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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

# H. R.

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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.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. CONNOLLY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# 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 2019” 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) Federal agencies should ensure, to the  
17            greatest extent possible, that an individual who can  
18            no longer carry out the duties of a covered position,  
19            and is reappointed to a position in the civil service  
20            that is not a covered position, is reappointed within  
21            the same Federal agency, in the same geographic lo-  
22            cation, and at a level of pay commensurate to the  
23            position which the individual held immediately prior  
24            to such injury or illness.

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

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

4 “(3)(A) In this paragraph—

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

7 “(I) is performing service in a covered po-  
8 sition;

9 “(II) while on duty, becomes ill or is in-  
10 jured as a direct result of the performance of  
11 such duties before the date on which the indi-  
12 vidual becomes entitled to an annuity under  
13 paragraph (1) of this subsection or subsection  
14 (e), (m), or (n), as applicable;

15 “(III) because of the illness or injury de-  
16 scribed in subclause (II), is permanently unable  
17 to render useful and efficient service in the em-  
18 ployee’s covered position, as determined by the  
19 agency in which the individual was serving  
20 when such individual incurred the illness or in-  
21 jury; and

22 “(IV) is appointed to a position in the civil  
23 service that—

24 “(aa) is not a covered position; and

25 “(bb) is within an agency that regu-  
26 larly appoints individuals to supervisory or

1 administrative positions related to the ac-  
2 tivities of the former covered position of  
3 the individual;

4 “(ii) the term ‘covered position’ means a posi-  
5 tion as a law enforcement officer, customs and bor-  
6 der protection officer, firefighter, air traffic con-  
7 troller, nuclear materials courier, member of the  
8 Capitol Police, or member of the Supreme Court Po-  
9 lice; and

10 “(B) Unless an affected individual files an election  
11 described in subparagraph (E), creditable service by the  
12 affected individual in a position described in subparagraph  
13 (A)(i)(IV) shall be treated as creditable service in a cov-  
14 ered position for purposes of this chapter and determining  
15 the amount to be deducted and withheld from the pay of  
16 the affected individual under section 8334.

17 “(C) Subparagraph (B) shall only apply if the af-  
18 fected employee transitions to a position described in sub-  
19 paragraph (A)(i)(IV) without a break in service exceeding  
20 3 days.

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

1           “(i) is transferred to a supervisory or adminis-  
2           trative position related to the activities of the former  
3           covered position of the individual; or

4           “(ii) meets the age and service requirements  
5           that would subject the individual to mandatory sepa-  
6           ration under section 8335 if such individual had re-  
7           mained in the former covered position.

8           “(E) In accordance with procedures established by  
9           the Director of the Office of Personnel Management, an  
10          affected individual may file an election to have any cred-  
11          itable service performed by the affected individual treated  
12          in accordance with this chapter without regard to subpara-  
13          graph (B).

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

17          (b) FERS.—

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

20                         (A) by redesignating paragraphs (1) and

21                         (2) as subparagraphs (A) and (B), respectively;

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

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

25                         “(2)(A) In this paragraph—

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

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

5                   “(II) while on duty, becomes ill or is in-  
6                   jured as a direct result of the performance of  
7                   such duties before the date on which the indi-  
8                   vidual becomes entitled to an annuity under  
9                   paragraph (1) of this subsection or subsection  
10                  (e), as applicable;

11                  “(III) because of the illness or injury de-  
12                  scribed in subclause (II), is permanently unable  
13                  to render useful and efficient service in the em-  
14                  ployee’s covered position, as determined by the  
15                  agency in which the individual was serving  
16                  when such individual incurred the illness or in-  
17                  jury; and

18                  “(IV) is appointed to a position in the civil  
19                  service that—

20                          “(aa) is not a covered position; and

21                          “(bb) is within an agency that regu-  
22                          larly appoints individuals to supervisory or  
23                          administrative positions related to the ac-  
24                          tivities of the former covered position of  
25                          the individual;

1           “(ii) the term ‘covered position’ means a posi-  
2           tion as a law enforcement officer, customs and bor-  
3           der protection officer, firefighter, air traffic con-  
4           troller, nuclear materials courier, member of the  
5           Capitol Police, or member of the Supreme Court Po-  
6           lice.

7           “(B) Unless an affected individual files an election  
8           described in subparagraph (E), creditable service by the  
9           affected individual in a position described in subparagraph  
10          (A)(i)(IV) shall be treated as creditable service in a cov-  
11          ered position for purposes of this chapter and determining  
12          the amount to be deducted and withheld from the pay of  
13          the affected individual under section 8422.

14          “(C) Subparagraph (B) shall only apply if the af-  
15          fected employee transitions to a position described in sub-  
16          paragraph (A)(i)(IV) without a break in service exceeding  
17          3 days.

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

21                 “(i) is transferred to a supervisory or adminis-  
22                 trative position related to the activities of the former  
23                 covered position of the individual; or

24                 “(ii) meets the age and service requirements  
25                 that would subject the individual to mandatory sepa-

1           ration under section 8425 if such individual had re-  
2           mained in the former covered position.

3           “(E) In accordance with procedures established by  
4 the Director of the Office of Personnel Management, an  
5 affected individual may file an election to have any cred-  
6 itable service performed by the affected individual treated  
7 in accordance with this chapter without regard to subpara-  
8 graph (B).

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

12                   (2) TECHNICAL AND CONFORMING AMEND-  
13           MENTS.—

14                   (A) Chapter 84 of title 5, United States  
15           Code, is amended—

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

18                           (ii) in section 8415—

19                                   (I) in subsection (e), in the mat-  
20                                   ter preceding paragraph (1), by in-  
21                                   serting “(1)” after “subsection (d)”;  
22                                   and

23                                   (II) in subsection (h)(2)(A), by  
24                                   striking “(d)(2)” and inserting  
25                                   “(d)(1)(B)”;

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

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

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

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

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

12 (i) in section 805(d)(5) (22 U.S.C.  
13 4045(d)(5)), by inserting “(1)” after “or  
14 8412(d)”;

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

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

21 “(d) EMPLOYEES DISABLED ON DUTY.—

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

23 “(A) the term ‘affected employee’ means  
24 an employee of the Agency covered under sub-

1 chapter II of chapter 84 of title 5, United  
2 States Code, who—

3 “(i) is performing service in a position  
4 designated under subsection (a);

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

13 “(iii) because of the illness or injury  
14 described in clause (ii), is permanently un-  
15 able to render useful and efficient service  
16 in the employee’s covered position, as de-  
17 termined by the Director; and

18 “(iv) is appointed to a position in the  
19 civil service that is not a covered position  
20 but is within the Agency; and

21 “(B) the term ‘covered position’ means a  
22 position as—

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

1 “(ii) a customs and border protection  
2 officer described in section 8331(31) or  
3 8401(36) of title 5, United States Code;

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

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

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

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

15 “(vii) a member of the Supreme Court  
16 Police;

17 “(viii) an affected employee; or

18 “(ix) a special agent described in sec-  
19 tion 804(15) of the Foreign Service Act of  
20 1980 (22 U.S.C. 4044(15)).

21 “(2) TREATMENT OF SERVICE AFTER DIS-  
22 ABILITY.—Unless an affected employee files an elec-  
23 tion described in paragraph (3), creditable service by  
24 the affected employee in a position described in  
25 paragraph (1)(A)(iv) shall be treated as creditable

1 service in a covered position for purposes of this Act  
2 and chapter 84 of title 5, United States Code, in-  
3 cluding eligibility for an annuity under section 233  
4 of this Act or 8412(d)(1) of title 5, United States  
5 Code, and determining the amount to be deducted  
6 and withheld from the pay of the affected employee  
7 under section 8422 of title 5, United States Code.

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

12 “(4) LIMITATION ON TREATMENT OF SERV-  
13 ICE.—The service of an affected employee shall no  
14 longer be eligible for treatment under paragraph (2)  
15 if such service occurs after the employee is trans-  
16 ferred to a supervisory or administrative position re-  
17 lated to the activities of the former covered position  
18 of the employee.

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

24 (d) FOREIGN SERVICE RETIREMENT AND DIS-  
25 ABILITY SYSTEM.—Section 806(a)(6) of the Foreign Serv-

1 ice Act of 1980 (22 U.S.C. 4046(a)(6)) is amended by  
2 adding at the end the following:

3 “(D)(i) In this subparagraph—

4 “(I) the term ‘affected special agent’ means an  
5 individual covered under this subchapter who—

6 “(aa) is performing service as a special  
7 agent;

8 “(bb) while on duty as a special agent, be-  
9 comes ill or is injured as a direct result of the  
10 performance of such duties before the date on  
11 which the individual becomes entitled to an an-  
12 nuity under section 811;

13 “(cc) because of the illness or injury de-  
14 scribed in item (bb), is permanently unable to  
15 render useful and efficient service in the em-  
16 ployee’s covered position, as determined by the  
17 Secretary; and

18 “(dd) is appointed to a position in the For-  
19 eign Service that is not a covered position; and

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

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

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

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

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

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

13          “(ff) a member of the United States Cap-  
14 itol Police;

15          “(gg) a member of the Supreme Court Po-  
16 lice;

17          “(hh) an employee of the Agency des-  
18 igned under section 302(a) of the Central In-  
19 telligence Agency Retirement Act (50 U.S.C.  
20 2152(a)); or

21          “(ii) a special agent.

22          “(ii) Unless an affected special agent files an election  
23 described in clause (iv), creditable service by the affected  
24 special agent in a position described in clause (i)(I)(dd)  
25 shall be treated as creditable service as a special agent

1 for purposes of this subchapter, including determining the  
2 amount to be deducted and withheld from the pay of the  
3 individual under section 805.

4 “(iii) Clause (ii) shall only apply if the special agent  
5 transitions to a position described in clause (i)(I)(dd)  
6 without a break in service exceeding 3 days.

7 “(iv) The service of an affected employee shall no  
8 longer be eligible for treatment under clause (ii) if such  
9 service occurs after the employee is transferred to a super-  
10 visory or administrative position related to the activities  
11 of the former covered position of the employee.

12 “(v) In accordance with procedures established by the  
13 Secretary, an affected special agent may file an election  
14 to have any creditable service performed by the affected  
15 special agent treated in accordance with this subchapter,  
16 without regard to clause (ii).”.

17 (e) IMPLEMENTATION.—

18 (1) OFFICE OF PERSONNEL MANAGEMENT.—

19 Not later than 1 year after the date of enactment  
20 of this Act, the Director of the Office of Personnel  
21 Management shall promulgate regulations to carry  
22 out the amendments made by subsections (a) and  
23 (b).

24 (2) CIA EMPLOYEES.—The Director of the  
25 Central Intelligence Agency shall promulgate regula-

1 tions to carry out the amendment made by sub-  
2 section (c).

3 (3) FOREIGN SERVICE RETIREMENT AND DIS-  
4 ABILITY SYSTEM.—The Secretary of State shall pro-  
5 mulgate regulations to carry out the amendment  
6 made by subsection (d).

7 (4) AGENCY CERTIFICATION.—The regulations  
8 promulgated to carry out the amendments made by  
9 this Act shall include a requirement that the head  
10 of the agency at which an affected employee or spe-  
11 cial agent (as the case may be) incurred the applica-  
12 ble illness or injury certifies that such illness or in-  
13 jury—

14 (A) was incurred in the course of the em-  
15 ployee's or special agent's duties; and

16 (B) permanently precludes the employee or  
17 special agent from rendering useful and effi-  
18 cient service in the covered position but would  
19 not preclude the employee or special agent from  
20 continuing to serve in the Federal service.

21 (5) AGENCY REAPPOINTMENT.—The regula-  
22 tions promulgated to carry out the amendments  
23 made by this Act shall ensure that, to the greatest  
24 extent possible, the head of each agency appoints af-  
25 fected employees or special agents to supervisory or

1 administrative positions related to the activities of  
2 the former covered position of the employee or spe-  
3 cial agent.

4 (6) TREATMENT OF SERVICE.—The regulations  
5 promulgated to carry out the amendments made by  
6 this Act shall ensure that the creditable service of an  
7 affected employee or special agent (as the case may  
8 be) that is not in a covered position pursuant to an  
9 election made under such amendments shall be  
10 treated as the same type of service as the covered  
11 position in which the employee or agent suffered the  
12 qualifying illness or injury.

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

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(e)(3)(A)(i)(II) or section 8412(d)(2)(A)(i)(II)  
20 of title 5, United States Code, as amended by this  
21 section, section 302(d)(1)(A)(ii) of the Central Intel-  
22 ligence Agency Retirement Act, as amended by this  
23 section, or section 806(a)(6)(D)(i)(I)(bb) of the For-  
24 eign Service Act of 1980, as amended by this sec-

1       tion, on or after the date that is 2 years after the  
2       date of enactment of this Act.