

Calendar No. 562

115TH CONGRESS
2^D SESSION**S. 1888****[Report No. 115–330]**

To amend title 5, United States Code, to increase the maximum amount of a Voluntary Separation Incentive Payment and to include an annual adjustment in accordance with the Consumer Price Index.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2017

Mr. LANKFORD introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 4, 2018

Reported by Mr. JOHNSON, with an amendment

[Insert the part printed in italic]

A BILL

To amend title 5, United States Code, to increase the maximum amount of a Voluntary Separation Incentive Payment and to include an annual adjustment in accordance with the Consumer Price Index.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Voluntary Separation
3 Incentive Payment Adjustment Act of 2017”.

4 **SEC. 2. VOLUNTARY SEPARATION INCENTIVE PAY IN-**
5 **CREASE.**

6 (a) IN GENERAL.—Section 3523 of title 5, United
7 States Code, is amended—

8 (1) in subsection (b)(3)(B), by striking
9 “\$25,000” and inserting “\$40,000, as adjusted in
10 accordance with subsection (c)”; and

11 (2) by adding at the end the following:

12 “(c) CONSUMER PRICE INDEX ADJUSTMENT.—

13 “(1) IN GENERAL.—On March 1 of each year,
14 the Director of the Office of Personnel Management
15 shall adjust the amount under subsection (b)(3)(B)
16 by the amount determined by the Secretary of Labor
17 to reflect the percentage increase between—

18 “(A) the Consumer Price Index (all items;
19 United States city average) published for De-
20 cember of the preceding year; and

21 “(B) the Consumer Price Index (all items;
22 United States city average) published for De-
23 cember of the year before the preceding year.

24 “(2) ROUNDING.—In making an adjustment
25 under paragraph (1), the Director of the Office of
26 Personnel Management shall—

1 “(A) round the percentage increase to the
2 nearest $\frac{1}{10}$ of 1 percent; and

3 “(B) round the amount of the adjustment
4 to the nearest multiple of \$1,000.”.

5 (b) DEPARTMENT OF DEFENSE.—Section 9902(f)(5)
6 of title 5, United States Code, is amended—

7 (1) in subparagraph (A)(ii), by striking
8 “\$25,000” and inserting “an amount determined by
9 the Secretary, not to exceed \$40,000, as adjusted in
10 accordance with subparagraph (D)”;

11 (2) by adding at the end the following:

12 “(D)(i) On March 1 of each year, the Secretary
13 of Defense shall adjust the amount under subpara-
14 graph (A)(ii) by the amount determined by the Sec-
15 retary of Labor to reflect the percentage difference
16 between—

17 “(I) the Consumer Price Index (all items;
18 United States city average) published for De-
19 cember of the preceding year; and

20 “(II) the Consumer Price Index (all items;
21 United States city average) published for De-
22 cember of the year before the preceding year.

23 “(ii) In making an adjustment under clause (i),
24 the Secretary of Defense shall—

1 “(I) round the percentage increase to the
2 nearest $\frac{1}{10}$ of 1 percent; and

3 “(II) round the amount of the adjustment
4 to the nearest multiple of \$1,000.”.

5 **SEC. 3. RETIREMENT-CREDITABLE BASIC PAY.**

6 (a) *DEFINITION OF BASIC PAY.*—Clause (ii) of Section
7 8331(3)(E) of title 5, United States Code, is amended to
8 read as follows:

9 “(ii) received after September 11, 2001,
10 by a Federal air marshal or criminal inves-
11 tigator (as defined in section 5545a(a)(2))
12 of the Transportation Security Administra-
13 tion, subject to all restrictions and earning
14 limitations imposed on criminal investiga-
15 tors receiving such pay under section 5545a,
16 including the premium pay limitations
17 under section 5547;”.

18 (b) *FAIR LABOR STANDARDS ACT EXEMPTION.*—Sec-
19 tion 13 of the Fair Labor Standards Act of 1938 (29 U.S.C.
20 213) is amended—

21 (1) in subsection (a)(16)—

22 (A) by striking “is paid” and inserting “is
23 entitled to”; and

24 (B) by inserting “, or a Federal air mar-
25 shal or criminal investigator employed by the

1 *Administrator of the Transportation Security*
 2 *Administration who is entitled to availability*
 3 *pay as described in section 8331(3)(E)(ii) of*
 4 *such title (where entitlement is determined before*
 5 *the application of any premium pay limita-*
 6 *tion)” before the semicolon; and*
 7 *(2) in subsection (b)(30)—*

8 *(A) by striking “is paid” and inserting “is*
 9 *entitled to”; and*

10 *(B) by inserting “, or a Federal air mar-*
 11 *shal or criminal investigator employed by the*
 12 *Administrator of the Transportation Security*
 13 *Administration who is entitled to availability*
 14 *pay as described in section 8331(3)(E)(ii) of*
 15 *such title (where entitlement is determined before*
 16 *the application of any premium pay limita-*
 17 *tion)” before the period.*

18 *(c) EFFECTIVE DATE; APPLICABILITY.—*

19 *(1) IN GENERAL.—Subject to paragraph (2), this*
 20 *section, and the amendments made by this section,*
 21 *shall take effect on the first day of the first pay period*
 22 *commencing on or after the date of enactment of this*
 23 *Act.*

24 *(2) RETROACTIVE APPLICATION.—*

1 (A) *IN GENERAL.*—Any availability pay re-
2 ceived for any pay period commencing before the
3 date of enactment of this Act by a Federal air
4 marshal or criminal investigator employed by
5 the Transportation Security Administration
6 shall be deemed basic pay under section 8331(3)
7 of title 5, United States Code, if the Transpor-
8 tation Security Administration treated such pay
9 as retirement-creditable basic pay, but the Office
10 of Personnel Management, based on an interpre-
11 tation of section 8331(3) of title 5, United States
12 Code, did not accept such pay as retirement-
13 creditable basic pay.

14 (B) *IMPLEMENTATION.*—Not later than 90
15 days after the date of enactment of this Act, the
16 Director of the Office of Personnel Management
17 shall commence taking such actions as are nec-
18 essary to implement the amendments made by
19 this section with respect to availability pay
20 deemed to be basic pay under subparagraph (A).

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