

116TH CONGRESS  
1ST SESSION

# H. R. 2828

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 premium pay shall be included in such computation, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2019

Mr. KING of New York (for himself, Mr. PASCRELL, Ms. NORTON, Mr. FITZPATRICK, Mr. GARAMENDI, Mr. CONNOLLY, and Mr. SWALWELL of California) introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on Ways and Means, 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 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 premium 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “LEO Fair Retirement Act of 2019”.

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

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

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

22 (3) It was in recognition of the unique nature  
23 of the occupation, and the demanding schedules re-  
24 quired of those who fill its ranks, that Congress es-  
25 tablished distinct pay and benefit systems for Fed-

1 eral law enforcement positions. This includes basic  
2 pay, retirement, and even overtime compensation.

3 (4) Under current law, however, the payment of  
4 overtime compensation is limited, and is only pay-  
5 able to the extent that the payments do not cause  
6 the aggregate of the law enforcement officer's bi-  
7 weekly or annual pay to exceed the pay caps estab-  
8 lished under section 5547 of title 5, United States  
9 Code. This often results in a law enforcement officer  
10 working significant amounts of overtime hours year  
11 after year for which the officer is never com-  
12 pensated.

13 (5) In light of the continuing homeland and na-  
14 tional security threats facing our Nation, it is in the  
15 interest of the Federal Government to ensure that it  
16 can continue to recruit and retain the highest caliber  
17 personnel by allowing Federal law enforcement offi-  
18 cers the opportunity to reclaim full credit in retire-  
19 ment for overtime hours worked but never paid.

20 **SEC. 2. COMPUTATION OF ANNUITY FOR HOURS WORKED**  
21 **IN EXCESS OF LAW ENFORCEMENT PREMIUM**  
22 **PAY LIMITATIONS.**

23 (a) CSRS.—

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

4           “(v)(1) Notwithstanding any other provision of this  
5           title, including sections 5545a and 5547, and consistent  
6           with the requirements of paragraph (2), any premium pay  
7           described in section 5547(a) that would have been received  
8           by a law enforcement officer but for the limitation pro-  
9           vided in such section shall be included in the average pay  
10          of such officer for purposes of computing the annuity of  
11          such officer under this section.

12          “(2)(A) Paragraph (1) shall not apply unless the law  
13          enforcement officer makes a lump-sum payment to the Of-  
14          fice in the manner prescribed under this paragraph.

15          “(B) The officer may—

16                 “(i) not later than 180 days before the date  
17                 that the officer’s annuity will commence, request  
18                 from the Office an estimate (expressed as a dollar  
19                 figure) of—

20                         “(I) the lump-sum payment described  
21                         under subparagraph (C);

22                         “(II) the amount of the officer’s monthly  
23                         annuity payment if the officer elects to make  
24                         the lump-sum payment and receive an amended

1 annuity that includes the application of para-  
2 graph (1); and

3 “(III) the amount of such officer’s monthly  
4 annuity payment if the officer does not make  
5 such an election; and

6 “(ii) consistent with the requirements of sub-  
7 paragraph (D), not later than 90 days after receipt  
8 of the estimate under clause (i), irrevocably elect to  
9 make the lump-sum payment to the Office.

10 “(C) If a law enforcement officer makes an election  
11 pursuant to subparagraph (B)(ii), such officer shall make  
12 a lump-sum payment to the Office equal to the difference  
13 between—

14 “(i) the amount that would have been contrib-  
15 uted by the officer and the employer under section  
16 8334 during the 3 consecutive years used to deter-  
17 mine average pay (as described under section  
18 8331(4)) if the rate of basic pay of the officer dur-  
19 ing such period of years included any premium pay  
20 described in section 5547(a) that would have been  
21 received by a law enforcement officer but for the  
22 limitation provided in such section; and

23 “(ii) the amount that was so contributed during  
24 such period of years.

1       “(D) The officer may elect an actuarial annuity re-  
2       duction, consistent with regulations prescribed by the Of-  
3       fice, in lieu of the lump-sum payment required under sub-  
4       paragraphs (B) and (C).

5       “(3) In this subsection, the term ‘law enforcement of-  
6       ficer’ has the meaning given the term ‘qualified public  
7       safety employee’ in section 72(t)(10) of the Internal Rev-  
8       enue Code of 1986.”.

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

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

16       “(o)(1) Notwithstanding any other provision of this  
17       title, including sections 5545a and 5547, and consistent  
18       with the requirements of paragraph (2), any premium pay  
19       described in section 5547(a) that would have been received  
20       by a law enforcement officer but for the limitation pro-  
21       vided in such section shall be included in the average pay  
22       of such officer for purposes of computing the annuity of  
23       such officer under this section.

24       “(2) Paragraph (1) shall not apply unless the law en-  
25       forcement officer makes a lump-sum payment to the Office

1 in the same manner as prescribed under section  
2 8339(v)(2).

3 “(3) In this subsection, the term ‘law enforcement of-  
4 ficer’ has the meaning given the term ‘qualified public  
5 safety employee’ in section 72(t)(10) of the Internal Rev-  
6 enue Code of 1986.”.

7 (c) APPLICATION.—The amendments made by sub-  
8 section (a) and (b) shall apply to any applicable annuity  
9 calculated on or after the date that is one year after the  
10 date of enactment of this Act.

11 (d) REGULATIONS.—

12 (1) IN GENERAL.—Not later than 1 year after  
13 the date of enactment of this Act, the Director of  
14 the Office of Personnel Management shall promul-  
15 gate regulations to carry out sections 8339(v) and  
16 8415(o) of title 5, United States Code, as added by  
17 subsections (a) and (b).

18 (2) LUMP-SUM PAYMENT.—Such regulations  
19 shall include—

20 (A) procedures under which any law en-  
21 forcement officer covered by such sections may  
22 make the lump-sum payment as described  
23 under sections 8339(v)(2) and 8415(o)(2) of  
24 title 5, United States Code, as added by sub-

1 sections (a) and (b), from amounts within the  
2 officer's Thrift Savings Fund account; and

3 (B) procedures, promulgated in consulta-  
4 tion with the Thrift Savings Board, under  
5 which a transfer may be made from such ac-  
6 count to the Office of Personnel Management.

7 (3) SOLICITATION OF PAYROLL INFORMA-  
8 TION.—Such regulations shall include—

9 (A) guidance for agencies employing law  
10 enforcement officers for proper retention of  
11 payroll information required to carry out the  
12 amendments made by subsection (a) and (b),  
13 including, for each creditable year of service,  
14 the difference between the amount the law en-  
15 forcement officer received in gross compensa-  
16 tion and the amount that would have been re-  
17 ceived as gross compensation but for the appli-  
18 cation of the premium pay caps in section 5547  
19 of title 5, United States Code; and

20 (B) procedures for the Director to solicit  
21 sufficient payroll information from the head of  
22 each applicable agency to provide for the com-  
23 putations required by the amendments made by  
24 this Act.



1 **SEC. 3. ELIGIBILITY FOR AVAILABILITY PAY FOR POSTAL**  
2 **INSPECTORS.**

3 (a) IN GENERAL.—Section 5545a of title 5, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “(l) The provisions of subsections (a)–(h) providing  
7 for availability pay shall apply to a Postal Inspector. For  
8 the purpose of this section, section 5542(d) of this title,  
9 and section 13(a)(16) and (b)(30) of the Fair Labor  
10 Standards Act of 1938 (29 U.S.C. 213(a)(16) and  
11 (b)(30)), a Postal Inspector shall be deemed to be a crimi-  
12 nal investigator as defined in this section. For purposes  
13 of this subsection, the term ‘Postal Inspector’ has the  
14 meaning given such term under section 1003(c) of title  
15 39.”.

16 (b) CONFORMING AMENDMENT.—Section 410(b)(11)  
17 of title 39, United States Code, is amended by striking  
18 “Section 5520a” and inserting “Sections 5520a and  
19 5545a”.

20 **SEC. 4. CREDIT FOR CERTAIN LUMP-SUM PAYMENTS OF**  
21 **UNCOMPENSATED LAW ENFORCEMENT PRE-**  
22 **MIUM PAY.**

23 (a) IN GENERAL.—In the case of an individual, there  
24 shall be allowed as a credit against the tax imposed by  
25 chapter 1 of the Internal Revenue Code of 1986 for the  
26 taxable year an amount equal to the sum of the lump-

1 sum payments made by the individual during such taxable  
2 year pursuant to section 8339(v)(2) or 8415(o)(2) of title  
3 5, United States Code, with respect to an annuity of such  
4 individual.

5 (b) TREATED AS NON-REFUNDABLE PERSONAL  
6 CREDIT.—For purposes of the Internal Revenue Code of  
7 1986, the credit allowed under subsection (a) shall be  
8 treated as a credit allowed under subpart A of part IV  
9 of subchapter A of chapter 1 of such Code.

○