

Calendar No. 682

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-343 }

**A BILL TO AMEND THE THRIFT SAVINGS
PLAN**

REPORT

OF THE

**COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

TO ACCOMPANY

H.R. 208

TO AMEND TITLE 5, UNITED STATES CODE, TO ALLOW FOR THE
CONTRIBUTION OF CERTAIN ROLLOVER DISTRIBUTIONS TO AC-
COUNTS IN THE THRIFT SAVINGS PLAN, TO ELIMINATE CER-
TAIN WAITING-PERIOD REQUIREMENTS FOR PARTICIPATING IN
THE THRIFT SAVINGS PLAN, AND FOR OTHER PURPOSES



JULY 13, 2000.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

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TO AMEND THE THRIFT SAVINGS PLAN

JULY 13, 2000.—Ordered to be printed

Mr. THOMPSON, from the Committee on Governmental Affairs,
submitted the following

REPORT

[To accompany H.R. 208]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 208) to amend title 5, United States Code, to allow for the contribution of certain rollover distributions to accounts in the Thrift Savings Plan, to eliminate certain waiting-period requirements for participating in the Thrift Savings Plan, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. PURPOSE

H.R. 208, as reported by the Committee on Governmental Affairs, amends title 5, United States Code, to allow for the contribution of certain rollover distributions from qualified retirement accounts, including private sector 401(k) plans, to accounts in the Thrift Savings Plan, and eliminates the waiting period for participating in the Thrift Savings Plan.

II. BACKGROUND AND SUMMARY OF LEGISLATION

A. BACKGROUND ON THE THRIFT SAVINGS PLAN

The Thrift Savings Plan (TSP) is a retirement savings and investment plan for Federal employees. Congress created the TSP when it enacted the Federal Employees' Retirement System Act of 1986. The TSP is the public sector counterpart to private sector "401(k)" retirement plans whereby employees are eligible to contribute a portion of their pre-tax income to their accounts. Employees covered by the Federal Employees' Retirement System (FERS) and the Civil Service Retirement System (CSRS) can contribute to

the TSP although the rules governing the participation of each group differ depending in which retirement plan the employee participates.

The TSP is a defined contribution plan. The retirement income an employee receives from this account depends on how much the employee has contributed during his or her working years and the amount of earnings on these contributions. The contributions an employee makes to his or her account are voluntary and are separate from the contributions required to be made for the FERS Basic Annuity or the CSRS annuity.

The TSP adds an important element of portability to federal retirement benefits. All TSP participants are immediately vested in their contributions to the plan and any growth in the value of their investment from interest, dividends, and capital gains. FERS participants are immediately vested in the federal matching contributions as well as those earnings on those contributions. Workers who leave the federal government for jobs in other sectors of the economy can leave their money in the TSP—where it will continue to accrue interest, dividends, and capital gains according to the performance of the funds in which they have chosen to invest—or they can “roll over” their TSP funds on a tax-deferred basis into another tax-qualified retirement savings account such as an IRA or 401(k) plan.

Further, the TSP is particularly important for those employees covered by the FERS, since those employees receive smaller defined benefits and need to invest greater amounts in the TSP in order to enhance their retirement income. According to the Congressional Research Service, workers in the middle and upper ranges of the federal pay scale are unlikely to achieve adequate retirement income from just Social Security and the FERS basic annuity. CRS reports that even at a modest annual rate of return of 6 percent, the TSP can replace 32 percent of final pay for a worker who contributes 10 percent of pay over 30 years of federal service.

As of March 2000, there were 2.5 million participants in the TSP, including 2.1 million active employees for the federal government and the U.S. Postal Service. Of this number, almost 1.9 million employees were actively contributing some portion of their pay to the TSP. Among active employees who were covered by FERS, 86.2 percent of those who were eligible to participate made contributions to the TSP, compared to 86.1 percent a year earlier. Among employees enrolled in the CSRS, 64.5 percent participated in the TSP, compared to 61.4 percent a year earlier. The combined value of the 2.5 million TSP accounts is \$98.2 billion. The G Fund, which consists exclusively of investments in short-term nonmarketable U.S. Treasury securities, held \$31.4 billion. The F Fund, which is invested in an index fund tied to fixed income securities, held \$3.9 billion. The C Fund, which is invested in a commingled stock index fund that tracks the Standard & Poor's 500, held \$62.9 billion.

B. SUMMARY OF H.R. 208, AS REPORTED BY THE COMMITTEE

H.R. 208 establishes new incentives for employees to participate in the TSP, thus encouraging savings for retirement. First, the bill will permit newly hired Federal employees to begin making tax-advantaged contributions toward their own retirement earlier than allowed under existing law. Current law requires new hires to wait

until the second TSP open season after they begin working for the government, which for many new employees may be as long as a year. By reducing the waiting period for participation, H.R. 208 encourages employees to begin their retirement savings immediately. Second, employees are allowed to contribute “rollover” distributions from qualified trusts, such as 401(k) plans and IRAs to the TSP. These rollover contributions are not permitted under current law. By permitting these roll-overs, the legislation allows employees to consolidate their retirement savings in one account for greater ease of administration.

Since new employees will be participating in the TSP sooner than they otherwise could under current law, tax revenues will be affected. During consideration of H.R. 208 by the House Government Reform Committee, the House Committee adopted an amendment to provide for an offset of these lost revenues. This offset provision required that federal agencies contribute to the Civil Service Retirement and Disability Trust Fund (Fund) for employees covered by FERS by 1/100 of a percentage point.

The Administration objected to the funding mechanism as adopted by the House. The Administration said the mandated agency contributions were unrelated to either the benefits derived from the TSP or the retirement programs that are financed through the Fund. Further, the Administration expressed concern that requiring nonprogrammatic deposits into the Fund would set a bad precedent that could lead to the future use of the Fund as a source of payments unrelated to the retirement programs it supports.

In order to respond to Administration concerns while still providing an offset to compensate for the loss of revenues, the Committee on Governmental Affairs adopted an amendment, offered by Senator Akaka and supported by the Administration, which would allow the Office of Personnel Management to recognize court orders prohibiting a federal employee who is going through a divorce proceeding from withdrawing his or her retirement contributions to the Civil Service Retirement and Disability Trust Fund. Senator Akaka offered the amendment and the Committee adopted the provision based on cost estimates provided by the Office of Personnel Management. OPM estimated the provision would provide an offset of \$32.4 million. However, the Congressional Budget Office later estimated the amendment to provide an offset of \$11 million.

Under current law, a withdrawal of retirement contributions from the Fund terminates an employee’s rights, and those of the spouse, to a retirement annuity. Furthermore, until a divorce is final and the property settlement complete, a court is unable to prevent an individual from withdrawing his or her contribution.

This situation can create two problems. First, the court has no means of delaying payment of the refund while it considers whether to award the prospective former spouse an annuity. Second, State courts often do not realize that merely awarding a survivor annuity or a portion of an employee’s annuity, without also issuing a specific order barring payment of a refund, will not prevent payment of a refund that will terminate those annuity rights.

The amendment grants OPM the authority to recognize a court order barring payment of a refund of an employee’s contributions during the pendency of a divorce. Recognition of these orders preserves the court’s ability to award retirement or survivor benefits

to the former spouse since payment of a refund would extinguish the spouse's or former spouse's entitlement to such benefits. The amendment gives courts the ability to issue orders that prevent OPM from refunding an employee's contribution until the court has reviewed the issues, finalized the divorce, and issued a property settlement.

The amendment is intended to provide a partial offset to the loss of revenues by retaining money in the Fund that would otherwise be paid out to employees.

III. LEGISLATIVE HISTORY

H.R. 208 was introduced in the House of Representatives on January 6, 1999, by Representative Connie Morella, and the bill was referred subsequently to the Committee on Government Reform Subcommittee on Civil Service. On February 25, 1999, the Subcommittee considered the bill and forwarded the bill to the Committee on Government Reform by voice vote. The Committee on Government Reform considered the bill on March 17, 1999, and H.R. 208 was ordered reported to the full House by voice vote. On April 20, 1999, the House of Representatives approved the bill under suspension of the rules by voice vote.

H.R. 208 was received by the Senate on April 21 and referred to the Committee on Governmental Affairs. The legislation was referred to the Subcommittee on International Security, Proliferation and Federal Services on May 13, 1999. On March 3, 2000, the Subcommittee reported H.R. 208 to the full Committee on Governmental Affairs by polling letter. No hearings were held on the bill.

On June 14, the full Committee considered H.R. 208. Sen. Akaka offered an amendment to strike section 3 of the bill and insert an alternative financing mechanism to offset the lost tax revenues incurred as a result of immediate new employee participation in the TSP. Section 3 of the House-passed bill required agencies to increase their FERS contributions to the Civil Service Retirement Trust Fund by 0.01% to offset the costs of the bill. The Committee amendment replaced this financing mechanism. This provision generates savings by allowing OPM to recognize court orders to retain funds in the Civil Service Retirement Trust, which otherwise might be withdrawn or paid out in an annuity, during the pendency of a divorce or until a court resolves the divorce and property settlement issues before it. The amendment was adopted by voice vote and H.R. 208, as amended, was ordered to be reported by the full Committee by voice vote. Committee members present were Senators Stevens, Collins, Voinovich, Cochran, Lieberman, Akaka, Torricelli, Cleland and Thompson.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Eligible rollover distributions

As approved by the Committee, this section amends 5 U.S.C. 8432 to allow the Thrift Savings Plan (TSP) to accept the same roll-over distributions that a (private sector) qualified trust may accept under the Internal Revenue Code (I.R.C.) of 1986. Currently, qualified trusts, as defined by section 402(c)(8) of the I.R.C., may accept rollovers from other qualified trusts, 403(a) qualified annuity plans, and conduit individual retirement accounts (IRAs) that

consist solely of assets rolled over from a qualified trust or a 403(a) qualified annuity plan. The language approved by the Committee would automatically allow the TSP to accept rollovers from additional sources if the rollover authority of a qualified trust is expanded by pending or future legislative changes to the I.R.C. This section takes effect at the earliest practicable date after September 30, 2000, as determined by the Executive Director of the Federal Retirement Thrift Investment Board.

Section 2. Immediate participation in the Thrift Savings Plan

This section amends 5 U.S.C. 8432(b) to eliminate statutorily required waiting periods before employees and Members may contribute to the TSP. Under this section, such individuals will be eligible to make employee contributions from their basic pay beginning with their first day of service or, if that is not administratively feasible, on the earliest date thereafter that the Executive Director determines to be feasible. This amendment does not affect employer contributions (i.e., Agency Automatic (1%) and Agency Matching Contributions), which remain subject to the mandatory waiting periods. This section takes effect at the earliest practicable date after September 30, 2000, as determined by the Executive Director of the Federal Retirement Thrift Investment Board.

Section 3. Court orders affecting refunds

This section amends chapters 83 and 84 of title 5, U.S.C. to allow the Office of Personnel Management the authority to bar payment of refunds of an employee's retirement contributions if it has received a court order barring such payment in order to preserve the court's ability to award a survivor or former spouse's annuity, or if payment of the refund would extinguish the entitlement of the spouse or former spouse to retirement or survivor benefits during the pendency of a divorce.

V. REGULATORY IMPACT STATEMENT

Paragraph 11(b)(1) of rule XXVI of Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out this bill."

H.R. 208 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have little or no impact on the budgets of state, local, or tribal governments.

VI. COST ESTIMATE PROVIDED BY THE CONGRESSIONAL BUDGET OFFICE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 29, 2000.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 208, a bill amending the Thrift Savings Plan for federal employees.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Eric Rollins.

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 208—An act to amend title 5, United States Code, to allow for the contribution of certain rollover distributions to accounts in the Thrift Savings Plan, to eliminate certain waiting-period requirements for participating in the Thrift Savings Plan, and for other purposes.

Summary: H.R. 208 would make a number of changes to the federal government's civilian retirement programs. The act would let newly hired federal employees make contributions to the Thrift Savings Plan (TSP) sooner than allowed under current law and let federal employees transfer balances from other tax-deferred savings plans to their TSP accounts. The act would also authorize courts to prevent former federal employees from withdrawing their retirement contributions until divorce proceedings are finalized.

CBO estimates that enacting H.R. 208 would decrease revenues by \$45 million over the 2001–2005 period. That revenue loss would be partially offset by a reduction of \$11 million in direct spending for refunds of retirement contributions. Because this act would affect direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 208 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have little or no impact on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact on H.R. 208 is shown in the following table. For the purposes of this estimate, CBO assumed that H.R. 208 would be enacted by October 2000.

	By fiscal year, in millions of dollars					
	2000	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING						
Estimated budget authority	0	–3	–2	–2	–2	–2
Estimated outlays	0	–3	–2	–2	–2	–2
CHANGES IN REVENUES						
Estimated revenues	0	–6	–9	–9	–10	–11

Note: The Joint Committee on Taxation prepared the estimates of the changes in revenues.

The effects of this legislation on direct spending fall within budget function 600 (income security).

BASIS OF ESTIMATE

Direct spending

Restrict Payments of Refunds of Retirement Contributions.—Federal employees covered by the Civil Service Retirement System (CSRS) or the Federal Employee Retirement System (FERS) contribute a portion of their salaries to the Civil Service Retirement

and Disability Fund. Individuals may have their retirement contributions refunded to them after leaving government service, but periods of service covered by refunds are not counted in calculating the amount of retirement benefits. (FERS employees also may not count refunded service in determining retirement eligibility.)

For this reason, in order to preserve a former spouse's entitlement to a portion of an employee's annuity or a survivor benefit, divorce settlements may prohibit a former employee from taking a refund. Under current law, however, courts can only bar refund payments as part of a final divorce settlement. H.R. 208 would allow courts to bar payments of refunds while divorce proceedings are still in progress.

Based on information from the Office of Personnel Management, CBO estimates that about 27,000 former employees would receive refunds annually under current law. Using data on marriage and divorce rates from the National Center for Health Statistics, CBO anticipates that 600 of those employees would be going through divorce proceedings. CBO estimates that the bill would prevent 400 employees per year from receiving refunds, and delay payment for another 100 employees by six months. Overall, CBO estimates that H.R. 208 would lower refund payments by \$11 million over the 2000–2005 period. Annual savings would decline in later years because an increasing number of refunds would be paid to employees covered by FERS, which pays much smaller refunds than CSRS. (The average refund affected by this act would be about \$6,700 in 2001, and would decline to about \$5,300 in 2005.) In the long run, spending on federal retirement benefits would increase since more employees would be eligible for retirement benefits.

Revenues

Allow New Hires to Participate in TSP Sooner.—Newly hired federal employees must now wait two open seasons (6 to 12 months) before they can begin making contributions to the TSP. H.R. 208 would allow new hires to begin making TSP contributions immediately, although government contributions would still not begin until the second open season. The portion of an employee's salary that is contributed to the TSP is not taxed until it is withdrawn from the plan.

The Joint Committee on Taxation (JCT) estimates that the federal government would forgo tax revenues of \$45 million over the 2000–2005 period as a result of this provision. Based on recent experience, JCT assumed that between 90,000 and 95,000 eligible employees would be hired each year, and that most of those new hires would participate in the TSP. Under the act, employees would contribute more money to their TSP accounts than under current law, and thus taxes would be deferred on more of their income.

Allow Rollovers from Other Tax-Deferred Savings Plans.—H.R. 208 would allow employees to transfer funds from certain tax-deferred savings plans, such as a 401(k) plan from a previous job, to their TSP accounts. JCT estimates that this provision would not have a significant budgetary impact.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-

go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the affects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	-3	-2	-2	-2	-2	-2	-2	-2	-2	-2
Changes in receipts	0	-6	-9	-9	-10	-11	-11	-12	-13	-13	-14

Intergovernmental and private-sector impact: H.R. 208 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have little or no impact on the budgets of state, local, or tribal governments.

Previous CBO estimate: On March 26, 1999, CBO estimated that H.R. 208, as ordered reported by the House Committee on Government Reform on March 17, 1999, would increase discretionary spending by \$35 million and have no net effect on direct spending over the 2000–2004 period. The two major differences between the two versions of H.R. 208 is that the House version does not have a provision affecting refund payments, and the Senate version would not change agency retirement contributions. In addition, CBO has extended its estimate to include the budgetary effects in 2005.

Estimate prepared by: Federal Costs: Eric Rollins; impact on State, Local, and Tribal Governments: Leo Lex; and impact on the Private Sector: John Harris.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

VII. EXECUTIVE COMMUNICATIONS

FEDERAL RETIREMENT
THRIFT INVESTMENT BOARD,
Washington, DC, June 22, 2000.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you in my capacity as the chief executive and managing fiduciary of the Federal Retirement Thrift Investment Board, the agency that manages the Thrift Savings Plan (TSP) for Federal employees. I am pleased to address for the record an issue raised by Senator Ted Stevens and conveyed to the Board by Senator Daniel Akaka concerning H.R. 208, legislation recently considered by your committee.

As you know, the TSP offers Federal civilian employees the same type of retirement savings and tax benefits that many private corporations offer their employees under so-called “401(k)” plans. H.R. 208, as amended by Senator Akaka, will permit the TSP to accept rollover contributions from the same full range of sources as is now allowed to similar private sector plans.

Participants would benefit from this provision because their portable retirement savings could be consolidated in the TSP, and the special tax status accorded to such savings would be preserved. I

expect this additional benefit would be welcomed by participants, and we would be pleased to make it available.

The question has arisen whether participants who roll over substantial tax-deferred savings to the TSP from other plans might in some way be subsidized by other TSP participants with smaller accounts. This would not occur because each participant's share of TSP administrative expenses is progressive, *i.e.*, it is based on the size of his or her account balance. Thus, the larger the account balance, the larger the dollar amount charged for administrative expenses, and vice versa.

Nevertheless, because of its very low administrative expense ratios overall, participants who choose to take advantage of the rollover provision of H.R. 208, just like those who simply contribute during their Federal service, will find the TSP to be very economical. In 1999, TSP expenses charged to participants totaled .05 percent for investments in the Government Securities Investment (G) Fund, .06 percent for investments in the Common Stock Index Investment (C) Fund, and .07 percent for investments in the Fixed Income Index Investment (F) Fund. In dollar terms, this means that 1999 G Fund earnings were reduced approximately \$.50 for every \$1,000 in a G Fund account balance. Similarly, C and F Fund earnings were reduced approximately \$.60 and \$.70, respectively, for every \$1,000 in C and F Fund account balances.

Based on the above costs, a G Fund investor with a \$5,000 account balance would have paid only \$2.50 (.05 percent) in TSP expenses in 1999. In return, he or she had the right, without further charges, to start or stop contributions, change how those contributions were invested, borrow and repay, make withdrawals, execute monthly interfund transfers, and receive two account statements (and, if applicable, four loan statements) each year. Since a \$2.50 charge would not cover the strictly allocable costs associated with all of those activities, the small account holder is subsidized by other Plan participants. As his or her account balance grows, however, it will cover its own notional costs and eventually cover some of the costs associated with new, smaller accounts.

Rollover contributions would be subject to the same balance-based charges. Thus, if rollover funds of \$100,000 were invested in the G Fund in 1999, the participant would have paid .05 percent, or \$50, for the same rights, more than enough to cover the TSP costs associated with that account, but still a very small charge when compared to private-sector alternatives.

I hope this clarifies the benefit and cost allocation associated with the rollover provision of H.R. 208 as amended.

Sincerely,

ROGER W. MEHLE,
Executive Director.

VIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart G—Insurance and Annuities

* * * * *

CHAPTER 83—RETIREMENT

* * * * *

Subchapter III-Civil Service Retirement

* * * * *

§ 8342. Lump-sum benefits; designation of beneficiary; order of precedence

(a) * * *

* * * * *

[(j)(1) Payment of the lump-sum credit under subsection (a) of this section—

(A) may be made only if any current spouse and any former spouse of the employee or Member are notified of the employee or Member's application; and

(B) shall be subject to the terms of a court decree of divorce, annulment, or legal separation or any court order or court approved property settlement agreement incident to such decree if—

(i) the decree, order, or agreement expressly relates to any portion of the lump-sum credit involved; and

(ii) payment of the lump-sum credit would extinguish entitlement of the employee's or Member's spouse or former spouse to a survivor annuity under section 8341(h) of this title or to any portion of an annuity under section 8345(j) of this title.]

(j)(1)(A) *Payment of the lump-sum credit under subsection (a) may be made only if the spouse, if any, and any former spouse of the employee or Member are notified of the employee or Member's application.*

(B) *The Office shall prescribe regulations under which the lump-sum credit shall not be paid without the consent of a spouse or former spouse of the employee or Member where the Office has received such additional information and documentation as the Office may require that—*

(i) a court order bars payment of the lump-sum credit in order to preserve the court's ability to award an annuity under section 8341(h) or section 8345(j); or

(ii) payment of the lump-sum credit would extinguish the entitlement of the spouse or former spouse, under a court order

on file with the Office, to a survivor annuity under section 8341(h) or to any portion of an annuity under section 8345(j).

* * * * *

CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

* * * * *

Subchapter II—Basic Annuity

* * * * *

§ 8424. Lump-sum benefits; designation of beneficiary; order of precedence

(a) * * *

[(b)(1) Payment of the lump-sum credit under subsection (a)—

(A) may be made only if any current spouse and any former spouse of the employee or Member are notified of the application by the employee or Member; and

(B) in any case in which there is a former spouse, shall be subject to the terms of a court decree of divorce, annulment, or legal separation issued with respect to such former spouse if—

(i) the decree expressly relates to any portion of the lump-sum credit involved; and

(ii) payment of the lump-sum credit would affect any right or interest of the former spouse with respect to a survivor annuity under section 8445, or to any portion of an annuity under section 8467.】

(b)(1)(A) Payment of the lump-sum credit under subsection (a) may be made only if the spouse, if any, and any former spouse of the employee or Member are notified of the employee or Member's application.

(B) The Office shall prescribe regulations under which the lump-sum credit shall not be paid without the consent of a spouse or former spouse of the employee or Member where the Office has received such additional information or documentation as the Office may require that—

(i) a court order bars payment of the lump-sum credit in order to preserve the court's ability to award an annuity under section 8445 or 8467; or

(ii) payment of the lump-sum credit would extinguish the entitlement of the spouse or former spouse, under a court order on file with the Office, to a survivor annuity under section 8445 or to any portion of an annuity under section 8467.

* * * * *

Subchapter III—Thrift Savings Plan

* * * * *

§ 8432. Contributions

(a) An employee or Member may contribute to the Thrift Savings Fund in any pay period, pursuant to an election under subsection

(b)【(1)】, an amount not to exceed 10 percent of such individual's

basic pay for such period. **Contributions made under this subsection during any 6-month period for which an election period is provided under subsection (b)(1) shall be made each pay period during such 6-month period pursuant to a program of regular contributions provided in regulations prescribed by the Executive Director.** *Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director.*

(b)(1)(A) * * *

(B) The amount to be contributed pursuant to an election under subparagraph (A) *(or any election allowable by virtue of paragraph (4))* shall be the percentage of basic pay or amount designated by the employee or Member.

* * * * *

(3) **Notwithstanding paragraph (2)(A), an** *An* employee or Member who elects to become subject to this chapter under section 301 of the Federal Employees' Retirement System Act of 1986 may make the first election for the purpose of subsection (a) during the period prescribed for such purpose by the Executive Director. The period prescribed by the Executive Director shall commence on the date on which the employee or Member makes the election to become subject to this chapter.

[(4)(A) Notwithstanding paragraph (2)(A), an employee or Member who is an employee or Member on January 1, 1987, and continues as an employee or Member without a break in service through April 1, 1987, may make the first election for the purpose of subsection (a) during the election period prescribed for such purpose by the Executive Director. The Executive Director shall prescribe an election period for such purpose which shall commence on April 1, 1987. An election by such an employee or Member during that election period shall be effective on the first day of the employee's or Member's first pay period which begins after the date on which the employee or Member makes that election.]

[(B) Notwithstanding subsection (a), the maximum amount that an employee or Member may contribute during any pay period which begins on or after April 1, 1987, and before October 1, 1987, pursuant to an election made during the election period provided under subparagraph (A) is the amount equal to 15 percent of such individual's basic pay for such period.]

(4) The Executive Director shall prescribe such regulations as may be necessary to carry out the following:

(A) Notwithstanding subparagraph (A) of paragraph (2), an employee or Member described in such subparagraph shall be afforded a reasonable opportunity to first make an election under this subsection beginning on the date of commencing service or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

(B) An employee or Member described in subparagraph (B) of paragraph (2) shall be afforded a reasonable opportunity to first make an election under this subsection (based on the appointment or election described in such subparagraph) beginning on the date of commencing service pursuant to such ap-

pointment or election or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

(C) Notwithstanding the preceding provisions of this paragraph, contributions under paragraphs (1) and (2) of subsection (c) shall not be payable with respect to any pay period before the earliest pay period for which such contributions would otherwise be allowable under this subsection if this paragraph had not been enacted.

(D) Sections 8351(a)(2), 8440a(a)(2), 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be applied in a manner consistent with the purposes of subparagraphs (A) and (B), to the extent those subparagraphs can be applied with respect thereto.

(E) Nothing in this paragraph shall affect paragraph (3).

* * * * *

(j)(1) For the purpose of this subsection—

(A) the term “eligible rollover distribution” has the meaning given such term by section 402(c)(4) of the Internal Revenue Code of 1986; and

(B) the term “qualified trust” has the meaning given such term by section 402(c)(8) of the Internal Revenue Code of 1986.

(2) An employee or Member may contribute to the Thrift Savings Fund an eligible rollover distribution that a qualified trust could accept under the Internal Revenue Code of 1986. A contribution made under this subsection shall be made in the form described in section 401(a)(31) of the Internal Revenue Code of 1986. In the case of an eligible rollover distribution, the maximum amount transferred to the Thrift Savings Fund shall not exceed the amount which would otherwise have been included in the employee’s or Member’s gross income for Federal income tax purposes.

(3) The Executive Director shall prescribe regulations to carry out this subsection.

* * * * *

§ 8439. Accounting and information

(a)(1) The Executive Director shall establish and maintain an account for each individual who makes contributions or for whom contributions are made under [section 8432(c)(1)] section 8432 of this title or who makes contributions to the Thrift Savings Fund under section 8351 of this title.

* * * * *

*(c)(1) * * **

(2) Information under this subsection shall be provided at least 30 calendar days before the beginning of each election period under section 8432(b)(1)(A) of this title, and in a manner designed to facilitate informed decision making with respect to elections under sections 8432 and 8438 of this title. Nothing in this paragraph shall be considered to limit the dissemination of information only to the times required under the preceding sentence.

* * * * *

§ 8440a. Justices and judges

(a)(1) * * *

(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to [chapter 84 of this title: Provided, however, That a justice or judge may make the first such election within 60 days of the effective date of this section.] *this chapter.*

* * * * *

§ 8440d. Judges of the United States Court of Appeals for Veterans Claims

(a)(1) * * *

(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) of this title for individuals subject to [chapter 84 of this title.] *this chapter.*

