

FULL ANNUITY SUPPLEMENT FOR CERTAIN AIR TRAFFIC
CONTROLLERS

SEPTEMBER 20, 2016.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

[To accompany H.R. 5785]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 5785) to amend title 5, United States
Code, to provide for an annuity supplement for certain air traffic
controllers, having considered the same, report favorably thereon
without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 5785, to amend title 5, United States Code, to provide for
an annuity supplement for certain air traffic controllers, exempts
full-time air traffic control instructors under contract with the Fed-

eral Aviation Administration (FAA) from the reduction to the Federal Employees Retirement System (FERS) annuity supplement when an annuitant receives excess earnings. The bill incentivizes former air traffic controllers to continue service after mandatory retirement as full-time contracted air traffic controller instructors.

BACKGROUND AND NEED FOR LEGISLATION

The FAA is responsible for the safety of America's airways. It employs uniquely skilled and highly trained air traffic controllers (ATCs) to ensure smooth and safe operations across the country. However, FAA is facing a growing critical shortage of trained controllers. Approximately 6,000 new ATCs will need to be hired in the next five years alone.

In order to meet this hiring challenge, FAA needs qualified ATC instructors to train the new hires. FAA regulations, however, are very strict on who may become an ATC instructor. Generally, ATC instructors must have been an active FAA controller for some part of their career and within the previous five years prior to applying for a contract instructor position.¹ This limits the pool of available ATC instructors.

FAA relies upon contracted ATC instructors and awarded a competitively bid contract in 2015 to train the new corps of controllers at facilities located mostly in Oklahoma City, Oklahoma, and Washington, D.C.² Under the contract, the awardee is the only provider of this service to the FAA. Unfortunately, the awardee has found it difficult to attract ATC instructors to work, in part because of the FAA regulations restricting contracted ATC instructor eligibility.³

In other main cause of the hiring challenges is the excess earnings reduction to which ATCs are subject upon retirement. With limited exceptions, ATCs who join the FAA under FERS are required to retire at the age of 56 due to the strenuous nature of their jobs.⁴ Upon retirement, they are eligible for a FERS annuity supplement that approximates what they would earn in Social Security benefits until age 62.⁵ This annuity supplement is necessary because Social Security benefits do not begin until the age of 62.

The annuity supplement is currently subject to an excess earnings reduction in 5 U.S.C. 8421a(a) for every dollar earned over the Social Security earnings limits of \$15,720 per year.⁶ Thus, retired ATCs who receive compensation greater than the earnings limitation could forfeit a portion or the entire amount of their FERS annuity supplement, depending on the amount of their earnings. H.R. 5785 would alter this dynamic. It would incentivize former ATCs to become full-time instructors after retirement by eliminating the earnings cap while they are instructors and allowing them to continue to receive their full FERS annuity supplement. These instruc-

¹ Memorandum from SAIC to Republican and Democratic Staff on the H. Comm. on Oversight & Gov't Reform, *Retirement Income Limit Waiver for Air Traffic Controller Instructors* (July 28, 2016).

² SAIC, Press Release, *SAIC Awarded \$425 Million Controller Training Contract by FAA* (May 4, 2015).

³ *Retirement Income Limit Waiver for Air Traffic Controller Instructors*, *supra* note 1.

⁴ 5 U.S.C. § 8335

⁵ 5 U.S.C. § 8421

⁶ 5 U.S.C. § 8421a.

tors would help train the next generation of ATCs and maintain the security of the nation's airways.

LEGISLATIVE HISTORY

H.R. 5785 was introduced on July 14, 2016 by Representative Steve Russell (R–OK) and referred to the Committee on Oversight and Government Reform. On September 15, 2016, the Committee on Oversight and Government Reform ordered H.R. 5785 favorably reported by unanimous consent, without amendment.

Additionally, the text of this bill passed the Senate by a vote of 95–3 on April 19, 2016 as part of the Senate amendment to H.R. 636, the FAA Extension, Safety, and Security Act of 2016, but it was among a number of provisions not ultimately included in the final version of H.R. 636 that became law on July 15, 2016.

A similar bill to H.R. 5785, S. 3217, was introduced by Sen. James Inhofe (R–OK) on July 14, 2016 and referred to the Senate Committee on Homeland Security and Governmental Affairs.

SECTION-BY-SECTION

Section 1. Full annuity supplement for certain air traffic controllers

Amends Section 8421a of title 5, United States Code, to exempt former air traffic controllers under contract with the Federal Aviation Administration as full-time instructors from a reduction to the Federal Employees Retirement System (FERS) annuity supplement when an annuitant receives earnings above the Social Security earnings limit.

EXPLANATION OF AMENDMENTS

No amendments to H.R. 5785 were offered or adopted during Full Committee consideration of the bill.

COMMITTEE CONSIDERATION

On September 15, 2016 the Committee met in open session and ordered reported favorably the bill, H.R. 5785, by unanimous consent, a quorum being present.

ROLL CALL VOTES

No roll call votes were requested or conducted during Full Committee consideration of H.R. 5785.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill amends title 5, United States Code, to provide for an annuity supplement for certain air traffic controllers. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective is to amend title 5, United States Code, to provide for an annuity supplement for certain air traffic controllers.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

At the time of this writing, the Committee had yet to receive a formal cost estimate from the Congressional Budget Office for H.R. 5785. However, preliminary analysis from CBO suggests that the bill would provide for no significant budgetary effects.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has not received a cost estimate for this bill from the Director of Congressional Budget Office, and instead has included a committee estimate in the section prior to this one.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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

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PART III—EMPLOYEES

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SUBPART G—INSURANCE AND ANNUITIES

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

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SUBCHAPTER II—BASIC ANNUITY

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§ 8421a. Reductions on account of earnings from work performed while entitled to an annuity supplement

(a) **[The amount]** *Except as provided in subsection (c), the amount* of the annuity supplement to which an individual is entitled under section 8421 for any month (determined without regard to subsection (c) of such section) shall be reduced by the amount of any excess earnings of such individual which are required to be charged to such supplement for such month, as determined under subsection (b).

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

(1)(A) There shall be charged to each month of a year under subsection (a) an amount equal to the individual's excess earnings (as determined under paragraph (2) with respect to such year), divided by the number of the individual's supplement en-

entitlement months for such year (as determined under paragraph (3)).

(B) Notwithstanding subparagraph (A), the amount charged to a month under subsection (a) may not exceed the amount of the annuity supplement to which the individual is entitled under section 8421 for such month (determined without regard to subsection (c) of such section).

(2) The excess earnings based on which reductions under subsection (a) shall be made with respect to an individual in a year—

(A) shall be equal to 50 percent of so much of such individual's earnings for the immediately preceding year as exceeds the applicable exempt amount for such preceding year; but

(B) may not exceed the total amount of the annuity supplement payments to which such individual was entitled for such preceding year under section 8421 (determined without regard to subsection (c) of such section, and without regard to this section).

(3)(A) Subject to subparagraph (B), the number of an individual's supplement entitlement months for a year shall be 12.

(B) The number determined under subparagraph (A) shall be reduced so as not to include any month after which such individual ceases to be entitled to an annuity supplement by reason of section 8421(a)(3)(B), relating to cessation of entitlement upon attaining age 62.

(4)(A) For purposes of this section, and except as provided in subparagraph (B), the "earnings" and the "applicable exempt amount" of an individual shall be determined in a manner consistent with applicable provisions of section 203 of the Social Security Act.

(B) For purposes of this section—

(i) in determining the excess earnings of any individual, only earnings attributable to periods during which such individual was entitled to an annuity supplement under section 8421 shall be considered; and

(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) or (e), or section 8414(c).

(5) Notwithstanding paragraphs (1) through (4), the reduction required by subsection (a) shall be effective with respect to the annuity supplement payable for each month in the 12-month period beginning on the first day of the seventh month after the end of the calendar year in which the excess earnings were earned.

(c) This section shall not apply to an individual described in section 8412(e) during any period in which the individual, after separating from the service as described in that section, is employed full-time as an air traffic control instructor under contract with the Federal Aviation Administration, including an instructor working at an on-site facility (such as an airport).

[(c)] *(d)* The Office shall prescribe regulations under which this section shall be applied in the case of a reemployed annuitant.

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