

113TH CONGRESS  
2D SESSION

# H. R. 5619

To amend title 5, United States Code, to provide that for purposes of computing the annuity of certain law enforcement officers, any hours worked in excess of the limitation applicable to law enforcement availability pay shall be included in such computation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2014

Mr. KING of New York (for himself, Mr. FITZPATRICK, Mr. LOBIONDO, Mr. PIERLUISI, Mr. PASCRELL, and Mr. SCHNEIDER) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To amend title 5, United States Code, to provide that for purposes of computing the annuity of certain law enforcement officers, any hours worked in excess of the limitation applicable to law enforcement availability pay shall be included in such computation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “LEO Fair Retirement Act of 2014”.

1 (b) FINDINGS.—Congress finds the following:

2 (1) Federal law enforcement officers are never  
3 “off-duty”. They are counted on to respond at any  
4 time of the day or night, regardless of their official  
5 duty status, to protect the public safety. Outside of  
6 our Nation’s armed forces, theirs is the only occupa-  
7 tion comprised of individuals who are routinely  
8 called upon to put their lives on the line to keep  
9 America safe.

10 (2) Though the Federal Government may house  
11 the largest variety of occupations of any U.S. em-  
12 ployer across its panoply of agencies and entities,  
13 Federal law enforcement is absolutely unique among  
14 them, and the Federal law enforcement officer has  
15 no counterpart in the private sector. It is one of the  
16 most stressful, most dangerous, and most rewarding  
17 careers for those who meet the rigorous require-  
18 ments of the job.

19 (3) It was in recognition of the unique nature  
20 of the occupation, and the demanding schedules re-  
21 quired of those who fill its ranks, that Congress es-  
22 tablished distinct pay and benefit systems for Fed-  
23 eral law enforcement positions. This includes basic  
24 pay, retirement, and even overtime compensation, in  
25 the form of either Law Enforcement Availability Pay

1 (“LEAP”) or Administratively Uncontrollable Over-  
2 time (“AUO”).

3 (4) Under current law, LEAP by its very na-  
4 ture is provided to law enforcement officers to en-  
5 sure that they are “available”, that they will be  
6 “generally and reasonably accessible by the agency”  
7 in excess of the 40-hour workweek to perform un-  
8 scheduled duty based on the agency’s needs.

9 (5) Similarly, AUO was established to provide  
10 overtime to certain law enforcement officers in posi-  
11 tions where “the hours of duty cannot be controlled  
12 administratively” and that require “substantial  
13 amounts of irregular, unscheduled overtime duty”.

14 (6) Because both LEAP and AUO compensa-  
15 tion are subject to the pay caps, they are payable to  
16 a Federal law enforcement officer only to the extent  
17 that the payments do not cause the aggregate of the  
18 employee’s basic pay and premium pay to exceed the  
19 established caps.

20 (7) In light of the continuing homeland and na-  
21 tional security threats facing our Nation, and after  
22 a three-year Federal pay freeze, it is in the interest  
23 of the Federal Government to ensure that it can  
24 continue to recruit and retain the highest caliber  
25 personnel by guaranteeing Federal law enforcement

1 officers full credit in retirement for overtime hours  
2 worked but never paid.

3 **SEC. 2. COMPUTATION OF ANNUITY FOR HOURS WORKED**  
4 **IN EXCESS OF LAW ENFORCEMENT AVAIL-**  
5 **ABILITY PAY AND ADMINISTRATIVELY UN-**  
6 **CONTROLLABLE OVERTIME LIMITATIONS.**

7 (a) CSRS.—

8 (1) IN GENERAL.—Section 8339 of title 5,  
9 United States Code, is amended by adding at the  
10 end the following:

11 “(v)(1) Notwithstanding any other provision of this  
12 title, including sections 5545a and 5547, any law enforce-  
13 ment availability pay under section 5545a that would have  
14 been received by an individual described under section  
15 8331(3)(E) (i) or (ii) but for the limitation provided in  
16 such section 5547 shall be included in the average pay  
17 of such an individual for purposes of computing the annu-  
18 ity of such an individual under this section.

19 “(2) Notwithstanding any other provision of this title,  
20 including section 5545(c)(2), any administratively uncon-  
21 trollable overtime pay under such section that would have  
22 been received by an employee but for the limitation pro-  
23 vided in such section shall be included in the average pay  
24 of such employee for purposes of computing the annuity  
25 of such employee under this section.”.

1           (2) CLARIFICATION WITH RESPECT TO ANNUITY  
2       LIMIT.—The limitation provided in section 8339(f)  
3       of title 5, United States Code, shall apply to any an-  
4       nuity calculated pursuant to subsection (v) of such  
5       section (as added by paragraph (1)).

6       (b) FERS.—Section 8415 of title 5, United States  
7       Code, is amended by adding at the end the following:

8       “(o)(1) Notwithstanding any other provision of this  
9       title, including sections 5545a and 5547, any law enforce-  
10      ment availability pay under section 5545a that would have  
11      been received by any individual described under section  
12      8331(3)(E) (i) or (ii) but for the limitation provided in  
13      such section 5545a or 5547 shall be included in the aver-  
14      age pay of such an individual for purposes of computing  
15      the annuity of such an individual under this section.

16      “(2) Notwithstanding any other provision of this title,  
17      including section 5545(c)(2), any administratively uncon-  
18      trollable overtime pay under such section that would have  
19      been received by an employee but for the limitation pro-  
20      vided in such section shall be included in the average pay  
21      of such employee for purposes of computing the annuity  
22      of such employee under this section.”.

23      (c) APPLICATION.—The amendments made by this  
24      section shall apply to any applicable annuity calculated on

1 or after the date that is one year after the date of enact-  
2 ment of this Act.

