

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1287

To amend chapters 83 and 84 of title 5, United States Code, to provide that Federal employees who are erroneously covered by the Civil Service Retirement System may elect to continue such coverage or transfer to coverage under the Federal Employees Retirement System, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 25), 1995

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To amend chapters 83 and 84 of title 5, United States Code, to provide that Federal employees who are erroneously covered by the Civil Service Retirement System may elect to continue such coverage or transfer to coverage under the Federal Employees Retirement System, and for other purposes.

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

1 **SECTION 1. ELECTION OF FEDERAL RETIREMENT COV-**  
2 **ERAGE BY EMPLOYEES ERRONEOUSLY COV-**  
3 **ERED BY THE CIVIL SERVICE RETIREMENT**  
4 **SYSTEM.**

5 (a) CIVIL SERVICE RETIREMENT SYSTEM.—(1) Sec-  
6 tion 8331(1)(x) of title 5, United States Code, is amended  
7 by inserting before the semicolon “, except an employee  
8 who elects to be covered under this chapter in accordance  
9 with section 8347(r)”.

10 (2) Section 8347 of title 5, United States Code, is  
11 amended by adding at the end thereof the following new  
12 subsection:

13 “(r)(1) This subsection shall apply to any employee  
14 who—

15 “(A) is subject to coverage under chapter 84;  
16 and

17 “(B) notwithstanding subparagraph (A), is cov-  
18 ered under this chapter as a result of an administra-  
19 tive error of an employing agency or the Office of  
20 Personnel Management, through no fault of the em-  
21 ployee.

22 “(2)(A) No later than 180 days after the date on  
23 which an employee described under paragraph (1) receives  
24 notice of such administrative error, such employee may  
25 elect to—

26 “(i) continue coverage under this chapter; or

1           “(ii) be subject to coverage under chapter 84,  
2           subject to regulations prescribed under paragraph  
3           (3).

4           “(B) An election under subparagraph (A) shall be ir-  
5           revocable. An employee who fails to make an election  
6           under subparagraph (A) shall be subject to coverage under  
7           chapter 84, subject to regulations prescribed under para-  
8           graph (3).

9           “(3) The Office of Personnel Management shall pre-  
10          scribe regulations to carry out this subsection.”.

11          (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM;  
12          EXCLUSIONS.—Section 8402(b) of title 5, United States  
13          Code, is amended—

14                 (1) in paragraph (1) by striking out “or” after  
15                 the semicolon;

16                 (2) in paragraph (2) by striking out the period  
17                 at the end thereof and inserting in lieu thereof a  
18                 semicolon and “or”; and

19                 (3) by adding after paragraph (2) the following  
20                 new paragraph:

21                 “(3) any employee who elects to continue cov-  
22                 erage under chapter 83 in accordance with section  
23                 8347(r).”.

24          (c) OPEN ENROLLMENT PERIOD.—(1) During the  
25          180-day period beginning on the date of the enactment

1 of this Act, the Office of Personnel Management shall con-  
2 duct a period of open enrollment under section 8347(r)  
3 of title 5, United States Code (as added by subsection (a)  
4 of this section).

5 (2) In addition to any employee to whom section  
6 8347(r) of title 5, United States Code, applies, an em-  
7 ployee may make an election during the period of open  
8 enrollment under paragraph (1), if such employee—

9 (A) on the date of the enactment of this Act is  
10 participating under the Federal Employees Retirement  
11 System under subchapter II of chapter 84 of  
12 title 5, United States Code; and

13 (B) during any period before the date of the en-  
14 actment of this Act was covered under chapter 83 of  
15 title 5, United States Code, as a result of an admin-  
16 istrative error of an employing agency or the Office  
17 of Personnel Management through no fault of the  
18 employee.

19 (d) REGULATIONS.—The regulations prescribed  
20 under section 8347(r)(3) of title 5, United States Code  
21 (as added by subsection (a) of this section) shall—

22 (1) provide that an employee may not have pe-  
23 riods of simultaneous coverage under subchapter III  
24 of chapter 83 of title 5, United States Code, and  
25 subchapter II of chapter 84 of such title; and

1           (2) include requirements similar to the applica-  
2           ble requirements under title III of the Federal Em-  
3           ployees Retirement System Act of 1986 (Public Law  
4           99–335; 100 Stat. 599; 5 U.S.C. 8331 note) includ-  
5           ing requirements relating to—

6                   (A) the interest of a spouse or former  
7                   spouse under section 301(d) of such Act;

8                   (B) withholdings, deposits, interest, and  
9                   refunds under section 302 of such Act; and

10                  (C) social security offsets under section  
11                  303 of such Act.

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