

tion officer who” for “or nuclear materials courier who” and “nuclear materials courier, or customs and border protection officer” for “or nuclear materials courier.”

2004—Subsec. (b). Pub. L. 108-447, §112(b)(1), and Pub. L. 108-458, §2005(b)(1), amended subsec. (b) identically, designating existing provisions as par. (1).

Subsec. (b)(2). Pub. L. 108-458, §2005(b)(2), added par. (2) relating to employees of the Federal Bureau of Investigation, limiting number of exemptions to 50 per fiscal year, and providing that authority to grant such exemptions shall cease to be available after Sept. 30, 2007.

Pub. L. 108-447, §112(b)(2), added par. (2) relating to employees of the Federal Bureau of Investigation and providing that authority to grant exemptions shall cease to be available after Dec. 31, 2009.

2003—Subsec. (a). Pub. L. 108-176 inserted at end “For purposes of this subsection, the term ‘air traffic controller’ or ‘controller’ has the meaning given to it under section 8401(35)(A).”

2001—Subsec. (b). Pub. L. 107-27 struck out first sentence which read “A firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which such firefighter becomes 55 years of age or completes 20 years of service if then over that age.” and, in second sentence, inserted “, firefighter,” after “law enforcement officer” in two places and substituted “courier, as the case may be, becomes 57 years of age” for “courier becomes 57 years of age”.

2000—Subsec. (d). Pub. L. 106-553, §1(a)(2) [title III, §308(c)(5)(A)], added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 106-553, §1(a)(2) [title III, §308(c)(5)], redesignated subsec. (d) as (e) and substituted “Police or Supreme Court Police” for “Police”).

1998—Subsec. (b). Pub. L. 105-261, in second sentence, inserted “or nuclear materials courier” after “law enforcement officer” in two places.

1994—Subsec. (b). Pub. L. 103-283, §307(b)(1)(A), struck out “member of the Capitol Police or” before “firefighter who is” and “member or” before “firefighter becomes” in first sentence.

Subsecs. (c), (d). Pub. L. 103-283, §307(b)(1)(B), (C), added subsec. (c) and redesignated former subsec. (c) as (d).

1992—Subsec. (b). Pub. L. 102-378 amended first sentence generally and, in second sentence, substituted “becomes” for “become”. Prior to amendment, first sentence read as follows: “A law enforcement officer, member of the Capitol Police, or firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which that law enforcement officer, member of the Capitol Police, or firefighter becomes 55 years of age or completes 20 years of service if then over that age.”

1990—Subsec. (b). Pub. L. 101-509, §529 [title IV, §409(b)(1)], which directed the amendment of subsec. (b) by striking out “law enforcement officer or” wherever appearing in first sentence, could not be executed because of a prior amendment by Pub. L. 101-428, §3(b)(1)(A), see below.

Pub. L. 101-509, §529 [title IV, §409(b)(2)], inserted after first sentence “A law enforcement officer who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which that law enforcement officer become 57 years of age or completes 20 years of service if then over that age.”

Pub. L. 101-428, §3(b)(1)(A), substituted “officer, member of the Capitol Police, or” for “officer or” in two places.

Subsec. (c). Pub. L. 101-428, §3(b)(2), inserted “(other than a member of the Capitol Police)” after “employee”.

EFFECTIVE DATE OF 2007 AMENDMENT; TRANSITION RULES

Amendment by Pub. L. 110-161 effective on the later of June 30, 2008, or the first day of the first pay period beginning at least 6 months after Dec. 26, 2007, with transition rules and rights of election, see section 535(e) of Pub. L. 110-161, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 effective on 60th day after Dec. 12, 2003, and applicable with respect to any annuity entitlement based on an individual’s separation from service occurring on or after such effective date, and any service performed by any such individual before, on, or after such effective date, subject to special rule relating to deposit requirement, see section 226(c) of Pub. L. 108-176, set out as a note under section 8401 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-553 effective on the first day of the first applicable pay period that begins on Dec. 21, 2000, and applicable only to an individual who is employed as a member of the Supreme Court Police after Dec. 21, 2000, see section 1(a)(2) [title III, §308(i), (j)] of Pub. L. 106-553, set out in a Supreme Court Police Retirement note under section 8331 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-261 effective 1 year after Oct. 17, 1998, and applicable only to an individual who is employed as a nuclear materials courier, as defined by section 8331(27) or 8401(33) of this title, after Oct. 17, 1998, see section 3154(m), (n) of Pub. L. 105-261, set out as a note under section 8331 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EXCEPTION TO AUTOMATIC SEPARATION OF MEMBERS OF CAPITOL POLICE

Pub. L. 101-428, §3(b)(1)(B), Oct. 15, 1990, 104 Stat. 929, provided that: “Nothing in section 8425(b) of title 5, United States Code, as amended by subparagraph (A), shall require the automatic separation of any member of the Capitol Police before the end of the 2-year period beginning on the date of enactment of this Act [Oct. 15, 1990].”

SUBCHAPTER III—THRIFT SAVINGS PLAN

§ 8431. Certain transfers to be treated as a separation

(a) For purposes of this subchapter, separation from Government employment includes a transfer from a position that is subject to one of the retirement systems described in subsection (b) to a position that is not subject to any of them.

(b) The retirement systems described in this subsection are—

(1) the retirement system under this chapter;

(2) the retirement system under subchapter III of chapter 83; and

(3) any other retirement system under which individuals may contribute to the Thrift Savings Fund through withholdings from pay.

(Added Pub. L. 106-168, title II, §203(a)(1), Dec. 12, 1999, 113 Stat. 1820.)

PRIOR PROVISIONS

A prior section 8431, added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 541; amended Pub. L.

101-509, title V, § 529 [title I, § 101(b)(6)(B)], Nov. 5, 1990, 104 Stat. 1427, 1440, provided a definition of "basic pay" for this subchapter, prior to repeal by Pub. L. 104-208, div. A, title I, § 101(f) [title VI, § 659 [title II, §§ 206(a)(2), 207]], Sept. 30, 1996, 110 Stat. 3009-314, 3009-372, 3009-378, effective Sept. 30, 1996.

EFFECTIVE DATE

Pub. L. 106-168, title II, § 203(c), Dec. 12, 1999, 113 Stat. 1820, provided that: "The amendments made by this section [enacting this section and amending section 8351 of this title] shall apply with respect to transfers occurring before, on, or after the date of the enactment of this Act [Dec. 12, 1999], except that, for purposes of applying such amendments with respect to any transfer occurring before such date of enactment, the date of such transfer shall be considered to be the date of the enactment of this Act. The Executive Director (within the meaning of section 8401(13) of title 5, United States Code) may prescribe any regulations necessary to carry out this subsection."

§ 8432. Contributions

(a)(1) An employee or Member may contribute to the Thrift Savings Fund in any pay period, pursuant to an election under subsection (b), an amount not to exceed the maximum percentage of such employee's or Member's basic pay for such pay period allowable under paragraph (2). 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.

(2) The maximum percentage allowable under this paragraph shall be determined in accordance with the following table:

In the case of a pay period beginning in fiscal year:	The maximum percentage allowable is:
2001	11
2002	12
2003	13
2004	14
2005	15
2006 or thereafter	100.

(3) Notwithstanding any limitation under this subsection, an eligible participant (as defined by section 414(v) of the Internal Revenue Code of 1986) may make such additional contributions to the Thrift Savings Fund as are permitted by such section 414(v) and regulations of the Executive Director consistent therewith.

(b)(1)(A)(i) The Executive Director shall prescribe regulations under which employees and Members may make contributions under subsection (a), to modify the amount to be contributed under such subsection, or to terminate such contributions.

(ii) An election to make contributions under this 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) The amount to be contributed pursuant to an election under subparagraph (A) shall be the percentage of basic pay or amount designated by the employee or Member.

(2)(A) The Executive Director shall by regulation provide for an eligible individual to be automatically enrolled to make contributions under subsection (a) at the default percentage of basic pay.

(B) For purposes of this paragraph, the default percentage shall be equal to 3 percent or such other percentage, not less than 2 percent nor more than 5 percent, as the Board may prescribe.

(C) The regulations shall include provisions under which any individual who would otherwise be automatically enrolled in accordance with subparagraph (A) may—

- (i) modify the percentage or amount to be contributed pursuant to automatic enrollment, effective not later than the first full pay period following receipt of the election by the appropriate processing entity; or
- (ii) decline automatic enrollment altogether.

(D)(i) Except as provided in clause (ii), for purposes of this paragraph, the term "eligible individual" means any individual who, after any regulations under subparagraph (A) first take effect, is appointed, transferred, or reappointed to a position in which that individual becomes eligible to contribute to the Thrift Savings Fund.

(ii) Members of the uniformed services shall not be eligible individuals for purposes of this paragraph.

(E) Sections 8351(a)(1), 8440a(a)(1), 8440b(a)(1), 8440c(a)(1), 8440d(a)(1), and 8440e(a)(1)¹ shall be applied in a manner consistent with the purposes of this paragraph.

(c)(1)(A) At the time prescribed by the Executive Director, but no later than 12 days after the end of the pay period that includes the first date on which an employee or Member may make contributions under subsection (a) (without regard to whether the employee or Member has elected to make such contributions during such pay period), and within such time as the Executive Director may prescribe with respect to succeeding pay periods (but no later than 12 days after the end of each such pay period), the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the basic pay of such employee or Member for such pay period.

(B) In the case of each 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, the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for that period of service.

- (C) If an employee or Member—
 - (i) is an employee or Member on January 1, 1987;
 - (ii) separates from Government employment before April 1, 1987; and
 - (iii) before separation, completes the number of years of civilian service applicable to such employee or Member under subparagraph (A) or (B) of subsection (g)(2),

¹ So in original. Probably should be "8440e(b)(1)".