTIONS.—All Govern-*
11 *ment contributions made on behalf of the employee to*
12 *the Thrift Savings Fund that are attributable to the*
13 *total period involved (including any earnings there-*
14 *on) shall be forfeited. For the purpose of section*
15 *8437(d) of title 5, United States Code, amounts so*
16 *forfeited shall be treated as if they were amounts for-*
17 *feited under section 8432(g) of such title.*

18 (2) *EMPLOYEE CONTRIBUTIONS.—The election*
19 *referred to in subsection (a) shall not be taken into*
20 *account for purposes of any determination relating to*
21 *the disposition of any employee contributions to the*
22 *Thrift Savings Fund, attributable to the total period*
23 *involved, that were in excess of the maximum amount*
24 *that would have been allowable under applicable pro-*

1 *visions of subchapter III of chapter 83 of title 5,*
 2 *United States Code (including any earnings thereon).*

3 *(d) DEFINITION OF TOTAL PERIOD INVOLVED.—For*
 4 *purposes of this section, the term “total period involved”*
 5 *means the period beginning on the effective date of the re-*
 6 *tirement coverage error involved and ending on the day be-*
 7 *fore the date on which the election described in subsection*
 8 *(a) is made.*

9 ***Subtitle B—Employee Who Should***
 10 ***Have Been FERS Covered, CSRS-***
 11 ***Offset Covered, or CSRS Cov-***
 12 ***ered, But Who Was Erroneously***
 13 ***Social Security-Only Covered In-***
 14 ***stead***

15 ***SEC. 111. ELECTIONS.***

16 *(a) APPLICABILITY.—This subtitle shall apply in the*
 17 *case of any employee who—*

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

21 *(2) should be (or should have been) CSRS-Offset*
 22 *covered but, as a result of a retirement coverage error,*
 23 *is (or was) Social Security-Only covered instead; or*

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

4 (b) *UNCORRECTED ERROR.—If, at the time of making*
5 *an election under this section, the retirement coverage error*
6 *described in paragraph (1), (2), or (3) of subsection (a) (as*
7 *applicable) has not been corrected, the employee affected by*
8 *such error may elect—*

9 (1)(A) *in the case of an error described in sub-*
10 *section (a)(1), to be FERS covered as well;*

11 (B) *in the case of an error described in sub-*
12 *section (a)(2), to be CSRS-Offset covered as well; or*

13 (C) *in the case of an error described in sub-*
14 *section (a)(3), to be CSRS covered instead; or*

15 (2) *to remain Social Security-Only covered.*

16 (c) *CORRECTED ERROR.—*

17 (1) *IN GENERAL.—Not later than 6 months after*
18 *the date of enactment of this Act, there shall be sub-*
19 *mitted to the Congress a proposal (including any nec-*
20 *essary draft legislation) to carry out the policy de-*
21 *scribed in paragraph (2).*

22 (2) *POLICY.—Under the proposal, any employee*
23 *with respect to whom the retirement coverage error*
24 *described in paragraph (1), (2), or (3) of subsection*
25 *(a) (as applicable) has already been corrected, but*

1 *under terms less advantageous to the employee than*
2 *would have been the case under this Act, shall be af-*
3 *forded a reasonable opportunity to obtain treatment*
4 *comparable to the treatment afforded under this Act.*

5 (3) *JOINT ACTION.*—*This subsection shall be car-*
6 *ried out by the Director of the Office of Personnel*
7 *Management, in consultation with the Executive Di-*
8 *rector of the Federal Retirement Thrift Investment*
9 *Board and the Commissioner of Social Security.*

10 (d) *DEFAULT RULE.*—*In the case of any employee to*
11 *whom subsection (b) applies, if the employee is given writ-*
12 *ten notice in accordance with section 201 as to the avail-*
13 *ability of an election under this section, but does not make*
14 *any such election within the 6-month period beginning on*
15 *the date on which such notice is so given, the option under*
16 *subsection (b)(2) shall be deemed to have been elected on*
17 *the last day of such period.*

18 (e) *RETROACTIVE EFFECT.*—*An election under this*
19 *section (including an election by default, and an election*
20 *to remain covered by the retirement system by which the*
21 *electing individual is covered as of the date of the election)*
22 *shall be effective retroactive to the effective date of the retire-*
23 *ment coverage error (as referred to in subsection (a)) to*
24 *which such election relates.*

1 **SEC. 112. EFFECT OF AN ELECTION TO BECOME FERS COV-**
2 **ERED TO CORRECT THE RETIREMENT COV-**
3 **ERAGE ERROR.**

4 (a) *APPLICABILITY.*—*This section shall apply in the*
5 *case of any employee affected by an error described in sec-*
6 *tion 111(a)(1) who elects the option under section*
7 *111(b)(1)(A).*

8 (b) *MAKEUP CONTRIBUTIONS TO THE CSRDF.*—*Upon*
9 *notification that an employee has made an election under*
10 *this section, the agency in or under which such employee*
11 *is employed shall promptly pay to the CSRDF, in a lump*
12 *sum, an amount equal to the sum of—*

13 (1) *the amount that should have been deducted*
14 *and withheld from the pay of the employee for the pe-*
15 *riod of erroneous coverage involved under section*
16 *8422 of title 5, United States Code; and*

17 (2) *the Government contributions that should*
18 *have been paid for the period of erroneous coverage*
19 *involved under section 8423 of title 5, United States*
20 *Code.*

21 (c) *MAKEUP CONTRIBUTIONS TO THE THRIFT SAVINGS*
22 *FUND.*—*Section 102(c) shall apply in the case of an em-*
23 *ployee described in subsection (a).*

1 **SEC. 113. EFFECT OF AN ELECTION TO BECOME CSRS-OFF-**
2 **SET COVERED TO CORRECT THE RETIRE-**
3 **MENT COVERAGE ERROR.**

4 (a) *APPLICABILITY.*—*This section shall apply in the*
5 *case of any employee affected by an error described in sec-*
6 *tion 111(a)(2) who elects the option under section*
7 *111(b)(1)(B).*

8 (b) *MAKEUP CONTRIBUTIONS TO THE CSRDF.*—*Upon*
9 *notification that an employee has made an election under*
10 *this section, the agency in or under which such employee*
11 *is employed shall promptly pay to the CSRDF, in a lump*
12 *sum, an amount equal to the sum of—*

13 (1) *the amount that should have been deducted*
14 *and withheld from the pay of the employee for the pe-*
15 *riod of erroneous coverage involved under section*
16 *8334 of title 5, United States Code; and*

17 (2) *the Government contributions that should*
18 *have been paid under section 8334 of title 5, United*
19 *States Code, for the period of erroneous coverage in-*
20 *volved.*

21 (c) *MAKEUP CONTRIBUTIONS TO THE THRIFT SAVINGS*
22 *FUND.*—

23 (1) *IN GENERAL.*—*Makeup contributions to the*
24 *Thrift Savings Fund shall be made by the employing*
25 *agency in the same manner as described in section*
26 *102(c) (but disregarding subparagraphs (B) and (C)*

1 of paragraph (1) thereof, and the other provisions of
 2 section 102(c) to the extent that they relate to those
 3 subparagraphs).

4 (2) *APPROPRIATE PERCENTAGES, ETC. TO BE*
 5 *USED.*—For purposes of paragraph (1), section 102(c)
 6 shall be applied—

7 (A) by substituting “section 8351(b)” for
 8 “section 8432(a)” and by substituting “CSRS
 9 covered and CSRS-Offset covered” for “FERS
 10 covered” in paragraph (2)(B)(i) thereof; and

11 (B) by substituting “section 8351(b)(2)” for
 12 “section 8432(a)” in paragraph (2)(C)(ii) there-
 13 of.

14 **SEC. 114. EFFECT OF AN ELECTION TO BECOME CSRS COV-**
 15 **ERED TO CORRECT THE RETIREMENT COV-**
 16 **ERAGE ERROR.**

17 (a) *APPLICABILITY.*—This section shall apply in the
 18 case of any employee affected by an error described in sec-
 19 tion 111(a)(3) who elects the option under section
 20 111(b)(1)(C).

21 (b) *MAKEUP CONTRIBUTIONS TO THE CSRDF.*—

22 (1) *IN GENERAL.*—Upon notification that an
 23 employee has made an election under this section, the
 24 agency in or under which such employee is employed

1 shall promptly pay to the CSRDF, in a lump sum,
2 an amount equal to the sum of—

3 (A) the amount that should have been de-
4 ducted and withheld from the pay of the em-
5 ployee for the period of erroneous coverage in-
6 volved under section 8334 of title 5, United
7 States Code; and

8 (B) the Government contributions that
9 should have been paid under such section for the
10 period of erroneous coverage involved.

11 (2) AGENCY TO BE REIMBURSED FOR CERTAIN
12 AMOUNTS.—

13 (A) IN GENERAL.—The employee for whom
14 the payment under paragraph (1) is made shall
15 repay to the agency (referred to in paragraph
16 (1)) an amount equal to the OASDI employee
17 taxes refunded or refundable to such employee for
18 any portion of the period of erroneous coverage
19 involved (computed in such manner as the Direc-
20 tor of the Office of Personnel Management, with
21 the concurrence of the Secretary of the Treasury,
22 shall by regulation prescribe), not to exceed the
23 amount described in paragraph (1)(A).

24 (B) RIGHT OF RECOVERY; WAIVER.—If the
25 employee fails to repay the amount required

1 under subparagraph (A), a sum equal to the
2 amount outstanding is recoverable by the Gov-
3 ernment from the employee (or the employee's es-
4 tate, if applicable) by—

5 (i) setoff against accrued pay, com-
6 pensation, amount of retirement credit, or
7 another amount due the employee from the
8 Government; and

9 (ii) such other method as is provided
10 by law for the recovery of amounts owing to
11 the Government.

12 The head of the agency concerned may waive, in
13 whole or in part, a right of recovery under this
14 paragraph if it is shown that recovery would be
15 against equity and good conscience or against
16 the public interest.

17 (C) TREATMENT OF AMOUNTS REPAID OR
18 RECOVERED.—Any amount repaid by, or recov-
19 ered from, an individual (or an estate) under
20 this paragraph shall be credited to the appro-
21 priation account from which the amount in-
22 volved was originally paid.

23 (c) MAKEUP CONTRIBUTIONS TO THE THRIFT SAVINGS
24 FUND.—In the case of an employee described in subsection

1 (a), makeup contributions to the Thrift Savings Fund shall
 2 be made in the same manner as described in section 113(c).

3 **Subtitle C—Employee Who Should**
 4 **Have Been Social Security-Only**
 5 **Covered, But Who Was Erroneously**
 6 **FERS Covered, CSRS-**
 7 **Offset Covered, or CSRS Covered**
 8 **Instead**

9 **SEC. 121. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
 10 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
 11 **WHO IS ERRONEOUSLY FERS COVERED IN-**
 12 **STEAD.**

13 (a) *IN GENERAL.*—Except as provided in section 125,
 14 this section shall apply in the case of any employee who
 15 should be Social Security-Only covered but, as a result of
 16 a retirement coverage error, is FERS covered instead.

17 (b) *AUTOMATIC EXCLUSION FROM FERS.*—An em-
 18 ployee described in subsection (a) shall not, by reason of
 19 the retirement coverage error described in subsection (a),
 20 be eligible to be treated as an individual who is FERS cov-
 21 ered.

22 (c) *DISPOSITION OF CONTRIBUTIONS TO THE*
 23 *CSRDF.*—

24 (1) *EMPLOYEE CONTRIBUTIONS.*—There shall be
 25 paid to the employee, from the CSRDF, any lump-

1 *sum credit to which such employee would be entitled*
2 *under section 8424 of title 5, United States Code, to*
3 *the extent attributable to the period of erroneous cov-*
4 *erage involved.*

5 (2) *GOVERNMENT CONTRIBUTIONS.—There shall*
6 *be transferred from the CSRDF to the agency in or*
7 *under which the employee is then employed, to the*
8 *credit of the appropriation, fund, or account of such*
9 *agency from which any Government contributions to*
10 *the CSRDF may be made (to remain available until*
11 *expended), an amount equal to the Government con-*
12 *tributions, attributable to such employee for the pe-*
13 *riod of erroneous coverage involved, that were made*
14 *under section 8423 of title 5, United States Code.*

15 (d) *DISPOSITION OF TSP CONTRIBUTIONS.—*

16 (1) *GOVERNMENT CONTRIBUTIONS.—All Govern-*
17 *ment contributions made on behalf of the employee to*
18 *the Thrift Savings Fund that are attributable to the*
19 *period of erroneous coverage involved (including any*
20 *earnings thereon) shall be forfeited in the same man-*
21 *ner as described in section 105(c).*

22 (2) *EMPLOYEE CONTRIBUTIONS.—Notwithstand-*
23 *ing any other provision of this section or any other*
24 *provision of law, any contributions made by the em-*
25 *ployee to the Thrift Savings Fund during the period*

1 of erroneous coverage involved (including any earn-
 2 ings thereon) shall be treated as if such employee had
 3 then been correctly covered.

4 **SEC. 122. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
 5 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
 6 **WHO IS ERRONEOUSLY CSRS-OFFSET COV-**
 7 **ERED INSTEAD.**

8 (a) *IN GENERAL.*—Except as provided in section 125,
 9 this section shall apply in the case of any employee who
 10 should be Social Security-Only covered but, as a result of
 11 a retirement coverage error, is CSRS-Offset covered instead.

12 (b) *AUTOMATIC EXCLUSION FROM CSRS-OFFSET.*—
 13 An employee described in subsection (a) shall not, by reason
 14 of the retirement coverage error described in subsection (a),
 15 be eligible to be treated as an individual who is CSRS-Off-
 16 set covered.

17 (c) *DISPOSITION OF CONTRIBUTIONS TO THE*
 18 *CSRDF.*—

19 (1) *EMPLOYEE CONTRIBUTIONS.*—There shall be
 20 paid to the employee, from the CSRDF, the lump-sum
 21 credit to which such employee would be entitled under
 22 section 8342 of title 5, United States Code, to the ex-
 23 tent attributable to the period of erroneous coverage
 24 involved.

1 *be eligible to be treated as an individual who is CSRS cov-*
 2 *ered.*

3 (c) *DISPOSITION OF CONTRIBUTIONS TO THE*
 4 *CSRDF.—*

5 (1) *IN GENERAL.—In the case of an employee de-*
 6 *scribed in subsection (a), section 102(b) shall apply.*

7 (2) *IRRELEVANT PROVISIONS TO BE DIS-*
 8 *REGARDED.—For purposes of paragraph (1), section*
 9 *102(b) shall be applied disregarding paragraphs*
 10 *(1)(B)(ii) and (2)(B)(ii) thereof.*

11 (d) *DISPOSITION OF TSP CONTRIBUTIONS.—In the*
 12 *case of an employee described in subsection (a), section*
 13 *121(d)(2) shall apply.*

14 **SEC. 124. CORRECTED ERROR: SITUATIONS UNDER SEC-**
 15 **TIONS 121–123.**

16 (a) *IN GENERAL.—Not later than 6 months after the*
 17 *date of enactment of this Act, there shall be submitted to*
 18 *the Congress a proposal (including any necessary draft leg-*
 19 *islation) to carry out the policy described in subsection (b).*

20 (b) *POLICY.—Under the proposal, any employee with*
 21 *respect to whom the applicable retirement coverage error*
 22 *(referred to in section 121, 122, or 123, as applicable) has*
 23 *already been corrected, but under terms less advantageous*
 24 *to the employee than would have been the case under this*
 25 *Act, shall be afforded a reasonable opportunity to obtain*

1 *treatment comparable to the treatment afforded under this*
2 *Act.*

3 (c) *JOINT ACTION.*—*This section shall be carried out*
4 *by the Director of the Office of Personnel Management, in*
5 *consultation with the Executive Director of the Federal Re-*
6 *irement Thrift Investment Board and the Commissioner of*
7 *Social Security.*

8 **SEC. 125. VESTED EMPLOYEES EXCEPTED FROM AUTO-**
9 **MATIC EXCLUSION.**

10 (a) *IN GENERAL.*—*Nothing in this subtitle shall, by*
11 *reason of any retirement coverage error, result in the auto-*
12 *matic exclusion of any employee from FERS, CSRS-Offset,*
13 *or CSRS if, as of the date on which notice of such error*
14 *is given (in accordance with section 201), such employee's*
15 *rights have vested under the retirement system involved.*

16 (b) *VESTING.*—*For purposes of this section, vesting of*
17 *rights shall be considered to have occurred if, as of the date*
18 *as of which the determination is made, the employee has*
19 *completed at least 5 years of civilian service, taking into*
20 *account only creditable service under section 8332 or 8411*
21 *of title 5, United States Code.*

22 (c) *ELECTIONS.*—

23 (1) *ERRONEOUSLY FERS COVERED.*—*Any em-*
24 *ployee affected by an error described in section 121*

1 *who is determined under this section to satisfy sub-*
2 *section (b) may elect—*

3 *(A) to be treated in accordance with section*
4 *121; or*

5 *(B) to remain FERS covered.*

6 *(2) OTHER CASES.—Any employee affected by an*
7 *error described in section 122 or 123 who is deter-*
8 *mined under this section to satisfy subsection (b) may*
9 *elect—*

10 *(A) to be treated in accordance with section*
11 *122 or 123 (as applicable); or*

12 *(B) to remain (or instead become) CSRS-*
13 *Offset covered.*

14 *(d) EFFECT OF AN ELECTION TO BE TRANSFERRED*
15 *FROM CSRS TO CSRS-OFFSET.—In the case of an em-*
16 *ployee affected by an error described in section 123 who*
17 *elects the option under subsection (c)(2)(B), the effect of the*
18 *election shall be the same as described in section 104.*

19 *(e) DEFAULT RULE.—If the employee does not make*
20 *any election within the 6-month period beginning on the*
21 *date on which the appropriate notice is given to such em-*
22 *ployee, the option under paragraph (1)(B) or (2)(B) of sub-*
23 *section (c), as applicable, shall be deemed to have been elect-*
24 *ed as of the last day of such period. Nothing in this section*

1 *shall be considered to afford an employee the option of be-*
2 *coming or remaining CSRS covered.*

3 (f) *RETROACTIVE EFFECT.*—*An election under this*
4 *section (including an election by default, and an election*
5 *to remain covered by the retirement system by which the*
6 *electing individual is covered as of the date of the election)*
7 *shall be effective retroactive to the effective date of the retire-*
8 *ment coverage error to which the election relates.*

9 (g) *SPECIAL RULE IN CASE OF DISABILITY.*—*If, as*
10 *of the date referred to in subsection (a), the employee is*
11 *entitled to receive an annuity under chapter 83 or 84 of*
12 *title 5, United States Code, based on disability, or com-*
13 *pensation under subchapter I of chapter 81 of such title for*
14 *injury to, or disability of, such employee, subsections (a)*
15 *and (b) shall be applied by substituting (for the date that*
16 *would otherwise apply) the date as of which entitlement to*
17 *such annuity or compensation terminates (if at all).*

18 (h) *NOTIFICATION.*—*Any notice under section 201*
19 *shall include such additional information or other modi-*
20 *fications as the Office of Personnel Management may by*
21 *regulation prescribe in connection with the situations cov-*
22 *ered by this subtitle, particularly as they relate to the con-*
23 *sequences of being vested or not vested.*

1 ***Subtitle D—Employee Who Should***
2 ***Have Been CSRS Covered or***
3 ***CSRS-Offset Covered, But Who***
4 ***Was Erroneously FERS Covered***
5 ***Instead***

6 **SEC. 131. ELECTIONS.**

7 (a) *APPLICABILITY.*—*This subtitle shall apply in the*
8 *case of any employee who—*

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

12 (2) *should be (or should have been) CSRS-Offset*
13 *covered but, as a result of a retirement coverage error,*
14 *is (or was) FERS covered instead.*

15 (b) *UNCORRECTED ERROR.*—*If, at the time of making*
16 *an election under this section, the retirement coverage error*
17 *described in paragraph (1) or (2) of subsection (a) (as ap-*
18 *plicable) has not been corrected, the employee affected by*
19 *such error may elect—*

20 (1)(A) *in the case of an error described in sub-*
21 *section (a)(1), to be CSRS covered instead; or*

22 (B) *in the case of an error described in sub-*
23 *section (a)(2), to be CSRS-Offset covered instead; or*

24 (2) *to remain FERS covered.*

1 (c) *CORRECTED ERROR.*—*If, at the time of making an*
2 *election under this section, the retirement coverage error de-*
3 *scribed in paragraph (1) or (2) of subsection (a) (as appli-*
4 *cable) has been corrected, the employee affected by such error*
5 *may elect—*

6 (1) *to be FERS covered instead; or*

7 (2)(A) *in the case of an error described in sub-*
8 *section (a)(1), to remain CSRS covered; or*

9 (B) *in the case of an error described in sub-*
10 *section (a)(2), to remain CSRS-Offset covered.*

11 (d) *DEFAULT RULE.*—*If the employee is given written*
12 *notice in accordance with section 201 as to the availability*
13 *of an election under this section, but does not make any*
14 *such election within the 6-month period beginning on the*
15 *date on which such notice is so given, the option under sub-*
16 *section (b)(2) or (c)(2), as applicable, shall be deemed to*
17 *have been elected on the last day of such period.*

18 (e) *RETROACTIVE EFFECT.*—*An election under this*
19 *section (including an election by default, and an election*
20 *to remain covered by the retirement system by which the*
21 *electing individual is covered as of the date of the election)*
22 *shall be effective retroactive to the effective date of the retire-*
23 *ment coverage error (as referred to in subsection (a)) to*
24 *which such election relates.*

1 **SEC. 132. EFFECT OF AN ELECTION TO BE TRANSFERRED**
2 **FROM FERS TO CSRS TO CORRECT A RETIRE-**
3 **MENT COVERAGE ERROR.**

4 (a) *APPLICABILITY.*—*This section shall apply in the*
5 *case of any employee affected by an error described in sec-*
6 *tion 131(a)(1) who elects the option available to such em-*
7 *ployee under section 131(b)(1)(A).*

8 (b) *MAKEUP CONTRIBUTIONS TO THE CSRDF.*—

9 (1) *IN GENERAL.*—*Upon notification that an*
10 *employee has made an election under this section, the*
11 *agency in or under which such employee is employed*
12 *shall promptly pay to the CSRDF, in a lump sum,*
13 *an amount equal to the excess of—*

14 (A) *the amount by which—*

15 (i) *the amount that should have been*
16 *deducted and withheld from the pay of the*
17 *employee for the period of erroneous cov-*
18 *erage involved under section 8334 of title 5,*
19 *United States Code, exceeds*

20 (ii) *the amount that was actually de-*
21 *ducted and withheld from the pay of the*
22 *employee for the period of erroneous cov-*
23 *erage involved under section 8422 of such*
24 *title (and not refunded), over*

25 (B) *the amount by which—*

1 (i) *the amount of the Government con-*
2 *tributions actually made under section 8423*
3 *of such title with respect to the employee for*
4 *the period of erroneous coverage involved,*
5 *exceeds*

6 (ii) *the amount of the Government con-*
7 *tributions that should have been made*
8 *under section 8334 of such title with respect*
9 *to the employee for the period of erroneous*
10 *coverage involved.*

11 (2) *AGENCY TO BE REIMBURSED FOR CERTAIN*
12 *AMOUNTS.—*

13 (A) *IN GENERAL.—The employee for whom*
14 *the payment under paragraph (1) is made shall*
15 *repay to the agency (referred to in paragraph*
16 *(1)) an amount equal to the OASDI employee*
17 *taxes refunded or refundable to such employee for*
18 *any portion of the period of erroneous coverage*
19 *involved (computed in such manner as the Direc-*
20 *tor of the Office of Personnel Management, with*
21 *the concurrence of the Commissioner of Social*
22 *Security, shall by regulation prescribe), not to*
23 *exceed the amount described in paragraph*
24 *(1)(A).*

1 (B) *RIGHT OF RECOVERY; WAIVER.*—If the
2 employee fails to repay the amount required
3 under subparagraph (A), a sum equal to the
4 amount outstanding is recoverable by the Gov-
5 ernment from the employee (or the employee’s es-
6 tate, if applicable) by—

7 (i) setoff against accrued pay, com-
8 pensation, amount of retirement credit, or
9 another amount due the employee from the
10 Government; and

11 (ii) such other method as is provided
12 by law for the recovery of amounts owing to
13 the Government.

14 The head of the agency concerned may waive, in
15 whole or in part, a right of recovery under this
16 paragraph if it is shown that recovery would be
17 against equity and good conscience or against
18 the public interest.

19 (C) *TREATMENT OF AMOUNTS REPAID OR*
20 *RECOVERED.*—Any amount repaid by, or recov-
21 ered from, an individual (or an estate) under
22 this paragraph shall be credited to the appro-
23 priation, fund, or account from which the
24 amount involved was originally paid.

1 (c) *DISPOSITION OF EXCESS TSP CONTRIBUTIONS.*—
2 Section 105(c) shall apply in the case of an employee de-
3 scribed in subsection (a).

4 **SEC. 133. EFFECT OF AN ELECTION TO BE TRANSFERRED**
5 **FROM FERS TO CSRS-OFFSET TO CORRECT A**
6 **RETIREMENT COVERAGE ERROR.**

7 (a) *APPLICABILITY.*—This section shall apply in the
8 case of any employee affected by an error described in sec-
9 tion 131(a)(2) who elects the option available to such em-
10 ployee under section 131(b)(1)(B).

11 (b) *EFFECT.*—The effect of an election referred to in
12 subsection (a) shall be substantially the same as that de-
13 scribed in section 105.

14 **SEC. 134. EFFECT OF AN ELECTION TO BE RESTORED TO**
15 **FERS AFTER HAVING BEEN CORRECTED TO**
16 **CSRS.**

17 (a) *APPLICABILITY.*—This section shall apply in the
18 case of any employee affected by an error described in sec-
19 tion 131(a)(1) who elects the option under section 131(c)(1).

20 (b) *EFFECT.*—The effect of an election referred to in
21 subsection (a) shall be substantially the same as that de-
22 scribed in section 102.

1 **SEC. 135. EFFECT OF AN ELECTION TO BE RESTORED TO**
2 **FERS AFTER HAVING BEEN CORRECTED TO**
3 **CSRS-OFFSET.**

4 (a) *APPLICABILITY.*—*This section shall apply in the*
5 *case of any employee affected by an error described in sec-*
6 *tion 131(a)(2) who elects the option under section 131(c)(1).*

7 (b) *EFFECT.*—*The effect of an election referred to in*
8 *subsection (a) shall be substantially the same as that de-*
9 *scribed in section 103.*

10 **SEC. 136. DISQUALIFICATION OF CERTAIN INDIVIDUALS TO**
11 **WHOM SAME ELECTION WAS PREVIOUSLY**
12 **AVAILABLE.**

13 *Notwithstanding any other provision of this subtitle,*
14 *an election under this subtitle shall not be available in the*
15 *case of any individual to whom an election under section*
16 *846.204 of title 5 of the Code of Federal Regulations (as*
17 *in effect as of January 1, 1997) was made available in con-*
18 *nection with the same error pursuant to notification pro-*
19 *vided in accordance with such section.*

20 **Subtitle E—Employee Who Should**
21 **Have Been CSRS-Offset Covered,**
22 **But Who Was Erroneously CSRS**
23 **Covered Instead**

24 **SEC. 141. AUTOMATIC TRANSFER TO CSRS-OFFSET.**

25 (a) *APPLICABILITY.*—*This subtitle shall apply in the*
26 *case of any employee who should be (or should have been)*

1 CSRS-Offset covered but, as a result of a retirement cov-
2 erage error, is (or was) CSRS covered instead.

3 (b) *UNCORRECTED ERROR.*—If the error has not been
4 corrected, the employee shall be treated in the same way
5 as if such employee had instead been CSRS-Offset covered,
6 effective retroactive to the effective date of such error.

7 (c) *CORRECTED ERROR.*—If the error has been cor-
8 rected, the correction shall (to the extent not already carried
9 out) be made effective retroactive to the effective date of such
10 error.

11 **SEC. 142. EFFECT OF TRANSFER.**

12 The effect of a transfer under section 141 shall be as
13 set forth in regulations which the Office of Personnel Man-
14 agement shall prescribe consistent with section 104.

15 **Subtitle F—Employee Who Should**
16 **Have Been CSRS Covered, But**
17 **Who Was Erroneously CSRS-Off-**
18 **set Covered Instead**

19 **SEC. 151. ELECTIONS.**

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

24 (b) *UNCORRECTED ERROR.*—If, at the time of making
25 an election under this section, the retirement coverage error

1 *described in subsection (a) has not been corrected, the em-*
2 *ployee affected by such error may elect—*

3 *(1) to be CSRS covered instead; or*

4 *(2) to remain CSRS-Offset covered.*

5 *(c) CORRECTED ERROR.—If, at the time of making an*
6 *election under this section, the retirement coverage error de-*
7 *scribed in subsection (a) has been corrected, the employee*
8 *affected by such error may elect—*

9 *(1) to be CSRS-Offset covered instead; or*

10 *(2) to remain CSRS covered.*

11 *(d) DEFAULT RULE.—If the employee is given written*
12 *notice in accordance with section 201 as to the availability*
13 *of an election under this section, but does not make any*
14 *such election within the 6-month period beginning on the*
15 *date on which such notice is so given, the option under sub-*
16 *section (b)(2) or (c)(2), as applicable, shall be deemed to*
17 *have been elected on the last day of such period.*

18 *(e) RETROACTIVE EFFECT.—An election under this*
19 *section (including an election by default, and an election*
20 *to remain covered by the retirement system by which the*
21 *electing individual is covered as of the date of the election)*
22 *shall be effective retroactive to the effective date of the retire-*
23 *ment coverage error (as referred to in subsection (a)) to*
24 *which such election relates.*

1 **SEC. 152. EFFECT OF AN ELECTION TO BE TRANSFERRED**
2 **FROM CSRS-OFFSET TO CSRS TO CORRECT**
3 **THE RETIREMENT COVERAGE ERROR.**

4 (a) *APPLICABILITY.*—*This section shall apply in the*
5 *case of any employee affected by an error described in sec-*
6 *tion 151(a) who elects the option available to such employee*
7 *under section 151(b)(1).*

8 (b) *MAKEUP CONTRIBUTIONS TO THE CSRDF.*—

9 (1) *IN GENERAL.*—*Upon notification that an*
10 *employee has made an election under this section, the*
11 *agency in or under which such employee is employed*
12 *shall promptly pay to the CSRDF, in a lump sum,*
13 *an amount equal to the amount by which—*

14 (A) *the amount that should have been de-*
15 *ducted and withheld from the pay of the em-*
16 *ployee for the period of erroneous coverage in-*
17 *volved under section 8334 of title 5, United*
18 *States Code (by virtue of being CSRS covered),*
19 *exceeds*

20 (B) *any nonrefunded amounts actually de-*
21 *ducted and withheld from the pay of the em-*
22 *ployee for the period of erroneous coverage in-*
23 *volved under such section (pursuant to CSRS-*
24 *Offset coverage).*

25 (2) *AGENCY TO BE REIMBURSED FOR CERTAIN*
26 *AMOUNTS.*—

1 (A) *IN GENERAL.*—*The employee for whom*
2 *the payment under paragraph (1) is made shall*
3 *repay to the agency (referred to in paragraph*
4 *(1)) an amount equal to the OASDI employee*
5 *taxes refunded or refundable to such employee for*
6 *any portion of the period of erroneous coverage*
7 *involved (computed in such manner as the Direc-*
8 *tor of the Office of Personnel Management, with*
9 *the concurrence of the Commissioner of Social*
10 *Security, shall by regulation prescribe), not to*
11 *exceed the amount described in paragraph*
12 *(1)(A).*

13 (B) *RIGHT OF RECOVERY; WAIVER.*—*If the*
14 *employee fails to repay the amount required*
15 *under subparagraph (A), a sum equal to the*
16 *amount outstanding is recoverable by the Gov-*
17 *ernment from the employee (or the employee's es-*
18 *tate, if applicable) by—*

19 (i) *setoff against accrued pay, com-*
20 *ensation, amount of retirement credit, or*
21 *another amount due the employee from the*
22 *Government; and*

23 (ii) *such other method as is provided*
24 *by law for the recovery of amounts owing to*
25 *the Government.*

1 *The head of the agency concerned may waive, in*
2 *whole or in part, a right of recovery under this*
3 *paragraph if it is shown that recovery would be*
4 *against equity and good conscience or against*
5 *the public interest.*

6 (C) *TREATMENT OF AMOUNTS REPAID OR*
7 *RECOVERED.—Any amount repaid by, or recov-*
8 *ered from, an individual (or an estate) under*
9 *this paragraph shall be credited to the appro-*
10 *priation, fund, or account from which the*
11 *amount involved was originally paid.*

12 **SEC. 153. EFFECT OF AN ELECTION TO BE RESTORED TO**
13 **CSRS-OFFSET AFTER HAVING BEEN COR-**
14 **RECTED TO CSRS.**

15 (a) *APPLICABILITY.—This section shall apply in the*
16 *case of any employee affected by an error described in sec-*
17 *tion 151(a) who elects the option available to such employee*
18 *under section 151(c)(1).*

19 (b) *DISPOSITION OF CONTRIBUTIONS TO THE*
20 *CSRDF.—In the case of an employee described in sub-*
21 *section (a), the provisions of section 102(b) shall apply, ex-*
22 *cept that, in applying such provisions—*

23 (1) *“the applicable provisions of section 8334”*
24 *shall be substituted for “section 8422” in paragraph*
25 *(1)(B)(ii) thereof; and*

1 *current employing agency (other than lost earnings under*
2 *section 163(a)(2)) shall be equitably allocated between or*
3 *among the appropriate agencies.*

4 **SEC. 163. PROVISIONS RELATING TO THE ORIGINAL RE-**
5 **SPONSIBLE AGENCY.**

6 (a) *OBLIGATIONS OF THE ORIGINAL RESPONSIBLE*
7 *AGENCY.—*

8 (1) *EXPENSES FOR SERVICES OF FINANCIAL AD-*
9 *VISOR.—The Office of Personnel Management shall by*
10 *regulation prescribe rules under which, in the case of*
11 *any employee eligible to make an election under this*
12 *Act, the original responsible agency (as determined*
13 *under succeeding provisions of this section) shall pay*
14 *(or make reimbursement for) any reasonable expenses*
15 *incurred by such employee for services received from*
16 *any licensed financial or legal consultant or advisor*
17 *in connection with such election.*

18 (2) *SPECIAL RULES.—Such regulations shall also*
19 *include provisions to ensure that, to the extent lost*
20 *earnings under the Thrift Savings Fund are involved*
21 *in connection with a particular error, the original re-*
22 *sponsible agency—*

23 (A) *shall pay (or reimburse any other agen-*
24 *cy that pays) any amounts to the Thrift Savings*

1 *Fund representing lost earnings with respect to*
2 *such error; and*

3 *(B) shall be entitled to receive (directly*
4 *from the Thrift Savings Fund or through trans-*
5 *fer from another agency) any amounts paid out*
6 *of the Thrift Savings Fund representing a refund*
7 *of lost earnings to which the Government is enti-*
8 *tled with respect to such error.*

9 **(b) ORIGINAL RESPONSIBLE AGENCY DEFINED.**—*For*
10 *purposes of this Act, the term “original responsible agency”,*
11 *with respect to a retirement coverage error affecting an em-*
12 *ployee, means—*

13 *(1) except in the situation described in para-*
14 *graph (2), the agency determined by the Office of Per-*
15 *sonnel Management to have made the initial retire-*
16 *ment coverage error (including one made before Janu-*
17 *ary 1, 1984); or*

18 *(2) if the error is attributable, in whole or in*
19 *part, to an erroneous regulation promulgated by the*
20 *Office of Personnel Management, such Office.*

21 **(c) PROCEDURES FOR IDENTIFYING THE ORIGINAL**
22 **RESPONSIBLE AGENCY.**—

23 *(1) IN GENERAL.*—*For purposes of this section,*
24 *the original responsible agency, in any situation to*
25 *which this section applies, shall be identified by the*

1 *Office of Personnel Management in accordance with*
2 *regulations which the Office shall prescribe.*

3 (2) *FINALITY.*—*A determination made by the Of-*
4 *fice under this subsection shall be final and not sub-*
5 *ject to any review.*

6 (d) *IF ORIGINAL RESPONSIBLE AGENCY NO LONGER*
7 *EXISTS.*—*If the agency which (before the application of this*
8 *subsection) is identified as the original responsible agency*
9 *no longer exists (whether because of a reorganization or oth-*
10 *erwise)—*

11 (1) *the successor agency (as determined under*
12 *regulations prescribed by the Office) shall be treated*
13 *as the original responsible agency; or*

14 (2) *if none, this section shall be applied by sub-*
15 *stituting the CSRDF for the original responsible*
16 *agency.*

17 (e) *SOURCE OF PAYMENTS IF ERROR DUE TO ERRO-*
18 *NEOUS OPM REGULATIONS.*—*In any case in which the Of-*
19 *fice of Personnel Management is the original responsible*
20 *agency by reason of subsection (b)(2), any amounts payable*
21 *to or from the Office under this section shall be payable*
22 *to or from the CSRDF.*

1 **TITLE II—GENERAL PROVISIONS**

2 **SEC. 201. IDENTIFICATION AND NOTIFICATION REQUIRE-**
3 **MENTS.**

4 (a) *IN GENERAL.*—The Office of Personnel Manage-
5 ment shall prescribe regulations under which Government
6 agencies shall take such measures as may be necessary to
7 ensure that all individuals who are (or have been) affected
8 by a retirement coverage error giving rise to any election
9 or automatic change in retirement coverage under this Act
10 shall be promptly identified and notified in accordance
11 with this section.

12 (b) *MATTER TO BE INCLUDED IN NOTICE TO INDIVID-*
13 *UALS.*—Any notice furnished under this section shall be
14 made in writing and shall include at least the following:

15 (1) *DESCRIPTION OF ERROR.*—A description of
16 the error involved, including a clear and concise ex-
17 planation as to why the original retirement coverage
18 determination was erroneous, citations to (and a
19 summary description of) the pertinent provisions of
20 law, and how that determination should instead have
21 been made.

22 (2) *METHOD FOR RECTIFICATION.*—How the
23 error is to be rectified under this Act, including
24 whether rectification will be achieved through an
25 automatic change in retirement coverage (and, if so,

1 *the time, form, and manner in which that change will*
2 *be effected) or an election.*

3 (3) *ELECTION PROCEDURES, ETC.—If an election*
4 *is provided under this Act, all relevant information*
5 *as to how such an election may be made, the options*
6 *available, the differences between those respective op-*
7 *tions (as further specified in succeeding provisions of*
8 *this subsection), and the consequences of failing to*
9 *make a timely election.*

10 (4) *ACCRUED BENEFITS, ETC.—With respect to*
11 *the (or each) retirement system by which the individ-*
12 *ual is then covered (disregarding the Thrift Savings*
13 *Plan), and to the extent applicable:*

14 (A) *A brief summary of any benefits ac-*
15 *rued.*

16 (B) *The amount of employee contributions*
17 *made to date and the effect of any applicable dis-*
18 *position rules relating thereto (including provi-*
19 *sions relating to excess amounts or shortfalls).*

20 (C) *The amount of any Government con-*
21 *tributions made to date and the effect of any ap-*
22 *plicable disposition rules relating thereto (in-*
23 *cluding provisions relating to excess amounts or*
24 *shortfalls).*

1 (5) *THRIFT SAVINGS FUND.*—*With respect to the*
2 *Thrift Savings Fund, the balance that then is (or*
3 *would be) credited to the individual’s account depend-*
4 *ing on the option chosen, with any such balance to be*
5 *shown both in the aggregate and broken down by—*

6 (A) *individual contributions,*

7 (B) *automatic (1 percent) Government con-*
8 *tributions, and*

9 (C) *matching Government contributions,*
10 *including lost earnings on each and the extent to*
11 *which any makeup contributions or forfeitures would*
12 *be involved.*

13 (6) *OASDI BENEFITS.*—*Such information re-*
14 *garding benefits under title II of the Social Security*
15 *Act as the Commissioner of Social Security considers*
16 *appropriate.*

17 (7) *OTHER INFORMATION.*—*Any other informa-*
18 *tion that the Director of the Office of Personnel Man-*
19 *agement may by regulation prescribe after consulta-*
20 *tion with the Executive Director of the Federal Re-*
21 *irement Thrift Investment Board and such other*
22 *agency heads as the Director considers appropriate,*
23 *including any appeal rights available to the individ-*
24 *ual.*

1 (c) *COMPARISONS.*—Any amounts required to be in-
2 cluded under subsection (b)(4) shall, with respect to the re-
3 spective retirement systems involved, be determined—

4 (1) as of the date the retirement coverage error
5 was corrected (if applicable);

6 (2) as of the then most recent date for which
7 those benefits and amounts are ascertainable, assum-
8 ing no change in retirement coverage; and

9 (3) as of the then most recent date for which
10 those benefits and amounts are ascertainable, assum-
11 ing the alternative option is chosen.

12 (d) *PAST ERRORS.*—All measures required under this
13 section shall, with respect to errors preceding the date speci-
14 fied in section 206(e) (relating to the effective date for all
15 regulations prescribed under this Act), be completed no later
16 than December 31, 2001.

17 **SEC. 202. INDIVIDUAL APPEAL RIGHTS.**

18 (a) *IN GENERAL.*—An individual aggrieved by a final
19 determination under this Act shall be entitled to appeal
20 such determination to the Merit Systems Protection Board
21 under section 7701 of title 5, United States Code.

22 (b) *NOTIFICATION APPEALS.*—The Office of Personnel
23 Management shall by regulation establish procedures under
24 which individuals may bring an appeal to the Office with
25 respect to any failure to have been properly notified in ac-

1 *cordance with section 201. A final determination under this*
2 *subsection shall be appealable under subsection (a).*

3 **SEC. 203. INFORMATION TO BE FURNISHED BY GOVERN-**
4 **MENT AGENCIES TO AUTHORITIES ADMIN-**
5 **ISTERING THIS ACT.**

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

8 *(1) The Director of the Office of Personnel Man-*
9 *agement.*

10 *(2) The Commissioner of Social Security.*

11 *(3) The Executive Director of the Federal Retire-*
12 *ment Thrift Investment Board.*

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

20 *(c) LIMITATION; SAFEGUARDS.—Each of the respective*
21 *authorities under subsection (a)—*

22 *(1) shall request only such information as that*
23 *authority considers necessary; and*

24 *(2) shall establish, by regulation or otherwise,*
25 *appropriate safeguards to ensure that any informa-*

1 *election (or deemed election) by such indi-*
2 *vidual under section 111(b)(2) of such Act,*

3 *“(II) described in section 131(a)(1) of*
4 *such Act, on or after the effective date of an*
5 *election (or deemed election) by such indi-*
6 *vidual under subsection (b)(2) or (c)(1) of*
7 *section 131 of such Act, or*

8 *“(III) described in section 151(a) of*
9 *such Act, on or after the effective date of an*
10 *election (or deemed election) by such indi-*
11 *vidual under subsection (b)(2) or (c)(1) of*
12 *section 151 of such Act;”.*

13 ***(b) OASDI TAXES.—Section 3121(b)(5)(H) of the In-***
14 ***ternal Revenue Code of 1986 is amended—***

15 ***(1) in clause (i) by striking “or” at the end;***

16 ***(2) in clause (ii) by striking the semicolon and***
17 ***inserting “, or”; and***

18 ***(3) by adding at the end the following:***

19 ***“(iii)(I) described in section 111(a)(3)***
20 ***of the Federal Retirement Coverage Correc-***
21 ***tions Act, on or after the effective date of an***
22 ***election (or deemed election) by such indi-***
23 ***vidual under section 111(b)(2) of such Act,***

24 ***“(II) described in section 131(a)(1) of***
25 ***such Act, on or after the effective date of an***

1 *election (or deemed election) by such indi-*
2 *vidual under subsection (b)(2) or (c)(1) of*
3 *section 131 of such Act, or*

4 *“(III) described in section 151(a) of*
5 *such Act, on or after the effective date of an*
6 *election (or deemed election) by such indi-*
7 *vidual under subsection (b)(2) or (c)(1) of*
8 *section 151 of such Act;”.*

9 **SEC. 206. REGULATIONS.**

10 *(a) IN GENERAL.—Any regulations necessary to carry*
11 *out this Act shall be prescribed by the Director of the Office*
12 *of Personnel Management, the Executive Director of the*
13 *Federal Retirement Thrift Investment Board, the Commis-*
14 *sioner of Social Security, the Secretary of the Treasury, and*
15 *any other appropriate authority, with respect to matters*
16 *within their respective areas of jurisdiction.*

17 *(b) MATTERS TO BE INCLUDED.—The regulations pre-*
18 *scribed by the Director of the Office of Personnel Manage-*
19 *ment shall include at least the following:*

20 *(1) FORMER EMPLOYEES, ANNUITANTS, AND SUR-*
21 *VIVOR ANNUITANTS.—*

22 *(A) IN GENERAL.—Provisions under which,*
23 *to the maximum extent practicable and in ap-*
24 *propriate circumstances, any election available*
25 *to an employee under subtitle A, B, D, or F of*

1 *title I shall be available to a former employee,*
2 *annuitant, or survivor annuitant.*

3 (B) *SUBTITLE C SITUATIONS.—Provisions*
4 *under which subtitle C of title I shall apply in*
5 *the case of a former employee.*

6 (C) *SUBTITLE E SITUATIONS.—Provisions*
7 *under which the purposes of this paragraph shall*
8 *be carried with respect to any situation under*
9 *subtitle E of title I.*

10 (2) *FORMER SPOUSES.—Provisions under which*
11 *appropriate notification shall be afforded to any*
12 *former spouse affected by a change in retirement cov-*
13 *erage pursuant to this Act.*

14 (3) *PROCEDURAL REQUIREMENTS.—Provisions*
15 *establishing the procedural requirements in accord-*
16 *ance with which any determinations under this Act*
17 *(not otherwise addressed in this Act) shall be made,*
18 *in conformance with the requirements of this Act.*

19 (4) *AUTHORITY TO MAKE ACTUARIAL REDUCTION*
20 *IN ANNUITY BY REASON OF CERTAIN UNPAID*
21 *AMOUNTS.—Provisions under which any payment re-*
22 *quired to be made by an individual to the Govern-*
23 *ment in order to make an election under this Act*
24 *which remains unpaid may be made by a reduction*
25 *in the appropriate annuity or survivor annuity. The*

1 *reduction shall, to the extent practicable, be designed*
2 *so that the present value of the future reduction is ac-*
3 *tuarily equivalent to the amount so required.*

4 *(c) DEFINITIONS.—For purposes of this section—*

5 *(1) the term “annuitant” means any individual*
6 *who is an annuitant as defined by section 8331(9) or*
7 *8401(2) of title 5, United States Code; and*

8 *(2) the term “former employee” includes any*
9 *former employee who satisfies the service requirement*
10 *for title to a deferred annuity under chapter 83 or 84*
11 *of such title 5 (as applicable), but—*

12 *(A) has not attained the minimum age re-*
13 *quired for title to such an annuity; or*

14 *(B) has not filed claim therefor.*

15 *(d) COORDINATION RULE.—In prescribing regulations*
16 *to carry out this Act, the Director of the Office of Personnel*
17 *Management shall consult with—*

18 *(1) the Administrative Office of the United*
19 *States Courts;*

20 *(2) the Clerk of the House of Representatives;*

21 *(3) the Sergeant at Arms and Doorkeeper of the*
22 *Senate; and*

23 *(4) other appropriate officers or authorities.*

24 *(e) EFFECTIVE DATE.—All regulations necessary to*
25 *carry out this Act shall take effect as of the first day of*

1 *the first month beginning after the end of the 6-month pe-*
2 *riod beginning on the date of enactment of this Act.*

3 **SEC. 207. ALL ELECTIONS TO BE APPROVED BY OPM.**

4 *Notwithstanding any other provision of this Act, no*
5 *election under this Act (other than an election by default)*
6 *may be given effect until the Office of Personnel Manage-*
7 *ment has determined, in writing, that such election is in*
8 *compliance with the requirements of this Act.*

9 **SEC. 208. ADDITIONAL TRANSFERS TO OASDI TRUST FUNDS**

10 **IN CERTAIN CASES.**

11 *If the Commissioner of Social Security determines that*
12 *the payment of the OASDI taxes described in this Act did*
13 *not result in a credit to the OASDI trust funds of an equal*
14 *amount, the Commissioner of Social Security shall notify*
15 *the Secretary of the Treasury of the amount of any shortfall.*
16 *Promptly upon receiving such notification, the Secretary*
17 *of the Treasury shall transfer an amount equal to such*
18 *shortfall from the general fund of the Treasury to the*
19 *OASDI trust funds.*

20 **SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.**

21 *(a) AMENDMENT RELATING TO LIMITATION ON*
22 *SOURCES FROM WHICH CONTRIBUTIONS TO THE THRIFT*
23 *SAVINGS FUND ARE ALLOWED.—Section 8432(h) of title 5,*
24 *United States Code, is amended by striking “title.” and in-*

1 *serting “title or the Federal Retirement Coverage Correc-*
2 *tions Act.”.*

3 **(b) DESCRIPTION OF AMOUNTS COMPRISING THE**
4 *THRIFT SAVINGS FUND.—Section 8437(b) of title 5, United*
5 *States Code, is amended by striking “expenses.” and in-*
6 *serting “expenses), as well as contributions under the Fed-*
7 *eral Retirement Coverage Corrections Act (and lost earnings*
8 *made up under such Act).”.*

9 **(c) ADMINISTRATIVE EXPENSES.—**

10 **(1) THRIFT SAVINGS PLAN.—Section 8437(d) of**
11 *title 5, United States Code, is amended by inserting*
12 *“(including the provisions of the Federal Retirement*
13 *Coverage Corrections Act that relate to this sub-*
14 *chapter)” after “this subchapter”.*

15 **(2) CSRS, CSRS-OFFSET, FERS.—Section**
16 *8348(a)(2) of title 5, United States Code, is amended*
17 *by striking “statutes;” and inserting “statutes (in-*
18 *cluding the provisions of the Federal Retirement Cov-*
19 *erage Corrections Act that relate to this subchapter);”.*

20 **(3) MSPB.—Section 8348(a)(3) of title 5,**
21 *United States Code, is amended by striking “title.”*
22 *and inserting “title and the Federal Retirement Cov-*
23 *erage Corrections Act.”.*

1 **TITLE III—OTHER PROVISIONS**

2 **SEC. 301. PROVISIONS TO PERMIT CONTINUED CONFORM-**
3 **ITY OF OTHER FEDERAL RETIREMENT SYS-**
4 **TEMS.**

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 Retirement*
11 *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 292
16 *and 301 of the Central Intelligence Agency Retirement Act*
17 *(50 U.S.C. 2141 and 2151) shall apply with respect to this*
18 *Act in the same manner as if this Act were part of—*

19 (1) *the Civil Service Retirement System, to the*
20 *extent this Act relates to the Civil Service Retirement*
21 *System; and*

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

1 **SEC. 302. CERTAIN AMOUNTS PAYABLE OUT OF THE GEN-**
2 **ERAL FUND OF THE TREASURY OR CSRDF.**

3 (a) *GENERAL FUND OF THE TREASURY.*—

4 (1) *IN GENERAL.*—*Notwithstanding any other*
5 *provision of this Act or any other provision of law*
6 *(but subject to paragraph (2)), all amounts for which*
7 *an Executive agency would otherwise be liable by vir-*
8 *tue of an election made (or deemed to have been*
9 *made) under this Act shall, to the extent the liability*
10 *relates to amounts payable for any portion of a pe-*
11 *riod of erroneous coverage (or of a period described in*
12 *section 105(d)), instead be paid by the Secretary of*
13 *the Treasury from amounts in the general fund of the*
14 *Treasury of the United States not otherwise appro-*
15 *priated, if or to the extent that the Director of the Of-*
16 *fice of Management and Budget determines, on appli-*
17 *cation of the agency involved, that the payment by*
18 *such agency of those amounts would substantially im-*
19 *pair the agency's ability to accomplish its mission.*
20 *For purposes of the preceding sentence, a substantial*
21 *impairment may include a reduction in force if the*
22 *Director of the Office of Management and Budget de-*
23 *termines that such reduction in force is attributable*
24 *solely to payments required under this Act.*

25 (2) *EXCEPTION.*—*This subsection shall not apply*
26 *with respect to any amount for which an Executive*

1 agency would otherwise be liable by reason of any re-
2 irement coverage error as to which the notification
3 required under section 201 is not given before Janu-
4 ary 1, 2002.

5 (3) *DEFINITION.*—For purposes of this sub-
6 section, the term “Executive agency” has the meaning
7 given such term by section 105 of title 5, United
8 States Code, but does not include the General Ac-
9 counting Office.

10 (b) *CSRDF.*—

11 (1) *IN GENERAL.*—For purposes of section
12 8348(f) of title 5, United States Code, any unfunded
13 liability in the CSRDF created as a result of an elec-
14 tion made (or deemed to have been made) under this
15 Act, as determined by the Office of Personnel Manage-
16 ment, shall be considered a new benefit payable from
17 the CSRDF.

18 (2) *COORDINATION RULE.*—Paragraph (1) shall
19 not apply to the extent that subsection (h), (i), or (m)
20 of section 8348 of title 5, United States Code, would
21 otherwise apply.

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, or*
8 *any other provision of law (except to the extent the claim*
9 *is for any amounts otherwise provided for under this Act).*

10 **SEC. 304. EXTENSION OF OPEN ENROLLMENT PERIOD TO**
11 **EMPLOYEES UNDER THE FOREIGN SERVICE**
12 **RETIREMENT AND DISABILITY SYSTEM.**

13 *Section 860 of the Foreign Service Act of 1980 (22*
14 *U.S.C. 4071i) is amended by inserting after the first sen-*
15 *tence the following: “The Secretary of State shall, in addi-*
16 *tion, issue regulations providing for an election for coverage*
17 *under the Foreign Service Pension System for employees*
18 *covered under the Foreign Service Retirement and Disabil-*
19 *ity System comparable to the election provided for by the*
20 *Federal Employees’ Retirement System Open Enrollment*
21 *Act of 1997.”.*

22 **TITLE IV—TAX PROVISIONS**

23 **SEC. 401. TAX PROVISIONS.**

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

1 *as a qualified plan under the Internal Revenue Code of*
 2 *1986 by reason of any action taken under this Act.*

3 (b) *TRANSFERS.*—*For purposes of the Internal Reve-*
 4 *nue Code of 1986, no amount shall be includible in the gross*
 5 *income of any individual by reason of any direct transfer*
 6 *under this Act between funds or any Government contribu-*
 7 *tion under this Act to any fund or account.*

8 (c) *DISTRIBUTION OF EXCESS CSRS CONTRIBU-*
 9 *TIONS.*—*Section 72(t) of the Internal Revenue Code of 1986*
 10 *(relating to 10-percent additional tax on early distributions*
 11 *from qualified retirement plans) shall not apply to the dis-*
 12 *tribution of the excess described in section 102(b)(1)(B) of*
 13 *this Act or to any other refund paid under this Act from*
 14 *the Civil Service Retirement and Disability Fund.*

15 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

16 (a) **SHORT TITLE.**—**This Act may be cited as**
 17 **the “Federal Retirement Coverage Correc-**
 18 **tions Act”.**

19 (b) **TABLE OF CONTENTS.**—**The table of con-**
 20 **tents for this Act is as follows:**

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Applicability.

Sec. 4. Restriction relating to future corrections.

Sec. 5. Irrevocability of elections.

TITLE I—DESCRIPTION OF RETIREMENT COVERAGE ER-
RORS TO WHICH THIS ACT APPLIES AND MEASURES
FOR THEIR RECTIFICATION

Subtitle A—Employee Who Should Have Been FERS Covered, But Who Was Erroneously CSRS Covered or CSRS-Offset Covered Instead

- Sec. 101. Elections.
- Sec. 102. Effect of an election to be transferred from CSRS to FERS to correct a retirement coverage error.
- Sec. 103. Effect of an election to be transferred from CSRS-Offset to FERS to correct a retirement coverage error.
- Sec. 104. Effect of an election to be transferred from CSRS to CSRS-Offset to correct a retirement coverage error.
- Sec. 105. Effect of an election to be restored (or transferred) to CSRS-Offset after having been corrected to FERS from CSRS-Offset (or CSRS).
- Sec. 106. Effect of election to remain FERS covered after having been corrected to FERS from CSRS-Offset (or CSRS).

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. Elections.
- Sec. 112. Effect of an election to become FERS covered to correct the retirement coverage error.
- Sec. 113. Effect of an election to become CSRS-Offset covered to correct the retirement coverage error.
- Sec. 114. Effect of an election to become CSRS covered to correct the retirement coverage error.

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

- Sec. 121. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously FERS covered instead.
- Sec. 122. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously CSRS-Offset covered instead.
- Sec. 123. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously CSRS covered instead.
- Sec. 124. Corrected error: situations under sections 121–123.
- Sec. 125. Vested employees excepted from automatic exclusion.

Subtitle D—Employee Who Should Have Been CSRS Covered or CSRS-Offset Covered, But Who Was Erroneously FERS Covered Instead

- Sec. 131. Elections.
- Sec. 132. Effect of an election to be transferred from FERS to CSRS to correct a retirement coverage error.

- Sec. 133. Effect of an election to be transferred from FERS to CSRS-Offset to correct a retirement coverage error.
- Sec. 134. Effect of an election to be restored to FERS after having been corrected to CSRS.
- Sec. 135. Effect of an election to be restored to FERS after having been corrected to CSRS-Offset.
- Sec. 136. Disqualification of certain individuals to whom same election was previously available.

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

- Sec. 141. Automatic transfer to CSRS-Offset.
- Sec. 142. Effect of transfer.

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

- Sec. 151. Elections.
- Sec. 152. Effect of an election to be transferred from CSRS-Offset to CSRS to correct the retirement coverage error.
- Sec. 153. Effect of an election to be restored to CSRS-Offset after having been corrected to CSRS.

Subtitle G—Additional Provisions Relating to Government Agencies

- Sec. 161. Repayment required in certain situations.
- Sec. 162. Equitable sharing of amounts payable from the Government if more than one agency involved.
- Sec. 163. Provisions relating to the original responsible agency.

TITLE II—GENERAL PROVISIONS

- Sec. 201. Identification and notification requirements.
- Sec. 202. Individual appeal rights.
- Sec. 203. Information to be furnished by Government agencies to authorities administering this Act.
- Sec. 204. Social Security records.
- Sec. 205. Conforming amendments respecting Social Security coverage and OASDI taxes.
- Sec. 206. Regulations.
- Sec. 207. All elections to be approved by OPM.
- Sec. 208. Additional transfers to OASDI trust funds in certain cases.
- Sec. 209. Technical and conforming amendments.

TITLE III—OTHER PROVISIONS

- Sec. 301. Provisions to permit continued conformity of other Federal retirement systems.
- Sec. 302. Provisions to prevent reductions in force and any unfunded liability in the CSRDF.

Sec. 303. Individual right of action preserved for amounts not otherwise provided for under this Act.

Sec. 304. Extension of open enrollment period to employees under the Foreign Service Retirement and Disability System.

TITLE IV—TAX PROVISIONS

Sec. 401. Tax provisions.

1 **SEC. 2. DEFINITIONS.**

2 **For purposes of this Act:**

3 (1) **CSRS.**—The term “CSRS” means
4 **the Civil Service Retirement System.**

5 (2) **CSRDF.**—The term “CSRDF”
6 **means the Civil Service Retirement and**
7 **Disability Fund.**

8 (3) **CSRS COVERED.**—The term “CSRS
9 **covered**”, with respect to any service,
10 **means service that is subject to the provi-**
11 **sions of subchapter III of chapter 83 of**
12 **title 5, United States Code, other than**
13 **those that apply only with respect to an**
14 **individual described in section 8402(b)(2)**
15 **of such title.**

16 (4) **CSRS-OFFSET COVERED.**—The term
17 **“CSRS-Offset covered**”, with respect to
18 **any service, means service that is subject**
19 **to the provisions of subchapter III of**
20 **chapter 83 of title 5, United States Code,**
21 **that apply with respect to an individual**

1 described in section 8402(b)(2) of such
2 title.

3 (5) **EMPLOYEE.**—The term “employee”
4 means an employee as defined by section
5 8331 or 8401 of title 5, United States
6 Code, and any other individual (not satis-
7 fying either of those definitions) serving
8 in an appointive or elective office or posi-
9 tion in the executive, legislative, or judi-
10 cial branch of the Government who, by
11 virtue of that service, is permitted or re-
12 quired to be CSRS covered, CSRS-Offset
13 covered, FERS covered, or Social Secu-
14 rity-Only covered.

15 (6) **EXECUTIVE DIRECTOR.**—The term
16 “Executive Director of the Federal Re-
17 tirement Thrift Investment Board” or
18 “Executive Director” means the Execu-
19 tive Director appointed under section
20 8474 of title 5, United States Code.

21 (7) **FERS.**—The term “FERS” means
22 the Federal Employees’ Retirement Sys-
23 tem.

24 (8) **FERS COVERED.**—The term “FERS
25 covered”, with respect to any service,

1 means service that is subject to chapter
2 84 of title 5, United States Code.

3 (9) GOVERNMENT.—The term “Govern-
4 ment” has the meaning given such term
5 by section 8331(7) of title 5, United States
6 Code.

7 (10) OASDI TAXES.—The term “OASDI
8 taxes” means the OASDI employee tax
9 and the OASDI employer tax.

10 (11) OASDI EMPLOYEE TAX.—The term
11 “OASDI employee tax” means the tax im-
12 posed under section 3101(a) of the Inter-
13 nal Revenue Code of 1986 (relating to
14 Old-Age, Survivors and Disability Insur-
15 ance).

16 (12) OASDI EMPLOYER TAX.—The term
17 “OASDI employer tax” means the tax im-
18 posed under section 3111(a) of the Inter-
19 nal Revenue Code of 1986 (relating to
20 Old-Age, Survivors and Disability Insur-
21 ance).

22 (13) OASDI TRUST FUNDS.—The term
23 “OASDI trust funds” means the Federal
24 Old-Age and Survivors Insurance Trust

1 **Fund and the Federal Disability Insur-**
2 **ance Trust Fund.**

3 **(14) PERIOD OF ERRONEOUS COV-**
4 **ERAGE.—The term “period of erroneous**
5 **coverage” means, in the case of a retire-**
6 **ment coverage error, the period through-**
7 **out which retirement coverage is in ef-**
8 **fect pursuant to such error (or would**
9 **have been in effect, but for such error).**

10 **(15) RETIREMENT COVERAGE DETER-**
11 **MINATION.—The term “retirement cov-**
12 **erage determination” means a determina-**
13 **tion by an employee or agent of the Gov-**
14 **ernment as to whether a particular type**
15 **of Government service is CSRS covered,**
16 **CSRS-Offset covered, FERS covered, or**
17 **Social Security-Only covered.**

18 **(16) RETIREMENT COVERAGE ERROR.—**
19 **The term “retirement coverage error”**
20 **means a retirement coverage determina-**
21 **tion that, as a result of any error, mis-**
22 **representation, or inaction on the part of**
23 **an employee or agent of the Government**
24 **(including an error as described in sec-**
25 **tion 163(b)(2)), causes an individual erro-**

1 neously to be enrolled or not enrolled in
2 a retirement system, as further described
3 in the applicable subtitle of title I.

4 (17) **SOCIAL SECURITY-ONLY COVERED.**—
5 The term “Social Security-Only covered”,
6 with respect to any service, means Gov-
7 ernment service that constitutes employ-
8 ment under section 210 of the Social Se-
9 curity Act (42 U.S.C. 410), and that—

10 (A) is subject to OASDI taxes; but

11 (B) is not subject to any retire-
12 ment system for Government employ-
13 ees (disregarding title II of the Social
14 Security Act).

15 (18) **THRIFT SAVINGS FUND.**—The term
16 “Thrift Savings Fund” means the Thrift
17 Savings Fund established under section
18 8437 of title 5, United States Code.

19 **SEC. 3. APPLICABILITY.**

20 (a) **IN GENERAL.**—Subject to subsection (b),
21 this Act shall apply with respect to any retire-
22 ment coverage error that occurs before, on, or
23 after the date of enactment of this Act, exclud-
24 ing any error corrected within 1 year after
25 the date on which it occurs.

1 regulations which may be necessary to
2 apply this Act in the case of any individ-
3 ual who changes retirement coverage
4 pursuant to a voluntary election made
5 other than under this Act.

6 **SEC. 5. IRREVOCABILITY OF ELECTIONS.**

7 Any election made (or deemed to have
8 been made) under this Act by an employee or
9 any other individual shall be irrevocable.

10 **TITLE I—DESCRIPTION OF RE-**
11 **TIREMENT COVERAGE ER-**
12 **RORS TO WHICH THIS ACT AP-**
13 **PLIES AND MEASURES FOR**
14 **THEIR RECTIFICATION**

15 **Subtitle A—Employee Who Should**
16 **Have Been FERS Covered, But**
17 **Who Was Erroneously CSRS**
18 **Covered or CSRS-Offset Cov-**
19 **ered Instead**

20 **SEC. 101. ELECTIONS.**

21 (a) **APPLICABILITY.**—This subtitle shall
22 apply in the case of any employee who—

23 (1) should be (or should have been)
24 **FERS covered but, as a result of a retire-**

1 **ment coverage error, is (or was) CSRS**
2 **covered instead; or**

3 **(2) should be (or should have been)**
4 **FERS covered but, as a result of a retire-**
5 **ment coverage error, is (or was) CSRS-**
6 **Offset covered instead.**

7 **(b) UNCORRECTED ERROR.—If, at the time**
8 **of making an election under this section, the**
9 **retirement coverage error described in para-**
10 **graph (1) or (2) of subsection (a) (as applica-**
11 **ble) has not been corrected, the employee af-**
12 **ected by such error may elect—**

13 **(1) to be FERS covered instead; or**

14 **(2) to remain (or instead become)**
15 **CSRS-Offset covered.**

16 **(c) CORRECTED ERROR.—If, at the time of**
17 **making an election under this section, the re-**
18 **tirement coverage error described in para-**
19 **graph (1) or (2) of subsection (a) (as applica-**
20 **ble) has been corrected, the employee affected**
21 **by such error may elect—**

22 **(1) to be CSRS-Offset covered instead;**

23 **or**

24 **(2) to remain FERS covered.**

25 **(d) DEFAULT RULE.—**

1 **(1) IN GENERAL.—**If the employee is
2 **given written notice in accordance with**
3 **section 201 as to the availability of an**
4 **election under this section, but does not**
5 **make any such election within the 6-**
6 **month period beginning on the date on**
7 **which such notice is so given, the option**
8 **under subsection (b)(2) or (c)(2), as appli-**
9 **able, shall be deemed to have been elect-**
10 **ed on the last day of such period.**

11 **(2) CSRS NOT AN OPTION.—**Nothing in
12 **this section shall be considered to afford**
13 **an employee the option of becoming or**
14 **remaining CSRS covered.**

15 **(e) RETROACTIVE EFFECT.—**An election
16 **under this section (including an election by**
17 **default, and an election to remain covered by**
18 **the retirement system by which the electing**
19 **individual is covered as of the date of the elec-**
20 **tion) shall be effective retroactive to the effec-**
21 **tive date of the retirement coverage error (as**
22 **referred to in subsection (a)) to which such**
23 **election relates.**

1 SEC. 102. EFFECT OF AN ELECTION TO BE TRANSFERRED
2 FROM CSRS TO FERS TO CORRECT A RETIRE-
3 MENT COVERAGE ERROR.

4 (a) APPLICABILITY.—This section shall
5 apply in the case of any employee affected by
6 an error described in section 101(a)(1) who
7 elects the option under section 101(b)(1).

8 (b) DISPOSITION OF CONTRIBUTIONS TO THE
9 CSRDF.—

10 (1) EMPLOYEE CONTRIBUTIONS.—

11 (A) TRANSFER TO OASDI TRUST
12 FUNDS.—There shall be transferred
13 from the CSRDF to the OASDI trust
14 funds an amount equal to the amount
15 of the OASDI employee tax that
16 should have been deducted and with-
17 held from the Federal wages of the
18 employee for the period of erroneous
19 coverage involved.

20 (B) RULE IF THERE ARE EXCESS
21 CSRDF CONTRIBUTIONS.—

22 (i) IN GENERAL.—Any excess
23 amount described in clause (ii)
24 that is attributable to an em-
25 ployee described in subsection (a)
26 shall be forfeited.

1 (ii) **EXCESS AMOUNT DEFINED.—**

2 **The excess amount described in**
3 **this clause is, in the case of an**
4 **employee, the amount by which—**

5 (I) **that portion of the em-**
6 **ployee's lump-sum credit that**
7 **is attributable to the period of**
8 **erroneous coverage involved,**
9 **exceeds (if at all)**

10 (II) **the total of the**
11 **amount described in subpara-**
12 **graph (A) plus the amount**
13 **that should have been de-**
14 **ducted under section 8422 of**
15 **title 5, United States Code,**
16 **from the pay of the employee**
17 **for the period of erroneous**
18 **coverage involved.**

19 (C) **RULE IF LUMP-SUM CREDIT IS**
20 **LESS THAN TOTAL EMPLOYEE CONTRIBU-**
21 **TIONS TO OASDI AND CSRDF THAT**
22 **SHOULD HAVE BEEN MADE.—**

23 (i) **IN GENERAL.—**

24 (I) **SHORTFALL TO BE MADE**
25 **UP BY AGENCY.—If the amount**

1 **described in subparagraph**
2 **(B)(ii)(I) is less than the total**
3 **amount described in subpara-**
4 **graph (B)(ii)(II), an amount**
5 **equal to the shortfall shall be**
6 **transferred to the OASDI**
7 **trust funds (in such manner**
8 **as the Commissioner of Social**
9 **Security shall by regulation**
10 **prescribe) by the agency in or**
11 **under which the employee is**
12 **then employed, out of**
13 **amounts otherwise available**
14 **in the appropriation, fund, or**
15 **account from which any**
16 **OASDI employer tax or con-**
17 **tribution to the CSRDF (as**
18 **applicable) may be made, ex-**
19 **cept as provided in subclause**
20 **(II) or clause (iii)(I).**

21 **(II) REDUCTION FOR DE-**
22 **POSIT DUE.—In any case in**
23 **which a deposit is required**
24 **under clause (ii), the amount**
25 **required to be made up under**

1 **subclause (I) shall be reduced**
2 **by the amount of the deposit**
3 **so required (but not below**
4 **zero).**

5 **(ii) DEPOSIT REQUIREMENT.—**

6 **(I) IN GENERAL.—To the ex-**
7 **tent that the shortfall under**
8 **clause (i) is due to the any**
9 **lump-sum credit received by**
10 **the employee (for which an**
11 **appropriate deposit under**
12 **section 8334(d)(1) of title 5,**
13 **United States Code, has not**
14 **been made), the employee**
15 **shall be required to repay an**
16 **amount equal to the amount**
17 **of such deposit, except as pro-**
18 **vided in clause (iii)(I).**

19 **(II) TREATMENT AS A DEBT**
20 **DUE.—If an employee fails to**
21 **pay the amount required**
22 **under subclause (I), that**
23 **amount shall be recoverable**
24 **by the CSRDF under the same**
25 **authorities (including to**

1 waive a right of recovery) as
2 described in section 114(b)(2).
3 For purposes of any exercise
4 of authority under the preced-
5 ing sentence, the Director of
6 the Office of Personnel Man-
7 agement shall be considered
8 the head of the agency con-
9 cerned.

10 (iii) SPECIAL RULES.—

11 (I) DEPOSIT FOR FERS DE-
12 Ductions NOT MANDATORY.—
13 Nothing in this subparagraph
14 shall, in any situation de-
15 scribed in clause (ii), be con-
16 sidered to require any agency
17 make-up payment (or em-
18 ployee repayment) of any por-
19 tion of the lump-sum credit
20 (beyond any amount nec-
21 essary in order to permit the
22 transfer described in para-
23 graph (1)(A)) which would be
24 assignable to amounts that
25 should have been deducted

1 under section 8422 of title 5,
2 United States Code, from pay
3 of the employee involved.

4 (II) AUTHORITY TO MAKE
5 FERS DEPOSIT.—An employee
6 under this section who has re-
7 ceived a lump-sum credit (de-
8 scribed in clause (ii)(I)) may
9 not be credited, under chap-
10 ter 84 of title 5, United States
11 Code, with any period of serv-
12 ice to which that lump-sum
13 credit relates unless the em-
14 ployee deposits into the
15 CSRDF an amount equal to
16 the percentage of such em-
17 ployee’s basic pay (for such
18 period of service) that should
19 have been deducted under
20 section 8422 of such title 5.

21 (D) DEFINITION OF LUMP-SUM CRED-
22 IT.—For purposes of this paragraph,
23 the term “lump-sum credit” has the
24 meaning given such term by section
25 8331 of title 5, United States Code, ex-

1 **cept as the context may otherwise in-**
2 **dicade.**

3 **(E) PROVISIONS RELATING TO THE**
4 **APPLICATION OF THIS PARAGRAPH IN**
5 **OTHER SITUATIONS.—**

6 **(i) GENERAL AUTHORITY.—To**
7 **the extent necessary to permit the**
8 **operation of this paragraph in**
9 **any situation covered by any**
10 **other provisions of this Act**
11 **(which incorporate this para-**
12 **graph by reference), any nec-**
13 **essary technical and conforming**
14 **amendments to this paragraph**
15 **not otherwise specifically pro-**
16 **vided for (such as citations to ap-**
17 **propriate provisions of law cor-**
18 **responding to provisions cited in**
19 **this paragraph) shall be made**
20 **under regulations which the Of-**
21 **ice of Personnel Management**
22 **shall prescribe.**

23 **(ii) SPECIAL RULE.—**

24 **(I) DEPOSITS NOT PRE-**
25 **CLUDED BY FERS RESTRICTION.—**

1 **Nothing in section 8424(a) of**
2 **title 5, United States Code,**
3 **shall, in any situation covered**
4 **by this Act, prevent the mak-**
5 **ing of any deposit (and credit-**
6 **ing, for retirement purposes,**
7 **of service for the correspond-**
8 **ing period of time) to the ex-**
9 **tent that the deposit relates to**
10 **the period of erroneous cov-**
11 **erage involved.**

12 **(II) EXCEPTION.—The pre-**
13 **ceding sentence shall not**
14 **apply in any situation in**
15 **which the employee involved**
16 **was erroneously FERS cov-**
17 **ered, and remained FERS cov-**
18 **ered after the rectification**
19 **provided for under this Act.**

20 **(2) GOVERNMENT CONTRIBUTIONS.—**

21 **(A) TRANSFER TO OASDI TRUST**
22 **FUNDS.—There shall be transferred**
23 **from the CSRDF to the OASDI trust**
24 **funds the excess of—**

1 **(i) the amount of the OASDI**
2 **employer tax that should have**
3 **been paid with respect to the em-**
4 **ployee for the period of erroneous**
5 **coverage involved, over**

6 **(ii) the amount of the OASDI**
7 **employer tax that may be as-**
8 **sessed under section 6501 of the**
9 **Internal Revenue Code of 1986 in**
10 **connection with such employee,**
11 **determined in such manner as the**
12 **Secretary of the Treasury shall by**
13 **regulation prescribe.**

14 **(B) RULE IF CSRDF CONTRIBUTIONS**
15 **ACTUALLY MADE ARE LESS THAN TOTAL**
16 **GOVERNMENT CONTRIBUTIONS TO OASDI**
17 **AND CSRDF THAT SHOULD HAVE BEEN**
18 **MADE.—**

19 **(i) IN GENERAL.—If the total**
20 **Government contributions to the**
21 **CSRDF that were made with re-**
22 **spect to the employee for the pe-**
23 **riod of erroneous coverage in-**
24 **volved are less than the amount**
25 **described in clause (ii), an**

1 amount equal to the shortfall
2 shall be transferred to the OASDI
3 trust funds (in such manner as
4 the Commissioner of Social Secu-
5 rity shall by regulation prescribe)
6 by the agency in or under which
7 the employee is then employed.

8 (ii) DESCRIPTION OF AMOUNT.—

9 The amount described in this
10 clause is the total of—

11 (I) the amount required to
12 be transferred under subpara-
13 graph (A), plus

14 (II) the amount that
15 should have been contributed
16 by the Government under sec-
17 tion 8423 of title 5, United
18 States Code, for such em-
19 ployee with respect to such
20 period.

21 (iii) SOURCE OF PAYMENTS.—

22 Any amount required to be paid
23 by an agency under clause (i)
24 shall be payable out of any appro-
25 priation, fund, or account avail-

1 able to such agency for making
2 Government contributions to the
3 CSRDF or the OASDI trust funds
4 (as appropriate).

5 **(c) MAKEUP CONTRIBUTIONS TO THE THRIFT**
6 **SAVINGS FUND.—**

7 **(1) IN GENERAL.—**An employee to
8 whom this section applies is entitled to
9 have contributed to the Thrift Savings
10 Fund on such employee's behalf, in addi-
11 tion to any regular employee or Govern-
12 ment contributions that would be per-
13 mitted or required for the year in which
14 the contributions under this subsection
15 are made, an amount equal to the sum
16 of—

17 **(A) the amount determined under**
18 **paragraph (2) with respect to such**
19 **employee for the period of erroneous**
20 **coverage involved;**

21 **(B) an amount equal to the total**
22 **contributions that should have been**
23 **made for such employee under sec-**
24 **tion 8432(c)(1) of title 5, United States**

1 **Code, for the period of erroneous cov-**
2 **erage involved;**

3 **(C) an amount equal to the total**
4 **contributions that should have been**
5 **made for such employee under sec-**
6 **tion 8432(c)(2) of title 5, United States**
7 **Code, for the period of erroneous cov-**
8 **erage involved (taking into account**
9 **both the amount referred to in sub-**
10 **paragraph (A) and any contributions**
11 **to the Thrift Savings Fund actually**
12 **made by such employee with respect**
13 **to the period involved); and**

14 **(D) an amount equal to lost earn-**
15 **ings on the amounts referred to in**
16 **subparagraphs (A) through (C), deter-**
17 **mined in accordance with paragraph**
18 **(3).**

19 **(2) AMOUNT BASED ON AVERAGE PER-**
20 **CENTAGE OF PAY CONTRIBUTED BY EMPLOY-**
21 **EES DURING PERIOD OF ERRONEOUS COV-**
22 **ERAGE.—**

23 **(A) IN GENERAL.—The amount de-**
24 **termined under this paragraph with**
25 **respect to an employee for a period of**

1 **erroneous coverage shall be equal to**
2 **the amount of the contributions such**
3 **employee would have made if, during**
4 **each calendar year in such period,**
5 **the employee had contributed the**
6 **percentage of such employee's basic**
7 **pay for such year specified in sub-**
8 **paragraph (B) (determined disregard-**
9 **ing any contributions actually made**
10 **by such employee with respect to the**
11 **year involved).**

12 **(B) PERCENTAGE TO BE APPLIED.—**

13 **(i) IN GENERAL.—The percent-**
14 **age to be applied under this sub-**
15 **paragraph in the case of any em-**
16 **ployee with respect to a particu-**
17 **lar year is—**

18 **(I) the average percentage**
19 **of basic pay that was contrib-**
20 **uted for such year under sec-**
21 **tion 8432(a) of title 5, United**
22 **States Code, by full-time**
23 **FERS covered employees who**
24 **contributed to the Thrift Sav-**
25 **ings Fund in such year and**

1 **for whom a salary rate is re-**
2 **corded (as of June 30 of such**
3 **year) in the central personnel**
4 **data file maintained by the**
5 **Office of Personnel Manage-**
6 **ment; or**

7 **(II) if such average per-**
8 **centage for the year in ques-**
9 **tion is unavailable, the aver-**
10 **age percentage for the most**
11 **recent year prior to the year**
12 **in question that is available.**

13 **(ii) PERCENTAGE CONTRIB-**
14 **UTED.—For purposes of clause**
15 **(i)(I), the percentage of basic pay**
16 **for each employee included in the**
17 **average shall be determined by**
18 **dividing the total employee con-**
19 **tributions received into the Thrift**
20 **Savings Plan account of that em-**
21 **ployee during such year by the**
22 **annual salary rate for that em-**
23 **ployee as recorded in the central**
24 **personnel data file (referred to in**

1 **clause (i)(I) as of June 30 of such**
2 **year.**

3 **(C) LIMITATIONS.—In no event may**
4 **the amount determined under this**
5 **paragraph for an individual with re-**
6 **spect to a year exceed the amount**
7 **that, if added to the amount of the**
8 **contributions that were actually**
9 **made by such individual to the Thrift**
10 **Savings Fund with respect to such**
11 **year (if any), would cause the total to**
12 **exceed—**

13 **(i) any limitation under sec-**
14 **tion 415 or any other provision of**
15 **the Internal Revenue Code of**
16 **1986 that would have applied to**
17 **such employee with respect to**
18 **such year; or**

19 **(ii) any limitation under sec-**
20 **tion 8432(a) or any other provi-**
21 **sion of title 5, United States Code,**
22 **that would have applied to such**
23 **employee with respect to such**
24 **year.**

25 **(3) LOST EARNINGS.—**

1 **(A) IN GENERAL.—**Lost earnings on
2 any amounts referred to in subpara-
3 graph (A), (B), or (C) of paragraph (1)
4 shall, to the extent those amounts are
5 attributable to contributions that
6 should have been made with respect
7 to a particular year, be determined in
8 the same way as if those amounts had
9 in fact been timely contributed and
10 allocated among the TSP investment
11 funds in accordance with—

12 **(i)** the investment fund elec-
13 tion that was accepted by the em-
14 ploying agency before the date
15 the contribution should have
16 been made and that was still in
17 effect as of that date; or

18 **(ii)** if no such election was
19 then in effect for the employee,
20 the investment fund election at-
21 tributed to such employee with
22 respect to such year.

23 **(B) INVESTMENT FUND ELECTION AT-**
24 **TRIBUTED.—**For purposes of subpara-
25 graph (A)(ii), the investment fund

1 election attributed to an employee
2 with respect to a particular year is—

3 (i) the average percentage al-
4 location of TSP contributions
5 among the TSP investment funds
6 from all sources, with respect to
7 that year, except that the invest-
8 ment fund election attributed to
9 contributions in years prior to
10 1991 shall be the G Fund; or

11 (ii) if such average percentage
12 allocation for the year in question
13 is unavailable, the average per-
14 centage allocation for the most re-
15 cent year prior to the year in
16 question that is available.

17 (C) DEFINITION OF INVESTMENT
18 FUND ELECTION, ETC.—For purposes of
19 this paragraph—

20 (i) the term “investment fund
21 election” means a choice by a par-
22 ticipant concerning how contribu-
23 tions to the Thrift Savings Plan
24 shall be allocated among the TSP
25 investment funds;

1 (ii) the term “participant”
2 means any person with an ac-
3 count in the Thrift Savings Plan,
4 or who would have an account in
5 the Thrift Savings Plan but for an
6 employing agency error (includ-
7 ing an error as described in sec-
8 tion 163(b)(2));

9 (iii) the term “TSP investment
10 funds” means the C Fund, the F
11 Fund, the G Fund, and any other
12 investment fund in the Thrift Sav-
13 ings Plan created after December
14 27, 1996; and

15 (iv) the terms “C Fund”, “F
16 Fund”, and “G Fund” refer to the
17 funds described in paragraphs
18 (1), (3), and (4), respectively, of
19 section 8438(a) of title 5, United
20 States Code.

21 **(4) MAKEUP CONTRIBUTION TO BE MADE**
22 **IN A LUMP SUM.—**

23 **(A) IN GENERAL.—Any amount to**
24 **which an employee is entitled under**
25 **this subsection shall be paid prompt-**

1 ly by the agency in or under which
2 the electing employee is (as of the
3 date of the election) employed, in a
4 lump sum, upon notification to such
5 agency under subparagraph (B)(ii) as
6 to the amount due.

7 (B) BOARD FUNCTIONS.—The regu-
8 lations under paragraph (6) shall in-
9 clude provisions under which—

10 (i) each employing agency
11 shall be required to determine
12 and notify the Federal Retire-
13 ment Thrift Investment Board, in
14 a timely manner, as to any
15 amounts under paragraph (1)(A)-
16 (C) owed by such agency; and

17 (ii) the Board shall, based on
18 the information it receives from
19 an agency under clause (i), deter-
20 mine lost earnings on those
21 amounts and promptly notify
22 such agency as to the total
23 amounts due from it under this
24 subsection.

1 **(5) JUSTICES AND JUDGES; MAGISTRATES;**
2 **ETC.—The preceding provisions of this**
3 **subsection shall not apply in the case of**
4 **any employee who, pursuant to the elec-**
5 **tion referred to in subsection (a), be-**
6 **comes subject to section 8440a, 8440b,**
7 **8440c, or 8440d of title 5, United States**
8 **Code.**

9 **(6) REGULATIONS.—The Executive Di-**
10 **rector of the Federal Retirement Thrift**
11 **Investment Board shall prescribe any**
12 **regulations necessary to carry out this**
13 **subsection.**

14 **SEC. 103. EFFECT OF AN ELECTION TO BE TRANSFERRED**
15 **FROM CSRS-OFFSET TO FERS TO CORRECT A**
16 **RETIREMENT COVERAGE ERROR.**

17 **(a) APPLICABILITY.—This section shall**
18 **apply in the case of any employee affected by**
19 **an error described in section 101(a)(2) who**
20 **elects the option under section 101(b)(1).**

21 **(b) EFFECT OF ELECTION.—In the case of an**
22 **employee described in subsection (a), the fol-**
23 **lowing provisions shall apply:**

24 **(1) Section 102(b) (relating to disposi-**
25 **tion of contributions to the CSRDF), but**

1 **disregarding provisions relating to trans-**
2 **fers to OASDI trust funds.**

3 **(2) Section 102(c) (relating to makeup**
4 **contributions to the Thrift Savings**
5 **Fund).**

6 **SEC. 104. EFFECT OF AN ELECTION TO BE TRANSFERRED**
7 **FROM CSRS TO CSRS-OFFSET TO CORRECT A**
8 **RETIREMENT COVERAGE ERROR.**

9 **(a) APPLICABILITY.—This section shall**
10 **apply in the case of any employee affected by**
11 **an error described in section 101(a)(1) who**
12 **elects the option under section 101(b)(2).**

13 **(b) SAME AS IN THE CASE OF AN ELECTION TO**
14 **RATIFY ERRONEOUS CSRS-OFFSET COVERAGE.—**

15 **(1) IN GENERAL.—The effect of an elec-**
16 **tion described in subsection (a) shall be**
17 **as described in section 101(b)(2), except**
18 **that the provisions of section 102(b) shall**
19 **also apply.**

20 **(2) APPROPRIATE PERCENTAGES TO BE**
21 **USED IN DETERMINING EMPLOYEE AND GOV-**
22 **ERNMENT CONTRIBUTIONS TO CSRDF.—For**
23 **purposes of paragraph (1), section 102(b)**
24 **shall be applied by substituting “the rel-**

1 **priate OASDI employee or employer**
2 **tax has already been paid for the**
3 **total period involved (or any portion**
4 **thereof), reduce the respective**
5 **amounts required by paragraphs**
6 **(1)(A) and (2)(A)(i) of section 102(b)**
7 **accordingly.**

8 **(B) APPROPRIATE PERCENTAGES TO**
9 **BE USED IN DETERMINING EMPLOYEE AND**
10 **GOVERNMENT CONTRIBUTIONS TO**
11 **CSRDF.—Substitute “the relevant pro-**
12 **visions of section 8334(k)” for “section**
13 **8422” and “section 8423”.**

14 **(C) APPROPRIATE LUMP-SUM CREDIT**
15 **TO BE USED.—The appropriate lump-**
16 **sum credit to be used under this sub-**
17 **section shall be determined in ac-**
18 **cordance with regulations to be pre-**
19 **scribed by the Office of Personnel**
20 **Management.**

21 **(D) PROVISIONS TO BE APPLIED WITH**
22 **RESPECT TO THE TOTAL PERIOD IN-**
23 **VOLVED.—Substitute “total period in-**
24 **volved (as defined by section 105)” for**

1 **“period of erroneous coverage in-**
2 **volved”.**

3 **(c) DISPOSITION OF EXCESS TSP CONTRIBU-**
4 **TIONS.—**

5 **(1) GOVERNMENT CONTRIBUTIONS.—All**
6 **Government contributions made on be-**
7 **half of the employee to the Thrift Savings**
8 **Fund that are attributable to the total pe-**
9 **riod involved (including any earnings**
10 **thereon) shall be forfeited. For the pur-**
11 **pose of section 8437(d) of title 5, United**
12 **States Code, amounts so forfeited shall be**
13 **treated as if they were amounts forfeited**
14 **under section 8432(g) of such title.**

15 **(2) EMPLOYEE CONTRIBUTIONS.—The**
16 **election referred to in subsection (a) shall**
17 **not be taken into account for purposes of**
18 **any determination relating to the disposi-**
19 **tion of any employee contributions to the**
20 **Thrift Savings Fund, attributable to the**
21 **total period involved, that were in excess**
22 **of the maximum amount that would have**
23 **been allowable under applicable provi-**
24 **sions of subchapter III of chapter 83 of**

1 title 5, United States Code (including any
2 earnings thereon).

3 (d) DEFINITION OF TOTAL PERIOD IN-
4 VOLVED.—For purposes of this section, the
5 term “total period involved” means the period
6 beginning on the effective date of the retire-
7 ment coverage error involved and ending on
8 the day before the date on which the election
9 described in subsection (a) is made.

10 SEC. 106. EFFECT OF ELECTION TO REMAIN FERS COV-
11 ERED AFTER HAVING BEEN CORRECTED TO
12 FERS FROM CSRS-OFFSET (OR CSRS).

13 (a) APPLICABILITY.—This section shall
14 apply in the case of any employee affected by
15 an error described in paragraph (1) or (2) of
16 section 101(a) who (after having been cor-
17 rected to FERS coverage) elects the option
18 under section 101(c)(2).

19 (b) DISPOSITION OF CONTRIBUTIONS TO THE
20 CSRDF.—The provisions of section 102(b)
21 shall apply in the case of an employee de-
22 scribed in subsection (a), subject to the same
23 condition as set forth in section 105(b)(2)(A).

24 (c) MAKEUP CONTRIBUTIONS TO THE THRIFT
25 SAVINGS FUND.—Section 102(c) shall apply, ex-

1 **cept that an agency shall receive credit for**
2 **any automatic or matching Government con-**
3 **tributions and any lost earnings paid by such**
4 **agency as part of any corrections process pre-**
5 **viously carried out with respect to the em-**
6 **ployee involved.**

7 **Subtitle B—Employee Who Should**
8 **Have Been FERS Covered,**
9 **CSRS-Offset Covered, or CSRS**
10 **Covered, But Who Was Erro-**
11 **neously Social Security-Only**
12 **Covered Instead**

13 **SEC. 111. ELECTIONS.**

14 **(a) APPLICABILITY.—This subtitle shall**
15 **apply in the case of any employee who—**

16 **(1) should be (or should have been)**
17 **FERS covered but, as a result of a retire-**
18 **ment coverage error, is (or was) Social**
19 **Security-Only covered instead;**

20 **(2) should be (or should have been)**
21 **CSRS-Offset covered but, as a result of a**
22 **retirement coverage error, is (or was) So-**
23 **cial Security-Only covered instead; or**

24 **(3) should be (or should have been)**
25 **CSRS covered but, as a result of a retire-**

1 **ment coverage error, is (or was) Social**
2 **Security-Only covered instead.**

3 **(b) UNCORRECTED ERROR.—If, at the time**
4 **of making an election under this section, the**
5 **retirement coverage error described in para-**
6 **graph (1), (2), or (3) of subsection (a) (as appli-**
7 **cable) has not been corrected, the employee**
8 **affected by such error may elect—**

9 **(1)(A) in the case of an error de-**
10 **scribed in subsection (a)(1), to be FERS**
11 **covered as well;**

12 **(B) in the case of an error described**
13 **in subsection (a)(2), to be CSRS-Offset**
14 **covered as well; or**

15 **(C) in the case of an error described**
16 **in subsection (a)(3), to be CSRS covered**
17 **instead; or**

18 **(2) to remain Social Security-Only**
19 **covered.**

20 **(c) CORRECTED ERROR.—**

21 **(1) IN GENERAL.—Not later than 6**
22 **months after the date of enactment of**
23 **this Act, there shall be submitted to the**
24 **Congress a proposal (including any nec-**

1 **essary draft legislation) to carry out the**
2 **policy described in paragraph (2).**

3 **(2) POLICY.—Under the proposal, any**
4 **employee with respect to whom the re-**
5 **irement coverage error described in**
6 **paragraph (1), (2), or (3) of subsection (a)**
7 **(as applicable) has already been cor-**
8 **rected, but under terms less advan-**
9 **tageous to the employee than would have**
10 **been the case under this Act, shall be af-**
11 **forded a reasonable opportunity to ob-**
12 **tain treatment comparable to the treat-**
13 **ment afforded under this Act.**

14 **(3) JOINT ACTION.—This subsection**
15 **shall be carried out by the Director of the**
16 **Office of Personnel Management, in con-**
17 **sultation with the Executive Director of**
18 **the Federal Retirement Thrift Investment**
19 **Board and the Commissioner of Social Se-**
20 **curity.**

21 **(d) DEFAULT RULE.—In the case of any em-**
22 **ployee to whom subsection (b) applies, if the**
23 **employee is given written notice in accord-**
24 **ance with section 201 as to the availability of**
25 **an election under this section, but does not**

1 make any such election within the 6-month
2 period beginning on the date on which such
3 notice is so given, the option under subsection
4 (b)(2) shall be deemed to have been elected on
5 the last day of such period.

6 (e) **RETROACTIVE EFFECT.**—An election
7 under this section (including an election by
8 default, and an election to remain covered by
9 the retirement system by which the electing
10 individual is covered as of the date of the elec-
11 tion) shall be effective retroactive to the effec-
12 tive date of the retirement coverage error (as
13 referred to in subsection (a)) to which such
14 election relates.

15 **SEC. 112. EFFECT OF AN ELECTION TO BECOME FERS COV-**
16 **ERED TO CORRECT THE RETIREMENT COV-**
17 **ERAGE ERROR.**

18 (a) **APPLICABILITY.**—This section shall
19 apply in the case of any employee affected by
20 an error described in section 111(a)(1) who
21 elects the option under section 111(b)(1)(A).

22 (b) **MAKEUP CONTRIBUTIONS TO THE**
23 **CSRDF.**—Upon notification that an employee
24 has made an election under this section, the
25 agency in or under which such employee is

1 employed shall promptly pay to the CSRDF,
2 in a lump sum, an amount equal to the sum
3 of—

4 (1) the amount that should have been
5 deducted and withheld from the pay of
6 the employee for the period of erroneous
7 coverage involved under section 8422 of
8 title 5, United States Code; and

9 (2) the Government contributions
10 that should have been paid for the period
11 of erroneous coverage involved under
12 section 8423 of title 5, United States Code.

13 (c) MAKEUP CONTRIBUTIONS TO THE THRIFT
14 SAVINGS FUND.—Section 102(c) shall apply in
15 the case of an employee described in sub-
16 section (a).

17 SEC. 113. EFFECT OF AN ELECTION TO BECOME CSRS-OFF-

18 SET COVERED TO CORRECT THE RETIRE-

19 MENT COVERAGE ERROR.

20 (a) APPLICABILITY.—This section shall
21 apply in the case of any employee affected by
22 an error described in section 111(a)(2) who
23 elects the option under section 111(b)(1)(B).

24 (b) MAKEUP CONTRIBUTIONS TO THE
25 CSRDF.—Upon notification that an employee

1 **has made an election under this section, the**
2 **agency in or under which such employee is**
3 **employed shall promptly pay to the CSRDF,**
4 **in a lump sum, an amount equal to the sum**
5 **of—**

6 **(1) the amount that should have been**
7 **deducted and withheld from the pay of**
8 **the employee for the period of erroneous**
9 **coverage involved under section 8334 of**
10 **title 5, United States Code; and**

11 **(2) the Government contributions**
12 **that should have been paid under section**
13 **8334 of title 5, United States Code, for the**
14 **period of erroneous coverage involved.**

15 **(c) MAKEUP CONTRIBUTIONS TO THE THRIFT**
16 **SAVINGS FUND.—**

17 **(1) IN GENERAL.—**Makeup contribu-
18 **tions to the Thrift Savings Fund shall be**
19 **made by the employing agency in the**
20 **same manner as described in section**
21 **102(c) (but disregarding subparagraphs**
22 **(B) and (C) of paragraph (1) thereof, and**
23 **the other provisions of section 102(c) to**
24 **the extent that they relate to those sub-**
25 **paragraphs).**

1 **(2) APPROPRIATE PERCENTAGES, ETC. TO**
2 **BE USED.—For purposes of paragraph (1),**
3 **section 102(c) shall be applied—**

4 **(A) by substituting “section**
5 **8351(b)” for “section 8432(a)” and by**
6 **substituting “CSRS covered and**
7 **CSRS-Offset covered” for “FERS cov-**
8 **ered” in paragraph (2)(B)(i) thereof;**
9 **and**

10 **(B) by substituting “section**
11 **8351(b)(2)” for “section 8432(a)” in**
12 **paragraph (2)(C)(ii) thereof.**

13 **SEC. 114. EFFECT OF AN ELECTION TO BECOME CSRS COV-**
14 **ERED TO CORRECT THE RETIREMENT COV-**
15 **ERAGE ERROR.**

16 **(a) APPLICABILITY.—This section shall**
17 **apply in the case of any employee affected by**
18 **an error described in section 111(a)(3) who**
19 **elects the option under section 111(b)(1)(C).**

20 **(b) MAKEUP CONTRIBUTIONS TO THE**
21 **CSRDF.—**

22 **(1) IN GENERAL.—Upon notification**
23 **that an employee has made an election**
24 **under this section, the agency in or**
25 **under which such employee is employed**

1 shall promptly pay to the CSRDF, in a
2 lump sum, an amount equal to the sum
3 of—

4 (A) the amount that should have
5 been deducted and withheld from the
6 pay of the employee for the period of
7 erroneous coverage involved under
8 section 8334 of title 5, United States
9 Code; and

10 (B) the Government contributions
11 that should have been paid under
12 such section for the period of erro-
13 neous coverage involved.

14 (2) AGENCY TO BE REIMBURSED FOR CER-
15 TAIN AMOUNTS.—

16 (A) IN GENERAL.—The employee
17 for whom the payment under para-
18 graph (1) is made shall repay to the
19 agency (referred to in paragraph (1))
20 an amount equal to the OASDI em-
21 ployee taxes refunded or refundable
22 to such employee for any portion of
23 the period of erroneous coverage in-
24 volved (computed in such manner as
25 the Director of the Office of Person-

1 nel Management, with the concur-
2 rence of the Secretary of the Treas-
3 ury, shall by regulation prescribe),
4 not to exceed the amount described
5 in paragraph (1)(A).

6 **(B) RIGHT OF RECOVERY; WAIVER.—**

7 If the employee fails to repay the
8 amount required under subparagraph
9 (A), a sum equal to the amount out-
10 standing is recoverable by the Gov-
11 ernment from the employee (or the
12 employee's estate, if applicable) by—

13 (i) setoff against accrued pay,
14 compensation, amount of retire-
15 ment credit, or another amount
16 due the employee from the Gov-
17 ernment; and

18 (ii) such other method as is
19 provided by law for the recovery
20 of amounts owing to the Govern-
21 ment.

22 The head of the agency concerned
23 may waive, in whole or in part, a
24 right of recovery under this para-
25 graph if it is shown that recovery

1 **would be against equity and good**
2 **conscience or against the public in-**
3 **terest.**

4 **(C) TREATMENT OF AMOUNTS REPAYED**
5 **OR RECOVERED.—Any amount repaid**
6 **by, or recovered from, an individual**
7 **(or an estate) under this paragraph**
8 **shall be credited to the appropriation**
9 **account from which the amount in-**
10 **volved was originally paid.**

11 **(c) MAKEUP CONTRIBUTIONS TO THE THRIFT**
12 **SAVINGS FUND.—In the case of an employee de-**
13 **scribed in subsection (a), makeup contribu-**
14 **tions to the Thrift Savings Fund shall be made**
15 **in the same manner as described in section**
16 **113(c).**

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

7 **SEC. 121. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
8 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
9 **WHO IS ERRONEOUSLY FERS COVERED IN-**
10 **STEAD.**

11 **(a) IN GENERAL.—Except as provided in**
12 **section 125, this section shall apply in the**
13 **case of any employee who should be Social Se-**
14 **curity-Only covered but, as a result of a re-**
15 **irement coverage error, is FERS covered in-**
16 **stead.**

17 **(b) AUTOMATIC EXCLUSION FROM FERS.—**
18 **An employee described in subsection (a) shall**
19 **not, by reason of the retirement coverage**
20 **error described in subsection (a), be eligible**
21 **to be treated as an individual who is FERS**
22 **covered.**

23 **(c) DISPOSITION OF EMPLOYEE CONTRIBU-**
24 **TIONS TO THE CSRDF.—There shall be paid to**
25 **the employee, from the CSRDF, any lump-sum**

1 credit to which such employee would be enti-
2 tled under section 8424 of title 5, United
3 States Code, to the extent attributable to the
4 period of erroneous coverage involved.

5 (d) DISPOSITION OF TSP CONTRIBUTIONS.—

6 (1) GOVERNMENT CONTRIBUTIONS.—All
7 Government contributions made on be-
8 half of the employee to the Thrift Savings
9 Fund that are attributable to the period
10 of erroneous coverage involved (includ-
11 ing any earnings thereon) shall be for-
12 feited in the same manner as described in
13 section 105(c).

14 (2) EMPLOYEE CONTRIBUTIONS.—Not-
15 withstanding any other provision of this
16 section or any other provision of law, any
17 contributions made by the employee to
18 the Thrift Savings Fund during the pe-
19 riod of erroneous coverage involved (in-
20 cluding any earnings thereon) shall be
21 treated as if such employee had then
22 been correctly covered.

1 **SEC. 122. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
2 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
3 **WHO IS ERRONEOUSLY CSRS-OFFSET COV-**
4 **ERED INSTEAD.**

5 **(a) IN GENERAL.—Except as provided in**
6 **section 125, this section shall apply in the**
7 **case of any employee who should be Social Se-**
8 **curity-Only covered but, as a result of a re-**
9 **tirement coverage error, is CSRS-Offset cov-**
10 **ered instead.**

11 **(b) AUTOMATIC EXCLUSION FROM CSRS-OFF-**
12 **SET.—An employee described in subsection (a)**
13 **shall not, by reason of the retirement cov-**
14 **erage error described in subsection (a), be eli-**
15 **gible to be treated as an individual who is**
16 **CSRS-Offset covered.**

17 **(c) DISPOSITION OF EMPLOYEE CONTRIBU-**
18 **TIONS TO THE CSRDF.—There shall be paid to**
19 **the employee, from the CSRDF, the lump-sum**
20 **credit to which such employee would be enti-**
21 **tled under section 8342 of title 5, United**
22 **States Code, to the extent attributable to the**
23 **period of erroneous coverage involved.**

24 **(d) DISPOSITION OF TSP CONTRIBUTIONS.—**
25 **In the case of an employee described in sub-**
26 **section (a), section 121(d)(2) shall apply.**

1 **SEC. 123. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
2 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
3 **WHO IS ERRONEOUSLY CSRS COVERED IN-**
4 **STEAD.**

5 **(a) IN GENERAL.—Except as provided in**
6 **section 125, this section shall apply in the**
7 **case of any employee who should be Social Se-**
8 **curity-Only covered but, as a result of a re-**
9 **tirement coverage error, is CSRS covered in-**
10 **stead.**

11 **(b) AUTOMATIC EXCLUSION FROM CSRS.—**
12 **An employee described in subsection (a) shall**
13 **not, by reason of the retirement coverage**
14 **error described in subsection (a), be eligible**
15 **to be treated as an individual who is CSRS**
16 **covered.**

17 **(c) DISPOSITION OF CONTRIBUTIONS TO THE**
18 **CSRDF.—**

19 **(1) IN GENERAL.—In the case of an em-**
20 **ployee described in subsection (a), sec-**
21 **tion 102(b) shall apply.**

22 **(2) IRRELEVANT PROVISIONS TO BE DIS-**
23 **REGARDED.—For purposes of paragraph**
24 **(1), section 102(b) shall be applied dis-**
25 **regarding the provisions of paragraphs**
26 **(1)(B)(ii)(II) (to the extent they relate to**

1 **(c) JOINT ACTION.—**This section shall be
2 carried out by the Director of the Office of
3 Personnel Management, in consultation with
4 the Executive Director of the Federal Retirement Thrift Investment Board and the Commissioner of Social Security.

7 SEC. 125. VESTED EMPLOYEES EXCEPTED FROM AUTOMATIC EXCLUSION.

9 **(a) IN GENERAL.—**Nothing in this subtitle
10 shall, by reason of any retirement coverage
11 error, result in the automatic exclusion of any
12 employee from FERS, CSRS-Offset, or CSRS
13 if, as of the date on which notice of such error
14 is given (in accordance with section 201), such
15 employee's rights have vested under the retirement system involved.

17 **(b) VESTING.—**For purposes of this section,
18 vesting of rights shall be considered to have
19 occurred if the employee has (by the date as
20 of which the determination is made) completed at least 5 years of civilian service, taking into account only creditable service under
21 section 8332 or 8411 of title 5, United States
22 Code.

25 **(c) ELECTIONS.—**

1 **(1) ERRONEOUSLY FERS COVERED.—Any**
2 **employee affected by an error described**
3 **in section 121 who is determined under**
4 **this section to satisfy subsection (b) may**
5 **elect—**

6 **(A) to be treated in accordance**
7 **with section 121; or**

8 **(B) to remain FERS covered.**

9 **(2) OTHER CASES.—Any employee af-**
10 **ected by an error described in section**
11 **122 or 123 who is determined under this**
12 **section to satisfy subsection (b) may**
13 **elect—**

14 **(A) to be treated in accordance**
15 **with section 122 or 123 (as applica-**
16 **ble); or**

17 **(B) to remain (or instead become)**
18 **CSRS-Offset covered.**

19 **(d) EFFECT OF AN ELECTION TO BE TRANS-**
20 **FERRED FROM CSRS TO CSRS-OFFSET.—In the**
21 **case of an employee affected by an error de-**
22 **scribed in section 123 who elects the option**
23 **under subsection (c)(2)(B), the effect of the**
24 **election shall be the same as described in sec-**
25 **tion 104.**

1 **(e) DEFAULT RULE.—**If the employee does
2 not make any election within the 6-month pe-
3 riod beginning on the date on which the ap-
4 propriate notice is given to such employee,
5 the option under paragraph (1)(B) or (2)(B) of
6 subsection (c), as applicable, shall be deemed
7 to have been elected as of the last day of such
8 period. Nothing in this section shall be con-
9 sidered to afford an employee the option of
10 becoming or remaining CSRS covered.

11 **(f) RETROACTIVE EFFECT.—**An election
12 under this section (including an election by
13 default, and an election to remain covered by
14 the retirement system by which the electing
15 individual is covered as of the date of the elec-
16 tion) shall be effective retroactive to the effec-
17 tive date of the retirement coverage error to
18 which the election relates.

19 **(g) SPECIAL RULE IN CASE OF DISABILITY.—**
20 If, as of the date referred to in subsection (a),
21 the employee is entitled to receive an annuity
22 under chapter 83 or 84 of title 5, United States
23 Code, based on disability, or compensation
24 under subchapter I of chapter 81 of such title
25 for injury to, or disability of, such employee,

1 subsections (a) and (b) shall be applied by
2 substituting (for the date that would other-
3 wise apply) the date as of which entitlement
4 to such annuity or compensation terminates
5 (if at all).

6 (h) NOTIFICATION.—Any notice under sec-
7 tion 201 shall include such additional infor-
8 mation or other modifications as the Office of
9 Personnel Management may by regulation
10 prescribe in connection with the situations
11 covered by this subtitle, particularly as they
12 relate to the consequences of being vested or
13 not being vested.

14 **Subtitle D—Employee Who Should**
15 **Have Been CSRS Covered or**
16 **CSRS-Offset Covered, But Who**
17 **Was Erroneously FERS Covered**
18 **Instead**

19 SEC. 131. ELECTIONS.

20 (a) APPLICABILITY.—This subtitle shall
21 apply in the case of any employee who—

22 (1) should be (or should have been)
23 CSRS covered but, as a result of a retire-
24 ment coverage error, is (or was) FERS
25 covered instead; or

1 **(2) should be (or should have been)**
2 **CSRS-Offset covered but, as a result of a**
3 **retirement coverage error, is (or was)**
4 **FERS covered instead.**

5 **(b) UNCORRECTED ERROR.—If, at the time**
6 **of making an election under this section, the**
7 **retirement coverage error described in para-**
8 **graph (1) or (2) of subsection (a) (as applica-**
9 **ble) has not been corrected, the employee af-**
10 **ected by such error may elect—**

11 **(1)(A) in the case of an error de-**
12 **scribed in subsection (a)(1), to be CSRS**
13 **covered instead; or**

14 **(B) in the case of an error described**
15 **in subsection (a)(2), to be CSRS-Offset**
16 **covered instead; or**

17 **(2) to remain FERS covered.**

18 **(c) CORRECTED ERROR.—If, at the time of**
19 **making an election under this section, the re-**
20 **tirement coverage error described in para-**
21 **graph (1) or (2) of subsection (a) (as applica-**
22 **ble) has been corrected, the employee affected**
23 **by such error may elect—**

24 **(1) to be FERS covered instead; or**

1 **(2)(A) in the case of an error de-**
2 **scribed in subsection (a)(1), to remain**
3 **CSRS covered; or**

4 **(B) in the case of an error described**
5 **in subsection (a)(2), to remain CSRS-Off-**
6 **set covered.**

7 **(d) DEFAULT RULE.—If the employee is**
8 **given written notice in accordance with sec-**
9 **tion 201 as to the availability of an election**
10 **under this section, but does not make any**
11 **such election within the 6-month period be-**
12 **ginning on the date on which such notice is**
13 **so given, the option under subsection (b)(2) or**
14 **(c)(2), as applicable, shall be deemed to have**
15 **been elected on the last day of such period.**

16 **(e) RETROACTIVE EFFECT.—An election**
17 **under this section (including an election by**
18 **default, and an election to remain covered by**
19 **the retirement system by which the electing**
20 **individual is covered as of the date of the elec-**
21 **tion) shall be effective retroactive to the effec-**
22 **tive date of the retirement coverage error (as**
23 **referred to in subsection (a)) to which such**
24 **election relates.**

1 SEC. 132. EFFECT OF AN ELECTION TO BE TRANSFERRED
2 FROM FERS TO CSRS TO CORRECT A RETIRE-
3 MENT COVERAGE ERROR.

4 (a) APPLICABILITY.—This section shall
5 apply in the case of any employee affected by
6 an error described in section 131(a)(1) who
7 elects the option available to such employee
8 under section 131(b)(1)(A).

9 (b) MAKEUP CONTRIBUTIONS TO THE
10 CSRDF.—

11 (1) IN GENERAL.—Upon notification
12 that an employee has made an election
13 under this section, the agency in or
14 under which such employee is employed
15 shall promptly pay to the CSRDF, in a
16 lump sum, an amount equal to the excess
17 of—

18 (A) the amount by which—

19 (i) the amount that should
20 have been deducted and withheld
21 from the pay of the employee for
22 the period of erroneous coverage
23 involved under section 8334 of
24 title 5, United States Code, ex-
25 ceeds

1 (ii) the amount that was actu-
2 ally deducted and withheld from
3 the pay of the employee for the
4 period of erroneous coverage in-
5 volved under section 8422 of such
6 title (and not refunded), over

7 (B) the amount by which—

8 (i) the amount of the Govern-
9 ment contributions actually made
10 under section 8423 of such title
11 with respect to the employee for
12 the period of erroneous coverage
13 involved, exceeds

14 (ii) the amount of the Govern-
15 ment contributions that should
16 have been made under section
17 8334 of such title with respect to
18 the employee for the period of er-
19 roneous coverage involved.

20 (2) AGENCY TO BE REIMBURSED FOR CER-
21 TAIN AMOUNTS.—

22 (A) IN GENERAL.—The employee
23 for whom the payment under para-
24 graph (1) is made shall repay to the
25 agency (referred to in paragraph (1))

1 **an amount equal to the OASDI em-**
2 **ployee taxes refunded or refundable**
3 **to such employee for any portion of**
4 **the period of erroneous coverage in-**
5 **volved (computed in such manner as**
6 **the Director of the Office of Person-**
7 **nel Management, with the concur-**
8 **rence of the Commissioner of Social**
9 **Security, shall by regulation pre-**
10 **scribe), not to exceed the amount de-**
11 **scribed in paragraph (1)(A).**

12 **(B) RIGHT OF RECOVERY; WAIVER.—**

13 **If the employee fails to repay the**
14 **amount required under subparagraph**
15 **(A), a sum equal to the amount out-**
16 **standing is recoverable by the Gov-**
17 **ernment from the employee (or the**
18 **employee's estate, if applicable) by—**

19 **(i) setoff against accrued pay,**
20 **compensation, amount of retire-**
21 **ment credit, or another amount**
22 **due the employee from the Gov-**
23 **ernment; and**

24 **(ii) such other method as is**
25 **provided by law for the recovery**

1 of amounts owing to the Govern-
2 ment.

3 The head of the agency concerned
4 may waive, in whole or in part, a
5 right of recovery under this para-
6 graph if it is shown that recovery
7 would be against equity and good
8 conscience or against the public in-
9 terest.

10 (C) TREATMENT OF AMOUNTS REPAID
11 OR RECOVERED.—Any amount repaid
12 by, or recovered from, an individual
13 (or an estate) under this paragraph
14 shall be credited to the appropria-
15 tion, fund, or account from which the
16 amount involved was originally paid.

17 (c) DISPOSITION OF EXCESS TSP CONTRIBU-
18 TIONS.—Section 105(c) shall apply in the case
19 of an employee described in subsection (a).

20 SEC. 133. EFFECT OF AN ELECTION TO BE TRANSFERRED
21 FROM FERS TO CSRS-OFFSET TO CORRECT A
22 RETIREMENT COVERAGE ERROR.

23 (a) APPLICABILITY.—This section shall
24 apply in the case of any employee affected by
25 an error described in section 131(a)(2) who

1 elects the option available to such employee
2 under section 131(b)(1)(B).

3 (b) EFFECT.—The effect of an election re-
4 ferred to in subsection (a) shall be substan-
5 tially the same as that described in section
6 105.

7 SEC. 134. EFFECT OF AN ELECTION TO BE RESTORED TO
8 FERS AFTER HAVING BEEN CORRECTED TO
9 CSRS.

10 (a) APPLICABILITY.—This section shall
11 apply in the case of any employee affected by
12 an error described in section 131(a)(1) who
13 elects the option under section 131(c)(1).

14 (b) EFFECT.—The effect of an election re-
15 ferred to in subsection (a) shall be substan-
16 tially the same as that described in section
17 102.

18 SEC. 135. EFFECT OF AN ELECTION TO BE RESTORED TO
19 FERS AFTER HAVING BEEN CORRECTED TO
20 CSRS-OFFSET.

21 (a) APPLICABILITY.—This section shall
22 apply in the case of any employee affected by
23 an error described in section 131(a)(2) who
24 elects the option under section 131(c)(1).

1 **(b) EFFECT.**—The effect of an election re-
2 ferred to in subsection (a) shall be substan-
3 tially the same as that described in section
4 **103.**

5 **SEC. 136. DISQUALIFICATION OF CERTAIN INDIVIDUALS TO**
6 **WHOM SAME ELECTION WAS PREVIOUSLY**
7 **AVAILABLE.**

8 **Notwithstanding any other provision of**
9 **this subtitle, an election under this subtitle**
10 **shall not be available in the case of any indi-**
11 **vidual to whom an election under section**
12 **846.204 of title 5 of the Code of Federal Regu-**
13 **lations (as in effect as of January 1, 1997) was**
14 **made available in connection with the same**
15 **error pursuant to notification provided in ac-**
16 **cordance with such section.**

17 **Subtitle E—Employee Who Should**
18 **Have Been CSRS-Offset Cov-**
19 **ered, But Who Was Erroneously**
20 **CSRS Covered Instead**

21 **SEC. 141. AUTOMATIC TRANSFER TO CSRS-OFFSET.**

22 **(a) APPLICABILITY.**—This subtitle shall
23 **apply in the case of any employee who should**
24 **be (or should have been) CSRS-Offset covered**

1 **but, as a result of a retirement coverage error,**
2 **is (or was) CSRS covered instead.**

3 **(b) UNCORRECTED ERROR.—If the error has**
4 **not been corrected, the employee shall be**
5 **treated in the same way as if such employee**
6 **had instead been CSRS-Offset covered, effec-**
7 **tive retroactive to the effective date of such**
8 **error.**

9 **(c) CORRECTED ERROR.—If the error has**
10 **been corrected, the correction shall (to the ex-**
11 **tent not already carried out) be made effec-**
12 **tive retroactive to the effective date of such**
13 **error.**

14 **SEC. 142. EFFECT OF TRANSFER.**

15 **The effect of a transfer under section 141**
16 **shall be as set forth in regulations which the**
17 **Office of Personnel Management shall pre-**
18 **scribe consistent with section 104.**

19 **Subtitle F—Employee Who Should**
20 **Have Been CSRS Covered, But**
21 **Who Was Erroneously CSRS-Off-**
22 **set Covered Instead**

23 **SEC. 151. ELECTIONS.**

24 **(a) APPLICABILITY.—This subtitle shall**
25 **apply in the case of any employee who should**

1 be (or should have been) CSRS covered but,
2 as a result of a retirement coverage error, is
3 (or was) CSRS-Offset covered instead.

4 (b) **UNCORRECTED ERROR.**—If, at the time
5 of making an election under this section, the
6 retirement coverage error described in sub-
7 section (a) has not been corrected, the em-
8 ployee affected by such error may elect—

- 9 (1) to be CSRS covered instead; or
10 (2) to remain CSRS-Offset covered.

11 (c) **CORRECTED ERROR.**—If, at the time of
12 making an election under this section, the re-
13 tirement coverage error described in sub-
14 section (a) has been corrected, the employee
15 affected by such error may elect—

- 16 (1) to be CSRS-Offset covered instead;
17 or
18 (2) to remain CSRS covered.

19 (d) **DEFAULT RULE.**—If the employee is
20 given written notice in accordance with sec-
21 tion 201 as to the availability of an election
22 under this section, but does not make any
23 such election within the 6-month period be-
24 ginning on the date on which such notice is
25 so given, the option under subsection (b)(2) or

1 (c)(2), as applicable, shall be deemed to have
2 been elected on the last day of such period.

3 (e) **RETROACTIVE EFFECT.**—An election
4 under this section (including an election by
5 default, and an election to remain covered by
6 the retirement system by which the electing
7 individual is covered as of the date of the elec-
8 tion) shall be effective retroactive to the effec-
9 tive date of the retirement coverage error (as
10 referred to in subsection (a)) to which such
11 election relates.

12 **SEC. 152. EFFECT OF AN ELECTION TO BE TRANSFERRED**
13 **FROM CSRS-OFFSET TO CSRS TO CORRECT**
14 **THE RETIREMENT COVERAGE ERROR.**

15 (a) **APPLICABILITY.**—This section shall
16 apply in the case of any employee affected by
17 an error described in section 151(a) who
18 elects the option available to such employee
19 under section 151(b)(1).

20 (b) **MAKEUP CONTRIBUTIONS TO THE**
21 **CSRDF.**—

22 (1) **IN GENERAL.**—Upon notification
23 that an employee has made an election
24 under this section, the agency in or
25 under which such employee is employed

1 shall promptly pay to the CSRDF, in a
2 lump sum, an amount equal to the
3 amount by which—

4 (A) the amount that should have
5 been deducted and withheld from the
6 pay of the employee for the period of
7 erroneous coverage involved under
8 section 8334 of title 5, United States
9 Code (by virtue of being CSRS cov-
10 ered), exceeds

11 (B) any amounts actually de-
12 ducted and withheld from the pay of
13 the employee for the period of erro-
14 neous coverage involved under such
15 section (pursuant to CSRS-Offset cov-
16 erage).

17 (2) AGENCY TO BE REIMBURSED FOR CER-
18 TAIN AMOUNTS.—

19 (A) IN GENERAL.—The employee
20 for whom the payment under para-
21 graph (1) is made shall repay to the
22 agency (referred to in paragraph (1))
23 an amount equal to the OASDI em-
24 ployee taxes refunded or refundable
25 to such employee for any portion of

1 **the period of erroneous coverage in-**
2 **volved (computed in such manner as**
3 **the Director of the Office of Person-**
4 **nel Management, with the concur-**
5 **rence of the Commissioner of Social**
6 **Security, shall by regulation pre-**
7 **scribe), not to exceed the amount de-**
8 **scribed in paragraph (1)(A).**

9 **(B) RIGHT OF RECOVERY; WAIVER.—**

10 **If the employee fails to repay the**
11 **amount required under subparagraph**
12 **(A), a sum equal to the amount out-**
13 **standing is recoverable by the Gov-**
14 **ernment from the employee (or the**
15 **employee's estate, if applicable) by—**

16 **(i) setoff against accrued pay,**
17 **compensation, amount of retire-**
18 **ment credit, or another amount**
19 **due the employee from the Gov-**
20 **ernment; and**

21 **(ii) such other method as is**
22 **provided by law for the recovery**
23 **of amounts owing to the Govern-**
24 **ment.**

1 **The head of the agency concerned**
2 **may waive, in whole or in part, a**
3 **right of recovery under this para-**
4 **graph if it is shown that recovery**
5 **would be against equity and good**
6 **conscience or against the public in-**
7 **terest.**

8 **(C) TREATMENT OF AMOUNTS REPAYED**
9 **OR RECOVERED.—Any amount repaid**
10 **by, or recovered from, an individual**
11 **(or an estate) under this paragraph**
12 **shall be credited to the appropria-**
13 **tion, fund, or account from which the**
14 **amount involved was originally paid.**

15 **(3) DEPOSIT TO BE BASED ON AMOUNT OF**
16 **REFUND ACTUALLY RECEIVED.—For pur-**
17 **poses of applying sections 8334(d)(1) and**
18 **8339(i) of title 5, United States Code, in**
19 **the case of an employee described in sub-**
20 **section (a) who has received a refund of**
21 **deductions that are attributable to a pe-**
22 **riod when the employee was erroneously**
23 **CSRS-Offset covered, nothing in either of**
24 **those sections shall be considered to re-**
25 **quire that, in order to receive credit for**

1 that period as a CSRS-covered employee,
2 a deposit be made in excess of the refund
3 actually received for such period, plus in-
4 terest.

5 SEC. 153. EFFECT OF AN ELECTION TO BE RESTORED TO
6 CSRS-OFFSET AFTER HAVING BEEN COR-
7 RECTED TO CSRS.

8 (a) **APPLICABILITY.**—This section shall
9 apply in the case of any employee affected by
10 an error described in section 151(a) who
11 elects the option available to such employee
12 under section 151(c)(1).

13 (b) **DISPOSITION OF CONTRIBUTIONS TO THE**
14 **CSRDF.**—In the case of an employee de-
15 scribed in subsection (a), the provisions of
16 section 102(b) shall apply, except that, in ap-
17 plying such provisions—

18 (1) “the applicable provisions of sec-
19 tion 8334” shall be substituted for “sec-
20 tion 8422” in paragraph (1)(B)(ii)(II)
21 thereof; and

22 (2) “the applicable provisions of sec-
23 tion 8334” shall be substituted for “sec-
24 tion 8423” in paragraph (2)(B)(ii)(II)
25 thereof.

1 **Subtitle G—Additional Provisions**
2 **Relating to Government Agencies**

3 **SEC. 161. REPAYMENT REQUIRED IN CERTAIN SITUATIONS.**

4 (a) **IN GENERAL.**—An individual who pre-
5 viously received a payment ordered by a
6 court or provided as a settlement of claim for
7 losses resulting from a retirement coverage
8 error shall not be entitled to make an election
9 under this Act unless repayment of the
10 amount so received by such individual is
11 waived in whole or in part by the Office of
12 Personnel Management, and any amount not
13 waived is repaid.

14 (b) **REGULATIONS.**—Any repayment under
15 this section shall be made in accordance with
16 regulations prescribed by the Office.

17 **SEC. 162. EQUITABLE SHARING OF AMOUNTS PAYABLE**

18 **FROM THE GOVERNMENT IF MORE THAN ONE**

19 **AGENCY INVOLVED.**

20 **The Office of Personnel Management shall**
21 **by regulation prescribe rules under which, in**
22 **the case of an employee who has been em-**
23 **ployed in or under more than 1 agency since**
24 **the date of the retirement coverage error in-**
25 **volved (and before its rectification under this**

1 Act), any contributions or other amounts re-
2 quired to be paid from the then current em-
3 ploying agency (other than lost earnings
4 under section 163(a)(2)) shall be equitably al-
5 located between or among the appropriate
6 agencies.

7 SEC. 163. PROVISIONS RELATING TO THE ORIGINAL RE-
8 SPONSIBLE AGENCY.

9 (a) OBLIGATIONS OF THE ORIGINAL RESPON-
10 SIBLE AGENCY.—

11 (1) EXPENSES FOR SERVICES OF FINAN-
12 CIAL ADVISOR.—The Office of Personnel
13 Management shall by regulation pre-
14 scribe rules under which, in the case of
15 any employee eligible to make an election
16 under this Act, the original responsible
17 agency (as determined under succeeding
18 provisions of this section) shall pay (or
19 make reimbursement for) any reasonable
20 expenses incurred by such employee for
21 services received from any licensed fi-
22 nancial or legal consultant or advisor in
23 connection with such election.

24 (2) SPECIAL RULE.—Such regulations
25 shall also include provisions to ensure

1 that, to the extent lost earnings under
2 the Thrift Savings Fund are involved in
3 connection with a particular error, the
4 original responsible agency shall pay (or
5 reimburse any other agency that pays)
6 any amounts to the Thrift Savings Fund
7 representing lost earnings with respect
8 to such error.

9 **(b) ORIGINAL RESPONSIBLE AGENCY DE-**
10 **FINED.—**For purposes of this Act, the term
11 **“original responsible agency”,** with respect to
12 **a retirement coverage error affecting an em-**
13 **ployee, means—**

14 (1) except in the situation described
15 in paragraph (2), the agency determined
16 by the Office of Personnel Management
17 to have made the initial retirement cov-
18 erage error (including one made before
19 January 1, 1984); or

20 (2) if the error is attributable, in
21 whole or in part, to an erroneous regula-
22 tion promulgated by the Office of Person-
23 nel Management, such Office.

24 **(c) PROCEDURES FOR IDENTIFYING THE**
25 **ORIGINAL RESPONSIBLE AGENCY.—**

1 **(1) IN GENERAL.—**For purposes of this
2 **section, the original responsible agency,**
3 **in any situation to which this section ap-**
4 **plies, shall be identified by the Office of**
5 **Personnel Management in accordance**
6 **with regulations which the Office shall**
7 **prescribe.**

8 **(2) FINALITY.—**A determination made
9 **by the Office under this subsection shall**
10 **be final and not subject to any review.**

11 **(d) IF ORIGINAL RESPONSIBLE AGENCY NO**
12 **LONGER EXISTS.—**If the agency which (before
13 **the application of this subsection) is identi-**
14 **fied as the original responsible agency no**
15 **longer exists (whether because of a reorga-**
16 **nization or otherwise)—**

17 **(1) the successor agency (as deter-**
18 **mined under regulations prescribed by**
19 **the Office) shall be treated as the original**
20 **responsible agency; or**

21 **(2) if none, this section shall be ap-**
22 **plied by substituting the CSRDF for the**
23 **original responsible agency.**

24 **(e) SOURCE OF PAYMENTS IF ERROR DUE TO**
25 **ERRONEOUS OPM REGULATIONS.—**In any case

1 in which the Office of Personnel Management
2 is the original responsible agency by reason
3 of subsection (b)(2), any amounts payable
4 from the Office under this section shall be
5 payable from the CSRDF.

6 **TITLE II—GENERAL PROVISIONS**

7 **SEC. 201. IDENTIFICATION AND NOTIFICATION REQUIRE-** 8 **MENTS.**

9 (a) **IN GENERAL.**—The Office of Personnel
10 Management shall prescribe regulations
11 under which Government agencies shall take
12 such measures as may be necessary to ensure
13 that all individuals who are (or have been) af-
14 fected by a retirement coverage error giving
15 rise to any election or automatic change in re-
16 tirement coverage under this Act shall be
17 promptly identified and notified in accord-
18 ance with this section.

19 (b) **MATTER TO BE INCLUDED IN NOTICE TO**
20 **INDIVIDUALS.**—Any notice furnished under this
21 section shall be made in writing and shall in-
22 clude at least the following:

23 (1) **DESCRIPTION OF ERROR.**—A descrip-
24 tion of the error involved, including a
25 clear and concise explanation as to why

1 **the original retirement coverage deter-**
2 **mination was erroneous, citations to (and**
3 **a summary description of) the pertinent**
4 **provisions of law, and how that deter-**
5 **mination should instead have been made.**

6 **(2) METHOD FOR RECTIFICATION.—How**
7 **the error is to be rectified under this Act,**
8 **including whether rectification will be**
9 **achieved through an automatic change in**
10 **retirement coverage (and, if so, the time,**
11 **form, and manner in which that change**
12 **will be effected) or an election.**

13 **(3) ELECTION PROCEDURES, ETC.—If an**
14 **election is provided under this Act, all**
15 **relevant information as to how such an**
16 **election may be made, the options avail-**
17 **able, the differences between those re-**
18 **spective options (as further specified in**
19 **succeeding provisions of this subsection),**
20 **and the consequences of failing to make a**
21 **timely election.**

22 **(4) ACCRUED BENEFITS, ETC.—With re-**
23 **spect to the (or each) retirement system**
24 **by which the individual is then covered**

1 (disregarding the Thrift Savings Plan),
2 and to the extent applicable:

3 (A) A brief summary of any bene-
4 fits accrued.

5 (B) The amount of employee con-
6 tributions made to date and the effect
7 of any applicable disposition rules re-
8 lating thereto (including provisions
9 relating to excess amounts or short-
10 falls).

11 (C) The amount of any Govern-
12 ment contributions made to date and
13 the effect of any applicable disposi-
14 tion rules relating thereto (including
15 provisions relating to excess amounts
16 or shortfalls).

17 (5) THRIFT SAVINGS FUND.—With re-
18 spect to the Thrift Savings Fund, the bal-
19 ance that then is (or would be) credited
20 to the individual's account depending on
21 the option chosen, with any such balance
22 to be shown both in the aggregate and
23 broken down by—

24 (A) individual contributions,

1 **(B) automatic (1 percent) Govern-**
2 **ment contributions, and**

3 **(C) matching Government con-**
4 **tributions,**

5 **including lost earnings on each and the**
6 **extent to which any makeup contribu-**
7 **tions or forfeitures would be involved.**

8 **(6) OASDI BENEFITS.—Such informa-**
9 **tion regarding benefits under title II of**
10 **the Social Security Act as the Commis-**
11 **sioner of Social Security considers appro-**
12 **priate.**

13 **(7) OTHER INFORMATION.—Any other**
14 **information that the Director of the Of-**
15 **ice of Personnel Management may by**
16 **regulation prescribe after consultation**
17 **with the Executive Director of the Fed-**
18 **eral Retirement Thrift Investment Board**
19 **and such other agency heads as the Di-**
20 **rector considers appropriate, including**
21 **any appeal rights available to the indi-**
22 **vidual.**

23 **(c) COMPARISONS.—Any amounts required**
24 **to be included under subsection (b)(4) shall,**

1 with respect to the respective retirement sys-
2 tems involved, be determined—

3 (1) as of the date the retirement cov-
4 erage error was corrected (if applicable);

5 (2) as of the then most recent date for
6 which those benefits and amounts are as-
7 certainable, assuming no change in re-
8 tirement coverage; and

9 (3) as of the then most recent date for
10 which those benefits and amounts are as-
11 certainable, assuming the alternative op-
12 tion is chosen.

13 (d) PAST ERRORS.—All measures required
14 under this section shall, with respect to errors
15 preceding the date specified in section 206(e)
16 (relating to the effective date for all regula-
17 tions prescribed under this Act), be completed
18 no later than December 31, 2001.

19 SEC. 202. INDIVIDUAL APPEAL RIGHTS.

20 (a) IN GENERAL.—An individual aggrieved
21 by a final determination under this Act shall
22 be entitled to appeal such determination to
23 the Merit Systems Protection Board under
24 section 7701 of title 5, United States Code.

1 **(b) NOTIFICATION APPEALS.—The Office of**
2 **Personnel Management shall by regulation es-**
3 **tablish procedures under which individuals**
4 **may bring an appeal to the Office with re-**
5 **spect to any failure to have been properly no-**
6 **tified in accordance with section 201. A final**
7 **determination under this subsection shall be**
8 **appealable under subsection (a).**

9 **SEC. 203. INFORMATION TO BE FURNISHED BY GOVERN-**
10 **MENT AGENCIES TO AUTHORITIES ADMIN-**
11 **ISTERING THIS ACT.**

12 **(a) APPLICABILITY.—The authorities identi-**
13 **fied in this subsection are:**

14 **(1) The Director of the Office of Per-**
15 **sonnel Management.**

16 **(2) The Commissioner of Social Secu-**
17 **rity.**

18 **(3) The Executive Director of the Fed-**
19 **eral Retirement Thrift Investment Board.**

20 **(b) AUTHORITY TO OBTAIN INFORMATION.—**
21 **Each authority identified in subsection (a)**
22 **may secure directly from any department or**
23 **agency of the United States information nec-**
24 **essary to enable such authority to carry out**
25 **its responsibilities under this Act. Upon re-**

1 **quest of the authority involved, the head of**
2 **the department or agency involved shall fur-**
3 **nish that information to the requesting au-**
4 **thority.**

5 **(c) LIMITATION; SAFEGUARDS.—Each of the**
6 **respective authorities under subsection (a)—**

7 **(1) shall request only such informa-**
8 **tion as that authority considers nec-**
9 **essary; and**

10 **(2) shall establish, by regulation or**
11 **otherwise, appropriate safeguards to en-**
12 **sure that any information obtained under**
13 **this section shall be used only for the**
14 **purpose authorized.**

15 **SEC. 204. SOCIAL SECURITY RECORDS.**

16 **Notwithstanding any limitations in sec-**
17 **tion 205 of the Social Security Act regarding**
18 **the modification of wage records maintained**
19 **by the Commissioner of Social Security for**
20 **purposes of title II of such Act, the Commis-**
21 **sioner of Social Security shall modify the**
22 **wage record of each employee affected by a**
23 **retirement coverage error to change, add, or**
24 **delete any entry regarding service as an em-**
25 **ployee to the extent necessary to carry out the**

1 **purposes of this Act or the Social Security**
2 **Act.**

3 **SEC. 205. CONFORMING AMENDMENTS RESPECTING SO-**
4 **CIAL SECURITY COVERAGE AND OASDI**
5 **TAXES.**

6 **(a) SOCIAL SECURITY COVERAGE.—Section**
7 **210(a)(5)(H) of the Social Security Act (42**
8 **U.S.C. 410(a)(5)(H)) is amended—**

9 **(1) in clause (i) by striking “or” at the**
10 **end;**

11 **(2) in clause (ii) by striking the semi-**
12 **colon and inserting “, or”; and**

13 **(3) by adding at the end the follow-**
14 **ing:**

15 **“(iii)(I) described in section**
16 **111(a)(3) of the Federal Retire-**
17 **ment Coverage Corrections Act,**
18 **on or after the effective date of an**
19 **election (or deemed election) by**
20 **such individual under section**
21 **111(b)(2) of such Act,**

22 **“(II) described in section**
23 **131(a)(1) of such Act, on or after**
24 **the effective date of an election**
25 **(or deemed election) by such indi-**

1 **vidual under subsection (b)(2) or**
2 **(c)(1) of section 131 of such Act,**
3 **or**

4 **“(III) described in section**
5 **151(a) of such Act, on or after the**
6 **effective date of an election (or**
7 **deemed election) by such individ-**
8 **ual under subsection (b)(2) or**
9 **(c)(1) of section 151 of such Act;”.**

10 **(b) OASDI TAXES.—Section 3121(b)(5)(H) of**
11 **the Internal Revenue Code of 1986 is amend-**
12 **ed—**

13 **(1) in clause (i) by striking “or” at the**
14 **end;**

15 **(2) in clause (ii) by striking the semi-**
16 **colon and inserting “, or”; and**

17 **(3) by adding at the end the follow-**
18 **ing:**

19 **“(iii)(I) described in section**
20 **111(a)(3) of the Federal Retire-**
21 **ment Coverage Corrections Act,**
22 **on or after the effective date of an**
23 **election (or deemed election) by**
24 **such individual under section**
25 **111(b)(2) of such Act,**

1 “(II) described in section
2 131(a)(1) of such Act, on or after
3 the effective date of an election
4 (or deemed election) by such indi-
5 vidual under subsection (b)(2) or
6 (c)(1) of section 131 of such Act,
7 or

8 “(III) described in section
9 151(a) of such Act, on or after the
10 effective date of an election (or
11 deemed election) by such individ-
12 ual under subsection (b)(2) or
13 (c)(1) of section 151 of such Act;”.

14 SEC. 206. REGULATIONS.

15 (a) IN GENERAL.—Any regulations nec-
16 essary to carry out this Act shall be pre-
17 scribed by the Director of the Office of Per-
18 sonnel Management, the Executive Director
19 of the Federal Retirement Thrift Investment
20 Board, the Commissioner of Social Security,
21 the Secretary of the Treasury, and any other
22 appropriate authority, with respect to mat-
23 ters within their respective areas of jurisdic-
24 tion.

1 **(b) MATTERS TO BE INCLUDED.—The regula-**
2 **tions prescribed by the Director of the Office**
3 **of Personnel Management shall include at**
4 **least the following:**

5 **(1) FORMER EMPLOYEES, ANNUITANTS,**
6 **AND SURVIVOR ANNUITANTS.—**

7 **(A) IN GENERAL.—Provisions under**
8 **which, to the maximum extent prac-**
9 **ticable and in appropriate cir-**
10 **cumstances, any election available to**
11 **an employee under subtitle A, B, D, or**
12 **F of title I shall be available to a**
13 **former employee, annuitant, or sur-**
14 **vivor annuitant.**

15 **(B) SUBTITLE C SITUATIONS.—Provi-**
16 **sions under which subtitle C of title I**
17 **shall apply in the case of a former**
18 **employee.**

19 **(C) SUBTITLE E SITUATIONS.—Provi-**
20 **sions under which the purposes of**
21 **this paragraph shall be carried with**
22 **respect to any situation under sub-**
23 **title E of title I.**

24 **(2) FORMER SPOUSES.—Provisions**
25 **under which appropriate notification**

1 shall be afforded to any former spouse af-
2 fected by a change in retirement cov-
3 erage pursuant to this Act.

4 (3) PROCEDURAL REQUIREMENTS.—Pro-
5 visions establishing the procedural re-
6 quirements in accordance with which
7 any determinations under this Act (not
8 otherwise addressed in this Act) shall be
9 made, in conformance with the require-
10 ments of this Act.

11 (4) AUTHORITY TO MAKE ACTUARIAL RE-
12 DUCION IN ANNUITY BY REASON OF CERTAIN
13 UNPAID AMOUNTS.—Provisions under
14 which any payment required to be made
15 by an individual to the Government in
16 order to make an election under this Act
17 which remains unpaid may be made by a
18 reduction in the appropriate annuity or
19 survivor annuity. The reduction shall, to
20 the extent practicable, be designed so
21 that the present value of the future re-
22 duction is actuarially equivalent to the
23 amount so required.

24 (c) DEFINITIONS.—For purposes of this sec-
25 tion—

1 (1) the term “annuitant” means any
2 individual who is an annuitant as defined
3 by section 8331(9) or 8401(2) of title 5,
4 United States Code; and

5 (2) the term “former employee” in-
6 cludes any former employee who satisfies
7 the service requirement for title to a de-
8 ferred annuity under chapter 83 or 84 of
9 such title 5 (as applicable), but—

10 (A) has not attained the minimum
11 age required for title to such an an-
12 nuity; or

13 (B) has not filed claim therefor.

14 (d) COORDINATION RULE.—In prescribing
15 regulations to carry out this Act, the Director
16 of the Office of Personnel Management shall
17 consult with—

18 (1) the Administrative Office of the
19 United States Courts;

20 (2) the Clerk of the House of Rep-
21 resentatives;

22 (3) the Sergeant at Arms and Door-
23 keeper of the Senate; and

24 (4) other appropriate officers or au-
25 thorities.

1 such shortfall from the general fund of the
2 Treasury to the OASDI trust funds.

3 SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.

4 (a) AMENDMENT RELATING TO LIMITATION ON
5 SOURCES FROM WHICH CONTRIBUTIONS TO THE
6 THRIFT SAVINGS FUND ARE ALLOWED.—Section
7 8432(h) of title 5, United States Code, is
8 amended by striking “title.” and inserting
9 “title or the Federal Retirement Coverage
10 Corrections Act.”.

11 (b) DESCRIPTION OF AMOUNTS COMPRISING
12 THE THRIFT SAVINGS FUND.—Section 8437(b) of
13 title 5, United States Code, is amended by
14 striking “expenses).” and inserting “ex-
15 penses), as well as contributions under the
16 Federal Retirement Coverage Corrections Act
17 (and lost earnings made up under such Act).”.

18 (c) ADMINISTRATIVE EXPENSES.—

19 (1) THRIFT SAVINGS PLAN.—Section
20 8437(d) of title 5, United States Code, is
21 amended by inserting “(including the
22 provisions of the Federal Retirement
23 Coverage Corrections Act that relate to
24 this subchapter)” after “this subchapter”.

1 (1) any individual aggrieved by a
2 final determination shall appeal such de-
3 termination to the Foreign Service Griev-
4 ance Board instead of the Merit Systems
5 Protection Board under section 202; and

6 (2) the Secretary of State shall per-
7 form the functions and exercise the au-
8 thority vested in the Office of Personnel
9 Management or the Director of the Office
10 of Personnel Management under this Act.

11 (b) CENTRAL INTELLIGENCE AGENCY.—Sec-
12 tions 292 and 301 of the Central Intelligence
13 Agency Retirement Act (50 U.S.C. 2141 and
14 2151) shall apply with respect to this Act in
15 the same manner as if this Act were part of—

16 (1) the Civil Service Retirement Sys-
17 tem, to the extent this Act relates to the
18 Civil Service Retirement System; and

19 (2) the Federal Employees' Retire-
20 ment System, to the extent this Act re-
21 lates to the Federal Employees' Retire-
22 ment System.

1 **SEC. 302. PROVISIONS TO PREVENT REDUCTIONS IN FORCE**
2 **AND ANY UNFUNDED LIABILITY IN THE**
3 **CSRDF.**

4 **(a) PROVISIONS TO PREVENT REDUCTIONS IN**
5 **FORCE.—**

6 **(1) LIMITATION.—An agency required**
7 **to make any payments under this Act**
8 **may not conduct any reduction in force**
9 **solely by reason of any current or antici-**
10 **pated lack of funds attributable to such**
11 **payments.**

12 **(2) ALTERNATIVE REQUIRED.—In the**
13 **circumstance described in paragraph (1),**
14 **any cost savings that (but for this sub-**
15 **section) would otherwise be sought**
16 **through reductions in force shall instead**
17 **be achieved through attrition and limita-**
18 **tions on hiring.**

19 **(b) PROVISIONS TO PREVENT UNFUNDED LI-**
20 **ABILITY.—**

21 **(1) IN GENERAL.—For purposes of sec-**
22 **tion 8348(f) of title 5, United States Code,**
23 **any unfunded liability in the CSRDF cre-**
24 **ated as a result of an election made (or**
25 **deemed to have been made) under this**
26 **Act, as determined by the Office of Per-**

1 **sonnel Management, shall be considered**
2 **a new benefit payable from the CSRDF.**

3 **(2) COORDINATION RULE.—Paragraph**
4 **(1) shall not apply to the extent that sub-**
5 **section (h), (i), or (m) of section 8348 of**
6 **title 5, United States Code, would other-**
7 **wise apply.**

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 indi-**
12 **vidual from bringing a claim against the Gov-**
13 **ernment of the United States which such indi-**
14 **vidual may have under section 1346(b) or**
15 **chapter 171 of title 28, United States Code, or**
16 **any other provision of law (except to the ex-**
17 **tent the claim is for any amounts otherwise**
18 **provided for under this Act).**

19 **SEC. 304. EXTENSION OF OPEN ENROLLMENT PERIOD TO**
20 **EMPLOYEES UNDER THE FOREIGN SERVICE**
21 **RETIREMENT AND DISABILITY SYSTEM.**

22 **Section 860 of the Foreign Service Act of**
23 **1980 (22 U.S.C. 4071i) is amended by inserting**
24 **after the first sentence the following: “The**
25 **Secretary of State shall, in addition, issue reg-**

1 **ulations providing for an election for cov-**
2 **erage under the Foreign Service Pension Sys-**
3 **tem for employees covered under the Foreign**
4 **Service Retirement and Disability System**
5 **comparable to the election provided for by**
6 **the Federal Employees' Retirement System**
7 **Open Enrollment Act of 1997.”.**

8 **TITLE IV—TAX PROVISIONS**

9 **SEC. 401. TAX PROVISIONS.**

10 **(a) PLAN QUALIFICATION.—No retirement**
11 **plan of the United States (or any agency**
12 **thereof) shall fail to be treated as a qualified**
13 **plan under the Internal Revenue Code of 1986**
14 **by reason of any action taken under this Act.**

15 **(b) TRANSFERS.—For purposes of the Inter-**
16 **nal Revenue Code of 1986, no amount shall be**
17 **includible in the gross income of any individ-**
18 **ual by reason of any direct transfer under this**
19 **Act between funds or any Government con-**
20 **tribution under this Act to any fund or ac-**
21 **count, and no amount shall be subject to tax**
22 **under subtitle C of such Code by reason of**
23 **any such transfer or contribution.**