

**Calendar No. 515**

117TH CONGRESS }  
2d Session

SENATE

{ REPORT  
117-173

FIRST RESPONDER FAIR RETURN FOR  
EMPLOYEES ON THEIR INITIAL  
RETIREMENT EARNED ACT

---

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

H.R. 521

TO PERMIT DISABLED LAW ENFORCEMENT OFFICERS, CUSTOMS  
AND BORDER PROTECTION OFFICERS, FIREFIGHTERS, AIR  
TRAFFIC CONTROLLERS, NUCLEAR MATERIALS COURIERS,  
MEMBERS OF THE CAPITOL POLICE, MEMBERS OF THE SUPREME  
COURT POLICE, EMPLOYEES OF THE CENTRAL INTELLIGENCE  
AGENCY PERFORMING INTELLIGENCE ACTIVITIES ABROAD OR  
HAVING SPECIALIZED SECURITY REQUIREMENTS, AND  
DIPLOMATIC SECURITY SPECIAL AGENTS OF THE DEPARTMENT  
OF STATE TO RECEIVE RETIREMENT BENEFITS IN THE SAME  
MANNER AS IF THEY HAD NOT BEEN DISABLED



SEPTEMBER 28, 2022.—Ordered to be printed

---

U.S. GOVERNMENT PUBLISHING OFFICE

29-010

WASHINGTON : 2022

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

GARY C. PETERS, Michigan, *Chairman*

THOMAS R. CARPER, Delaware	ROB PORTMAN, Ohio
MAGGIE HASSAN, New Hampshire	RON JOHNSON, Wisconsin
KYRSTEN SINEMA, Arizona	RAND PAUL, Kentucky
JACKY ROSEN, Nevada	JAMES LANKFORD, Oklahoma
ALEX PADILLA, California	MITT ROMNEY, Utah
JON OSSOFF, Georgia	RICK SCOTT, Florida
	JOSH HAWLEY, Missouri

DAVID M. WEINBERG, *Staff Director*

ZACHARY I. SCHRAM, *Chief Counsel*

LENA C. CHANG, *Director of Governmental Affairs*

DEVIN M. PARSONS, *Professional Staff Member*

PAMELA THIESSEN, *Minority Staff Director*

SAM J. MULOPULOS, *Minority Deputy Staff Director*

CARA G. MUMFORD, *Minority Director of Governmental Affairs*

ANDREW J. HOPKINS, *Minority Counsel*

LAURA W. KILBRIDE, *Chief Clerk*

## Calendar No. 515

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
117-173

---

---

### FIRST RESPONDER FAIR RETURN FOR EMPLOYEES ON THEIR INITIAL RETIREMENT EARNED ACT

---

SEPTEMBER 28, 2022.—Ordered to be printed

---

Mr. PETERS, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

### R E P O R T

[To accompany H.R. 521]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 521) to permit disabled law enforcement officers, customs and border protection officers, firefighters, air traffic controllers, nuclear materials couriers, members of the Capitol Police, members of the Supreme Court Police, employees of the Central Intelligence Agency performing intelligence activities abroad or having specialized security requirements, and diplomatic security special agents of the Department of State to receive retirement benefits in the same manner as if they had not been disabled, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### CONTENTS

	Page
I. Purpose and Summary .....	1
II. Background and Need for the Legislation .....	2
III. Legislative History .....	4
IV. Section-by-Section Analysis of the Bill, as Reported .....	4
V. Evaluation of Regulatory Impact .....	6
VI. Congressional Budget Office Cost Estimate .....	7
VII. Changes in Existing Law Made by the Bill, as Reported .....	11

#### I. PURPOSE AND SUMMARY

H.R. 521, the *First Responder Fair Return for Employees on Their Initial Retirement Earned Act*, or *First Responder Fair RETIRE Act*, would allow federal first responders who are disabled or injured on-the-job to remain eligible for enhanced retirement bene-

fits if they return to certain positions in the civil service. The first responders include federal law enforcement officers, firefighters, nuclear materials couriers, Customs and Border Protection officers, air traffic controllers, Capitol Police and Supreme Court Police officers, certain Central Intelligence Agency (CIA) employees, and State Department special agents. Under the bill, when injured first responders continue related work in the federal government in administrative or supervisory positions, they would remain eligible for the same enhanced retirement package they had as first responders.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

Over the years, Congress has enacted a number of policies related to providing enhanced retirement benefits for certain categories of federal personnel. In 1947, Congress first passed enhanced retirement benefits for Federal Bureau of Investigation (FBI) agents.<sup>1</sup> One year later, the House Committee on Post Office and Civil Service filed a committee report referencing the change in benefits for FBI officers that stated, “it is only fair to grant such retirement benefits that are provided for under the bill to law enforcement agents in all parts of the Government at an earlier age, because it is physically impossible to carry on the necessary strenuous activities after reaching 50 years of age.”<sup>2</sup> Soon after, Congress passed a law to provide the same benefits to a broader group of federal law enforcement officers.<sup>3</sup>

Although law enforcement officers were the first federal personnel group to be granted enhanced retirement benefits, certain positions within the first responder category have either been added to the definition of law enforcement officer for retirement purposes or provided with equivalent benefits through direct legislation.<sup>4</sup> Specifically, Congress passed legislation to grant air traffic controllers and firefighters enhanced retirement benefits in 1972, followed by U.S. Capitol Police in 1990, nuclear materials couriers in 1998, U.S. Supreme Court Police in 2000, and Customs and Border Protection officers in 2008.<sup>5</sup> Federal first responders hired prior to 1984 are eligible for enhanced retirement benefits under the Civil Service Retirement System (CSRS), and those hired on or after 1984 are covered under the Federal Employees’ Retirement System (FERS).<sup>6</sup> The *First Responder Fair RETIRE Act* also applies to certain Central Intelligence Agency employees and special agents at Department of State with similar retirement plans to the enhanced retirement groups under FERS or CSRS.<sup>7</sup>

<sup>1</sup>Pub. L. No. 80–168 (1947).

<sup>2</sup>House Committee on Post Office and Civil Service, *Amending the Civil Service Retirement Act to Provide Annuities for Certain Federal Employees*, 80th Cong. (May 1948).

<sup>3</sup>Congressional Research Service, *Retirement Benefits for Federal Law Enforcement Personnel* (R42631) (Sept. 5, 2017) ([www.crs.gov/Reports/R42631](http://www.crs.gov/Reports/R42631)); Pub. L. No. 80–879 (1948).

<sup>4</sup>Congressional Research Service, *Retirement Benefits for Federal Law Enforcement Personnel* (R42631) (Sept. 5, 2017) ([www.crs.gov/Reports/R42631](http://www.crs.gov/Reports/R42631)).

<sup>5</sup>Pub. L. No. 92–297 (1972); Pub. L. No. 92–382 (1972); Pub. L. No. 101–428 (1990); Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105–261, Sec. 3154 (1998); Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, Pub. L. No. 106–553, Sec. 308 (2000); Consolidated Appropriations Act, 2008, Pub. L. No. 110–161, Division E, Sec. 535 (2007).

<sup>6</sup>Congressional Research Service, *supra* note 4.

<sup>7</sup>Congressional Research Service, *Federal Retirement Plans: Frequently Asked Questions* (R47084) (May 2, 2022) ([www.crs.gov/Reports/R47084](http://www.crs.gov/Reports/R47084)).

Federal first responders eligible for an enhanced annuity are subject to mandatory retirement at age 56 or 57 due to the demanding and rigorous nature of their work.<sup>8</sup> Under both CSRS and FERS, personnel may start receiving their enhanced annuity at the age of 50 if 20 years of service has been completed.<sup>9</sup> First responders who have enhanced retirement benefits contribute an additional 0.5% of their pay toward retirement compared to other federal employees.<sup>10</sup> This higher contribution allows first responders to receive an augmented annuity available after 20 years of service in lieu of the standard 30 years of service required in other civil service positions.<sup>11</sup>

The augmented annuity or monthly pension is the primary retirement benefit available to first responders and is computed based on years of service, the average of the three highest consecutive years of pay, and the accrual rate for each year of service.<sup>12</sup> Personnel eligible for enhanced retirement benefits under CSRS accrue benefits at the rate of 2.5% per year for their first 20 years of service and 2% per year thereafter, while other civil service employees accrue 1.5% per year for their first five years of service, 1.75% for years six through ten, and 2% for each year after ten.<sup>13</sup> Personnel eligible for enhanced retirement benefits under FERS accrue benefits at the rate of 1.7% per year for the first 20 years of service and 1% per year thereafter, compared to other federal employees who accrue benefits at the rate of 1% or 1.1% per year of service.<sup>14</sup>

Federal first responders play a critical role in responding to natural disasters, domestic terrorism, and other emergencies, which places them at a higher risk for work-related injuries and disabilities. Upon injury, agencies can reassign injured first responders into other civil service positions, but often such reassignment disqualifies these employees from their prior eligibility for enhanced retirement benefits. For other federal employees, current law grants civil servants who overcome their injuries with the right to be placed into “equivalent positions” upon returning to work in federal government, which enables them to continue to contribute their valuable skills and experience to agency operations without losing their retirement benefits.<sup>15</sup> However, in the case of federal first responders who are suddenly injured, returning to an equivalent, physically demanding position that offers enhanced retirement benefits is often not feasible.

Over the past several decades, a number of first responders who have chosen to return to work in civil service positions after sustaining injuries have faced significant financial penalties for doing so. For example, bill sponsor Representative Gerald Connolly (D-VA-11) described the experience of a smokejumper during a May 2022 business meeting conducted by the House Committee on

<sup>8</sup> 5 U.S.C. § 8335; 5 U.S.C. § 8425.

<sup>9</sup> 5 U.S.C. § 8336; 5 U.S.C. § 8412.

<sup>10</sup> *Congressional Research Service, supra note 4.*

<sup>11</sup> National Federation of Federal Employees ([nffe.org/wp-content/uploads/2022/06/2022-Leg-Week-Papers-Fair-Retire.pdf](https://nffe.org/wp-content/uploads/2022/06/2022-Leg-Week-Papers-Fair-Retire.pdf)) (accessed Aug. 25, 2022).

<sup>12</sup> *Congressional Research Service, supra note 4.*

<sup>13</sup> Office of Personnel Management, Retirement Services: CSRS Information ([www.opm.gov/retirement-services/csrs-information/computation/](https://www.opm.gov/retirement-services/csrs-information/computation/)) (accessed Aug. 25, 2022).

<sup>14</sup> Office of Personnel Management, Retirement Services: FERS Information ([www.opm.gov/retirement-services/fers-information/computation/](https://www.opm.gov/retirement-services/fers-information/computation/)) (accessed Aug. 25, 2022).

<sup>15</sup> 5 U.S.C. § 8151.

Oversight and Reform.<sup>16</sup> While on the job managing a wildfire emergency, the smokejumper parachuted out of a plane and landed in a tree, subsequently dropping 80 feet and breaking his back in five places. Although he was 12 years into his career as a first responder, the smokejumper needed to reenter the workforce in a different position as a result of his injury. He chose to return to a position within the federal government, but as noted during the hearing, “the reward for his bravery and his injury and service was his removal from the retirement system” when he reentered the civil service.<sup>17</sup> Due to gaps in current law, the former smokejumper lost the 12 years of higher contributions he had paid into the enhanced retirement system, and now he must complete a 30-year career in order to fulfill requirements for his retirement rather than the previously prescribed 20-year career guaranteed to federal first responders upon entry into public service.<sup>18</sup>

The *First Responder Fair RETIRE Act* helps fill gaps in the current federal retirement law that financially penalize first responders who have been injured or disabled when carrying out their service. This bill would preserve enhanced retirement benefits for first responders who are injured in the line of duty but who choose to continue their careers within the federal government in related positions that are less physically demanding. Doing so will enable first responders who sustain injuries to continue providing their skills and expertise toward agency missions that save lives and keep communities safe.

### III. LEGISLATIVE HISTORY

Representative Gerald Connolly (D–VA–11) introduced H.R. 521, the First Responder Fair RETIRE Act, on January 28, 2021, with original cosponsors Representative James Langevin (D–RI–2) and Representative Brian Fitzpatrick (R–PA–1). The bill was referred to the House Committee on Oversight and Reform. The House of Representatives passed the bill under suspension of the rules by a vote of 417–0 on July 12, 2022.

The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs on July 13, 2022. The Committee considered H.R. 521 at a business meeting on August 3, 2022. The Committee ordered the bill to be reported favorably by voice vote en bloc with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Lankford, Romney, Scott, and Hawley present.

### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

#### *Section 1. Short title*

This section establishes the short title of the bill as the “First Responder Fair Return for Employees on Their Initial Retirement Earned Act” or the “First Responder Fair RETIRE Act.”

#### *Sec. 2. Sense of Congress*

This section provides a sense of Congress that it is in the national and homeland security interests of the United States for fed-

<sup>16</sup>House Committee on Oversight and Reform, *Full Committee Markup*, 117th Cong. (May 11, 2022).

<sup>17</sup>*Id.*

<sup>18</sup>*National Federation of Federal Employees*, *supra* note 11.

eral agencies retain the specialized knowledge and experience of individuals who suffer an injury or illness while serving as a federal first responder. The sense of Congress encourages the appointment of such individuals to positions in the same federal agency and geographic location, as well as with the same level of pay, to greatest extent possible.

*Sec. 3. Retirement for certain employees*

Subsection (a) defines the terms “affected individual” and “covered position” in the context of language the bill adds to a section of title 5 related to CSRS. Covered positions include the first responder positions of law enforcement officers, Customs and Border Protection officers, firefighters, air traffic controllers, nuclear materials couriers, members of the Capitol Police, and members of the Supreme Court Police. Affected individuals are those who sustained an illness or injury on-the-job as a first responder that left them permanently unable to continue the duties of the covered position and who, as a result, have been appointed to a different supervisory or administrative position related to the first responder activities. The amending language would allow the service that affected individuals carry out in their new roles to be treated as creditable service toward the CSRS retirement coverage they had as first responders, unless the individual opts out of such treatment of benefits or there is a break of more than three days before the individual transitions to the new position. The affected individual is also no longer eligible for the creditable service treatment after they meet the age and service requirements for mandatory separation as applies to their former covered position.

Subsection (b) defines the terms “affected individual” and “covered position” in the context of language the bill adds to a section of title 5 related to FERS. Covered positions include the first responder positions of law enforcement officers, Customs and Border Protection officers, firefighters, air traffic controllers, nuclear materials couriers, members of the Capitol Police, and members of the Supreme Court Police. Affected individuals are those who sustained an illness or injury on-the-job as a first responder that left them permanently unable to continue the duties of the covered position and who, as a result, have been appointed to a different supervisory or administrative position related to the first responder activities. The amending language would allow the service that affected individuals carry out in their new roles to be treated as creditable service toward the FERS retirement coverage they had as first responders, unless the individual opts out of such treatment of benefits or there is a break of more than three days before the individual transitions to the new position. The affected individual is also no longer eligible for the creditable service treatment after they meet the age and service requirements for mandatory separation as applies to their former covered position.

Subsection (c) defines the terms “affected employee” and “covered position” in the context of language the bill adds to a section of title 50 related to CIA employee participation in FERS. The definition of “covered position” in this subsection includes CIA positions where employees are entitled to FERS benefits similar to federal law enforcement officers. Affected employees are CIA employees in a covered position who have sustained an illness or injury on-the-

job that left them permanently unable to continue the duties of the position and who, as a result, have been appointed to a non-covered position in the CIA. The amending language would allow the service that affected employees carry out in their new roles to be treated as creditable service toward the FERS retirement coverage they had in the covered position, unless the individual opts out of such treatment of benefits or there is a break of more than three days before the individual transitions to the new position.

Subsection (d) defines the terms “affected special agent” and “covered position” in the context of language the bill adds to a section of title 22 related to the retirement benefits of special agents at the Department of State. The definition of “covered position” as added by this subsection of the bill includes Department of State special agents. Affected special agents are those who have sustained an illness or injury on-the-job that left them permanently unable to continue the duties of the position and who, as a result, have been appointed to a non-covered position in the Foreign Service. The amending language would allow the service that affected special agents carry out in their new roles to be treated as creditable service toward the retirement coverage they had in the covered position, unless the individual opts out of such treatment of benefits or there is a break of more than three days before the individual transitions to the new position.

Subsection (e) calls for the Director of the Office of Personnel Management to promulgate regulations to carry out the amending language in subsections (a) and (b) of this bill within one year after the date of the bill’s enactment. The Director of the CIA is directed to promulgate regulations to carry out the amending the language in subsection (c), and the Secretary of State is instructed to do so to carry out subsection (d). The regulations must require the relevant heads of agencies to certify that the injuries or illnesses of the affected individuals occurred during the course of carrying out their duties and permanently preclude them from continuing to serve in the covered position. The regulations must also ensure that the relevant heads of agencies appoint the affected individuals into supervisory or administrative positions that are related to the activities of the covered positions to the greatest extent practicable. In addition, the regulations need to ensure that the creditable service is treated as the same type of service as the covered position where the individual suffered the qualifying illness or injury, in accordance with the amending language in the bill.

Subsection (f) specifies that the amendments made by bill shall take effect on the date of enactment of the bill and shall apply to individuals who suffer qualifying illnesses or injuries on or after the date that is two years after bill’s enactment.

#### *Sec. 4. Determination of budgetary effects*

This section specifies that the budgetary effects of this bill will be determined by referring to the “Budgetary Effects of PAYGO Legislation.”

### V. 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 and determined that the bill will



have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

#### VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, September 23, 2022.

Hon. GARY PETERS,  
Chairman, Committee on Homeland Security and Governmental Affairs,  
U.S. Senate Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 521, the First Responder Fair RETIRE Act.

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

Sincerely,

PHILLIP L. SWAGEL,  
Director.

Enclosure.

At a Glance			
H.R. 521, the First Responder Fair RETIRE Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on August 3, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	*	4
Revenues	0	*	1
Increase or Decrease (-) in the Deficit	0	*	3
Spending Subject to Appropriation (Outlays)	0	7	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

The bill would

- Allow certain federal employees who are covered by provisions of enhanced retirement and who become ill or injured while performing the duties of their position to return to work in a different position and remain covered by enhanced retirement

Estimated budgetary effects would mainly stem from

- Increased direct spending for benefit payments because of earlier retirements that would be calculated under a more generous formula

- Increased revenues from additional retirement contributions paid by employees
- Increased retirement contributions paid by employing agencies out of their discretionary appropriations

Bill summary: H.R. 521 would allow certain federal employees who are covered by provisions of enhanced retirement and who become ill or injured while performing the duties of their position to remain covered by enhanced retirement even if they have to resume duty (as a result of their illness or injury) in a position that would otherwise not be covered.

Under the bill, people in covered positions include law enforcement officers, fire fighters, customs and border protection agents, air traffic controllers, nuclear materials couriers, members of the U.S. Capitol Police, members of the Supreme Court Police, Central Intelligence Agency agents, and special agents under the Foreign Service Act of 1980.

Estimated Federal cost: The estimated budgetary effect of H.R. 521 is shown in Table 1. The direct spending and revenue effects fall in function 600 (income security); the discretionary costs of the legislation would affect many budget functions.

Table 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 521

	By fiscal year, millions of dollars—												
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2022–2027	2022–2032
Increases in Direct Spending													
Estimated Budget Authority .....	0	0	0	0	*	*	*	*	1	1	2	*	4
Estimated Outlays .....	0	0	0	0	*	*	*	*	1	1	2	*	4
Increases in Revenues													
Estimated Revenues ..	0	0	0	*	*	*	*	*	*	*	*	*	1
Net Increase or Decrease (–) in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit .....	0	0	0	*	*	*	*	*	*	1	2	*	3
Increases in Spending Subject to Appropriation													
Estimated Authorization .....	0	0	0	1	2	4	n.e.	n.e.	n.e.	n.e.	n.e.	7	n.e.
Estimated Outlays .....	0	0	0	1	2	4	n.e.	n.e.	n.e.	n.e.	n.e.	7	n.e.

Components may not sum to totals because of rounding; n.e.=not estimated; \* = between –\$500,000 and \$500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of calendar year 2022. The provisions of H.R. 521 would apply to employees who first suffer an injury or illness two years after enactment.

Background: According to information from the Office of Personnel Management (OPM), approximately 220,000 federal employees are in enhanced retirement positions that could be affected by H.R. 521. Using data from the Department of Agriculture, the Department of Homeland Security, and other federal agencies, CBO estimates that under current law about 3.5 percent (or 8,000 employees) will be injured or become ill each year while performing their duties. Of that number, about 1 percent (or 80 employees) will be unable to return to work in a position covered by enhanced

retirement because of the nature of their injury or illness. When that happens, those employees are shifted into standard retirement and cannot retire under the provisions of enhanced retirement, which allow for earlier eligibility and provide more generous annuity calculations.

The budgetary effects of allowing those people to receive an enhanced retirement under H.R. 521 include the following:

- Outlays for retirement benefits would be larger and would begin sooner for some returning employees because of the more generous annuity calculation for enhanced retirement and the earlier eligibility for retirement. Outlays for federal retirement benefits are classified as direct spending.
- Revenues from affected employees would increase because those workers would be required to pay a larger percentage of their salaries into the Civil Service Retirement and Disability Fund (CSRDF). Those payments are recorded as revenues in the federal budget.
- Outlays from employing agencies would increase because the agencies would be required to pay a larger percentage of their affected employees' salaries into the CSRDF. Such transactions are considered intragovernmental transfers that have no net effect on the deficit. Payments from the agencies are subject to the availability of future appropriations, and receipts from those payments are classified as offsetting receipts.

Direct spending: CBO estimates that enacting H.R. 521 would increase direct spending by \$4 million over the 2022–2032 period because some retirements would occur earlier than under current law. Under the bill, people who qualified for earlier retirement also would earn larger annual benefits and their retirement would trigger earlier payments by the government for its share of premiums for retirees under the Federal Employee Health Benefits (FEHB) program.

Eligibility for enhanced retirement currently begins at age 50 for employees with 20 years of service or at any age with 25 years of service. Eligibility for standard retirement with a full annuity occurs at age 62 with 5 years of service or at age 60 with 20 years of service. (Employees with 30 years of service can retire at earlier ages, depending on factors such as their birth year and the applicable retirement system.) Using data summarizing the age and service distribution of law enforcement officers and historical retirement data for that group of employees, CBO estimates that enacting H.R. 521 would result in about 30 retirements between 2026 and 2032 that would have occurred after 2032 under current law.

The formula used to calculate the annual benefit for enhanced retirement is more generous than the standard formula. The annuity for an employee covered by enhanced retirement in the Federal Employee Retirement System (FERS) is 1.7 percent (rather than the standard 1.0 percent) of the average of the employee's three highest consecutive years of salary (high-3), multiplied by the number of years of service. For the roughly 30 retirements that CBO estimates would occur between 2026 and 2032 as a result of H.R. 521, the average starting annuity is estimated to be about \$47,000. That calculation is based on an assessment that an affected employee's high-3 is likely to stem from service completed before an injury or illness. Upon returning to the workforce, such an employ-

ee’s salary is likely to be significantly lower because that worker would not return to a position that is eligible for pay premiums such as law enforcement availability pay, Sunday pay, or night differential.

Earlier retirements also trigger earlier direct spending for premiums for the FEHB program. (The federal share of premiums for most active federal employees is paid out of agencies’ discretionary appropriations.) Using historical data from OPM, CBO estimates that over 90 percent of employees affected by H.R. 521 would continue to participate in the FEHB program upon retirement. CBO estimates that, on average, the annual federal share of FEHB premiums per recipient over the 2022–2032 period will be about \$14,000.

Revenues: Under current law, federal employees covered by enhanced retirement must contribute 0.5 percent more of their salary than the rate paid by noncovered employees (between 0.8 percent and 4.4 percent for participants in FERS, depending on when the employee began service). H.R. 521 would reclassify some positions as qualifying for enhanced retirement; as a result, CBO estimates that the additional employee contributions required by the bill would increase revenues over the 2022–2032 period by \$1 million.

Spending Subject to Appropriation: Federal agencies are required to contribute to the CSRDF up to an additional 19 percent of salary for an employee covered by enhanced retirement. (The contribution rate for most employees not covered by enhanced retirement is about 17 to 18 percent of the worker’s salary, depending on when they began service.) CBO estimates that the additional agency contributions required by H.R. 521 would increase spending subject to appropriation by \$7 million over the 2022–2027 period.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 2.

Table 2.—CBO’s ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 521, THE FIRST RESPONDER FAIR RETIRE ACT, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS ON AUGUST 3, 2022

	By fiscal year, millions of dollars—												
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2022–2027	2022–2032
	Net Increase in the Deficit												
Pay-As-You-Go Effect .....	0	0	0	0	0	0	0	0	0	1	2	0	3
Memorandum:													
Changes in Outlays .....	0	0	0	0	0	0	0	0	1	1	2	0	4
Changes in Revenues .....	0	0	0	0	0	0	0	0	0	0	0	0	1

Increase in long-term deficits: CBO estimates that enacting H.R. 521 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2033.  
Mandates: None.

Previous CBO estimate: On July 12, 2022, CBO transmitted a cost estimate for H.R. 521, the First Responder Fair RETIRE Act, as ordered reported by the House Committee on Oversight and Re-

form on May 11, 2022. CBO’s estimated costs are the same for both the Senate and House versions of the legislation.

Estimate prepared by: Federal Costs: Amber Marcellino.

Mandates: Andrew Laughlin.

Estimate reviewed by: Christina Hawley Anthony, Chief, Projections Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

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

**UNITED STATES CODE**

\* \* \* \* \*

**TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**Subpart G—Insurance and Annuities**

\* \* \* \* \*

**CHAPTER 83—RETIREMENT**

\* \* \* \* \*

**Subchapter III—Civil Service Retirement**

\* \* \* \* \*

**SEC. 8336. IMMEDIATE RETIREMENT.**

(a) \* \* \*

(b) \* \* \*

(c)(1) An employee who is separated from the service after becoming 50 years of age and completing 20 years of service as a law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer, or any combination of such service totaling at least 20 years, is entitled to an annuity.

(2) \* \* \*

(3)(A) *In this paragraph—*

(i) *the term “affected individual” means an individual covered under this subchapter who—*

(I) *is performing service in a covered position;*

(II) *while on duty, becomes ill or is injured as a direct result of the performance of such duties before the date on which the individual becomes entitled to an annuity under paragraph (1) of this subsection or subsection (e), (m), or (n), as applicable;*

(III) *because of the illness or injury described in subclause (II), is permanently unable to render useful and efficient service in the employee’s covered position, as deter-*

mined by the agency in which the individual was serving when such individual incurred the illness or injury; and

(IV) is appointed to a position in the civil service that—  
 (aa) is not a covered position; and

(bb) is within an agency that regularly appoints individuals to supervisory or administrative positions related to the activities of the former covered position of the individual;

(ii) the term “covered position” means a position as a law enforcement officer, customs and border protection officer, firefighter, air traffic controller, nuclear materials courier, member of the Capitol Police, or member of the Supreme Court Police.

(B) Unless an affected individual files an election described in subparagraph (E), creditable service by the affected individual in a position described in subparagraph (A)(i)(IV) shall be treated as creditable service in a covered position for purposes of this chapter and determining the amount to be deducted and withheld from the pay of the affected individual under section 8334.

(C) Subparagraph (B) shall only apply if the affected employee transitions to a position described in subparagraph (A)(i)(IV) without a break in service exceeding 3 days.

(D) The service of an affected individual shall no longer be eligible for treatment under subparagraph (B) if such service occurs after the individual—

(i) is transferred to a supervisory or administrative position related to the activities of the former covered position of the individual; or

(ii) meets the age and service requirements that would subject the individual to mandatory separation under section 8335 if such individual had remained in the former covered position.

(E) In accordance with procedures established by the Director of the Office of Personnel Management, an affected individual may file an election to have any creditable service performed by the affected individual treated in accordance with this chapter without regard to subparagraph (B).

(F) Nothing in this paragraph shall be construed to apply to such affected individual any other pay-related laws or regulations applicable to a covered position.

\* \* \* \* \*

**CHAPTER 84—FEDERAL EMPLOYEES’ RETIREMENT SYSTEM**

\* \* \* \* \*

**Subchapter II—Basic Annuity**

\* \* \* \* \*

**SEC. 8412. IMMEDIATE RETIREMENT.**

(a) \* \* \*

(b) \* \* \*

(c) \* \* \*

(d)(1) An employee who is separated from the service, except by removal for cause on charges of misconduct or delinquency—

[(1)](A) after completing 25 years of service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, or customs and border protection officer, or any combination of such service totaling at least 25 years, or

[(2)](B) after becoming 50 years of age and completing 20 years of service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, or customs and border protection officer, or any combination of such service totaling at least 20 years, is entitled to an annuity.

(2)(A) *In this paragraph—*

(i) *the term “affected individual” means an individual covered under this chapter who—*

(I) *is performing service in a covered position;*

(II) *while on duty, becomes ill or is injured as a direct result of the performance of such duties before the date on which the individual becomes entitled to an annuity under paragraph (1) of this subsection or subsection (e), as applicable;*

(III) *because of the illness or injury described in subclause (II), is permanently unable to render useful and efficient service in the employee’s covered position, as determined by the agency in which the individual was serving when such individual incurred the illness or injury; and*

(IV) *is appointed to a position in the civil service that—*

(aa) *is not a covered position; and*

(bb) *is within an agency that regularly appoints individuals to supervisory or administrative positions related to the activities of the former covered position of the individual;*

(ii) *the term “covered position” means a position as a law enforcement officer, customs and border protection officer, firefighter, air traffic controller, nuclear materials courier, member of the Capitol Police, or member of the Supreme Court Police.*

(B) *Unless an affected individual files an election described in subparagraph (E), creditable service by the affected individual in a position described in subparagraph (A)(i)(IV) shall be treated as creditable service in a covered position for purposes of this chapter and determining the amount to be deducted and withheld from the pay of the affected individual under section 8422.*

(C) *Subparagraph (B) shall only apply if the affected employee transitions to a position described in subparagraph (A)(i)(IV) without a break in service exceeding 3 days.*

(D) *The service of an affected individual shall no longer be eligible for treatment under subparagraph (B) if such service occurs after the individual—*

(i) *is transferred to a supervisory or administrative position related to the activities of the former covered position of the individual; or*

(ii) *meets the age and service requirements that would subject the individual to mandatory separation under section 8425 if such individual had remained in the former covered position.*

(E) *In accordance with procedures established by the Director of the Office of Personnel Management, an affected individual may file*

*an election to have any creditable service performed by the affected individual treated in accordance with this chapter without regard to subparagraph (B).*

\* \* \* \* \*

**SEC. 8414. EARLY RETIREMENT.**

(a) \* \* \*

(b)(1) \* \* \*

(2) \* \* \*

(3) Paragraph (1) shall not apply to an employee entitled to an annuity under subsection (d)(1) or (e) of section 8412.

\* \* \* \* \*

**SEC. 8415. COMPUTATION OF BASIC ANNUITY.**

\* \* \* \* \*

(e) The annuity of an employee retiring under subsection (d)(1) or (e) of section 8412 or under subsection (a), (b), or (c) of section 8425 is—

(1) 17/10 percent of that individual's average pay multiplied by so much of such individual's total service as does not exceed 20 years; plus

(2) 1 percent of that individual's average pay multiplied by so much of such individual's total service as exceeds 20 years.

\* \* \* \* \*

(h)(1) \* \* \*

(2)(A) Paragraph (1) does not apply in the case of an employee or Member retiring under section 8412(g) or 8413(b) if the employee or Member would satisfy the age and service requirements for title to an annuity under section 8412(a), (b), ~~[(d)(2)](d)(1)(B)~~, (e)(2), or (f)(2), determined as if the employee or Member had, as of the date of separation, attained the age specified in subparagraph (B).

(B) A determination under subparagraph (A) shall be based on how old the employee or Member will be as of the date on which the annuity under section 8412(g) or 8413(b) is to commence.

\* \* \* \* \*

**SEC. 8421. ANNUITY SUPPLEMENT**

(a)(1) Subject to paragraph (3), an individual shall, if and while entitled to an annuity under subsection (a), (b), (d)(1), or (e) of section 8412, or under section 8414(c), also be entitled to an annuity supplement under this section.

\* \* \* \* \*

**SEC. 8421a. REDUCTIONS ON ACCOUNT OF EARNINGS FROM WORK PERFORMED WHILE ENTITLED TO AN ANNUITY SUPPLEMENT.**

(a) \* \* \*

(b) The amount of an individual's excess earnings shall be charged to months as follows:

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4)(A) \* \* \*

(B) For purposes of this section—



(i) \* \* \*

(ii) any earnings attributable to a period before attaining the applicable retirement age under section 8412(h) shall not be considered in determining the excess earnings of an individual who retires under section 8412(d)(1) or (e), or section 8414(c).

\* \* \* \* \*

**SEC. 8425. MANDATORY SEPARATION.**

(a) \* \* \*

(b)(1) A law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer who is otherwise eligible for immediate retirement under section 8412(d)(1) shall be separated from the service on the last day of the month in which that law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer 1 as the case may be, becomes 57 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee becomes 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

(2) \* \* \*

(c) A member of the Capitol Police who is otherwise eligible for immediate retirement under section 8412(d)(1) shall be separated from the service on the last day of the month in which such member becomes 57 years of age or completes 20 years of service if then over that age. The Capitol Police Board, when in its judgment the public interest so requires, may exempt such a member from automatic separation under this subsection until that member becomes 60 years of age. The Board shall notify the member in writing of the date of separation at least 60 days before that date. Action to separate the member is not effective, without the consent of the member, until the last day of the month in which the 60-day notice expires.

(d) A member of the Supreme Court Police who is otherwise eligible for immediate retirement under section 8412(d)(1) shall be separated from the service on the last day of the month in which such member becomes 57 years of age or completes 20 years of service if then over that age. The Marshal of the Supreme Court of the United States, when in his judgment the public interest so requires, may exempt such a member from automatic separation under this subsection until that member becomes 60 years of age. The Marshal shall notify the member in writing of the date of separation at least 60 days before the date. Action to separate the member is not effective, without the consent of the member, until the last day of the month in which the 60-day notice expires.

\* \* \* \* \*

**SEC. 8462. COST OF LIVING ADJUSTMENTS.**

(a) \* \* \*

(b) \* \* \*

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) \* \* \*

(2) \* \* \*

(3)(A) \* \* \*

(B)(i) \* \* \*

(ii) This paragraph does not apply with respect to an annuitant under subsection (d)(1) or (e) of section 8412 or (in the case of an annuitant separated from service as a military reserve technician as a result of disability) under section 8414(c).

(4) \* \* \*

**TITLE 22—FOREIGN RELATIONS AND INTERCOURSE**

**CHAPTER 52—FOREIGN SERVICE**

**Subchapter VIII—Foreign Service Retirement and Disability**

**PART I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM**

**SEC. 4045. CONTRIBUTIONS TO FUND.**

(a) \* \* \*

(b) \* \* \*

(c) \* \* \*

(d) Contribution for civilian service; creditability of interim service

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) \* \* \*

(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d)(1) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either this section or section 4071e of this title and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.

(6) \* \* \*

\* \* \* \* \*

**SEC. 4046. COMPUTATION OF ANNUITIES.**

(a) Measurements; reduction for special contributions; Foreign Service investigator/inspectors

(1) \* \* \*

\* \* \* \* \*

(6)(A) \* \* \*

(B) \* \* \*

(C) \* \* \*

(D)(i) *In this subparagraph—*

- (I) the term “affected special agent” means an individual covered under this subchapter who—
  - (aa) is performing service as a special agent;
  - (bb) while on duty as a special agent, becomes ill or is injured as a direct result of the performance of such duties before the date on which the individual becomes entitled to an annuity under section 811;
  - (cc) because of the illness or injury described in item (bb), is permanently unable to render useful and efficient service in the employee’s covered position, as determined by the Secretary; and
  - (dd) is appointed to a position in the Foreign Service that is not a covered position; and
- (II) the term “covered position” means a position as—
  - (aa) a law enforcement officer described in section 8331(20) or 8401(17) of title 5, United States Code;
  - (bb) a customs and border protection officer described in section 8331(31) or 8401(36) of title 5, United States Code;
  - (cc) a firefighter described in section 8331(21) or 8401(14) of title 5, United States Code;
  - (dd) an air traffic controller described in section 8331(30) or 8401(35) of title 5, United States Code;
  - (ee) a nuclear materials courier described in section 8331(27) or 8401(33) of title 5, United States Code;
  - (ff) a member of the United States Capitol Police;
  - (gg) a member of the Supreme Court Police;
  - (hh) an employee of the Agency designated under section 302(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2152(a)); or
  - (ii) a special agent.
- (ii) Unless an affected special agent files an election described in clause (iv), creditable service by the affected special agent in a position described in clause (i)(I)(dd) shall be treated as creditable service as a special agent for purposes of this subchapter, including determining the amount to be deducted and withheld from the pay of the individual under section 805.
- (iii) Clause (ii) shall only apply if the special agent transitions to a position described in clause (i)(I)(dd) without a break in service exceeding 3 days.
- (iv) The service of an affected employee shall no longer be eligible for treatment under clause (ii) if such service occurs after the employee is transferred to a supervisory or administrative position related to the activities of the former covered position of the employee.
- (v) In accordance with procedures established by the Secretary, an affected special agent may file an election to have any creditable service performed by the affected special agent treated in accordance with this subchapter, without regard to clause (ii).

\* \* \* \* \*

**SEC. 4052. MANDATORY RETIREMENT.**

(a)(1) \* \* \*

(2) 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 subchapter; 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)(1) of title 5, 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. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.

\* \* \* \* \*

**TITLE 50—WAR AND NATIONAL DEFENSE**

\* \* \* \* \*

**CHAPTER 38—CENTRAL INTELLIGENCE AGENCY  
RETIREMENT AND DISABILITY**

\* \* \* \* \*

**Subchapter III—Participation in Federal Employees’  
Retirement System**

\* \* \* \* \*

**SEC. 2152. SPECIAL RULES RELATING TO SECTION 2013 CRITERIA EMPLOYEES.**

- (a) \* \* \*
- (b) \* \* \*
- (c) \* \* \*

(d) *EMPLOYEES DISABLED ON DUTY.*—

(1) *DEFINITIONS.*—*In this subsection—*

(A) *the term “affected employee” means an employee of the Agency covered under subchapter II of chapter 84 of title 5, United States Code, who—*

(i) *is performing service in a position designated under subsection (a);*

(ii) *while on duty in the position designated under subsection (a), becomes ill or is injured as a direct result of the performance of such duties before the date on which the employee becomes entitled to an annuity under section 233 of this Act or section 8412(d)(1) of title 5, United States Code;*

(iii) because of the illness or injury described in clause (ii), is permanently unable to render useful and efficient service in the employee's covered position, as determined by the Director; and

(iv) is appointed to a position in the civil service that is not a covered position but is within the Agency; and  
(B) the term "covered position" means a position as—

(i) a law enforcement officer described in section 8331(20) or 8401(17) of title 5, United States Code;

(ii) a customs and border protection officer described in section 8331(31) or 8401(36) of title 5, United States Code;

(iii) a firefighter described in section 8331(21) or 8401(14) of title 5, United States Code;

(iv) an air traffic controller described in section 8331(30) or 8401(35) of title 5, United States Code;

(v) a nuclear materials courier described in section 8331(27) or 8401(33) of title 5, United States Code;

(vi) a member of the United States Capitol Police;

(vii) a member of the Supreme Court Police;

(viii) an affected employee; or

(ix) a special agent described in section 804(15) of the Foreign Service Act of 1980 (22 U.S.C. 4044(15)).

(2) **TREATMENT OF SERVICE AFTER DISABILITY.**—Unless an affected employee files an election described in paragraph (3), creditable service by the affected employee in a position described in paragraph (1)(A)(iv) shall be treated as creditable service in a covered position for purposes of this Act and chapter 84 of title 5, United States Code, including eligibility for an annuity under section 233 of this Act or 8412(d)(1) of title 5, United States Code, and determining the amount to be deducted and withheld from the pay of the affected employee under section 8422 of title 5, United States Code.

(3) **BREAK IN SERVICE.**—Paragraph (2) shall only apply if the affected employee transitions to a position described in paragraph (1)(A)(iv) without a break a service exceeding 3 days.

(4) **LIMITATION ON TREATMENT OF SERVICE.**—The service of an affected employee shall no longer be eligible for treatment under paragraph (2) if such service occurs after the employee is transferred to a supervisory or administrative position related to the activities of the former covered position of the employee.

(5) **OPT OUT.**—An affected employee may file an election to have any creditable service performed by the affected employee treated in accordance with chapter 84 of title 5, United States Code, without regard to paragraph (2).