

Public Law 105-274
105th Congress

An Act

To make technical corrections to the National Capital Revitalization and Self-Government Improvement Act of 1997 with respect to the courts and court system of the District of Columbia.

Oct. 21, 1998
(H.R. 4566)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of
Columbia Courts
and Justice
Technical
Corrections Act
of 1998.
5 USC 8401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Courts and Justice Technical Corrections Act of 1998".

SEC. 2. TECHNICAL AND CLARIFYING AMENDMENTS RELATING TO JUDICIAL RETIREMENT PROGRAM.

(a) ADMINISTRATION OF JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.—Section 11-1570, District of Columbia Code, as amended by section 11251 of the Balanced Budget Act of 1997, is amended as follows:

(1) In subsection (b)(1)—

(A) by striking "title I of the National Capital Revitalization and Self-Government Improvement Act of 1997" and inserting "subtitle A of title XI of the Balanced Budget Act of 1997"; and

(B) by inserting after the second sentence the following new sentences: "Notwithstanding any other provision of District law or any other law, rule, or regulation, any Trustee, contractor, or enrolled actuary selected by the Secretary under this subsection may, with the approval of the Secretary, enter into one or more subcontracts with the District of Columbia government or any person to provide services to such Trustee, contractor, or enrolled actuary in connection with its performance of its agreement with the Secretary. Such Trustee, contractor, or enrolled actuary shall monitor the performance of any subcontract to which it is a party and enforce its provisions."

(2) In subsection (b)(2)—

(A) by striking "chief judges of the District of Columbia Court of Appeals and Superior Court of the District of Columbia" and inserting "Secretary";

(B) by striking "and the Secretary";

(C) by striking "and appropriations"; and

(D) by striking "and deficiency".

(3) By amending subsection (c) to read as follows:

"(c)(1) Amounts in the Fund are available—

"(A) for the payment of judges retirement pay, annuities, refunds, and allowances under this subchapter;

"(B) to cover the reasonable and necessary expenses of administering the Fund under any agreement entered into with a Trustee, contractor, or enrolled actuary under subsection (b)(1), including any agreement with a department, agency, or instrumentality of the United States; and

"(C) to cover the reasonable and necessary administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under this subchapter.

"(2) Notwithstanding any other provision of District law or any other law (other than the Internal Revenue Code of 1986), rule, or regulation—

"(A) the Secretary may review benefit determinations under this subchapter made prior to the date of the enactment of the Balanced Budget Act of 1997, and shall make initial benefit determinations after such date; and

"(B) the Secretary may recoup, or recover, or waive recoupment or recovery of, any amounts paid under this subchapter as a result of errors or omissions by any person."

(4) In subsection (d)(1)—

(A) by striking "Subject to the availability of appropriations, there shall be deposited into the Fund" and inserting "The Secretary shall pay into the Fund from the General Fund of the Treasury"; and

(B) by striking "(beginning with the first fiscal year which ends more than 6 months after the replacement plan adoption date described in section 103(13) of the National Capital Revitalization and Self-Government Improvement Act of 1997)".

(5) In subsection (d)(2)(A)—

(A) by striking "June 30, 1997" and inserting "September 30, 1997"; and

(B) by striking "net the sum of future normal cost" and inserting "net of the sum of the present value of future normal costs".

(6) In subsection (d)(3), by striking "shall be taken from sums available for that fiscal year for the payment of the expenses of the Court, and".

(7) By adding at the end the following new subsections:

"(h) For purposes of the Employee Retirement Income Security Act of 1974, the benefits provided by the Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

"(i) Federal obligations for benefits under this subchapter are backed by the full faith and credit of the United States."

(b) REGULATORY AUTHORITY OF SECRETARY.—Section 11251 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 756) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) REGULATIONS; EFFECT ON REFORM ACT.—Title 11, District of Columbia Code, is amended by adding the following new section:

§ 11-1572. Regulations; effect on Reform Act.

"(a) The Secretary is authorized to issue regulations to implement, interpret, administer, and carry out the purposes of this subchapter, and, in the Secretary's discretion, those regulations

may have retroactive effect, except that nothing in this subsection may be construed to permit the Secretary to issue any regulation to retroactively reduce or eliminate the benefits to which any individual is entitled under this subchapter.

(b) This subchapter supersedes any provision of the District of Columbia Retirement Reform Act (Public Law 96-122) inconsistent with this subchapter and the regulations thereunder; and

(3) by amending subsection (c) (as so redesignated) to read as follows:

“(c) CLERICAL AMENDMENTS.—

“(1) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by amending the item relating to section 11-1570 to read as follows:

‘11-1570. The District of Columbia Judicial Retirement and Survivors Annuity Fund.’

“(2) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by adding at the end the following new item:

‘11-1572. Regulations; effect on Reform Act.’”

(c) TERMINATION OF PREVIOUS FUND AND PROGRAM.—Section 124 of the District of Columbia Retirement Reform Act (DC Code, sec. 1-714), as amended by section 11252(a) of the Balanced Budget Act of 1997, is amended—

(1) in subsection (a), by inserting “(except as provided in section 11-1570, District of Columbia Code)” after “the following”;

(2) in subsection (c)(1), by striking “title I of the National Capital Revitalization and Self-Government Improvement Act of 1997” and inserting “subtitle A of title XI of the Balanced Budget Act of 1997”; and

(3) in subsection (c)(2)—

(A) by striking “(2) The” and inserting “(2) In accordance with the direction of the Secretary, the”;

(B) by striking “in the Treasury” and inserting “at the Board”; and

(C) by striking “appropriated” and inserting “used”.

(d) ADMINISTRATION OF RETIREMENT FUNDS.—Section 11252 of the Balanced Budget Act of 1997 is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

“(b) TRANSITION FROM DISTRICT OF COLUMBIA ADMINISTRATION.—Sections 11023, 11032(b)(2), 11033(d), and 11041 shall apply to the administration of the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1-714), the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11-1570, District of Columbia Code, and the retirement program for judges under subchapter III of chapter 15 of title 11, District of Columbia Code, except as follows:

“(1) In applying each such section—

“(A) any reference to this subtitle shall instead refer to subchapter III of chapter 15 of title 11, District of Columbia Code;

“(B) any reference to the District Retirement Program shall be deemed to include the retirement program for

111 Stat. 758.

Applicability.

judges under subchapter III of chapter 15 of title 11, District of Columbia Code;

"(C) any reference to the District Retirement Fund shall be deemed to include the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act;

"(D) any reference to Federal benefit payments shall be deemed to include judges retirement pay, annuities, refunds, and allowances under subchapter III of chapter 15 of title 11, District of Columbia Code;

"(E) any reference to the Trust Fund shall instead refer to the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11-1570, District of Columbia Code;

"(F) any reference to section 11033 shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

"(G) any reference to chapter 2 shall instead refer to section 11-1570, District of Columbia Code.

"(2) In applying section 11023—

"(A) any reference to the contract shall instead refer to the agreement referred to in section 11-1570(b), District of Columbia Code; and

"(B) any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11-1570(b), District of Columbia Code.

"(3) In applying section 11033(d)—

"(A) any reference to this section shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

"(B) any reference to the Trustee shall instead refer to the Secretary or the Trustee or contractor referred to in section 11-1570(b), District of Columbia Code.

"(4) In applying section 11041(b), any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11-1570(b), District of Columbia Code."; and

(3) by adding at the end the following new subsection:

"(d) EFFECTIVE DATE.—The provisions of subsection (c) shall take effect on the date on which the assets of the District of Columbia Judges Retirement Fund are transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund."

(e) MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Sections 11-1568(d) and 11-1569, District of Columbia Code, are each amended by striking "Mayor" each place it appears and inserting "Secretary of the Treasury".

(2) Section 11-1568.2, District of Columbia Code, is amended by striking "Mayor of the District of Columbia" each place it appears and inserting "Secretary of the Treasury".

(3) Section 121(b)(1)(A) of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1-711(b)(1)(A)), as amended by section 11252(c)(1) of the Balanced Budget Act of 1997 (as redesignated by subsection (d)(1)), is amended in the matter preceding clause (i), by striking "11" and inserting "12".

(4) Section 11-1561(4), District of Columbia Code, as amended by section 11253(b) of the Balanced Budget Act of 1997, is amended by striking "sections" and inserting "section".

(5) Section 11253(c) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 759) is amended to read as follows:

"(c) TREATMENT OF FEDERAL SERVICE OF JUDGES.—Section 11-1564, District of Columbia Code, is amended—

"(1) in subsection (d)(2)(A), by striking 'section 1-1814' and inserting 'section 1-714) or the District of Columbia Judicial Retirement and Survivors Annuity Fund (established by section 11-1570); and

"(2) in subsection (d)(4), by striking 'Judges Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act' and inserting 'Judicial Retirement and Survivors Annuity Fund under section 11-1570'."

(6) Section 11253 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 759) is amended by adding at the end the following new subsection:

"(d) REDEPOSITS TO FUND.—Section 11-1568.1(4)(A), District of Columbia Code, is amended by striking 'Judges Retirement Fund' and inserting 'Judicial Retirement and Survivors Annuity Fund'."

(f) EFFECTIVE DATE.—The amendments made by subsections (a)(2), (a)(4), and (a)(6) shall take effect October 1, 1998.

SEC. 3. RETIREMENT ELECTION FOR CERTAIN FORMER EMPLOYEES OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Notwithstanding any provision of the District of Columbia Code, or of chapter 83 or chapter 84 of title 5, United States Code, a former employee of the District of Columbia who is hired by the Department of Justice, or by the agency established by section 11233(a) of the Balanced Budget Act of 1997 (hereafter in this section referred to as the "Agency"), on or after August 5, 1997, may elect, within 60 days after the issuance of regulations pursuant to subsection (c), or within 60 days of being hired, if later, to be covered by the retirement system of the District of Columbia under which the person was most recently covered. No election under this subsection may be made by a person who is hired more than one year after the date on which the Lorton Correctional Complex is closed, or more than one year after the date on which the Agency assumes its duties, whichever is later.

(b) PERIOD OF ELECTION.—The election authorized by subsection (a) shall remain in force until the employee is no longer employed by the agency in which he or she was employed at the time the election was made.

(c) REGULATIONS.—The election authorized by subsection (a) shall be in accordance with regulations issued by the Office of Personnel Management after consulting with the Department of Justice, the Agency, and the government of the District of Columbia. The government of the District of Columbia shall administer the retirement coverage for any employee making such an election.

SEC. 4. LEAVE FOR CERTAIN FORMER EMPLOYEES OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Notwithstanding any provision of law, a former employee of the District of Columbia who is hired by the Department of Justice, or by the agency established by section 11233(a) of the Balanced Budget Act of 1997 (hereafter in this section referred to as the "Agency"), on or after August 5, 1997, shall—

(1) in determining the rate of accrual of annual leave under section 6303 of title 5, United States Code, be entitled to credit for service as an employee of the District of Columbia;

(2) to the extent that the employee has not used or otherwise been compensated for annual leave accrued as an employee of the District of Columbia, have all such accrued annual leave transferred, in accordance with the procedures established under section 6308 of title 5, United States Code, to the credit of the employee in the new employing agency; and

(3) to the extent the employee has not used or otherwise been compensated for sick leave accrued as an employee of the District of Columbia, have all such accrued sick leave transferred, in accordance with the procedures established under section 6308 of title 5, United States Code, to the credit of the employee in the new employing agency.

(b) **TERMINATION.**—Subsection (a) is not applicable to any former employee of the District of Columbia who is hired by the Department of Justice or the Agency more than one year after the date on which the Lorton Correctional Complex is closed, or more than one year after the date on which the Agency assumes its duties, whichever is later.

SEC. 6. CLARIFICATION OF PROVISIONS RELATING TO PRIORITY CONSIDERATION FOR SEPARATED EMPLOYEES OF THE DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS.

111 Stat. 738.

(a) **IN GENERAL.**—Section 11203(b) of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1203(b)) is amended by amending the second sentence to read as follows: "The priority consideration program shall also include provisions under which an employee described in subsection (a) who has not been appointed to a Federal Bureau of Prisons law enforcement position and who applies for another Federal position in the competitive service shall receive priority consideration and may be given a competitive service appointment noncompetitively to such a competitive service position."

(b) **RELOCATION ALLOWANCE.**—Section 11203(b) of such Act (D.C. Code, sec. 24-1203(b)) is amended by inserting after the second sentence the following: "The Director of the Bureau of Prisons may provide a relocation allowance to any individual who is hired by the Director under the program established under this section for a position outside of the Washington Metropolitan Area."

(c) **EFFECTIVE DATE; TREATMENT OF INDIVIDUALS GIVEN PRIORITY PRIOR TO ENACTMENT.**—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Individuals who have been appointed with excepted service appointments under section 11203(b) of the Balanced Budget Act of 1997 prior to the date of the enactment of this Act shall be converted noncompetitively to competitive service appointments in their current positions.

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO DISTRICT OF COLUMBIA COURTS.

(a) **AUTHORITY OF JOINT COMMITTEE ON JUDICIAL ADMINISTRATION TO EXCLUDE TEMPORARY EMPLOYEES FROM FERS.**—Section 8402(c) of title 5, United States Code, is amended by adding at the end the following:

"(9) The Joint Committee on Judicial Administration in the District of Columbia may exclude from the operation of this chapter an employee of the District of Columbia Courts whose employment is temporary or of uncertain duration."

(b) **REPEAL OF FUNDING THROUGH STATE JUSTICE INSTITUTE.—**

(1) **FUNDING OF COURTS.—**Section 11241(a) of the Balanced Budget Act of 1997 (D.C. Code, sec. 11-1743 note) and section 11-2608, District of Columbia Code (as amended by section 11262(b) of the Balanced Budget Act of 1997) are each amended by striking "through the State Justice Institute" and inserting "for payment to the Joint Committee on Judicial Administration in the District of Columbia". 111 Stat. 751.

(2) **FUNDING OF OTHER AGENCIES.—**Section 11234 of such Act (D.C. Code, sec. 24-1234) is amended by striking "through the State Justice Institute". 111 Stat. 751.

(c) **OTHER MISCELLANEOUS TECHNICAL AND CONFORMING AMENDMENTS.—**(1) Section 11241(b) of the Balanced Budget Act of 1997 (D.C. Code, sec. 11-1743 note) is amended by striking "Superior Court for" and inserting "Superior Court of".

(2)(A) Section 1 of the Act entitled "An Act for the establishment of a probation system for the District of Columbia", approved June 25, 1910 (36 Stat. 864), as amended and reenacted by the Act entitled "An Act to amend and reenact an Act for the establishment of a probation system for the District of Columbia", approved March 4, 1919 (40 Stat. 1324-25; D.C. Code, sec. 24-101), is repealed.

(B) Section 5 of the Act entitled "An Act for the establishment of a probation system for the District of Columbia", approved June 25, 1910 (36 Stat. 865), as amended and reenacted by the Act entitled "An Act to amend and reenact an Act for the establishment of a probation system for the District of Columbia", approved March 14, 1919 (40 Stat. 1324-25; D.C. Code, sec. 24-105), is repealed.

SEC. 7. DISTRICT OF COLUMBIA PUBLIC DEFENDER SERVICE.

(a) **REMOVING SERVICE FROM JURISDICTION OF OFFENDER SUPERVISION TRUSTEE AND AGENCY.—**

(1) **AUTHORITY OF TRUSTEE.—**Section 11232(b)(2) of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1232(b)(2)) is amended by striking ", except that" and all that follows through "Service". 111 Stat. 746.

(2) **AUTHORITY OF AGENCY.—**Section 11233(e) of such Act (D.C. Code, sec. 24-1233(e)) is amended as follows: 111 Stat. 748.

(A) In the subsection heading strike "AND PUBLIC DEFENDER SERVICE".

(B) Amend paragraph (1) to read as follows:

"(1) **INDEPENDENT ENTITY.—**The District of Columbia Pretrial Services Agency established by subchapter I of chapter 13 of title 23, District of Columbia Code shall function as an independent entity within the Agency."

(C) Strike paragraph (3) and redesignate paragraphs (4) and (5) as paragraphs (3) and (4).

(D) In paragraph (3) (as so redesignated)—

(i) strike ", the District of Columbia Public Defender Service,"; and

(ii) strike "or the District of Columbia Public Defender Service".

(E) In paragraph (4)(A) (as so redesignated), strike “and the District of Columbia Public Defender Service” each place it appears.

111 Stat. 751.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—Section 11234 of such Act (D.C. Code, sec. 24-1234) is amended by striking paragraph (2) and redesignating the succeeding paragraphs accordingly.

111 Stat. 746.

(4) **PERMITTING TRUSTEE TO EXERCISE AUTHORITIES ON BEHALF OF SERVICE AT REQUEST OF DIRECTOR OF THE SERVICE.**—Section 11232 of such Act (D.C. Code, sec. 24-1232) is amended by adding at the end the following new subsection:

“(i) **EXERCISE OF AUTHORITY ON BEHALF OF PUBLIC DEFENDER SERVICE.**—At the request of the Director of the District of Columbia Public Defender Service, the Trustee may exercise any of the powers and authorities of the Trustee on behalf of such Service in the same manner and to the same extent as the Trustee may exercise such powers and authorities in relation to any agency described in subsection (b).”

(b) **REVISING NAME OF TRUSTEE.**—

(1) **IN GENERAL.**—Section 11232 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1233) is amended—

(A) in the heading, by striking “DEFENSE SERVICES,”; and

(B) in subsection (a)(1), by striking “Defense Services.”.

(2) **CLERICAL AMENDMENT.**—The table of contents for title XI of the Balanced Budget Act of 1997 is amended in the item relating to section 11232 by striking “Defense Services.”.

(c) **REVISING NAME OF AGENCY.**—

111 Stat. 748.

(1) **IN GENERAL.**—Section 11233 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1233) is amended—

(A) in the heading, by striking “OFFENDER SUPERVISION, DEFENDER AND COURTS SERVICES” and inserting “COURT SERVICES AND OFFENDER SUPERVISION”; and

(B) in subsection (a), by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

111 Stat. 745.

(2) **CONFORMING AMENDMENTS.**—(A) Section 11231 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1231) is amended by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” each place it appears in subsections (a)(2), (a)(3), and (b) and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(B) Section 11232 of such Act (D.C. Code, sec. 24-1232) is amended by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” each place it appears in subsections (b) and (h) and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(C) Section 23-1304(a), District of Columbia Code (as amended by section 11271(a) of the Balanced Budget Act of 1997) is amended by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(D) Section 23-1307, District of Columbia Code (as amended by section 11271(a) of the Balanced Budget Act of 1997) is amended—

(i) by striking "(a)"; and

(ii) by striking "the District of Columbia Offender Supervision, Defender, and Courts Services Agency" and inserting "the Court Services and Offender Supervision Agency for the District of Columbia".

(E) Section 23-1308, District of Columbia Code (as amended by section 11271(a) of the Balanced Budget Act of 1997) is amended by striking "the District of Columbia Offender Supervision, Defender, and Courts Services Agency" each place it appears and inserting "the Court Services and Offender Supervision Agency for the District of Columbia".

(3) CLERICAL AMENDMENT.—The table of contents for title XI of the Balanced Budget Act of 1997 is amended in the item relating to section 11233 by striking "Offender Supervision, Defender and Courts Services" and inserting "Court Services and Offender Supervision".

111 Stat. 714.

(d) REPEAL OF CERTAIN AMENDMENTS AFFECTING PUBLIC DEFENDER SERVICES.—Section 11272 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 762) is hereby repealed, and any provision of law amended or repealed by such section shall be restored or revived as if such section had not been enacted into law.

(e) TRANSFER OF EMPLOYEES OF SERVICE TO FEDERAL RETIREMENT AND BENEFIT PROGRAMS.—

(1) IN GENERAL.—Section 305 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2705) is amended by inserting at the end the following: "(c)(1) Employees of the Service shall be treated as employees of the Federal Government solely for purposes of any of the following provisions of title 5, United States Code: subchapter 1 of chapter 81 (relating to compensation for work injuries), chapter 83 (relating to retirement), chapter 84 (relating to Federal Employees' Retirement System), chapter 87 (relating to life insurance), and chapter 89 (relating to health insurance).

"(2) The Service shall make contributions under the provisions referred to in paragraph (1) at the same rates applicable to agencies of the Federal Government.

"(3) An individual who is an employee of the Service on the date of the enactment of this subsection may make, within 60 days after the issuance of regulations under paragraph (4), an election under section 8351 or 8432 of title 5, United States Code, to participate in the Thrift Savings Plan for Federal employees.

"(4) This subsection shall apply with respect to all months beginning after the date on which the Director of the Office of Personnel Management issues regulations to carry out this subsection.

Applicability.
Regulations.

"(5) For purposes of vesting pursuant to section 2610(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-827.10(b)), creditable service with the District for employees whose participation in the District Defined Contribution Plan ceases as a result of implementation of this subsection shall include service performed thereafter for the Service."

(2) CONFORMING AMENDMENTS.—(A) Section 306 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2706) is amended—

(i) in subsection (a), by striking “Mayor of the District of Columbia” and inserting “Office of Management and Budget”; and

(ii) in subsection (b), by striking “Administrative Office of the United States Courts” and inserting “Office of Management and Budget”.

(B) Section 307(a) of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2707(a)) is amended to read as follows:

Appropriation
authorization.

“(a) There are authorized to be appropriated through the Court Services and Offender Supervision Agency for the District of Columbia (or, until such Agency assumes its duties pursuant to section 11233(a) of the Balanced Budget Act of 1997, through the Trustee appointed pursuant to section 11232 of such Act) in each fiscal year such sums as may be necessary to carry out this chapter. Funds appropriated pursuant to this subsection shall be transmitted by the Agency (or, if applicable, by the Trustee) to the Service. The Service may arrange by contract or otherwise for the disbursement of appropriated funds, procurement, and the provision of other administrative support functions by the General Services Administration or by other agencies or entities, not subject to the provisions of the District of Columbia Code or any law or regulation adopted by the District of Columbia Government concerning disbursement of funds, procurement, or other administrative support functions. The Service shall submit an annual appropriations request to the Office of Management and Budget.”

111 Stat. 748.

(C) Section 11233 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1233) is amended by adding at the end the following new subsection:

“(f) RECEIPT AND TRANSMITTAL OF APPROPRIATIONS FOR PUBLIC DEFENDER SERVICE.—The Director of the Agency shall receive and transmit to the District of Columbia Public Defender Service all funds appropriated for such agency.”

(f) EXEMPTION OF SERVICE FROM PERSONNEL AND BUDGET CEILINGS.—Section 307 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2707) is amended by adding at the end the following new subsection:

“(c) The Service shall not be subject to any general personnel or budget limitations which otherwise apply to the District of Columbia government or its agencies in any appropriations Act.”

SEC. 8. SICK LEAVE BUYOUT FOR DEPARTMENT OF CORRECTIONS EMPLOYEES.

Notwithstanding any provision of District of Columbia law, the Corrections Trustee appointed pursuant to section 11202 of the Balanced Budget Act of 1997 may set conditions and may provide that an employee of the District of Columbia Department of Corrections who meets such conditions will receive a lump-sum payment for his or her accumulated and accrued sick leave, if the employee is separated involuntarily and is not subsequently employed, without a break in service of more than 3 days, by the Bureau of Prisons or another Federal agency. The lump-sum payment for sick leave shall be calculated by multiplying 50 percent of the employee's rate of basic pay, exclusive of additional payments

of any kind, by the number of hours of accumulated sick leave to the employee's credit at the time of separation. The lump-sum payment shall be considered pay for taxation purposes only and shall not be used to confer any other benefit to the employee.

SEC. 9. WAIVER OF MAXIMUM ENTRY AGE REQUIREMENT FOR LAW ENFORCEMENT OFFICER POSITIONS IN THE DEPARTMENT OF JUSTICE.

(a) **IN GENERAL.**—Notwithstanding any maximum entry age which the Attorney General may have established for law enforcement officers in the Department of Justice under section 3307 of title 5, United States Code, an employee of the District of Columbia Department of Corrections may be hired by the Department of Justice pursuant to section 11203(b) of the Balanced Budget Act of 1997 in a law enforcement officer position if such employee will have completed at least 10 years of covered service when the employee attains the minimum retirement age described in section 8412(g) of title 5, United States Code.

(b) **SEPARATION.**—Notwithstanding section 8425(b) of title 5, United States Code, any employee hired by the Department of Justice in a law enforcement position who is described in subsection (a) shall be separated from service with the Department on the last day of the month in which such employee becomes 57 years of age, except that if the Attorney General judges that the public interest so requires, the Attorney General may exempt such an employee from automatic separation under this subsection until that employee becomes 60 years of age.

SEC. 10. EFFECTIVE DATE.

5 USC 8402 note.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

Approved October 21, 1998.

LEGISLATIVE HISTORY—H.R. 4568:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 10, considered and passed House.

Oct. 14, considered and passed Senate.

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PUBLIC LAW 105-382—NOV. 13, 1998

DEPARTMENT OF STATE SPECIAL AGENTS
RETIREMENT ACT OF 1998

Public Law 105-382
105th Congress

An Act

Nov. 13, 1998

[H.R. 633]

To amend the Foreign Service Act of 1950 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of
State Special
Agents
Retirement Act of
1998.
22 USC 3901
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of State Special Agents Retirement Act of 1998".

SEC. 2. AMENDMENTS RELATING TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) DEFINITION OF A SPECIAL AGENT.—

(1) IN GENERAL.—Section 804 of the Foreign Service Act of 1980 (22 U.S.C. 4044) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph

(14) and inserting "; and"; and

(C) by adding at the end the following:

"(15) 'special agent' means an employee of the Department of State with a primary skill code of 2501—

"(A) the duties of whose position—

"(i) are primarily—

"(I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States; or

"(II) the protection of persons pursuant to section 2709(a)(3) of title 22, United States Code, against threats to personal safety; and

"(ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Secretary of State pursuant to section 4823 of title 22, United States Code;

"(B) performing duties described in subparagraph (A) before, on, or after the date of the enactment of this paragraph; or

"(C) transferred directly to a position which is supervisory or administrative in nature after performing duties described in subparagraph (A) for at least 3 years."

(2) CONFORMING AMENDMENT.—Section 852 of such Act (22 U.S.C. 4071a) is amended—

- (A) by striking "and" at the end of paragraph (7);
- (B) by striking the period at the end of paragraph (8) and inserting "; and"; and
- (C) by adding at the end the following:

"(9) the term 'special agent' has the same meaning given in section 804(15)."

(b) CONTRIBUTIONS.—

(1) IN GENERAL.—Section 805(a) of such Act (22 U.S.C. 4045(a)) is amended by adding at the end the following:

"(3) For service as a special agent, paragraph (1) shall be applied by substituting for '7 percent' the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, United States Code."

(2) CONFORMING AMENDMENT.—Section 805(a)(1) (22 U.S.C. 4045(a)(1)) of such Act is amended by striking "Except as provided in subsection (h)." and inserting "Except as otherwise provided in this section,".

(c) SPECIAL CONTRIBUTION FOR PRIOR NONDEPOSIT SERVICE.—Section 805(d) of such Act (22 U.S.C. 4045(d)) is amended by adding at the end the following:

"(6) Subject to paragraph (4) and subsection (h), for purposes of applying this subsection with respect to prior service as a special agent, the percentages of basic pay set forth in section 8334(c) of title 5, United States Code, with respect to a law enforcement officer, shall apply instead of the percentages set forth in paragraph (1)."

(d) COMPUTATION OF ANNUITIES.—

(1) IN GENERAL.—Section 806(a) of such Act (22 U.S.C. 4046(a)) is amended—

- (A) by redesignating paragraph (6) as paragraph (7); and
- (B) by inserting after paragraph (5) the following:

"(6)(A) The annuity of a special agent under this subchapter shall be computed under paragraph (1) except that, in the case of a special agent described in subparagraph (B), paragraph (1) shall be applied by substituting for '2 percent'—

"(i) the percentage under subparagraph (A) of section 8339(d)(1) of title 5, United States Code, for so much of the participant's total service as is specified thereunder; and

"(ii) the percentage under subparagraph (B) of section 8339(d)(1) of title 5, United States Code, for so much of the participant's total service as is specified thereunder.

"(B) A special agent described in this subparagraph is any such agent or former agent who—

"(i)(I) retires voluntarily or involuntarily under section 607, 608, 611, 811, 812, or 813, under conditions authorizing an immediate annuity, other than for cause on charges of misconduct or delinquency, or retires for disability under section 808; and

"(II) at the time of retirement—

"(aa) if voluntary, is at least 50 years of age and has completed at least 20 years of service as a special agent; or

"(bb) if involuntary or disability, has completed at least 20 years of service as a special agent; or

"(ii) dies in service after completing at least 20 years of service as a special agent, when an annuity is payable under section 809.

"(C) For purposes of subparagraph (B), included with the years of service performed by an individual as a special agent shall be any service performed by such individual as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or a member of the Capitol Police."

(2) SPECIAL RULE FOR SPECIAL AGENTS WITH PRIOR SERVICE UNDER THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM OR THE CIVIL SERVICE RETIREMENT SYSTEM.—Section 806(a) of such Act (22 U.S.C. 4046(a)), as amended by paragraph (1), is further amended—

(A) by redesignating paragraph (7) (as so redesignated by paragraph (1)) as paragraph (8); and

(B) by inserting after paragraph (6) (as added by paragraph (1)) the following:

"(7) In the case of a special agent who becomes or became subject to subchapter II—

"(A) for purposes of paragraph (6)(B), any service performed by the individual as a special agent (whether under this subchapter or under subchapter II), as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or as a member of the Capitol Police shall be creditable; and

"(B) if the individual satisfies paragraph (6)(B), the portion of such individual's annuity which is attributable to service under the Foreign Service Retirement and Disability System or the Civil Service Retirement System shall be computed in conformance with paragraph (6)."

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Paragraph (8) of section 806(a) of such Act (22 U.S.C. 4046(a)), as so redesignated by paragraph (2)(A), is amended by striking "and (4)" and inserting "(4), and (6)".

(B) Paragraphs (1) and (3) of section 855(b) of such Act (22 U.S.C. 4071d(b)) are each amended by inserting "611," after "608,".

SEC. 3. MANDATORY SEPARATION OF SPECIAL AGENTS.

The first sentence of section 812(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4052(a)(2)) is amended to read as follows: "Notwithstanding paragraph (1)—

"(A) an individual described in section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998 who is otherwise eligible for immediate retirement under this chapter; or

"(B) a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service,

shall be separated from the Service on the last day of the month in which such individual under subparagraph (A) or such Foreign Service criminal investigator/inspector under subparagraph (B)

attains 57 years of age or completes 20 years of service if then over that age.”

SEC. 4. EFFECTIVE DATE; APPLICABILITY.

22 USC 4044
note.

(a) **IN GENERAL.**—Except as provided in subsection (b), this Act and the amendments made by this Act—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply with respect to—

(A) any individual first appointed on or after that date as a special agent who will have any portion of such individual's annuity computed in conformance with section 806(a)(6) of the Foreign Service Act; and

(B) any individual making an election under subsection (b), subject to the provisions of such subsection.

(b) **ELECTION FOR CURRENT PARTICIPANTS.**—

(1) **ELIGIBILITY.**—An election under this subsection may be made by any currently employed participant under chapter 8 of the Foreign Service Act of 1980 who is serving or has served as a special agent, or by a survivor of a special agent who was eligible to make an election under this section.

(2) **EFFECT OF AN ELECTION.**—

(A) **IN GENERAL.**—If an individual makes an election under this subsection, the amendments made by this Act shall become applicable with respect to such individual, subject to subparagraph (B).

(B) **TREATMENT OF PRIOR SERVICE.**—

(i) **SPECIAL CONTRIBUTION.**—An individual may, after making the election under this subsection, make a special contribution up to the full amount of the difference between the contributions actually deducted from pay for prior service and the deductions that would have been required if the amendments made by this Act had then been in effect. Any special contributions under this clause shall be computed under regulations based on section 805(d) of the Foreign Service Act of 1980 (as amended by section 2), including provisions relating to the computation of interest.

(ii) **ACTUARIAL REDUCTION.**—

(I) **RULE IF THE SPECIAL CONTRIBUTION IS PAID.**—If the full amount of the special contribution under clause (i) is paid, no reduction under this clause shall apply.

(II) **RULE IF LESS THAN THE ENTIRE AMOUNT IS PAID.**—If no special contribution under clause (i) is paid, or if less than the entire amount of such special contribution is paid, the recomputed annuity shall be reduced by an amount sufficient to make up the actuarial present value of the shortfall.

(c) **REGULATIONS AND NOTICE.**—Not later than 6 months after the date of the enactment of this Act, the Secretary of State—

Deadline.

(1) shall promulgate such regulations as may be necessary to carry out this Act; and

(2) shall take measures reasonably designed to provide notice to participants as to any rights they might have under this Act.

(d) **ELECTION DEADLINE.**—An election under subsection (b) must be made not later than 90 days after the date on which the relevant notice under subsection (c)(2) is provided.

(e) **DEFINITION.**—For purposes of this section, the term “special agent” has the meaning given such term under section 804(15) of the Foreign Service Act of 1980 (22 U.S.C. 4044(15)), as amended by section 2(a).

Approved November 13, 1998.

LEGISLATIVE HISTORY—H.R. 633:

HOUSE REPORTS: No. 105-755, Pt. 1 (Comm. on International Relations).
CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed House.
Oct. 20, considered and passed Senate.

○

Presidential Documents

Title 3—

Executive Order 13124 of June 4, 1999

The President

Amending the Civil Service Rules Relating To Federal Employees With Psychiatric Disabilities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to give individuals with psychiatric disabilities the same hiring opportunities as persons with severe physical disabilities or mental retardation under the Civil Service Rules, and to permit individuals with psychiatric disabilities to obtain Civil Service competitive status, it is hereby ordered as follows:

Section 1. Policy.

(a) It is the policy of the United States to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities. The Federal Government as an employer should serve as a model for the employment of persons with disabilities and utilize the full potential of these talented citizens.

(b) The Civil Service Rules governing appointment of persons with psychiatric disabilities were adopted years ago when attitudes about mental illness were different than they are today, which led to stricter standards for hiring persons with psychiatric disabilities than for persons with mental retardation or severe physical disabilities. The Civil Service Rules provide that persons with mental retardation, severe physical disabilities, or psychiatric disabilities may be hired under excepted appointing authorities. While persons with mental retardation or severe physical disabilities may be appointed for more than 2 years and may convert to competitive status after completion of 2 years of satisfactory service in their excepted position, people with psychiatric disabilities may not.

(c) The Office of Personnel Management (OPM) and the President's Task Force on Employment of Adults with Disabilities believe that the Federal Government could better benefit from the contributions of persons with psychiatric disabilities if they were given the same opportunities available to people with mental retardation or severe physical disabilities.

Sec. 2. Implementation.

(a) The Director of the Office of Personnel Management shall, consistent with OPM authority, provide that persons with psychiatric disabilities are subject to the same hiring rules as persons with mental retardation or severe physical disabilities.

(b) Civil Service Rule III (5 CFR Part 3) is amended by adding the following new paragraph to subsection (b) of section 3.1:

"(3) An employee with psychiatric disabilities who completes at least 2 years of satisfactory service in a position excepted from the competitive service."

Sec. 3. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this order.

William Clinton

THE WHITE HOUSE,
June 4, 1999.

[FR Doc. 99-14825
Filed 6-8-99; 8:45 am]
Billing code 3195-01-P

Presidential Documents

Title 3—**Executive Order 13162 of July 6, 2000****The President****Federal Career Intern Program**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to provide for the recruitment and selection of exceptional employees for careers in the public sector, it is hereby ordered as follows:

Section 1. There is hereby constituted the Federal Career Intern Program (Program). The purpose of the Program is to attract exceptional men and women to the Federal workforce who have diverse professional experiences, academic training, and competencies, and to prepare them for careers in analyzing and implementing public programs. "Career Intern" is a generic term, and agencies may use occupational titles as appropriate.

Sec. 2. The Program is another step in the Administration's effort to recruit the highest caliber people to the Federal Government, develop their professional abilities, and retain them in Federal departments and agencies. Cabinet secretaries and agency administrators should view the Program as complementary to existing programs that provide career enhancement opportunities for Federal employees, and departments and agencies are encouraged to identify and make use of those programs, as well as the new Program, to meet department and agency needs.

Sec. 3. (a) The Office of Personnel Management (OPM) shall develop appropriate merit-based procedures for the recruitment, screening, placement, and continuing career development of Career Interns.

(b) In developing those procedures, the OPM shall provide for such actions as deemed appropriate to assure equal employment opportunity and the application of appropriate veterans' preference criteria.

Sec. 4. (a) A successful candidate shall be appointed to a position in Schedule B of the excepted service at the GS-5, 7, or 9 (and equivalent) or other trainee level appropriate for the Program, unless otherwise approved by the OPM. The appointment shall not exceed 2 years unless extended by the Federal department or agency, with the concurrence of the OPM, for up to 1 additional year.

(b) Tenure for a Career Intern shall be governed by the following principles and policies:

- (1) Assigned responsibilities shall be consistent with a Career Intern's competencies and career interests, and the purposes of the Program.
- (2) Continuation in the Program shall be contingent upon satisfactory performance by the Career Intern throughout the internship period.
- (3) Except as provided in subsections (4) and (5) of this section, service as a Career Intern confers no rights to further Federal employment in either the competitive or excepted service upon the expiration of the internship period.
- (4) Competitive civil service status may be granted to a Career Intern who satisfactorily completes the internship and meets all other requirements prescribed by the OPM.

- (5) Within an agency, an employee who formerly held a career or career-conditional appointment immediately before entering the Career Intern Program, and who fails to complete the Career Intern Program for reasons unrelated to misconduct or suitability, shall be placed in a career or career-conditional position in the current agency at no lower grade or pay than the one the employee left to accept the position in the Career Intern Program.

Sec. 5. A Career Intern shall participate in a formal program of training and job assignments to develop competencies that the OPM identifies as core to the Program, and the employing agency identifies as appropriate to the agency's mission and needs.

Sec. 6. The OPM shall prescribe such regulations as it determines necessary to carry out the purpose of this order.

Sec. 7. The OPM shall provide oversight of the Program.

Sec. 8. Executive Order 12596 of May 7, 1987, is revoked.

Sec. 9. *Judicial Review.* This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, substantive or procedural, enforceable in law or equity, by a party against the United States, its agencies, its officers or employees, or any other person.

William Clinton

THE WHITE HOUSE,
July 6, 2000.

[FR Doc. 00-17829

Filed 7-11-00; 8:45 am]

Billing code 3193-01-P

Presidential Documents

Title 3—

The President

Executive Order 13171 of October 12, 2000

Hispanic Employment in the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the representation of Hispanics in Federal employment, within merit system principles and consistent with the application of appropriate veterans' preference criteria, to achieve a Federal workforce drawn from all segments of society, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the executive branch to recruit qualified individuals from appropriate sources in an effort to achieve a workforce drawn from all segments of society. Pursuant to this policy, this Administration notes that Hispanics remain underrepresented in the Federal workforce: they make up only 6.4 percent of the Federal civilian workforce, roughly half of their total representation in the civilian labor force. This Executive Order, therefore, affirms ongoing policies and recommends additional policies to eliminate the underrepresentation of Hispanics in the Federal workforce.

Sec. 2. Responsibilities of Executive Departments and Agencies. The head of each executive department and agency (agency) shall establish and maintain a program for the recruitment and career development of Hispanics in Federal employment. In its program, each agency shall:

- (a) provide a plan for recruiting Hispanics that creates a fully diverse workforce for the agency in the 21st century;
- (b) assess and eliminate any systemic barriers to the effective recruitment and consideration of Hispanics, including but not limited to:
 - (1) broadening the area of consideration to include applicants from all appropriate sources;
 - (2) ensuring that selection factors are appropriate and achieve the broadest consideration of applicants and do not impose barriers to selection based on nonmerit factors; and
 - (3) considering the appointment of Hispanic Federal executives to rating, selection, performance review, and executive resources panels and boards;
- (c) improve outreach efforts to include organizations outside the Federal Government in order to increase the number of Hispanic candidates in the selection pool for the Senior Executive Service;
- (d) promote participation of Hispanic employees in management, leadership, and career development programs;
- (e) ensure that performance plans for senior executives, managers, and supervisors include specific language related to significant accomplishments on diversity recruitment and career development and that accountability is predicated on those plans;
- (f) establish appropriate agency advisory councils that include Hispanic Employment Program Managers;
- (g) implement the goals of the Government-wide Hispanic Employment Initiatives issued by the Office of Personnel Management (OPM) in September 1997 (Nine-Point Plan), and the Report to the President's Management Council on Hispanic Employment in the Federal Government of March 1999;

(h) ensure that managers and supervisors receive periodic training in diversity management in order to carry out their responsibilities to maintain a diverse workforce; and

(i) reflect a continuing priority for eliminating Hispanic underrepresentation in the Federal workforce and incorporate actions under this order as strategies for achieving workforce diversity goals in the agency's Government Performance and Results Act (GPRA) Annual Performance Plan.

Sec. 3. Cooperation. All efforts taken by heads of agencies under sections 1 and 2 of this order shall, as appropriate, further partnerships and cooperation among Federal, public, and private sector employers, and appropriate Hispanic organizations whenever such partnerships and cooperation are possible and would promote the Federal employment of qualified individuals. In developing the long-term comprehensive strategies required by section 2 of this order, agencies shall, as appropriate, consult with and seek information and advice from experts in the areas of special targeted recruitment and diversity in employment.

Sec. 4. Responsibilities of the Office of Personnel Management. The Office of Personnel Management is required by law and regulations to undertake a Government-wide minority recruitment effort. Pursuant to that on-going effort and in implementation of this order, the Director of OPM shall:

(a) provide Federal human resources management policy guidance to address Hispanic underrepresentation where it occurs;

(b) take the lead in promoting diversity to executive agencies for such actions as deemed appropriate to promote equal employment opportunity;

(c) within 180 days from the date of this order, prescribe such regulations as may be necessary to carry out the purposes of this order;

(d) within 60 days from the date of this order, establish an Interagency Task Force, chaired by the Director and composed of agency officials at the Deputy Secretary level, or the equivalent. This Task Force shall meet semi-annually to:

(1) review best practices in strategic human resources management planning, including alignment with agency GPRA plans;

(2) assess overall executive branch progress in complying with the requirements of this order;

(3) provide advice on ways to increase Hispanic community involvement; and

(4) recommend any further actions, as appropriate, in eliminating the underrepresentation of Hispanics in the Federal workforce where it occurs; and

(e) issue an annual report with findings and recommendations to the President on the progress made by agencies on matters related to this order. The first annual report shall be issued no later than 1 year from the date of this order.

Sec. 5. Judicial Review. This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, substantive or procedural, enforceable in law or equity except as may be

identified in existing laws and regulations, by a party against the United States, its agencies, its officers or employees, or any other person.

William Clinton

THE WHITE HOUSE,
October 12, 2000.

[FR Doc. 00-26716
Filed 10-13-00; 11:14 AM]
Billing code 3195-01-P

for the Senate and the House or for the fact that we have honest differences.

Then you get these elections where everybody is trying to convince you that anybody that's not in their party, there's something wrong with them; there's something bad. That's not true. We just have honest differences. Most people do what they say they're going to do when they get elected. And I'm just telling you, there are huge differences in economics, in health care policy, in environmental policy, in the constitution of the courts. I could go through every issue.

And it's not like '92, when we had an argument. You have evidence. We have tested what we believe against what they believe, in ways large and small. None of them support our economic policy. They said it was going to drive the country in a ditch. We now know it drove the country to 22 million jobs and the longest economic expansion.

Most of them were against our crime policy, the Brady bill and putting 100,000 police on the streets. They said it wouldn't do any good. They said that all the criminals bought guns at gun shows. Now that we're trying to do a background check at gun shows, they say they don't buy them there. But back then they said they did. [Laughter] So we tested it, and 500,000 guns later not in the hands of felons, fugitives, and stalkers; 100,000 more police on the street, more after-school programs for our kids—we've got the lowest crime rate in over 30 years. This is the right thing to do.

So go out there and tell people you're supporting the Vice President and the Democratic Party, number one, because they believe in opportunity for everybody and a community of all Americans. They've got good ideas, and they work; number two, because he had a pivotal role in it; and number three, because looking to the future, you agree with us. Whether it's the Patients' Bill of Rights or getting working families access to health care or raising the minimum wage or reversing global warming or just continuing to grow the economy in a responsible way and reaching out to all kinds of Americans to make them part of our family, you agree with us.

And you tell those people that haven't made up their mind, "Look, there is not an argument now. You've got 8 years of evi-

dence. Go with the evidence. Go with the future. Stick with us, and America will be in a good place."

Thank you very much.

NOTE: The President spoke at 3:44 p.m. at the Fine Line Music Cafe. In his remarks, he referred to Edward G. Rendell, general chair, Democratic National Committee; Mike Erlandson, chair, and Mary McEvoy, associate chair, Minnesota Democratic Farmer Labor Party; Senator Wellstone's wife, Sheila; and Minnesota State Senatorial candidate Julie Sabo.

Memorandum on Actions To Further Improve the Management of Federal Human Resources

June 9, 2000

Memorandum to the Heads of Executive Departments and Agencies

Subject: Actions to Further Improve the Management of Federal Human Resources

The Federal Government's most valuable resource is the talented and diverse group of men and women who work every day to make a difference in the lives of the American people they serve. Effective management of this workforce is critically important to accomplishing your agencies' varied missions and continuing to improve service.

My Administration has made a significant commitment to achieving the highest standards of human resources management and accountability for the American people—but more can be done. To continue to improve Government services, we must (1) recognize and reinforce the critical role human resources management plays in achieving each agency's mission and strategic planning goals, and (2) maintain and strengthen our vision of a diverse Federal workforce that is skilled, flexible, and focused on results and service.

To achieve these goals, I direct the heads of each executive department and agency to take appropriate action to:

- fully integrate human resources management into your agency's planning, budgeting, and mission evaluation processes, and clearly state specific human

resources management in your organization's annual performance plan. The Council shall:

- renew your commitment to develop, and manage, and ensure high performance of a highly competitive human resources management system that is the most effective means to accomplish the

To reflect the essential human resources management agency missions, the Group of Federal Personnel Management, established in 1954, will Human Resources

This Council will continue to

- provide a forum for evaluating Government human resources management best practices
- promote collaboration and with the Management Council and actions to diverse Federal skilled, flexible, and service to the
- collaborate with address emergency management issues

The Council shall be headed by the Director of Personnel Management and shall consist of senior human resources management (or designee) from each executive department or agency, including the defense agencies, and members as proposed in the 30 days of the issuance of the Council by the Director of OPD. The Council shall report to the Interagency Personnel Directors and the Management Council.

Beginning on October 1, 2000, and thereafter, agencies shall integrate human resources management into their planning and means to accomplish their missions, and incorporate it in their annual performance plans. The Office of Personnel Management, in consultation

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resources management goals and objectives in your organization's strategic and annual performance plans;

- renew your commitment to recruit, develop, and manage your workforce to ensure high performance;
- provide for the continued development of a highly competent corps of human resources management professionals to assist agency line managers in ensuring the most effective use of their workforce to accomplish the agency mission.

To reflect the essential role of effective human resources management in achieving agency missions, the Interagency Advisory Group of Federal Personnel Directors, established in 1954, will be redesignated as the Human Resources Management Council. This Council will continue to:

- provide a forum for communicating and evaluating Government-wide human resources management policies and sharing best practices;
- promote collaboration across agency lines and with the Office of Personnel Management (OPM) to foster policies and actions to achieve our vision of a diverse Federal workforce that is skilled, flexible, and focused on results and service to the Nation; and
- collaborate with OPM to identify and address emerging human resources management issues.

The Council shall continue to be chaired by the Director of OPM or the Director's designee and shall continue to include the senior human resources management official (or designee) from each executive department or agency, including military departments and defense agencies, and other members as proposed by the Chair. Within 30 days of the issuance of this memorandum, the Director of OPM shall officially redesignate the Interagency Advisory Group of Personnel Directors as the Human Resources Management Council.

Beginning on October 1, 2000, and annually thereafter, agency heads shall ensure that human resources management objectives and means to accomplish these objectives are incorporated in their Annual Performance Plans. The Office of Management and Budget, in consultation with OPM, will provide

the guidance for this requirement as part of its overall guidance on Annual Performance Plans.

William J. Clinton

NOTE: This memorandum was released by the Office of the Press Secretary on June 12.

Remarks at a Millennium Matinee at the White House

June 12, 2000

[The First Lady opened the program and introduced the event's featured speakers: Marcia McNutt, president and chief executive officer, Monterey Bay Aquarium Research Institute; and Neil de Grasse Tyson, associate astronomer and Frederick P. Rose director, Hayden Planetarium. Dr. McNutt then discussed ocean exploration, and Dr. Tyson discussed space exploration.]

The President. Well, [Laughter] I have a hundred questions. Before I open the floor to questions, I just would like to make a couple of points.

First, I want to thank Dr. Tyson and Dr. McNutt for truly fulfilling the spirit of this wonderful old room. It was in this room, on this floor, with maps and books on animal skins, that Thomas Jefferson and Meriwether Lewis planned the Lewis and Clark expedition. They were exploring the far reaches of North America, looking for an ocean no one believed at that time you could reach by land. Today our speakers have taken us on a very different journey of discovery. They have shown us that new evidence is emerging from both the seas and space about so many things but, as you have heard, among other things, about the challenge of global climate change.

Just this morning some of our leading scientists released a draft report that provides some of the most detailed information yet about the potential impacts of global warming on our Nation. Some of its findings, because it's a draft, may be revised, but essentially this report pulls together an enormous amount of scientific analysis, and as our previous speakers have done, it paints quite a sobering picture of the future. It suggests that changes in climate could mean more extreme weather, more floods, more droughts,

MEMORANDUM TO HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Agency Actions to Further Improve the Management of
Federal Human Resources

The Federal Government's most valuable resource is the talented and diverse men and women who work every day to make a difference in the lives of the American people they serve. Effective management of this workforce is critically important to accomplishing your agencies' varied missions, and continuing to improve service to your customers.

My Administration has made a significant commitment to achieving the highest standards of human resources management and accountability for the American people – but more can be done. To continue to make improvements in Government services, we must (1) recognize and reinforce the critical role of human resources management in the achievement of each agency's mission and strategic planning goals, and (2) strive to maintain and strengthen our vision of a diverse Federal workforce that is skilled, flexible, and focused on results and service to the nation.

To achieve these goals, I direct the head of each executive department and agency to take appropriate action to:

- fully integrate human resources management considerations in your agency's planning, budgeting, and mission evaluation processes, and clearly state specific human resources management goals and objectives in your organization's strategic and annual performance plans.
- renew your commitment to effectively recruit, develop, and manage your workforce for high performance in serving the American people, and to provide for the continual development of a highly competent corps of human resources management professionals who are able to assist agency line managers in the best use of their workforce to accomplish the agency mission.

To reflect the essential and pivotal role of effective human resources management in achieving agency missions, the Interagency Advisory Group of Federal Personnel Directors, which has been operating effectively since 1954, will be redesignated as the Human Resources Management Council. This Council will continue to:

- Provide a forum for communicating and evaluating Governmentwide human resources

management policies and sharing best practices;

- Collaborate across agency lines and with the Office of Personnel Management (OPM) to foster policies and actions to achieve our vision of a diverse Federal workforce that is skilled, flexible, and focused on results and service to the Nation; and
- Partner with OPM to identify and address emerging human resources management issues.

The Council shall continue to be chaired by the Director of OPM or the Director's designee, and shall continue to include the senior human resources management official (or designee) from each executive department or agency, including military departments and defense agencies, and other members as proposed by the Chair.

Actions Pursuant to the Memorandum

(1) Within 30 days of the issuance of this memorandum, the Director of OPM shall officially redesignate the Interagency Advisory Group of Personnel Directors as the Human Resources Management Council.

(2) Beginning on October 1, 2000, and annually thereafter, agency heads shall ensure that human resources management objectives and means to accomplish these objectives are incorporated in their Annual Performance Plans. The Office of Management and Budget, in consultation with OPM, will provide the guidance for this requirement as part of their overall guidance for Annual Performance Plans.

Public Law 106-56
106th Congress

An Act

To amend title 5, United States Code, to increase the amount of leave time available to a Federal employee in any year in connection with serving as an organ donor, and for other purposes.

Sept. 24, 1999
[H. R. 457]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Organ Donor
Leave Act.

SECTION 1. INCREASED LEAVE TIME TO SERVE AS AN ORGAN DONOR.

5 USC 6301 note.

(a) **SHORT TITLE.**—This Act may be cited as the “Organ Donor Leave Act”.

(b) **IN GENERAL.**—Subsection (b) of the first section 6327 of title 5, United States Code (relating to absence in connection with serving as a bone-marrow or organ donor) is amended to read as follows:

“(b) An employee may, in any calendar year, use—
“(1) not to exceed 7 days of leave under this section to serve as a bone-marrow donor; and
“(2) not to exceed 30 days of leave under this section to serve as an organ donor.”

(c) **TECHNICAL AMENDMENTS.**—(1) The second section 6327 of title 5, United States Code (relating to absence in connection with funerals of fellow Federal law enforcement officers) is redesignated as section 6328.

(2) The table of sections at the beginning of chapter 63 of title 5, United States Code, is amended by adding after the item relating to section 6327 the following:

“6328. Absence in connection with funerals of fellow Federal law enforcement officers.”

Approved September 24, 1999.

LEGISLATIVE HISTORY—H. R. 457:

HOUSE REPORTS: No. 106-174 (Comm. on Government Reform).

CONGRESSIONAL RECORD, Vol. 145 (1999):

July 28, considered and passed House.

Sept. 8, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 35 (1999):

Sept. 24, Presidential statement.



PUBLIC LAW 106-58—SEPT. 29, 1999

TREASURY AND GENERAL GOVERNMENT
APPROPRIATIONS ACT, 2000

PUBLIC LAW 106-265—SEPT. 19, 2000

FEDERAL LONG-TERM CARE INSURANCE

Public Law 106-265
106th Congress

An Act

Sept. 19, 2000
(H.R. 4040)

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, provide for the correction of retirement coverage errors under chapters 83 and 84 of such title, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Long-Term Care
Security Act.

**TITLE I—FEDERAL LONG-TERM CARE
INSURANCE**

5 USC 9001 note.

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Care Security Act".

SEC. 1002. LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Subpart G of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 90—LONG-TERM CARE INSURANCE

*Sec.

*9001. Definitions.

*9002. Availability of insurance.

*9003. Contracting authority.

*9004. Financing.

*9005. Preemption.

*9006. Studies, reports, and audits.

*9007. Jurisdiction of courts.

*9008. Administrative functions.

*9009. Cost accounting standards.

“§ 9001. Definitions

For purposes of this chapter:

“(1) EMPLOYEE.—The term ‘employee’ means—

“(A) an employee as defined by section 8901(1);

“(B) an individual described in section 2105(e); and

“(C) an individual employed by the Tennessee Valley

Authority,

but does not include an individual employed by the government of the District of Columbia.

“(2) ANNUITANT.—The term ‘annuitant’ has the meaning such term would have under paragraph (3) of section 8901 if, for purposes of such paragraph, the term ‘employee’ were considered to have the meaning given to it under paragraph (1) of this subsection.

"(3) MEMBER OF THE UNIFORMED SERVICES.—The term 'member of the uniformed services' means a member of the uniformed services, other than a retired member of the uniformed services, who is—

"(A) on active duty or full-time National Guard duty for a period of more than 30 days; and

"(B) a member of the Selected Reserve.

"(4) RETIRED MEMBER OF THE UNIFORMED SERVICES.—The term 'retired member of the uniformed services' means a member or former member of the uniformed services entitled to retired or retainer pay, including a member or former member retired under chapter 1223 of title 10 who has attained the age of 60 and who satisfies such eligibility requirements as the Office of Personnel Management prescribes under section 9008.

"(5) QUALIFIED RELATIVE.—The term 'qualified relative' means each of the following:

"(A) The spouse of an individual described in paragraph (1), (2), (3), or (4).

"(B) A parent, stepparent, or parent-in-law of an individual described in paragraph (1) or (3).

"(C) A child (including an adopted child, a stepchild, or, to the extent the Office of Personnel Management by regulation provides, a foster child) of an individual described in paragraph (1), (2), (3), or (4), if such child is at least 18 years of age.

"(D) An individual having such other relationship to an individual described in paragraph (1), (2), (3), or (4) as the Office may by regulation prescribe.

"(6) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' refers to an individual described in paragraph (1), (2), (3), (4), or (5).

"(7) QUALIFIED CARRIER.—The term 'qualified carrier' means an insurance company (or consortium of insurance companies) that is licensed to issue long-term care insurance in all States, taking any subsidiaries of such a company into account (and, in the case of a consortium, considering the member companies and any subsidiaries thereof, collectively).

"(8) STATE.—The term 'State' includes the District of Columbia.

"(9) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—The term 'qualified long-term care insurance contract' has the meaning given such term by section 7702B of the Internal Revenue Code of 1986.

"(10) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) except as otherwise provided in this paragraph, the Secretary of Defense;

"(B) with respect to the Coast Guard when it is not operating as a service of the Navy, the Secretary of Transportation;

"(C) with respect to the commissioned corps of the National Oceanic and Atmospheric Administration, the Secretary of Commerce; and

"(D) with respect to the commissioned corps of the Public Health Service, the Secretary of Health and Human Services.

“§ 9002. Availability of insurance

“(a) IN GENERAL.—The Office of Personnel Management shall establish and, in consultation with the appropriate Secretaries, administer a program through which an individual described in paragraph (1), (2), (3), (4), or (5) of section 9001 may obtain long-term care insurance coverage under this chapter for such individual.

“(b) GENERAL REQUIREMENTS.—Long-term care insurance may not be offered under this chapter unless—

“(1) the only coverage provided is under qualified long-term care insurance contracts; and

“(2) each insurance contract under which any such coverage is provided is issued by a qualified carrier.

“(c) DOCUMENTATION REQUIREMENT.—As a condition for obtaining long-term care insurance coverage under this chapter based on one's status as a qualified relative, an applicant shall provide documentation to demonstrate the relationship, as prescribed by the Office.

“(d) UNDERWRITING STANDARDS.—

“(1) DISQUALIFYING CONDITION.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be made available in the case of any individual who would be eligible for benefits immediately.

“(2) SPOUSAL PARITY.—For the purpose of underwriting standards, a spouse of an individual described in paragraph (1), (2), (3), or (4) of section 9001 shall, as nearly as practicable, be treated like that individual.

“(3) GUARANTEED ISSUE.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be guaranteed to an eligible individual.

“(4) REQUIREMENT THAT CONTRACT BE FULLY INSURED.—In addition to the requirements otherwise applicable under section 9001(9), in order to be considered a qualified long-term care insurance contract for purposes of this chapter, a contract must be fully insured, whether through reinsurance with other companies or otherwise.

“(5) HIGHER STANDARDS ALLOWABLE.—Nothing in this chapter shall, in the case of an individual applying for long-term care insurance coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of underwriting standards more stringent than those that would have applied if that opportunity had not yet expired.

“(e) GUARANTEED RENEWABILITY.—The benefits and coverage made available to eligible individuals under any insurance contract under this chapter shall be guaranteed renewable (as defined by section 7A(2) of the model regulations described in section 7702B(g)(2) of the Internal Revenue Code of 1986), including the right to have insurance remain in effect so long as premiums continue to be timely made. However, the authority to revise premiums under this chapter shall be available only on a class basis and only to the extent otherwise allowable under section 9003(b).

“§ 9003. Contracting authority

“(a) IN GENERAL.—The Office of Personnel Management shall, without regard to section 5 of title 41 or any other statute requiring competitive bidding, contract with one or more qualified carriers for a policy or policies of long-term care insurance. The Office

shall ensure that each resulting contract (hereafter in this chapter referred to as a 'master contract') is awarded on the basis of contractor qualifications, price, and reasonable competition.

"(b) TERMS AND CONDITIONS.—

"(1) IN GENERAL.—Each master contract under this chapter shall contain—

"(A) a detailed statement of the benefits offered (including any maximums, limitations, exclusions, and other definitions of benefits);

"(B) the premiums charged (including any limitations or other conditions on their subsequent adjustment);

"(C) the terms of the enrollment period; and

"(D) such other terms and conditions as may be mutually agreed to by the Office and the carrier involved, consistent with the requirements of this chapter.

"(2) PREMIUMS.—Premiums charged under each master contract entered into under this section shall reasonably and equitably reflect the cost of the benefits provided, as determined by the Office. The premiums shall not be adjusted during the term of the contract unless mutually agreed to by the Office and the carrier.

"(3) NONRENEWABILITY.—Master contracts under this chapter may not be made automatically renewable.

"(c) PAYMENT OF REQUIRED BENEFITS; DISPUTE RESOLUTION.—

"(1) IN GENERAL.—Each master contract under this chapter shall require the carrier to agree—

"(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

"(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

"(i) to establish internal procedures designed to expeditiously resolve such disputes; and

"(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for one or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the carrier.

"(2) ELIGIBILITY.—A carrier's determination as to whether or not a particular individual is eligible to obtain long-term care insurance coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable master contract.

"(3) OTHER CLAIMS.—For purposes of applying the Contract Disputes Act of 1978 to disputes arising under this chapter between a carrier and the Office—

"(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(e) of such Act); and

"(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1) of such Act relative to such a dispute.

Courts.

"(4) **RULE OF CONSTRUCTION.**—Nothing in this chapter shall be considered to grant authority for the Office or a third-party reviewer to change the terms of any contract under this chapter.

"(d) **DURATION.**—

"(1) **IN GENERAL.**—Each master contract under this chapter shall be for a term of 7 years, unless terminated earlier by the Office in accordance with the terms of such contract. However, the rights and responsibilities of the enrolled individual, the insurer, and the Office (or duly designated third-party administrator) under such contract shall continue with respect to such individual until the termination of coverage of the enrolled individual or the effective date of a successor contract thereto.

"(2) **EXCEPTION.**—

"(A) **SHORTER DURATION.**—In the case of a master contract entered into before the end of the period described in subparagraph (B), paragraph (1) shall be applied by substituting 'ending on the last day of the 7-year period described in paragraph (2)(B)' for 'of 7 years'.

"(B) **DEFINITION.**—The period described in this subparagraph is the 7-year period beginning on the earliest date as of which any long-term care insurance coverage under this chapter becomes effective.

Deadline.
President.

"(3) **CONGRESSIONAL NOTIFICATION.**—No later than 180 days after receiving the second report required under section 9006(c), the President (or his designee) shall submit to the Committees on Government Reform and on Armed Services of the House of Representatives and the Committees on Governmental Affairs and on Armed Services of the Senate, a written recommendation as to whether the program under this chapter should be continued without modification, terminated, or restructured. During the 180-day period following the date on which the President (or his designee) submits the recommendation required under the preceding sentence, the Office of Personnel Management may not take any steps to rebid or otherwise contract for any coverage to be available at any time following the expiration of the 7-year period described in paragraph (2)(B).

"(4) **FULL PORTABILITY.**—Each master contract under this chapter shall include such provisions as may be necessary to ensure that, once an individual becomes duly enrolled, long-term care insurance coverage obtained by such individual pursuant to that enrollment shall not be terminated due to any change in status (such as separation from Government service or the uniformed services) or ceasing to meet the requirements for being considered a qualified relative (whether as a result of dissolution of marriage or otherwise).

"§ 9004. Financing

"(a) **IN GENERAL.**—Each eligible individual obtaining long-term care insurance coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

"(b) **WITHHOLDINGS.**—

"(1) **IN GENERAL.**—The amount necessary to pay the premiums for enrollment may—

"(A) in the case of an employee, be withheld from the pay of such employee;

"(B) in the case of an annuitant, be withheld from the annuity of such annuitant;

"(C) in the case of a member of the uniformed services described in section 9001(3), be withheld from the pay of such member; and

"(D) in the case of a retired member of the uniformed services described in section 9001(4), be withheld from the retired pay or retainer pay payable to such member.

"(2) VOLUNTARY WITHHOLDINGS FOR QUALIFIED RELATIVES.—Withholdings to pay the premiums for enrollment of a qualified relative may, upon election of the appropriate eligible individual (described in section 9001(1)–(4)), be withheld under paragraph (1) to the same extent and in the same manner as if enrollment were for such individual.

"(c) DIRECT PAYMENTS.—All amounts withheld under this section shall be paid directly to the carrier.

"(d) OTHER FORMS OF PAYMENT.—Any enrollee who does not elect to have premiums withheld under subsection (b) or whose pay, annuity, or retired or retainer pay (as referred to in subsection (b)(1)) is insufficient to cover the withholding required for enrollment (or who is not receiving any regular amounts from the Government, as referred to in subsection (b)(1), from which any such withholdings may be made, and whose premiums are not otherwise being provided for under subsection (b)(2)) shall pay an amount equal to the full amount of those charges directly to the carrier.

"(e) SEPARATE ACCOUNTING REQUIREMENT.—Each carrier participating under this chapter shall maintain records that permit to account for all amounts received under this chapter (including investment earnings on those amounts) separate and apart from all other funds.

Records.

"(f) REIMBURSEMENTS.—

"(1) REASONABLE INITIAL COSTS.—

"(A) IN GENERAL.—The Employees' Life Insurance Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office of Personnel Management in administering this chapter before the start of the 7-year period described in section 9003(d)(2)(B), including reasonable implementation costs.

"(B) REIMBURSEMENT REQUIREMENT.—Such Fund shall be reimbursed, before the end of the first year of that 7-year period, for all amounts obligated or expended under subparagraph (A) (including lost investment income). Such reimbursement shall be made by carriers, on a pro rata basis, in accordance with appropriate provisions which shall be included in master contracts under this chapter.

"(2) SUBSEQUENT COSTS.—

"(A) IN GENERAL.—There is hereby established in the Employees' Life Insurance Fund a Long-Term Care Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the 7-year period described in section 9003(d)(2)(B).

Contracts.

“(B) REIMBURSEMENT REQUIREMENT.—Each master contract under this chapter shall include appropriate provisions under which the carrier involved shall, during each year, make such periodic contributions to the Long-Term Care Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year (adjusted to reconcile for any earlier overestimates or underestimates under this subparagraph) are defrayed.

“§ 9005. Preemption

“The terms of any contract under this chapter which relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to long-term care insurance or contracts.

“§ 9006. Studies, reports, and audits

Contracts.

“(a) PROVISIONS RELATING TO CARRIERS.—Each master contract under this chapter shall contain provisions requiring the carrier—

“(1) to furnish such reasonable reports as the Office of Personnel Management determines to be necessary to enable it to carry out its functions under this chapter; and

“(2) to permit the Office and representatives of the General Accounting Office to examine such records of the carrier as may be necessary to carry out the purposes of this chapter.

Records.
Certification.

“(b) PROVISIONS RELATING TO FEDERAL AGENCIES.—Each Federal agency shall keep such records, make such certifications, and furnish the Office, the carrier, or both, with such information and reports as the Office may require.

“(c) REPORTS BY THE GENERAL ACCOUNTING OFFICE.—The General Accounting Office shall prepare and submit to the President, the Office of Personnel Management, and each House of Congress, before the end of the third and fifth years during which the program under this chapter is in effect, a written report evaluating such program. Each such report shall include an analysis of the competitiveness of the program, as compared to both group and individual coverage generally available to individuals in the private insurance market. The Office shall cooperate with the General Accounting Office to provide periodic evaluations of the program.

“§ 9007. Jurisdiction of courts

“The district courts of the United States have original jurisdiction of a civil action or claim described in paragraph (1) or (2) of section 9003(c), after such administrative remedies as required under such paragraph (1) or (2) (as applicable) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

“§ 9008. Administrative functions

Regulations.

“(a) IN GENERAL.—The Office of Personnel Management shall prescribe regulations necessary to carry out this chapter.

“(b) ENROLLMENT PERIODS.—The Office shall provide for periodic coordinated enrollment, promotion, and education efforts in consultation with the carriers.

Regulations.

“(c) CONSULTATION.—Any regulations necessary to effect the application and operation of this chapter with respect to an eligible

individual described in paragraph (3) or (4) of section 9001, or a qualified relative thereof, shall be prescribed by the Office in consultation with the appropriate Secretary.

"(d) INFORMED DECISIONMAKING.—The Office shall ensure that each eligible individual applying for long-term care insurance under this chapter is furnished the information necessary to enable that individual to evaluate the advantages and disadvantages of obtaining long-term care insurance under this chapter, including the following:

"(1) The principal long-term care benefits and coverage available under this chapter, and how those benefits and coverage compare to the range of long-term care benefits and coverage otherwise generally available.

"(2) Representative examples of the cost of long-term care, and the sufficiency of the benefits available under this chapter relative to those costs. The information under this paragraph shall also include—

"(A) the projected effect of inflation on the value of those benefits; and

"(B) a comparison of the inflation-adjusted value of those benefits to the projected future costs of long-term care.

"(3) Any rights individuals under this chapter may have to cancel coverage, and to receive a total or partial refund of premiums. The information under this paragraph shall also include—

"(A) the projected number or percentage of individuals likely to fail to maintain their coverage (determined based on lapse rates experienced under similar group long-term care insurance programs and, when available, this chapter); and

"(B)(i) a summary description of how and when premiums for long-term care insurance under this chapter may be raised;

"(ii) the premium history during the last 10 years for each qualified carrier offering long-term care insurance under this chapter; and

"(iii) if cost increases are anticipated, the projected premiums for a typical insured individual at various ages.

"(4) The advantages and disadvantages of long-term care insurance generally, relative to other means of accumulating or otherwise acquiring the assets that may be needed to meet the costs of long-term care, such as through tax-qualified retirement programs or other investment vehicles.

"§ 9009. Cost accounting standards

"The cost accounting standards issued pursuant to section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)) shall not apply with respect to a long-term care insurance contract under this chapter."

(b) CONFORMING AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end of subpart G the following:

"90. Long-Term Care Insurance 9001."

5 USC 9001 note. SEC. 1003. EFFECTIVE DATE.

The Office of Personnel Management shall take such measures as may be necessary to ensure that long-term care insurance coverage under title 5, United States Code, as amended by this title, may be obtained in time to take effect not later than the first day of the first applicable pay period of the first fiscal year which begins after the end of the 18-month period beginning on the date of the enactment of this Act.

Federal
Erroneous
Retirement
Coverage
Corrections Act.
5 USC 8331 note.

TITLE II—FEDERAL RETIREMENT COVERAGE ERRORS CORRECTION

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS.

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

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

TITLE II—FEDERAL RETIREMENT COVERAGE ERRORS CORRECTION

Sec. 2001. Short title; table of contents.

Sec. 2002. Definitions.

Sec. 2003. Applicability.

Sec. 2004. Irrevocability of elections.

Subtitle A—Description of Retirement Coverage Errors to Which This Title Applies and Measures for Their Rectification

CHAPTER 1—EMPLOYEES AND ANNUITANTS WHO SHOULD HAVE BEEN FERS COVERED, BUT WHO WERE ERRONEOUSLY CSRS COVERED OR CSRS-OFFSET COVERED INSTEAD, AND SURVIVORS OF SUCH EMPLOYEES AND ANNUITANTS

Sec. 2101. Employees.

Sec. 2102. Annuitants and survivors.

CHAPTER 2—EMPLOYEE WHO SHOULD HAVE BEEN FERS COVERED, CSRS-OFFSET COVERED, OR CSRS COVERED, BUT WHO WAS ERRONEOUSLY SOCIAL SECURITY-ONLY COVERED INSTEAD

Sec. 2111. Applicability.

Sec. 2112. Correction mandatory.

CHAPTER 3—EMPLOYEE WHO SHOULD OR COULD HAVE BEEN SOCIAL SECURITY-ONLY COVERED BUT WHO WAS ERRONEOUSLY CSRS-OFFSET COVERED OR CSRS COVERED INSTEAD

Sec. 2121. Employee who should be Social Security-Only covered, but who is erroneously CSRS or CSRS-Offset covered instead.

CHAPTER 4—EMPLOYEE WHO WAS ERRONEOUSLY FERS COVERED

Sec. 2131. Employee who should be Social Security-Only covered, CSRS covered, or CSRS-Offset covered and is not FERS-Eligible, but who is erroneously FERS covered instead.

Sec. 2132. FERS-Eligible employee who should have been CSRS covered, CSRS-Offset covered, or Social Security-Only covered, but who was erroneously FERS covered instead without an election.

Sec. 2133. Retrospective effect.

CHAPTER 5—EMPLOYEE WHO SHOULD HAVE BEEN CSRS-OFFSET COVERED, BUT WHO WAS ERRONEOUSLY CSRS COVERED INSTEAD

Sec. 2141. Applicability.

Sec. 2142. Correction mandatory.

CHAPTER 6—EMPLOYEE WHO SHOULD HAVE BEEN CSRS COVERED, BUT WHO WAS ERRONEOUSLY CSRS-OFFSET COVERED INSTEAD

Sec. 2151. Applicability.

Sec. 2152. Correction mandatory.

Subtitle B—General Provisions

- Sec. 2201. Identification and notification requirements.
 Sec. 2202. Information to be furnished to and by authorities administering this title.
 Sec. 2203. Service credit deposits.
 Sec. 2204. Provisions related to Social Security coverage of misclassified employees.
 Sec. 2205. Thrift Savings Plan treatment for certain individuals.
 Sec. 2206. Certain agency amounts to be paid into or remain in the CSRDF.
 Sec. 2207. CSRS coverage determinations to be approved by OPM.
 Sec. 2208. Discretionary actions by Director.
 Sec. 2209. Regulations.

Subtitle C—Other Provisions

- Sec. 2301. Provisions to authorize continued conformity of other Federal retirement systems.
 Sec. 2302. Authorization of payments.
 Sec. 2303. Individual right of action preserved for amounts not otherwise provided for under this title.

Subtitle D—Effective Date

Sec. 2401. Effective date.

SEC. 2002. DEFINITIONS.

5 USC 8331 note.

For purposes of this title:

- (1) **ANNUITANT.**—The term “annuitant” has the meaning given such term under section 8331(9) or 8401(2) of title 5, United States Code.
- (2) **CSRS.**—The term “CSRS” means the Civil Service Retirement System.
- (3) **CSRDF.**—The term “CSRDF” means the Civil Service Retirement and Disability Fund.
- (4) **CSRS COVERED.**—The term “CSRS covered”, with respect to any service, means service that is subject to the provisions of subchapter III of chapter 83 of title 5, United States Code, other than service subject to section 8334(k) of such title.
- (5) **CSRS-OFFSET COVERED.**—The term “CSRS-Offset covered”, with respect to any service, means service that is subject to the provisions of subchapter III of chapter 83 of title 5, United States Code, and to section 8334(k) of such title.
- (6) **EMPLOYEE.**—The term “employee” has the meaning given such term under section 8331(1) or 8401(11) of title 5, United States Code.
- (7) **EXECUTIVE DIRECTOR.**—The term “Executive Director of the Federal Retirement Thrift Investment Board” or “Executive Director” means the Executive Director appointed under section 8474 of title 5, United States Code.
- (8) **FERS.**—The term “FERS” means the Federal Employees’ Retirement System.
- (9) **FERS COVERED.**—The term “FERS covered”, with respect to any service, means service that is subject to chapter 84 of title 5, United States Code.
- (10) **FORMER EMPLOYEE.**—The term “former employee” means an individual who was an employee, but who is not an annuitant.
- (11) **OASDI TAXES.**—The term “OASDI taxes” means the OASDI employee tax and the OASDI employer tax.
- (12) **OASDI EMPLOYEE TAX.**—The term “OASDI employee tax” means the tax imposed under section 3101(a) of the

Internal Revenue Code of 1986 (relating to Old-Age, Survivors and Disability Insurance).

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

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

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

(16) **RETIREMENT COVERAGE DETERMINATION.**—The term “retirement coverage determination” means a determination by an employee or agent of the Government as to whether a particular type of Government service is CSRS covered, CSRS-Offset covered, FERS covered, or Social Security-Only covered.

(17) **RETIREMENT COVERAGE ERROR.**—The term “retirement coverage error” means an erroneous retirement coverage determination that was in effect for a minimum period of 3 years of service after December 31, 1986.

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

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

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

(ii) is not subject to CSRS or FERS.

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

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

5 USC 8331 note. **SEC. 2003. APPLICABILITY.**

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

(b) **LIMITATION.**—Except as otherwise provided in this title, this title shall not apply to any erroneous retirement coverage determination that was in effect for a period of less than 3 years of service after December 31, 1986.

5 USC 8331 note. **SEC. 2004. IRREVOCABILITY OF ELECTIONS.**

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

Subtitle A—Description of Retirement Coverage Errors to Which This Title Applies and Measures for Their Rectification

CHAPTER 1—EMPLOYEES AND ANNUITANTS WHO SHOULD HAVE BEEN FERS COVERED, BUT WHO WERE ERRONEOUSLY CSRS COVERED OR CSRS-OFFSET COVERED INSTEAD, AND SURVIVORS OF SUCH EMPLOYEES AND ANNUITANTS

SEC. 2101. EMPLOYEES.

5 USC 8331 note.

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

(b) **UNCORRECTED ERROR.**—

(1) **APPLICABILITY.**—This subsection applies if the retirement coverage error has not been corrected before the effective date of the regulations described under paragraph (3). As soon as practicable after discovery of the error, and subject to the right of an election under paragraph (2), if CSRS covered or CSRS-Offset covered, such individual shall be treated as CSRS-Offset covered, retroactive to the date of the retirement coverage error.

(2) **COVERAGE.**—

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

Deadline.

(B) **NONELECTION.**—If the individual does not make an election by the date provided under subparagraph (A), a CSRS-Offset covered individual shall remain CSRS-Offset covered and a CSRS covered individual shall be treated as CSRS-Offset covered.

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

(c) **CORRECTED ERROR.**—

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

(2) **COVERAGE.**—

(A) **ELECTION.**—

(i) **CSRS-OFFSET COVERED.**—Not later than 180 days after the date of the enactment of this Act, the Office shall prescribe regulations authorizing individuals to elect, during the 18-month period immediately following the effective date of such regulations, to be CSRS-Offset covered, effective as of the date of the retirement coverage error.

Deadline.
Regulations.

(ii) **THRIFT SAVINGS FUND CONTRIBUTIONS.**—If under this section an individual elects to be CSRS-Offset covered, all employee contributions to the Thrift

Savings Fund made during the period of FERS coverage (and earnings on such contributions) may remain in the Thrift Savings Fund in accordance with regulations prescribed by the Executive Director, notwithstanding any limit under title 5, United States Code, that would otherwise be applicable.

(B) **PREVIOUS SETTLEMENT PAYMENT.**—An individual who previously received a payment ordered by a court or provided as a settlement of claim for losses resulting from a retirement coverage error shall not be entitled to make an election under this subsection unless that amount is waived in whole or in part under section 2208, and any amount not waived is repaid.

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

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

5 USC 8331 note. **SEC. 2102. ANNUITANTS AND SURVIVORS.**

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

(1) an annuitant who should have been FERS covered but, as a result of a retirement coverage error, was CSRS covered or CSRS-Offset covered instead; or

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

(b) **COVERAGE.**—

Deadline.
Regulations.

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

Deadline.

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

Regulations.

(3) **REDUCED ANNUITY.**—

(A) **AMOUNT IN ACCOUNT.**—If the individual elects CSRS-Offset coverage, the amount in the employee's Thrift Savings Fund account under subchapter III of chapter 84 of title 5, United States Code, on the date of retirement that represents the Government's contributions and earnings on those contributions (whether or not such amount was subsequently distributed from the Thrift Savings Fund) will form the basis for a reduction in the individual's annuity, under regulations prescribed by the Office.

(B) **REDUCTION.**—The reduced annuity to which the individual is entitled shall be equal to an amount which, when taken together with the amount referred to in

subparagraph (A), would result in the present value of the total being actuarially equivalent to the present value of an unreduced CSRS-Offset annuity that would have been provided the individual.

(4) **REDUCED BENEFIT.**—If—

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

(B) a FERS basic employee death benefit under section

8442(b) of title 5, United States Code, was previously paid,

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

(5) **PREVIOUS SETTLEMENT PAYMENT.**—An individual who previously received a payment ordered by a court or provided as a settlement of claim for losses resulting from a retirement coverage error may not make an election under this subsection unless repayment of that amount is waived in whole or in part under section 2208, and any amount not waived is repaid.

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

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

(2) **CORRECTIVE ACTION NOT PREVIOUSLY TAKEN.**—If corrective action was not taken before such time limitation, the employee shall be CSRS-Offset covered, retroactive to the date of the retirement coverage error.

CHAPTER 2—EMPLOYEE WHO SHOULD HAVE BEEN FERS COVERED, CSRS-OFFSET COVERED, OR CSRS COVERED, BUT WHO WAS ERRONEOUSLY SOCIAL SECURITY-ONLY COVERED INSTEAD

C. 2111. APPLICABILITY.

5 USC 8331 note.

This chapter shall apply in the case of any employee who—

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

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

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

C. 2112. CORRECTION MANDATORY.

5 USC 8331 note.

(a) **UNCORRECTED ERROR.**—If the retirement coverage error has not been corrected, as soon as practicable after discovery of the error, such individual shall be covered under the correct retirement coverage, effective as of the date of the retirement coverage error.

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

CHAPTER 3—EMPLOYEE WHO SHOULD OR COULD HAVE BEEN SOCIAL SECURITY-ONLY COVERED BUT WHO WAS ERRONEOUSLY CSRS-OFFSET COVERED OR CSRS COVERED INSTEAD

5 USC 3331 note. **SEC. 2121. EMPLOYEE WHO SHOULD BE SOCIAL SECURITY-ONLY COVERED, BUT WHO IS ERRONEOUSLY CSRS OR CSRS-OFFSET COVERED INSTEAD.**

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

(b) **UNCORRECTED ERROR.**—

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

(2) **COVERAGE.**—In the case of an individual who is erroneously CSRS covered, as soon as practicable after discovery of the error, and subject to the right of an election under paragraph (3), such individual shall be CSRS-Offset covered, effective as of the date of the retirement coverage error.

(3) **ELECTION.**—

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

(B) **NONELECTION.**—If the individual does not make an election before the date provided under subparagraph (A), the individual shall remain CSRS-Offset covered.

(C) **REGULATIONS.**—The Office shall prescribe regulations to carry out this paragraph.

(c) **CORRECTED ERROR.**—

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

(2) **ELECTION.**—Not later than 180 days after the date of the enactment of this Act, the Office shall prescribe regulations authorizing individuals to elect, during the 18-month period immediately following the effective date of such regulations, to be CSRS-Offset covered or Social Security-Only covered, effective as of the date of the retirement coverage error.

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

Deadline.

Deadline.
Regulations.

CHAPTER 4—EMPLOYEE WHO WAS ERRONEOUSLY FERS COVERED

SEC. 2131. EMPLOYEE WHO SHOULD BE SOCIAL SECURITY-ONLY COVERED, CSRS COVERED, OR CSRS-OFFSET COVERED AND IS NOT FERS-ELIGIBLE, BUT WHO IS ERRONEOUSLY FERS COVERED INSTEAD. 5 USC 5331 note.

(a) **APPLICABILITY.**—This section applies in the case of a retirement coverage error in which a Social Security-Only covered, CSRS covered, or CSRS-Offset covered employee not eligible to elect FERS coverage under authority of section 8402(c) of title 5, United States Code, was erroneously FERS covered.

(b) **UNCORRECTED ERROR.**—

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

(2) **COVERAGE.**—

(A) **ELECTION.**—

(i) **IN GENERAL.**—Upon written notice of a retirement coverage error, an individual may elect to remain FERS covered or to be Social Security-Only covered, CSRS covered, or CSRS-Offset covered, as would have applied in the absence of the erroneous retirement coverage determination, effective as of the date of the retirement coverage error. Such election shall be made not later than 180 days after the date of receipt of such notice.

Deadline.

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

(B) **NONELECTION.**—If the individual does not make an election before the date provided under subparagraph (A), the individual shall remain FERS covered, effective as of the date of the retirement coverage error.

(3) **EMPLOYEE CONTRIBUTIONS IN THRIFT SAVINGS FUND.**—If under this section, an individual elects to be Social Security-Only covered, CSRS covered, or CSRS-Offset covered, all employee contributions to the Thrift Savings Fund made during the period of erroneous FERS coverage (and all earnings on such contributions) may remain in the Thrift Savings Fund in accordance with regulations prescribed by the Executive Director, notwithstanding any limit under section 8351 or 8432 of title 5, United States Code.

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

(c) **CORRECTED ERROR.**—

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

(2) **ELECTION.**—Not later than 180 days after the date of the enactment of this Act, the Office shall prescribe regulations authorizing individuals to elect, during the 18-month period immediately following the effective date of such regulations to remain Social Security-Only covered, CSRS covered,

Deadline.
Regulations.

or CSRS-Offset covered, or to be FERS covered, effective as of the date of the retirement coverage error.

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

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

5 USC 8331 note. **SEC. 2132. FERS-ELIGIBLE EMPLOYEE WHO SHOULD HAVE BEEN CSRS COVERED, CSRS-OFFSET COVERED, OR SOCIAL SECURITY-ONLY COVERED, BUT WHO WAS ERRONEOUSLY FERS COVERED INSTEAD WITHOUT AN ELECTION.**

(a) IN GENERAL.—

(1) FERS ELECTION PREVENTED.—If an individual was prevented from electing FERS coverage because the individual was erroneously FERS covered during the period when the individual was eligible to elect FERS under title III of the Federal Employees Retirement System Act or the Federal Employees' Retirement System Open Enrollment Act of 1997 (Public Law 105-61; 111 Stat. 1318 et seq.), the individual—

(A) is deemed to have elected FERS coverage; and

(B) shall remain covered by FERS, unless the individual declines, under regulations prescribed by the Office, to be FERS covered.

(2) DECLINING FERS COVERAGE.—If an individual described under paragraph (1)(B) declines to be FERS covered, such individual shall be CSRS covered, CSRS-Offset covered, or Social Security-Only covered, as would apply in the absence of a FERS election, effective as of the date of the erroneous retirement coverage determination.

(b) EMPLOYEE CONTRIBUTIONS IN THRIFT SAVINGS FUND.—If under this section, an individual declines to be FERS covered and instead is Social Security-Only covered, CSRS covered, or CSRS-Offset covered, as would apply in the absence of a FERS election, all employee contributions to the Thrift Savings Fund made during the period of erroneous FERS coverage (and all earnings on such contributions) may remain in the Thrift Savings Fund in accordance with regulations prescribed by the Executive Director, notwithstanding any limit under title 5, United States Code, that would otherwise be applicable.

(c) INAPPLICABILITY OF DURATION OF ERRONEOUS COVERAGE.—This section shall apply regardless of the length of time the erroneous coverage determination remained in effect.

5 USC 8331 note. **SEC. 2133. RETROACTIVE EFFECT.**

Effective date.

This chapter shall be effective as of January 1, 1987, except that section 2132 shall not apply to individuals who made or were deemed to have made elections similar to those provided in this section under regulations prescribed by the Office before the effective date of this title.

**CHAPTER 5—EMPLOYEE WHO SHOULD HAVE BEEN
CSRS-OFFSET COVERED, BUT WHO WAS ERRO-
NEOUSLY CSRS COVERED INSTEAD**

SEC. 2141. APPLICABILITY.

5 USC 8331 note.

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

SEC. 2142. CORRECTION MANDATORY.

5 USC 8331 note.

(a) **UNCORRECTED ERROR.**—If the retirement coverage error has not been corrected, as soon as practicable after discovery of the error, such individual shall be covered under the correct retirement coverage, effective as of the date of the retirement coverage error.

(b) **CORRECTED ERROR.**—If the retirement coverage error has been corrected before the effective date of this title, the corrective action taken before such date shall remain in effect.

**CHAPTER 6—EMPLOYEE WHO SHOULD HAVE BEEN
CSRS COVERED, BUT WHO WAS ERRONEOUSLY CSRS-
OFFSET COVERED INSTEAD**

SEC. 2151. APPLICABILITY.

5 USC 8331 note.

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

SEC. 2152. CORRECTION MANDATORY.

5 USC 8331 note.

(a) **UNCORRECTED ERROR.**—If the retirement coverage error has not been corrected, as soon as practicable after discovery of the error, such individual shall be covered under the correct retirement coverage, effective as of the date of the retirement coverage error.

(b) **CORRECTED ERROR.**—If the retirement coverage error has been corrected before the effective date of this title, the corrective action taken before such date shall remain in effect.

Subtitle B—General Provisions

SEC. 2201. IDENTIFICATION AND NOTIFICATION REQUIREMENTS.

5 USC 8331 note.

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

**SEC. 2202. INFORMATION TO BE FURNISHED TO AND BY AUTHORITIES
ADMINISTERING THIS TITLE.**

5 USC 8331 note.

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

- (1) the Director of the Office of Personnel Management;
- (2) the Commissioner of Social Security; and
- (3) the Executive Director of the Federal Retirement Thrift Investment Board.

(b) **AUTHORITY TO OBTAIN INFORMATION.**—Each authority identified in subsection (a) may secure directly from any department or agency of the United States information necessary to enable such authority to carry out its responsibilities under this title. Upon request of the authority involved, the head of the department or agency involved shall furnish that information to the requesting authority.

(c) **AUTHORITY TO PROVIDE INFORMATION.**—Each authority identified in subsection (a) may provide directly to any department or agency of the United States all information such authority believes necessary to enable the department or agency to carry out its responsibilities under this title.

(d) **LIMITATION; SAFEGUARDS.**—Each of the respective authorities under subsection (a) shall—

- (1) request or provide only such information as that authority considers necessary; and
- (2) establish, by regulation or otherwise, appropriate safeguards to ensure that any information obtained under this section shall be used only for the purpose authorized.

5 USC 8331 note. **SEC. 2203. SERVICE CREDIT DEPOSITS.**

(a) **CSRS DEPOSIT.**—In the case of a retirement coverage error in which—

- (1) a FERS covered employee was erroneously CSRS covered or CSRS-Offset covered;
- (2) the employee made a service credit deposit under the CSRS rules; and
- (3) there is a subsequent retroactive change to FERS coverage,

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

(b) **FERS DEPOSIT.**—

(1) **APPLICABILITY.**—This subsection applies in the case of an erroneous retirement coverage determination in which—

(A) the employee owed a service credit deposit under section 8411(f) of title 5, United States Code; and

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

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

(2) **REDUCED ANNUITY.**—

(A) **IN GENERAL.**—If at the time of commencement of an annuity there is remaining unpaid CSRS civilian or military service credit deposit for service described under paragraph (1), the annuity shall be reduced based upon the amount unpaid together with interest computed in accordance with section 8334(e)(2) and (3) of title 5, United States Code, and regulations prescribed by the Office.

(B) **AMOUNT.**—The reduced annuity to which the individual is entitled shall be equal to an amount that, when

Regulations.

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

(3) SURVIVOR ANNUITY.—

(A) IN GENERAL.—If at the time of commencement of a survivor annuity, there is remaining unpaid any CSRS service credit deposit described under paragraph (1), and there has been no actuarial reduction in an annuity under paragraph (2), the survivor annuity shall be reduced based upon the amount unpaid together with interest computed in accordance with section 8334(e)(2) and (3) of title 5, United States Code, and regulations prescribed by the Office.

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

SEC. 2204. PROVISIONS RELATED TO SOCIAL SECURITY COVERAGE OF MISCLASSIFIED EMPLOYEES. 5 USC 8331 note.

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

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

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

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

(2) "excess CSRS deduction amount" means an amount equal to the difference between the CSRS deductions withheld and the CSRS-Offset or FERS deductions, if any, due with respect to a covered individual during the entire period the individual was erroneously subject to CSRS coverage as a result of a retirement coverage error.

(b) REPORTS TO COMMISSIONER OF SOCIAL SECURITY.—

(1) IN GENERAL.—In order to carry out the Commissioner of Social Security's responsibilities under title II of the Social Security Act, the Commissioner may request the head of each agency that employs or employed a covered individual to report (in coordination with the Office of Personnel Management) in such form and within such timeframe as the Commissioner may specify, any or all of—

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

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

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

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

(c) PAYMENT RELATING TO OASDI EMPLOYEE TAXES.—The Office shall transfer from the Civil Service Retirement and Disability Fund to the General Fund of the Treasury an amount equal to the lesser of the excess CSRS deduction amount or the OASDI taxes due for covered individuals (as adjusted by amounts transferred relating to applicable OASDI employee taxes as a result of corrections made, including corrections made before the date of the enactment of this Act). If the excess CSRS deductions exceed the OASDI taxes, any difference shall be paid to the covered individual or survivors, as appropriate.

(d) PAYMENT OF OASDI EMPLOYER TAXES.—

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

(2) PAYMENT.—Amounts paid under this subsection shall be determined subject to any limitation under section 6501 of the Internal Revenue Code of 1986.

5 USC 8331 note. SEC. 2205. THRIFT SAVINGS PLAN TREATMENT FOR CERTAIN INDIVIDUALS.

(a) APPLICABILITY.—This section applies to an individual who—

(1) is eligible to make an election of coverage under section 2101 or 2102, and only if FERS coverage is elected (or remains in effect) for the employee involved; or

(2) is described in section 2111, and makes or has made retroactive employee contributions to the Thrift Savings Fund under regulations prescribed by the Executive Director.

(b) PAYMENT INTO THRIFT SAVINGS FUND.—

(1) IN GENERAL.—

(A) PAYMENT.—With respect to an individual to whom this section applies, the employing agency shall pay to the Thrift Savings Fund under subchapter III of chapter 84 of title 5, United States Code, for credit to the account of the employee involved, an amount equal to the earnings which are disallowed under section 8432a(a)(2) of such title on the employee's retroactive contributions to such Fund.

(B) AMOUNT.—Earnings under subparagraph (A) shall be computed in accordance with the procedures for computing lost earnings under section 8432a of title 5, United States Code. The amount paid by the employing agency shall be treated for all purposes as if that amount had actually been earned on the basis of the employee's contributions.

(C) EXCEPTIONS.—If an individual made retroactive contributions before the effective date of the regulations

under section 2101(c), the Director may provide for an alternative calculation of lost earnings to the extent that a calculation under subparagraph (B) is not administratively feasible. The alternative calculation shall yield an amount that is as close as practicable to the amount computed under subparagraph (B), taking into account earnings previously paid.

(2) **ADDITIONAL EMPLOYEE CONTRIBUTION.**—In cases in which the retirement coverage error was corrected before the effective date of the regulations under section 2101(c), the employee involved shall have an additional opportunity to make retroactive contributions for the period of the retirement coverage error (subject to applicable limits), and such contributions (including any contributions made after the date of the correction) shall be treated in accordance with paragraph (1).

(c) **REGULATIONS.**—

(1) **EXECUTIVE DIRECTOR.**—The Executive Director shall prescribe regulations appropriate to carry out this section relating to retroactive employee contributions and payments made on or after the effective date of the regulations under section 2101(c).

(2) **OFFICE.**—The Office, in consultation with the Federal Retirement Thrift Investment Board, shall prescribe regulations appropriate to carry out this section relating to the calculation of lost earnings on retroactive employee contributions made before the effective date of the regulations under section 2101(c).

SEC. 2206. CERTAIN AGENCY AMOUNTS TO BE PAID INTO OR REMAIN IN THE CSRDF. 5 USC 8331 note.

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

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

- (A) remain in the CSRDF; and
- (B) may not be paid or credited to an agency.

(2) **AMOUNTS.**—Paragraph (1) refers to any amount of contributions made by an agency under section 8423 of title 5, United States Code, on behalf of any employee, former employee, or annuitant (or survivor of such employee, former employee, or annuitant) who makes an election to correct a retirement coverage error under this title, that the Office determines to be excess as a result of such election.

(b) **ADDITIONAL EMPLOYEE RETIREMENT DEDUCTIONS TO BE PAID BY AGENCY.**—If a correction in a retirement coverage error results in an increase in employee deductions under section 8334 or 8422 of title 5, United States Code, that cannot be fully paid by a reallocation of otherwise available amounts previously deducted from the employee's pay as employment taxes or retirement deductions, the employing agency—

- (1) shall pay the required additional amount into the CSRDF; and
- (2) shall not seek repayment of that amount from the employee, former employee, annuitant, or survivor.

5 USC 8331 note. SEC. 2207. CSRS COVERAGE DETERMINATIONS TO BE APPROVED BY OPM.

No agency shall place an individual under CSRS coverage unless—

- (1) the individual has been employed with CSRS coverage within the preceding 365 days; or
- (2) the Office has agreed in writing that the agency's coverage determination is correct.

5 USC 8331 note. SEC. 2208. DISCRETIONARY ACTIONS BY DIRECTOR.

(a) IN GENERAL.—The Director of the Office of Personnel Management may—

(1) extend the deadlines for making elections under this title in circumstances involving an individual's inability to make a timely election due to a cause beyond the individual's control;

(2) provide for the reimbursement of necessary and reasonable expenses incurred by an individual with respect to settlement of a claim for losses resulting from a retirement coverage error, including attorney's fees, court costs, and other actual expenses;

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

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

(b) SIMILAR ACTIONS.—In exercising the authority under this section, the Director shall, to the extent practicable, provide for similar actions in situations involving similar circumstances.

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

(d) REGULATIONS.—The Office of Personnel Management shall prescribe regulations regarding the process and criteria used in exercising the authority under this section.

Deadlines.

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

5 USC 8331 note. SEC. 2209. REGULATIONS.

(a) IN GENERAL.—In addition to the regulations specifically authorized in this title, the Office may prescribe such other regulations as are necessary for the administration of this title.

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

Subtitle C—Other Provisions**SEC. 2301. PROVISIONS TO AUTHORIZE CONTINUED CONFORMITY OF OTHER FEDERAL RETIREMENT SYSTEMS.** 5 USC 8331 note.

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

Applicability.

(1) the Civil Service Retirement System, to the extent this title relates to the Civil Service Retirement System; and

(2) the Federal Employees' Retirement System, to the extent this title relates to the Federal Employees' Retirement System.

(b) **CENTRAL INTELLIGENCE AGENCY.**—Sections 292 and 301 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2141 and 2151) shall apply with respect to this title in the same manner as if this title were part of—

Applicability.

(1) the Civil Service Retirement System, to the extent this title relates to the Civil Service Retirement System; and

(2) the Federal Employees' Retirement System, to the extent this title relates to the Federal Employees' Retirement System.

SEC. 2302. AUTHORIZATION OF PAYMENTS. 5 USC 8331 note.

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

SEC. 2303. INDIVIDUAL RIGHT OF ACTION PRESERVED FOR AMOUNTS NOT OTHERWISE PROVIDED FOR UNDER THIS TITLE. 5 USC 8331 note.

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

Subtitle D—Effective Date

5 USC 8331 note. **SEC. 2401. EFFECTIVE DATE.**

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

Approved September 19, 2000.

LEGISLATIVE HISTORY—H.R. 4040 (S. 2420):

HOUSE REPORTS: No. 106-610, Pt. 1 (Comm. on Government Reform).

SENATE REPORTS: No. 106-344 accompanying S. 2420 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 146 (2000):

May 9, considered and passed House.

July 25, considered and passed Senate, amended, in lieu of S. 2420.

July 27, House concurred in Senate amendments with amendments.

Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

Sept. 19, Presidential remarks and statement.



Public Law 106-97
106th Congress

An Act

Nov. 12, 1999
[H.R. 915]

To authorize a cost of living adjustment in the pay of administrative law judges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAY OF ADMINISTRATIVE LAW JUDGES.

Section 5372(b) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting "(A)" after "(1)" and by striking all after the first sentence and inserting the following:

"(B) Within level AL-3, there shall be 6 rates of basic pay, designated as AL-3, rates A through F, respectively. Level AL-2 and level AL-1 shall each have 1 rate of basic pay.

"(C) The rate of basic pay for AL-3, rate A, may not be less than 65 percent of the rate of basic pay for level IV of the Executive Schedule, and the rate of basic pay for AL-1 may not exceed the rate for level IV of the Executive Schedule.";

(2) in paragraph (3)(A), by striking "upon" each time it appears and inserting "at the beginning of the next pay period following"; and

(3) by adding at the end the following:

"(4) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for administrative law judges shall be adjusted by an amount determined by the President to be appropriate."

Effective date.
President.

Approved November 12, 1999.

LEGISLATIVE HISTORY—H.R. 915:

HOUSE REPORTS: No. 106-387 (Comm. on Government Reform).

CONGRESSIONAL RECORD, Vol. 145 (1999):

Oct. 25, considered and passed House.

Nov. 3, considered and passed Senate.

Public Law 106-113
106th Congress

An Act

Making consolidated appropriations for the fiscal year ending September 30, 2000,
and for other purposes.

Nov. 29, 1999

[H.R. 3194]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 2000, and for other purposes, namely:

DIVISION A

DISTRICT OF COLUMBIA APPROPRIATIONS

TITLE I—FISCAL YEAR 2000 APPROPRIATIONS

FEDERAL FUNDS

District of
Columbia
Appropriations
Act, 1999.

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia for a program to be administered by the Mayor for District of Columbia resident tuition support, subject to the enactment of authorizing legislation for such program by Congress, \$17,000,000, to remain available until expended: *Provided*, That such funds may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, usable at both public and private institutions of higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident's academic merit and such other factors as may be authorized: *Provided further*, That if the authorized program is a nationwide program, the Mayor may expend up to \$17,000,000: *Provided further*, That if the authorized program is for a limited number of States, the Mayor may expend up to \$11,000,000: *Provided further*, That the District of Columbia may expend funds other than the funds provided under this heading, including local tax revenues and contributions, to support such program.

FEDERAL PAYMENT FOR INCENTIVES FOR ADOPTION OF CHILDREN

For a Federal payment to the District of Columbia to create incentives to promote the adoption of children in the District of Columbia foster care system, \$5,000,000: *Provided*, That such funds shall remain available until September 30, 2001 and shall be used

such applicable laws and regulations. Nothing in this section shall be deemed to alter the Secretary's statutory authority.

SEC. 124. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: *Provided*, That the Secretary may only appoint such Indian probate judges if, by January 1, 2000, the Secretary is unable to secure the services of at least 10 qualified Administrative Law Judges on a temporary basis from other agencies and/or through appointing retired Administrative Law Judges: *Provided further*, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 125. (a) LOAN TO BE GRANTED.—Notwithstanding any other provision of law or of this Act, the Secretary of the Interior (hereinafter the "Secretary"), in consultation with the Secretary of the Treasury, shall make available to the Government of American Samoa (hereinafter "ASG"), the benefits of a loan in the amount of \$18,600,000 bearing interest at a rate equal to the United States Treasury cost of borrowing for obligations of similar duration. Repayment of the loan shall be secured and accomplished pursuant to this section with funds, as they become due and payable to ASG from the Escrow Account established under the terms and conditions of the Tobacco Master Settlement Agreement (and the subsequent Enforcing Consent Decree) (hereinafter collectively referred to as "the Agreement") entered into by the parties November 23, 1998, and judgment granted by the High Court of American Samoa on January 5, 1999 (Civil Action 119-98, American Samoa Government v. Philip Morris Tobacco Co., et. al.).

(b) CONDITIONS REGARDING LOAN PROCEEDS.—Except as provided under subsection (e), no proceeds of the loan described in this section shall become available until ASG—

(1) has enacted legislation, or has taken such other or additional official action as the Secretary may deem satisfactory to secure and ensure repayment of the loan, irrevocably transferring and assigning for payment to the Department of the Interior (or to the Department of the Treasury, upon agreement between the Secretaries of such departments) all amounts due and payable to ASG under the terms and conditions of the Agreement for a period of 26 years with the first payment beginning in 2000, such repayment to be further secured by a pledge of the full faith and credit of ASG;

(2) has entered into an agreement or memorandum of understanding described in subsection (c) with the Secretary identifying with specificity the manner in which approximately \$14,300,000 of the loan proceeds will be used to pay debts of ASG incurred prior to April 15, 1999; and

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