Calendar No. 606

108TH CONGRESS
2d Session

SENATE

REPORT
108–290

THRIFT SAVINGS PLAN OPEN ELECTIONS ACT OF 2004

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 2479

TO AMEND CHAPTER 84 OF TITLE 5, UNITED STATES CODE, TO PROVIDE FOR FEDERAL EMPLOYEES TO MAKE ELECTIONS TO MAKE, MODIFY, AND TERMINATE CONTRIBUTIONS TO THE THRIFT SAVINGS FUND AT ANY TIME, AND FOR OTHER PURPOSES

JUNE 25, 2004.—Ordered to be printed

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THRIFT SAVINGS PLAN OPEN ELECTIONS ACT OF 2004

JUNE 25, 2004.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2479]

The Committee on Governmental Affairs, to which was referred the bill (S. 2479) to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

CONTENTS

I. Purpose and Summary ... 1
II. Background ... 2
III. Legislative History ... 5
IV. Section-by-Section Analysis ... 6
V. Estimated Cost of Legislation ... 7
VI. Evaluation of Regulatory Impact ... 10
VII. Changes in Existing Law ... 11

I. PURPOSE AND SUMMARY

S. 2479, the Thrift Savings Plan Open Elections Act of 2004, is a bill to modernize certain rules relating to contributions by federal employees to the Thrift Savings Plan (TSP). The purpose of the legislation is to allow employees to make, modify, or terminate contributions to the TSP at any time, without penalty. In addition, the legislation would require the Federal Retirement Thrift Investment Board to evaluate its current education program to ensure that participants have access to the tools needed to make informed investment choices regarding the TSP.

II. Background

Prior to enactment of the Social Security amendments of 1983,[1] federal employees were not covered by Social Security, and received their pensions through the Civil Service Retirement System (CSRS).[2] The 1983 amendments mandated coverage for civilian federal employees hired after January 1, 1984, and led to enactment of the Federal Employees' Retirement System Act of 1986 (FERSA).[3] The Federal Employees' Retirement System (FERS), created by FERSA, consists of three elements: (1) Social Security,[4] (2) a basic annuity, and (3) the TSP. Of the 2,670,000 active federal and Postal Service employees as of September 30, 2003, 1,882,000 (70 percent) were covered by FERS and 788,000 (30 percent) were covered by CSRS.[5]

THRIFT SAVINGS PLAN

The TSP is a voluntary, tax-deferred defined contribution plan, that is available to both federal civilian employees and members of the uniformed services.[6] The TSP is administered by the Federal Retirement Thrift Investment Board.[7] The plan has more than 3.3 million participants with assets of approximately $135 billion.[8] As of April 2004, 86.4 percent of FERS employees and 67 percent of CSRS employees had elected to make payroll contributions to the TSP.[9] Among members of the uniformed services, 405,000 were participating in the TSP.[10]

Federal agencies contribute an amount equal to 1 percent of an employee's base pay to the TSP for each employee covered by FERS, whether or not the employee chooses to contribute anything to the plan. Agencies help their employees meet their retirement needs by matching FERS employee contributions dollar-for-dollar on the first 3 percent of pay and at $.50 on the dollar on the next 2 percent of pay. The maximum agency contribution is 5 percent of pay. Employees covered by CSRS may contribute to the TSP; however, they do not receive matching contributions from their agency. Employees electing to participate in the TSP are immediately vested in their voluntary contributions, agency matching contributions, and any growth in the value of their contributions. Participants are fully vested in the one percent agency automatic contributions to the TSP after two to three years, depending on their place of employment.

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[1] Public Law No. 98–21 (1983).
[2] Public Law No. 66–215 (1920).
[3] Public Law No. 99–335 (1986).
[4] Public Law 98–21 mandated that all federal employees hired on or after January 1, 1984, participate in Social Security. Prior to enactment of the Social Security Amendments of 1983, no civilian federal employees participated in Social Security.
[5] Data from the Office of Strategic Human Resources Policy at the Office of Personnel Management (June 9, 2004).
[6] Public Law No. 106–398 (2000) allows uniformed services personnel on active duty or in the ready reserve to participate in the TSP under the same terms and conditions as civilian federal employees.
[7] The Federal Retirement Thrift Investment Board was established by Public Law No. 99–335 (1986) as an independent agency to administer the TSP. The Board consists of five members appointed by the President and confirmed by the Senate. The Board is charged with diversifying the investments of the TSP in order to minimize the risk of large losses and to defray the reasonable expenses of administering the TSP.
[8] Data from the Director of the Office of External Affairs at the Federal Retirement Thrift Investment Board (June 9, 2004).
[9] Id.
[10] Id.

The following five funds are currently available to TSP participants:

The Government Security Investment Fund (G Fund), which is invested in short-term U.S. Treasury securities specially issued to the TSP.[11]

The Fixed Income Index Investment Fund (F Fund), which is invested in fixed-income securities.[12]

The Common Stock Index Investment Fund (C Fund), which is invested in a portfolio designed to replicate the performance of an index that includes stocks representing the U.S. stock market.[13] The Board has chosen to invest this fund to match the performance of the Standards and Poor's Corporation (S&P) 500 index, which tracks the performance of major U.S. companies and industries.

The Small Capitalization Stock Index Investment Fund (S Fund), which is invested in a portfolio designed to replicate the performance of an index of U.S. common stocks, excluding those that are held in the C Fund.[14]

The International Stock Index Investment Fund (I Fund), which is invested in a portfolio designed to track the performance of an index of common stocks, representing international stock markets outside of the United States.[15]

In June 2005, TSP participants will have the option of placing their contributions into a life cycle fund, or L fund. The L fund would be invested in the five existing TSP funds, and its asset allocation would change as the individual participant approaches his or her retirement.

ELECTIONS FOR THRIFT SAVINGS PLAN CONTRIBUTIONS

The TSP currently holds two open seasons annually, during which federal employees can join the fund and begin to receive matching contributions from their agencies or adjust the amount of employee contributions. Newly hired employees can elect to contribute to the TSP within a 60-day period after the start of employment.[16] Contributions will begin no later than the first full pay period after the agency accepts the employee's election. If an employee does not make an election within this 60-day period, he or she must wait until an open season to do so. The two open seasons are April 15 through June 30 and October 15 through December 31. Generally, elections are made effective during the last month of the open season.

Under current law, employees can stop contributing their own money to the TSP at any time; however, the employee must wait before resuming contributions. If an employee elects to stop contributing during an open season, he or she must wait until the next open season to start again. If an employee elects to stop contributing outside an open season, he or she must wait until the second open season after the election has ended before contributions can begin again.

[11] 5 U.S.C. § 8438 (b)(1)(A).
[12] 5 U.S.C. § 8438 (b)(1)(B).
[13] 5 U.S.C. § 8438 (b)(2).
[14] 5 U.S.C. § 8438 (b)(3).
[15] 5 U.S.C. § 8438 (b)(4).
[16] Public Law No. 106–361 (2000).

In testimony before the Subcommittee on Financial Management, the Budget, and International Security, Andrew Saul, Chairman of the Federal Retirement Thrift Investment Board, stated that the Board supports the elimination of the open season requirement because it would expand participant access and simplify the administration of the TSP.[17] Saul noted that the open seasons were "useful when the Plan was conceived because they provided a structure for the initial implementation. They are no longer useful in a daily-valued plan environment."[18] Jim Sauber, Chairman of the Employee Thrift Advisory Council,[19] testified that eliminating the TSP open season is perhaps the single best way to reach the 13 percent of employees in the Federal Employees Retirement System who still do not make contributions to the TSP.[20]

The Thrift Savings Plan Open Elections Act of 2004 would allow federal employees to enjoy the opportunities afforded to many private sector workers to modify their contributions at any time, without penalty. The Committee believes that the removal of restrictions placed on employees by the biannual open season requirement will encourage greater participation in this important element of the federal retirement system.

While the bill would allow employees to make contributions to the TSP at any time, it would not change the existing statutory requirements for the agency automatic 1 percent and matching contributions, which do not begin until the second open season, a period that may last from six months to one year depending upon the employee's date of hire.

RETIREMENT EDUCATION

The Office of Personnel Management (OPM) has broad authority to design and implement a retirement education program for federal employees covered by CSRS and FERS. OPM works with agencies to meet their statutory requirement to provide retirement counseling that is designed to promote fully informed retirement decisions by employees.[21] As part of its retirement education efforts, OPM is currently working with the International Foundation for Retirement Education (InFRE) to develop the Retirement Readiness Project that will be used to evaluate how well the federal workforce is prepared for retirement.[22] OPM is also hosting a series of financial literacy fairs throughout the country. The TSP is participating in these fairs.

The Federal Retirement Thrift Investment Board provides training and information on the TSP; however, it is not responsible for

[17] Testimony of Andrew M. Saul, Chairman, Federal Retirement Thrift Investment Board, before the Subcommittee on Financial Management, the Budget, and International Security, March 1, 2004, p. 3.

[18] Id. On June 16, 2003, the TSP launched a new daily valued record keeping system. The automated system accepts new contributions and loan payments made via payroll deduction, and allows participants to request loans and conduct interfund transfers or withdrawals using web-based tools. The new system values funds daily, and transactions such as interfund transfers, loans, and withdrawals are processed more quickly.

[19] The Employee Thrift Advisory Council is a 15-member body established by Public Law No. 99–335 (1986) to advise the Federal Retirement Thrift Investment Board on matters related to the Thrift Savings Plan. 5 U.S.C. § 8473.

[20] Testimony of James Sauber, Chairman, Employee Thrift Advisory Council, before the Subcommittee on Financial Management, the Budget, and International Security, March 1, 2004, p. 4.

[21] 5 U.S.C. § 8350 (c).

[22] The outline of the Retirement Readiness Project was provided in the conference report to accompany Public Law No. 108–7 (2003), Report 108–10 (2003), pp. 1352–53.

providing retirement education for the federal workforce. The Federal Retirement Thrift Investment Board makes available educational materials to enable federal employees to make informed decisions regarding the TSP. The Committee recognizes the Board's recent revision of educational materials as part of the Board's ongoing effort to inform participants of the diversity of investment options available.[23] The legislation ensures that the current Board's commitment to improve educational materials will continue by requiring the Board to conduct periodic evaluations of the educational materials available to TSP participants. In evaluating the existing tools available to TSP participants, the Committee urges the Federal Retirement Thrift Investment Board to ensure that participants retain their current option to receive such information in writing instead of electronically.[24]

As with all Americans, federal employees face increasingly complex financial decisions that will affect their retirement security. The Committee commends the Board and OPM for seeking ways to provide retirement education. To further these efforts the Thrift Savings Plan Open Elections Act of 2004 would also require the OPM, in consultation with the Federal Retirement Thrift Investment Board, to develop a retirement financial literacy and education strategy for federal employees as part of its existing retirement education activities, and report such strategy to the Committee on Governmental Affairs and House Committee on Government Reform. The Committee believes that the financial literacy and education strategy contemplated under the legislation will improve federal employees' access to information to make well-informed retirement planning decisions. Consultation with the Board will ensure that federal employees have access to the complete array of materials that discuss the importance of TSP as a component of their retirement. The Committee intends to use both the OPM strategy and TSP's periodic reports to measure the level and quality of the retirement education program available to federal employees, including those participating in the TSP.

III. Legislative History

S. 2479 was introduced by Senators Susan Collins, Daniel Akaka, Peter Fitzgerald, Joseph Lieberman, and George Voinovich on May 21, 2004, and was referred to the Committee on Governmental Affairs. The legislation was subsequently referred to the Subcommittee on Financial Management, the Budget, and International Security that same day. On June 1, 2004, the Subcommittee on Financial Management, the Budget and International Security favorably polled out S. 2479 to the full Committee.

On June 2, 2004, the Committee on Governmental Affairs considered S. 2479 and ordered the bill reported by voice vote without amendment. Senators present: Akaka, Bennett, Carper, Collins, Fitzgerald, Lautenberg, Levin, Lieberman, and Voinovich.

[23] Testimony of Gary A. Amelio, Executive Director, Federal Retirement Thrift Investment Board, before the Subcommittee on Financial Management, the Budget, and International Security, March 1, 2004, p. 3.

[24] As of November 30, 2004, approximately 10,000 participants have elected to receive written copies of their quarterly statements.

IV. Section-by Section Analysis

Section 1. Elections for Thrift Savings Plan Contributions

This section would amend chapters 83 and 84 of title 5, United States Code, to allow federal employees to make, modify and terminate contributions to the Thrift Savings Fund at any time.

Subsection (a) titles the bill as the "Thrift Savings Plan Open Elections Act of 2004."

Subsection (b) would amend section 8432(b)(1)(A) of title 5, United States Code, to require the Executive Director of the Federal Retirement Thrift Investment Board to prescribe regulations under which federal employees may begin, modify, and terminate contributions to the Thrift Savings Fund at any time. The subsection states that contributions will take effect on the earliest date after the election that is administratively feasible, and will remain in effect until such contributions are modified or terminated.

Subsection (c) would amend section 8432(b)(4)(C) of title 5, United States Code, to make clear that the automatic agency contributions and employer matching contributions will not begin to be made with respect to an employee or member until the date that such contributions would have begun to be made in accordance with the paragraph as administered on the date preceding the date of enactment of the Thrift Savings Plan Open Elections Act of 2004.

Subsection (d) would make technical and conforming amendments to chapters 83 and 84 of title 5, United States Code.

Subsection(d)(1) would amend section 8351(a)(2) of title 5, United States Code, to allow employees under the Civil Service Retirement System to begin, modify, and terminate contributions to the Thrift Savings Fund at any time.

Subsection (d)(2) would amend section 8432(b)(2) of title 5, United States Code, to allow contributions by previously ineligible employees to be made at any time.

Subsection (d)(3) would amend section 8439(c)(2) of title 5, United States Code, to require the Federal Retirement Thrift Investment Board to provide information about their enrollment options on a regular basis to individuals for whom an account is maintained. Section 8439(c)(2) of title 5 requires the information to be designed in a manner to facilitate informed decisionmaking.

Subsection (d)(4) would amend section 8440a(a)(2) of title 5, United States Code, to allow justices and judges of the United States as defined by section 451 of title 28, United States Code, to begin, modify, and terminate contributions to the Thrift Savings Fund at any time.

Subsection (d)(5) would amend section 8440b(a)(2) of title 5, United States Code, to allow bankruptcy judges and magistrates to begin, modify, and terminate contributions to the Thrift Savings Fund at any time.

Subsection (d)(6) would amend section 8440c(a)(2) of title 5, United States Code, to allow a judge of the United States Claims Court who is covered by section 178 of title 28, United States Code, to begin, modify, and terminate contributions to the Thrift Savings Fund at any time.

Subsection (d)(7) would amend section 8440d(a)(2) of title 5, United States Code, to allow a judge of the United States Court of

Appeals for Veterans Claims to begin, modify, and terminate contributions to the Thrift Savings Fund at any time.

Subsection (d)(8) would amend section 8440e(b)(2)(A) of title 5, United States Code, to allow a member of the uniformed services as defined by section 211 of title 37, United States Code, to begin, modify, and terminate contributions to the Thrift Savings Fund at any time.

Section 2. Enhancing financial literacy

This section would amend title 5, United States Code, by adding a new section to improve the educational materials available to Thrift Savings Plan participants.

Subsection (a) would require the Federal Retirement Thrift Investment Board to periodically evaluate whether the tools available to participants provide the information needed to understand, evaluate, and compare financial products, services, and opportunities offered through the Thrift Savings Plan.

Subsection (b) would require the Federal Retirement Thrift Investment Board to provide an annual report, to the Senate Committee on Governmental Affairs and the House Committee on Government Reform, of its Thrift Savings Plan education efforts on behalf of plan participants.

Subsection (c) would require the Office of Personnel Management, in consultation with the Federal Retirement Thrift Investment Board, to develop a retirement financial literacy and education strategy for federal employees no later than six months after the date of enactment of the Thrift Savings Plan Open Elections Act of 2004. In consulting pursuant to this section, the Federal Retirement Thrift Investment Board is limited to providing the Office of Personnel Management with information concerning the features of the TSP. This subsection would also require the Office of Personnel Management, in consultation with the Federal Retirement Thrift Investment Board, to submit a report to the Committee on the strategy developed under this subsection.

V. Estimated Cost of Legislation

CONGRESSIONAL BUDGET OFFICE ESTIMATE

S. 2479—Thrift Savings Plan Open Elections Act of 2004

Summary: S. 2479 would make changes to the rules that govern participation in the federal employees' Thrift Savings Plan (TSP). Namely, it would allow federal employees and members of the uniformed services to begin or alter their TSP contributions at any time instead of limiting such changes to biannual open-season periods. The bill also would require the Federal Retirement Thrift Investment Board—the agency which administers the TSP—to evaluate and report on efforts to increase education programs for TSP participants. CBO estimates that implementing the bill would cost $2 million in 2005 and $30 million over the 2005–2014 period, subject to the appropriation of the necessary amounts. We also estimate the bill would decrease tax revenues by $1 million in 2005 and $23 million over the 2005–2014 period. Finally, the bill also would affect spending and collections of the U.S. Postal Service, but CBO estimates that those changes would result in no significant net effect on direct spending in any year.

The bill contains no intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated costs to the Federal Government: The estimated budgetary impact of S. 2479 is shown in the following table. The costs of this legislation would fall within multiple budget functions.

	By fiscal year in millions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorization Level	2	2	3	3	3	3	3	3	4	4
Estimated Outlays	2	2	3	3	3	3	3	3	4	4
CHANGES IN REVENUES										
Estimated Revenues	−1	−2	−2	−2	−2	−2	−3	−3	3	−3

Note.—Enacting S. 2479 also would affect direct spending, primarily at the U.S. Postal Service; but CBO estimates that there would be no significant net effect on direct spending in any year.

Basis of estimate: For the purposes of this estimate, CBO assumes this would be effective in January 2005 and that the necessary appropriations for the additional federal agency contributions would be provided.

Background

The TSP is a tax-deferred, defined contribution pension plan open to most federal employees and members of the uniformed services. Federal employees who are covered by the Federal Employees' Retirement System (FERS) may contribute up to 14 percent of basic pay to their TSP account up to the Internal Revenue Service (IRS) statutory maximum ($13,000 in 2004). Employees who are covered by the Civil Service Retirement System (CSRS) and members of the uniformed services may contribute up to 9 percent of basic pay up to the IRS maximum. Participants who are 50 years old or older may contribute an additional $3,000 above the caps that would otherwise apply to their contributions.

Employees who are covered by FERS are also eligible to receive contributions from their employing agency. Agencies automatically contribute 1 percent of basic pay toward the TSP accounts of employees who are covered by FERS, regardless of whether the employee is making a contribution. Employing agencies then match employee contributions up to 5 percent of pay. Agency matches are dollar for dollar on the first 3 percent of employee contributions and 50 percent on the next 2 percent. Agency contributions begin after the second open season after an employee becomes eligible to participate in the TSP. CSRS employees and members of the uniformed services do not receive agency contributions to their TSP accounts.

Under current law, newly hired federal employees and members of the uniformed services have a 60-day period in which they may begin making ASP contributions. If they fail to do so, employees must wait until an open season period to begin making contributions. Open seasons run each year from April 15 to June 30 and from October 15 to December 31. In addition, current TSP participants may only change their contributions during an open season period. Participants may elect to increase or decrease the amount of money they are contributing during those periods, with changes effective during the first pay period after the close of the open season. Participants may choose to terminate their TSP contributions at any time, although they must wait until the second open season after contributions are terminated before they can start contributing again.

S. 2479 would eliminate the initial enrollment period and allow participants to change their contributions at any time. Once a participant elects to change his or her contribution amount, the change would take effect almost immediately. The bill places no limit on how many times participants may change contributions, or how large such changes can be, as long as they remain within the overall contribution limits. Changes to agency contributions that would be initiated by changes to participant contributions would also take effect immediately. The bill would not affect when agency contributions begin for newly eligible employees—those would still start after the second open season after which an employee is first eligible to participate in the TSP.

Spending Subject to Appropriation

Over time, participants generally increase the percentage of pay they contribute to their TSP accounts. The longer one has worked for the federal government, the greater percentage of pay one usually devotes to TSP contributions. According to data from the Thrift Investment Board, FERS employees who first participated in TSP in 1989 contributed an average of 5 percent of pay during their first year of participation. By the fifth year of participation, the average level of contribution for this group was about 6 percent, and by the 14th year of participation the average contribution level was almost 8 percent.

By providing participants with greater flexibility to start, stop, and change contributions, S. 2479 would cause some people to increase or decrease contribution levels sooner or later than they do under the current open season system. However, given the tendency for participants to increase their contributions over time, CBO assumes that allowing greater flexibility would generally lead participants to increase their contributions slightly sooner than they would have otherwise. On average, participants increase their contributions by roughly 0.2 percent of pay each year, and CBO predicts that under S. 2479 this increase would take place one month earlier then under the current system. For those in FERS who are contributing less than 5 percent (about 500,000 federal workers), the faster increase in participant contributions would increase agency matching contributions as well. Agency contributions, which are paid from personnel budgets, are usually spending subject to appropriation. CBO estimates that S. 2479 would cause agency contributions to increase by $2 million in 2005, $13 million over the 2005–2009 period, and $30 million over the 2005–2014 period.

Revenues

Because income taxes are deferred on TSP contributions, the anticipated increase in participant contributions initially would result in lower income tax revenue.[1] The program maintains nearly 3 million accounts, with approximately 2.3 million participants currently making their own contributions. Social insurance taxes would not

[1] TSP assets and earnings on those assets are subject to tax once they are drawn on.

be affected by the bill, as wages invested in TSP remain subject to social insurance taxes. CBO estimates S. 2479 would reduce income tax revenue by $1 million in 2005, $9 million over the 2005–2009 period, and $23 million over the 2005–2014 period.

Direct Spending

CBO anticipates that S. 2479 would have a similar effect on contributions among employees of the U.S. Postal Service as it would on participants employed by other federal agencies. As such, increases in TSP contributions among Postal Service employees would increase slightly, as would agency matching contributions for those in FERS contributing less than 5 percent of pay. However, unlike most other agencies, the Postal Service has the ability to increase its income to cover increases in its operating costs, which are classified as direct spending. CBO assumes the bill would increase Postal Service matching contributions by about $1 million to $2 million annually, but that such increases would be offset by increased receipts from postal rates. Such changes may not be simultaneous, so there could be some small net effect on direct spending in any particular year, but CBO estimates that there would be no significant net effect in any year.

In addition to granting increased flexibility over participant contributions, S. 2479 also would require the Federal Retirement Thrift Investment Board to periodically study and report on efforts to educate TSP participants about the financial products and services which the program offers. Operations of the Board are funded from forfeitures of the automatic 1 percent agency contribution for employees who separate before vesting and from a share of earnings on participant and agency contributions. CBO does not anticipate the bill would cause a significant increase in the Board's administrative costs. Any cost increases which do occur would be offset by drawing funds available from contribution forfeitures or by increasing the share of investment earnings that are used to cover administrative expenses. Therefore, S. 2479 would have no net effect on direct spending over time.

Intergovernmental and private-sector impact: S. 2479 contains no intergovernmental or private-sector mandates as defined by UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Outlays: Geoffrey Gerhardt; Federal Revenues: Barbara Edwards; Impact on state, local, and tribal governments: Leo Lex; and Impact on the Private Sector: Karen Raupp.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis and G. Thomas Woodward, Assistant Director for Tax Analysis.

VI. Evaluation of Regulatory Impact

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. CBO states that there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and no costs on state, local, or tribal governments. The legislation contains no other regulatory impact.

VII. CHANGES IN EXISTING LAW

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 and existing law, in which no change is proposed, is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * * * *

GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * * * *

PART III—EMPLOYEES

* * * * * * *

Subpart G—Insurance and Annuities

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CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

* * * * * * *

Subchapter III—Civil Service Retirement

* * * * * * *

§ 8351. Participation in the Thrift Savings Plan

* * * * * * *

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

* * * * * * *

Subchapter III—Thrift Savings Plan

* * * * * * *

§ 8432. Contributions

* * * * * * *

(b)(1)(A) *(i)* The Executive Director shall prescribe regulations under which employees and Members [shall be afforded a reasonable period every 6 months to elect to] *may* make contributions under subsection (a), to modify the amount to be contributed under such subsection, or to terminate such contributions. [An election to make such contributions shall remain in effect until modified or terminated.]

(ii) An election to make contributions under the paragraph—

(I) may be made at any time;

(II) shall take effect on the earliest date after the election that is administratively feasible; and

(III) shall remain in effect until modified or terminated.

(b)(2) Under the regulations.—

(A) an employee or Member who has not previously been eligible to make an election under this subsection shall not become so eligible until the ⟦second period⟧ *date* (described in paragraph (1)) beginning after the date of commencing service as an employee or Member;

(B) an employee or Member whose appointment or election to a position or office in the Federal Government follows a previous period of service during which that individual met the requirements of subparagraph (A) shall be eligible to make an election under this subsection notwithstanding any period of separation;

(C) an employee or Member who elects under subparagraph (D) to terminate contributions shall not again become eligible to make an election under this subsection until the ⟦second period⟧ *date* (described in paragraph (1)) commencing after the election to terminate; and

(D) an election to terminate may be made under this subparagraph at any time ⟦other than during a period afforded⟧ *as provided* under paragraph (1).

(b)(4)(C) (*i*) 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.

(ii) Notwithstanding subparagraph (A) or (B), contributions under paragraphs (1) and (2) of subsection (c) shall not begin to be made with respect to an employee or Member described under paragraph (2) (A) or (B) until the date that such contributions would have begun to be made in accordance with this paragraph as administered on the date preceding the date of enactment of the Thrift Savings Plan Open Elections Act of 2004.

* * * * * * *

§ 8439. Accounting and information

* * * * * * *

(c)(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⟧ *on a regular basis,* and in a manner designed to facilitate informed decisionmaking with respect to election under section 8432 and 8438 of this title. Nothing in this paragraph shall be considered to limit the dissemination of information only to the time required under the preceding sentence.

* * * * * * *

§ 8440a. Justices and judges

* * * * * * *

(a)(2) An election may be made under paragraph (1) ⟦only during a period⟧ *as* provided under section 8432(b) for individuals subject to this chapter.

* * * * * * *

§ 8440b. Bankruptcy judges and magistrates

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(a)(2) An election may be made under paragraph (1) ⟦only during a period⟧ *as* provided under section 8432(b) for individuals subject to this chapter.

* * * * * * *

§ 8440c. Claims Court judges

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(a)(2) An election may be made under paragraph (1) ⟦only during a period⟧ *as* provided under section 8432(b) for individuals subject to this chapter.

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

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(a)(2) An election may be made under paragraph (1) ⟦only during a period⟧ *as* provided under section 8432(b) for individuals subject to this chapter.

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§ 8440e. Members of the uniformed services

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(b)(2)(A) Except as provided in subparagraph (b), an election to contribute to the Thrift Savings Fund under this section may be made ⟦only during a period⟧ *as* provided under section 8432(b)⟦, subject to the same conditions as prescribed under paragraph (2)(A)–(D) thereof.⟧.

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