

115TH CONGRESS
1ST SESSION

H. R. 3303

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.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2017

Mr. CONNOLLY (for himself, Mr. KING of New York, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Intelligence, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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.

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.**

4 This Act may be cited as the “First Responder Fair
5 Return for Employees on Their Initial Retirement Earned
6 Act of 2017” or the “First Responder Fair RETIRE
7 Act”.

8 **SEC. 2. SENSE OF CONGRESS.**

9 It is the sense of Congress that—

10 (1) it is in the best national and homeland se-
11 curity interests of the United States for Federal
12 agencies to retain the specialized knowledge and ex-
13 perience of individuals who suffer an injury or illness
14 while serving in a covered position (as defined under
15 the amendments made by this Act); and

16 (2) in developing regulations to carry out this
17 Act and the amendments made by this Act, the Di-
18 rector of the Office of Personnel Management and
19 the Secretary of Labor should ensure, to the great-
20 est extent possible, that the reappointment of an in-
21 dividual to a position in the civil service that is not
22 a covered position is with the same Federal agency,
23 in the same geographic location, and at a level of
24 pay commensurate to the position which the indi-

1 vidual held immediately prior to such injury or ill-
2 ness.

3 **SEC. 3. RETIREMENT FOR CERTAIN EMPLOYEES.**

4 (a) CSRS.—Section 8336(c) of title 5, United States
5 Code, is amended by adding at the end the following:

6 “(3)(A) In this paragraph—

7 “(i) the term ‘covered individual’ means an in-
8 dividual covered under this subchapter who—

9 “(I) is performing service in a covered po-
10 sition;

11 “(II) has performed not less than 3 years
12 of creditable service in a covered position;

13 “(III) while in the performance of the du-
14 ties of the individual, becomes ill or is injured
15 before the date on which the individual becomes
16 entitled to an annuity under paragraph (1) of
17 this subsection or subsection (e), (m), or (n), as
18 applicable;

19 “(IV) because of the illness or injury de-
20 scribed in subclause (III), is permanently un-
21 able to continue service in a covered position,
22 determined in accordance with regulations pro-
23 mulgated by the Director of the Office of Per-
24 sonnel Management, in consultation with the
25 Secretary of Labor; and

1 “(V) is appointed to a position in the civil
2 service that is not a covered position; and

3 “(ii) the term ‘covered position’ means a posi-
4 tion as a law enforcement officer, customs and bor-
5 der protection officer, firefighter, air traffic con-
6 troller, nuclear materials courier, member of the
7 Capitol Police, member of the Supreme Court Police,
8 an employee of the Central Intelligence Agency des-
9 ignated under section 302(a) of the Central Intel-
10 ligence Agency Retirement Act (50 U.S.C. 2152(a)),
11 or special agent described in section 804(15) of the
12 Foreign Service Act of 1980 (22 U.S.C. 4044(15)).

13 “(B) Unless a covered individual files an election de-
14 scribed in subparagraph (C), creditable service by the cov-
15 ered individual in a position described in subparagraph
16 (A)(i)(V) shall be treated as creditable service in a covered
17 position for purposes of this chapter, including eligibility
18 for an annuity under paragraph (1) of this subsection or
19 subsection (e), (m), or (n), as applicable, and determining
20 the amount to be deducted and withheld from the pay of
21 the covered individual under section 8334.

22 “(C) In accordance with procedures established by
23 the Director of the Office of Personnel Management, a
24 covered individual may file an election to have any cred-
25 itable service performed by the covered individual treated

1 in accordance with this chapter, without regard to sub-
2 paragraph (B).

3 “(D) If a covered individual who has not filed an elec-
4 tion described in subparagraph (C) separates from service
5 before the date on which the covered individual becomes
6 entitled to an annuity under paragraph (1) of this sub-
7 section or subsection (e), (m), or (n), as applicable, the
8 covered individual shall be entitled to a lump sum payment
9 from the Fund of the difference between—

10 “(i) the amount that was deducted and withheld
11 from the pay of the covered individual; and

12 “(ii) the amount that would have been deducted
13 and withheld from the pay of the covered individual
14 if the covered individual had made an election de-
15 scribed in subparagraph (C).”.

16 (b) FERS.—

17 (1) IN GENERAL.—Section 8412(d) of title 5,
18 United States Code, is amended—

19 (A) by redesignating paragraphs (1) and
20 (2) as subparagraphs (A) and (B), respectively;

21 (B) by inserting “(1)” before “An em-
22 ployee”; and

23 (C) by adding at the end the following:

24 “(2)(A) In this paragraph—

1 “(i) the term ‘covered individual’ means an in-
2 dividual covered under this chapter who—

3 “(I) is performing service in a covered po-
4 sition;

5 “(II) has performed not less than 3 years
6 of creditable service in a covered position;

7 “(III) while in the performance of the du-
8 ties of the individual, becomes ill or is injured
9 before the date on which the individual becomes
10 entitled to an annuity under paragraph (1) of
11 this subsection or subsection (e), as applicable;

12 “(IV) because of the illness or injury de-
13 scribed in subclause (III), is permanently un-
14 able to continue service in a covered position,
15 determined in accordance with regulations pro-
16 mulgated by the Director of the Office of Per-
17 sonnel Management, in consultation with the
18 Secretary of Labor; and

19 “(V) is appointed to a position in the civil
20 service that is not a covered position; and

21 “(ii) the term ‘covered position’ means a posi-
22 tion as a law enforcement officer, customs and bor-
23 der protection officer, firefighter, air traffic con-
24 troller, nuclear materials courier, member of the
25 Capitol Police, member of the Supreme Court Police,

1 an employee of the Central Intelligence Agency des-
2 ignated under section 302(a) of the Central Intel-
3 ligence Agency Retirement Act (50 U.S.C. 2152(a)),
4 or special agent described in section 804(15) of the
5 Foreign Service Act of 1980 (22 U.S.C. 4044(15)).

6 “(B) Unless a covered individual files an election de-
7 scribed in subparagraph (C), creditable service by the cov-
8 ered individual in a position described in subparagraph
9 (A)(i)(V) shall be treated as creditable service in a covered
10 position for purposes of this chapter, including eligibility
11 for an annuity under paragraph (1) of this subsection or
12 subsection (e), as applicable, and determining the amount
13 to be deducted and withheld from the pay of the covered
14 individual under section 8422.

15 “(C) In accordance with procedures established by
16 the Director of the Office of Personnel Management, a
17 covered individual may file an election to have any cred-
18 itable service performed by the covered individual treated
19 in accordance with this chapter, without regard to sub-
20 paragraph (B).

21 “(D) If a covered individual who has not filed an elec-
22 tion described in subparagraph (C) separates from service
23 before the date on which the covered individual becomes
24 entitled to an annuity under paragraph (1) of this sub-
25 section or subsection (e), as applicable, the covered indi-

1 vidual shall be entitled to a lump sum payment from the
 2 Fund of the difference between—

3 “(i) the amount that was deducted and withheld
 4 from the pay of the covered individual; and

5 “(ii) the amount that would have been deducted
 6 and withheld from the pay of the covered individual
 7 if the covered individual had made an election de-
 8 scribed in subparagraph (C).”.

9 (2) TECHNICAL AND CONFORMING AMEND-
 10 MENTS.—

11 (A) Chapter 84 of title 5, United States
 12 Code, is amended—

13 (i) in section 8414(b)(3), by inserting
 14 “(1)” after “subsection (d)”;

15 (ii) in section 8415—

16 (I) in subsection (e), in the mat-
 17 ter preceding paragraph (1), by in-
 18 serting “(1)” after “subsection (d)”;
 19 and

20 (II) in subsection (h)(2)(A), by
 21 striking “(d)(2)” and inserting
 22 “(d)(1)(B)”;

23 (iii) in section 8421(a)(1), by insert-
 24 ing “(1)” after “(d)”;

1 (iv) in section 8421a(b)(4)(B)(ii), by
 2 inserting “(1)” after “section 8412(d)”;

3 (v) in section 8425, by inserting “(1)”
 4 after “section 8412(d)” each place it ap-
 5 pears; and

6 (vi) in section 8462(c)(3)(B)(ii), by
 7 inserting “(1)” after “subsection (d)”.

8 (B) Title VIII of the Foreign Service Act
 9 of 1980 (22 U.S.C. 4041 et seq.) is amended—

10 (i) in section 805(d)(5) (22 U.S.C.
 11 4045(d)(5)), by inserting “(1)” after “or
 12 8412(d)”;

13 (ii) in section 812(a)(2)(B) (22
 14 U.S.C. 4052(a)(2)(B)), by inserting “(1)”
 15 after “or 8412(d)”.

16 (c) CIA EMPLOYEES.—Section 302 of the Central In-
 17 telligence Agency Retirement Act (50 U.S.C. 2152) is
 18 amended by adding at the end the following:

19 “(d) EMPLOYEES DISABLED ON DUTY.—

20 “(1) DEFINITIONS.—In this subsection—

21 “(A) the term ‘covered employee’ means an
 22 employee of the Agency covered under sub-
 23 chapter II of chapter 84 of title 5, United
 24 States Code, who—

1 “(i) is performing service in a position
2 designated under subsection (a);

3 “(ii) has performed not less than 3
4 years of creditable service in a covered po-
5 sition;

6 “(iii) while in the performance of the
7 duties of the employee in the position des-
8 ignated under subsection (a), becomes ill
9 or is injured before the date on which the
10 employee becomes entitled to an annuity
11 under section 233 of this Act or section
12 8412(d)(1) of title 5, United States Code;

13 “(iv) because of the illness or injury
14 described in clause (iii), is permanently un-
15 able to continue service in a covered posi-
16 tion, determined in accordance with regula-
17 tions promulgated by the Director of the
18 Office of Personnel Management, in con-
19 sultation with the Secretary of Labor; and

20 “(v) is appointed to a position in the
21 civil service that is not a covered position;
22 and

23 “(B) the term ‘covered position’ means a
24 position as—

1 “(i) a law enforcement officer de-
2 scribed in section 8331(20) or 8401(17) of
3 title 5, United States Code;

4 “(ii) a customs and border protection
5 officer described in section 8331(31) or
6 8401(36) of title 5, United States Code;

7 “(iii) a firefighter described in section
8 8331(21) or 8401(14) of title 5, United
9 States Code;

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

13 “(v) a nuclear materials courier de-
14 scribed in section 8331(27) or 8401(33) of
15 title 5, United States Code;

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

18 “(vii) a member of the Supreme Court
19 Police;

20 “(viii) a covered employee; or

21 “(ix) a special agent described in sec-
22 tion 804(15) of the Foreign Service Act of
23 1980 (22 U.S.C. 4044(15)).

24 “(2) TREATMENT OF SERVICE AFTER DIS-
25 ABILITY.—Unless a covered employee files an elec-

1 tion described in paragraph (3), creditable service by
2 the covered employee in a position described in para-
3 graph (1)(A)(v) shall be treated as creditable service
4 in a covered position for purposes of this Act and
5 chapter 84 of title 5, United States Code, including
6 eligibility for an annuity under section 233 of this
7 Act or 8412(d)(1) of title 5, United States Code,
8 and determining the amount to be deducted and
9 withheld from the pay of the covered employee under
10 section 8422 of title 5, United States Code.

11 “(3) OPT OUT.—In accordance with procedures
12 established by the Director of the Office of Per-
13 sonnel Management, a covered employee may file an
14 election to have any creditable service performed by
15 the covered employee treated in accordance with
16 chapter 84 of title 5, United States Code, without
17 regard to paragraph (2).

18 “(4) SEPARATION BEFORE RETIREMENT ELIGI-
19 BILITY.—If a covered employee who has not filed an
20 election described in paragraph (3) separates from
21 service before the date on which the covered em-
22 ployee becomes entitled to an annuity under section
23 233 of this Act or 8412(d)(1) of title 5, United
24 States Code, the covered employee shall be entitled

1 to a lump sum payment from the Fund of the dif-
2 ference between—

3 “(A) the amount that was deducted and
4 withheld from the pay of the covered employee;
5 and

6 “(B) the amount that would have been de-
7 ducted and withheld from the pay of the cov-
8 ered employee if the covered employee had
9 made an election described in paragraph (3).”.

10 (d) FOREIGN SERVICE RETIREMENT AND DIS-
11 ABILITY SYSTEM.—Section 806(a)(6) of the Foreign Serv-
12 ice Act of 1980 (22 U.S.C. 4046(a)(6)) is amended by
13 adding at the end the following:

14 “(D)(i) In this subparagraph—

15 “(I) the term ‘covered special agent’ means an
16 individual covered under this subchapter who—

17 “(aa) is performing service as a special
18 agent;

19 “(bb) has performed not less than 3 years
20 of creditable service in a covered position;

21 “(cc) while in the performance of the du-
22 ties of the individual as a special agent, be-
23 comes ill or is injured before the date on which
24 the individual becomes entitled to an annuity
25 under section 811;

1 “(dd) because of the illness or injury de-
2 scribed in item (cc), is permanently unable to
3 continue service in a covered position, deter-
4 mined in accordance with regulations promul-
5 gated by the Director of the Office of Personnel
6 Management, in consultation with the Secretary
7 of Labor; and

8 “(ee) is appointed to a position in the For-
9 eign Service that is not a covered position; and

10 “(II) the term ‘covered position’ means a posi-
11 tion as—

12 “(aa) a law enforcement officer described
13 in section 8331(20) or 8401(17) of title 5,
14 United States Code;

15 “(bb) a customs and border protection offi-
16 cer described in section 8331(31) or 8401(36)
17 of title 5, United States Code;

18 “(cc) a firefighter described in section
19 8331(21) or 8401(14) of title 5, United States
20 Code;

21 “(dd) an air traffic controller described in
22 section 8331(30) or 8401(35) of title 5, United
23 States Code;

1 “(ee) a nuclear materials courier described
2 in section 8331(27) or 8401(33) of title 5,
3 United States Code;

4 “(ff) a member of the United States Cap-
5 itol Police;

6 “(gg) a member of the Supreme Court Po-
7 lice;

8 “(hh) an employee of the Central Intel-
9 ligence Agency designated under section 302(a)
10 of the Central Intelligence Agency Retirement
11 Act (50 U.S.C. 2152(a)); or

12 “(ii) a special agent.

13 “(ii) Unless a covered special agent files an election
14 described in clause (iii), creditable service by the covered
15 special agent in a position described in clause (i)(I)(ee)
16 shall be treated as creditable service as a special agent
17 for purposes of this subchapter, including determining the
18 amount to be deducted and withheld from the pay of the
19 individual under section 805.

20 “(iii) In accordance with procedures established by
21 the Secretary, a covered special agent may file an election
22 to have any creditable service performed by the covered
23 special agent treated in accordance with this subchapter,
24 without regard to clause (ii).

1 “(iv) If a covered special agent who has not filed an
2 election described in clause (iii) separates from service be-
3 fore the date on which the covered special agent becomes
4 entitled to an annuity under section 811, the covered spe-
5 cial agent shall be entitled to a lump sum payment from
6 the Fund of the difference between—

7 “(I) the amount that was deducted and with-
8 held from the pay of the covered special agent; and

9 “(II) the amount that would have been de-
10 ducted and withheld from the pay of the covered
11 special agent if the covered special agent had made
12 an election described in clause (iii).”.

13 (e) IMPLEMENTATION.—

14 (1) IN GENERAL.—The Director of the Office of
15 Personnel Management—

16 (A) not later than 60 days after the date
17 of enactment of this Act, and in consultation
18 with the Secretary of Labor, shall promulgate
19 regulations regarding determining when an in-
20 dividual is permanently unable to continue serv-
21 ice in a covered position (as defined in section
22 302(d) of the Central Intelligence Agency Re-
23 tirement Act (50 U.S.C. 2152(d)), as added by
24 this Act);

1 (B) shall promulgate regulations to carry
 2 out the amendments made by subsections (a),
 3 (b), and (c); and

4 (C) not later than 1 year after the date of
 5 enactment of this Act, shall issue guidance for
 6 agencies regarding implementation of the
 7 amendments made by subsections (a), (b), and
 8 (c).

9 (2) FOREIGN SERVICE RETIREMENT AND DIS-
 10 ABILITY SYSTEM.—The Secretary of State shall pro-
 11 mulgate regulations to carry out the amendment
 12 made by subsection (d).

13 (f) EFFECTIVE DATE; APPLICABILITY.—The amend-
 14 ments made by this section—

15 (1) shall take effect on the date of enactment
 16 of this Act; and

17 (2) shall apply to an individual who suffers an
 18 illness or injury described in section
 19 8336(c)(3)(A)(i)(III) or section
 20 8412(d)(2)(A)(i)(III) of title 5, United States Code,
 21 as amended by this section, section 302(d)(1)(A)(iii)
 22 of the Central Intelligence Agency Retirement Act,
 23 as amended by this section, or section
 24 806(a)(6)(D)(i)(I)(cc) of the Foreign Service Act of
 25 1980, as amended by this section, on or after the

- 1 date that is 2 years after the date of enactment of
- 2 this Act.

