CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

August 29, 2018

S. 1888
Voluntary Separation Incentive Payment Adjustment Act of 2017

As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on October 4, 2017

SUMMARY

S. 1888 would increase from $25,000 to $40,000 the amount that federal agencies can offer to employees as part of a separation incentive. That amount would rise annually to account for inflation.

The bill also would clarify the treatment of law enforcement availability pay (LEAP) for federal air marshals and criminal investigators of the Transportation Security Administration (TSA). A recent review of the relevant federal statutes by the Office of Personnel Management (OPM) found that LEAP has been incorrectly applied to the retirement benefit calculations for certain TSA criminal investigators and federal air marshals, resulting in benefit payments that are higher than authorized under current law. S. 1888 would hold harmless the retirees and current employees who are affected by OPM's findings and would clarify the treatment of LEAP for future retirees.

CBO estimates those changes would, assuming appropriation of the necessary amounts, increase discretionary outlays by $698 million over the 2019-2023 period. In addition, direct spending would increase by $314 million and revenues would increase by $1 million over the 2019-2028 period.

Because enacting S. 1888 would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting S. 1888 would not increase net direct spending by more than $2.5 billion or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2029.

S. 1888 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effects of S. 1888 are shown in Table 1. The costs of the legislation stemming from estimated increases in authorization levels fall within all budget functions that have personnel accounts. The direct spending costs fall within budget functions 550 (health) and 600 (income security).

TABLE 1. SUMMARY OF BUDGETARY EFFECTS OF S. 1888

	By Fiscal Year, in Millions of Dollars												
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019-2023	2019-2028
INCREASES IN SPENDING SUBJECT TO APPROPRIATION													
Estimated Budget Authority	0	73	81	91	226	236	n.a.	n.a.	n.a.	n.a.	n.a.	707	n.a.
Estimated Outlays	0	70	81	91	221	235	n.a.	n.a.	n.a.	n.a.	n.a.	698	n.a.
INCREASES IN DIRECT SPENDING													
Estimated Budget Authority	0	6	15	18	27	40	44	43	41	40	38	107	314
Estimated Outlays	0	6	15	18	27	40	44	43	41	40	38	107	314
INCREASES IN REVENUES													
Estimated Revenues	0	0	1	0	0	0	0	0	0	0	0	1	1
NET INCREASE IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Effect on the Deficit	0	6	14	18	27	40	44	43	41	40	38	106	313

Components do not sum to totals because of rounding; n.a. = not applicable.

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 1888 will be enacted at the beginning of fiscal year 2019 and that future appropriations will be increased by the amount of the estimated authorizations.

Spending Subject to Appropriation

S. 1888 would permanently increase, to $40,000, the maximum amount of lump-sum payments that federal agencies can offer to employees as an incentive to separate voluntarily from federal service earlier than they otherwise would. In addition, that new maximum amount would rise annually with inflation, reaching $45,000 by 2023, CBO estimates. Under current law, most federal agencies are authorized to make separation payments of no more than $25,000. The Department of Defense (DoD) has temporary authority—through 2021—to offer up to $40,000 for such payments. The proposed changes would increase federal spending for voluntary separations by raising the costs of separations that would have occurred under current law and by inducing more people to voluntarily separate from federal service. CBO estimates that implementing S. 1888 would effectively authorize additional appropriations totaling $707 million over the 2019-2023 period.

Using information from OPM, CBO estimates that in 2016 and 2017 about 2,100 employees at DoD and 2,000 employees at all other agencies received a voluntary separation incentive payment (sometimes called a "buyout") each year. CBO expects that nearly all employees who will receive a buyout under current law would see an increased payment under S. 1888. Buyout recipients at DoD would see small increases averaging a little over $1,000 each year through 2021. All other employees would see an increase of about $16,000, on average, through that year. Following the expiration of DoD's temporary authority to pay higher amounts, both defense and nondefense employees would see much larger payments—about $18,000 in 2022 and $20,000 through 2023. CBO estimates that the incremental increase in the costs of buyouts paid to employees who would have separated under current law would total $365 million over the 2019-2023 period.

CBO also expects that a number of people would be induced to separate by the higher payments under S. 1888. Using information from DoD and OPM, CBO estimates that about 1,000 additional people would separate from the federal workforce through 2021. In 2022, that number would jump to 2,500 additional people each year. The amounts paid to those people would range from $40,000 in 2019 to $45,000 in 2023. In total, those additional payments would cost the federal government $342 million over the 2019-2023 period. Those additional separations would probably lead to some employees retiring sooner than they would have under current law. The cost of those early retirements are discussed below under the heading "Direct Spending and Revenues."

Increased buyouts could have other effects on personnel costs. For example, if an agency hired lower paid employees to replace those who separated, it might save on personnel costs, even after considering the costs of hiring and training those new employees. However, those potential savings could be offset by other personnel decisions, such as promoting current employees into vacated, higher-paying positions; hiring additional people to fill agency needs in other areas; or rewarding high-performing employees with bonuses.

Ultimately, enacting S. 1888 would not fundamentally alter any agency's mission or legal obligations. Without a reduction in the amount of work required of an agency, CBO assumes agencies would shift any resources freed up by buyouts to boost the level of service it would otherwise be able to provide, instead of allowing those resources to lapse. Therefore, CBO does not estimate any changes in spending resulting from other personnel decisions related to employee buyouts.

Direct Spending and Revenues

As shown in Table 2, enacting S. 1888 would increase direct spending by $314 million over the 2019-2028 period. That increase arises from two changes in law. First, the provisions of S. 1888 that would increase the maximum amount agencies can pay employees to leave the workforce would cause some employees to retire sooner than they would under current law. CBO estimates those induced retirements would increase benefits for retirees by $302 million. Second, the bill would hold harmless certain current and former employees of the TSA for an error the agency made when calculating their pension benefits. Because of that change, those employees would receive $12 million more than they would under current law. In addition, the TSA provisions would increase revenues by $1 million.

Retirement Effects of Voluntary Separation Incentive Payments. In total, CBO estimates that direct spending for annuities and health insurance premiums for retired federal employees would increase by $302 million under S. 1888. As discussed above, those costs arise because S. 1888 would permanently increase the maximum amount of lump-sum payments that federal agencies can offer to employees to entice them to separate from federal service, which would, in CBO's estimation, induce employees to retire, on average, 1.5 years sooner than they otherwise would have. Using information from OPM and DoD, CBO estimates that over the 2019-2021 period, an annual average of about 300 employees would receive their retirement annuities sooner than they would under current law, which would rise to 700 such employees in 2022, after DoD's temporary authority expires.

However, the annuities of individuals who accept the buyout would be smaller than what those workers would have otherwise received, because retirement benefits are based on the number of years of service that the annuitant worked; that number would be somewhat lower as a result of the decision to accept an earlier retirement. Nevertheless, CBO estimates the net effect of those early retirements would increase spending for retirement annuities by $196 million over 2019-2028 period.

Federal employees also participate in the Federal Employees Health Benefits (FEHB) program. When those employees retire, the federal government pays a portion of their health insurance premiums; those payments are classified as direct spending. CBO estimates that the government's share of those premiums for each retiree will average $11,000 in 2019, rising to $17,000 by 2028. Because of the early retirements resulting from S. 1888, the legislation also would increase the federal government's contributions for annuitants under the FEHB program. CBO estimates that those contributions would increase direct spending by $106 million over the 2019-2028 period.

TABLE 2. DIRECT SPENDING EFFECTS OF S. 1888

	By Fiscal Year, in Millions of Dollars												
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019-2023	2019-2028
INCREASES IN DIRECT SPENDING													
Retirement Effects of Voluntary Separation Incentive Payments													
Estimated Budget Authority	0	6	14	17	25	39	43	42	40	39	37	101	302
Estimated Outlays	0	6	14	17	25	39	43	42	40	39	37	101	302
TSA LEAP Authority													
Estimated Budget Authority	0	1	1	1	1	1	1	1	1	1	1	6	12
Estimated Outlays	0	1	1	1	1	1	1	1	1	1	1	6	12
Total Changes													
Estimated Budget Authority	0	6	15	18	26	40	44	43	41	40	38	107	314
Estimated Outlays	0	6	15	18	26	40	44	43	41	40	38	107	314
INCREASES IN REVENUES													
TSA LEAP Authority													
Estimated Revenues	0	0	1	0	0	0	0	0	0	0	0	1	1
NET INCREASE IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Effect on the Deficit	0	6	14	18	27	40	44	43	41	40	38	106	313

Components do not sum to totals because of rounding; TSA = Transportation Security Administration; LEAP = law enforcement availability pay.

TSA LEAP Authority. The bill would allow TSA criminal investigators and federal air marshals who, at the time of enactment, are paid above the premium pay cap to include above-the-cap salary amounts in the calculation of their future retirement annuities. Upon their retirement, employees whose salaries do not exceed the cap as of enactment would have their annuities calculated subject to the cap. In addition, the bill would authorize TSA's criminal investigators to receive LEAP. Enacting S. 1888 would increase net direct spending by $12 million over the 2019-2028 period. That increase would be partially offset by increased revenues from the cancellation of refunds of employee retirement contributions that are expected under current law.

Background. In 2016, OPM issued a notice to TSA that LEAP was being improperly incorporated into the retirement benefit calculations for two categories of employees at TSA: federal air marshals and criminal investigators. LEAP is a type of premium pay (that pays an additional 25 percent of base salary) provided to certain law enforcement officers whose positions require a substantial amount of unscheduled duty. Employees of federal agencies that use the General Schedule pay scale and are subject to provisions of title 5 of the U.S. Code have a statutory limit on LEAP: An employee's total biweekly pay (base pay plus LEAP) cannot exceed the premium pay cap—the rate payable for GS-15, step 10.

TSA has the authority to administer its own compensation system—the agency is exempt from many of the provisions of title 5, and its employees are not paid under the General Schedule. Under TSA's authority, criminal investigators and air marshals at TSA can receive a salary including LEAP that exceeds the premium pay cap. (However, OPM has determined that TSA's criminal investigators are not properly authorized to receive LEAP.) Before OPM's review of the governing statutes, TSA had been including all earned LEAP in the calculation of annuities for retiring air marshals and criminal investigators. OPM concluded that TSA has the authority to pay salaries that exceed the premium pay cap but that OPM's statutory authority to administer the civil service retirement system requires it to apply the cap when calculating retirement annuities. Thus, in OPM's view, the annuity calculations for TSA's criminal investigators and air marshals should not include LEAP amounts that exceed the premium pay cap.

After it provided notice to TSA, OPM began to calculate annuities for new retirements of criminal investigators and air marshals on the basis of the premium pay cap and the exclusion of LEAP from the benefit calculation for criminal investigators' annuities. In addition, OPM will recalculate benefits for existing retirees and refund contributions that were based on the higher pay to retirees and current employees. OPM has not yet pursued those actions, but CBO expects that it will shortly. Under those actions:

- All criminal investigators and federal air marshals who retired before 2016 with salaries in excess of the premium pay cap at the time of retirement (or, in the case of TSA criminal investigators, that contained any LEAP amounts) have been paid retirement benefits in excess of what they should have received. Retroactively adjusting retirement benefits will reduce those retirees' future benefits and also require them to repay OPM the portion of benefits received that was based on salary amounts over the cap.

- Those retirees and any current criminal investigators and air marshals who are earning salaries over the premium pay cap have paid retirement contributions in excess of what is required to fund their future benefits. Those contributions are recorded in the budget as revenues. They are owed refunds for the contributions paid on the portions of their salaries that have been deemed not creditable toward retirement. (In addition, TSA has paid the required agency share of retirement contributions on the portion of employee salaries that is not creditable toward retirement and is owed a refund of those amounts from OPM.)

Retirement Annuities. Using data provided by TSA, CBO estimates that enacting S. 1888 would increase the average retirement benefit by about $10,000 a year for a TSA criminal investigator and by about $2,000 a year for an affected federal air marshal. (The effect is much larger for the criminal investigators because of OPM's determination that criminal investigators are not eligible to receive LEAP under current law—LEAP increases an employee's base salary by 25 percent.)

Retirees. CBO estimates that the effect of including salary amounts that exceed the cap in the retirement benefit calculation for the identified population of current retirees—53 TSA criminal investigators and 63 federal air marshals—would increase direct spending for retirement benefits scheduled to be paid over the 2019-2028 period by about $7 million.

In addition, under current law, those retirees will be expected to repay the difference between their recalculated annual retirement benefit (based on the capped salary) and their prior annual benefit (which included salary amounts over the premium pay cap) for all years in which an annuity payment was received. According to data provided by TSA, the average length of retirement for affected TSA criminal investigators and federal air marshals is 5 years and 3 years, respectively.

Overpayments to annuitants are generally recovered by OPM on an installment basis and CBO expects that such payments will occur over the 2020-2025 period. Enacting S. 1888 would eliminate those expected recoveries, which CBO estimates would reduce offsetting receipts (which are recorded in the federal budget as a decrease in direct spending) by about $3 million over the 10-year period.

Employees. S.1888 also would increase benefits for future retirees—the 47 TSA criminal investigators and 84 federal air marshals who are currently in service and are expected to earn a salary in excess of the salary cap at the time of enactment. Using retirement eligibility data provided by TSA, CBO estimates that about 75 of the 131 identified employees would retire over the 2019-2028 period. The increase in benefits associated with including salary amounts over the premium pay cap in the annuity calculation for those future retirements would increase direct spending by an estimated $2 million over the same period.

Retirement Contributions. Under current law, OPM is expected to refund the portion of retirement contributions that were withheld from paychecks for salaries that exceeded the premium pay cap to 100 retired and current TSA criminal investigators and to 147 retired and current federal air marshals. Enacting S. 1888 would stop those payments. According to TSA, the average overpayment of retirement contributions per employee is about $5,500 for a TSA criminal investigator and about $500 for a federal air marshal. (In most cases, those employees pay 1.3 percent of salary toward their future federal retirement.)

CBO estimates that canceling those refunds would increase revenues by about $1 million in 2020.

Under current law, OPM also is expected to refund to TSA the portion of the agency's share of retirement contributions that has been paid for salaries over the cap. Data from TSA show that the agency's average overpayment for a TSA criminal investigator is about $110,000 and for a federal air marshal is about $11,000. (The percentage of an employee's salary that federal agencies contribute toward their employees' federal retirement is adjusted from time to time based on actuarial calculations by OPM; the average rate contributed by TSA for the affected population is about 25 percent.) CBO estimates that the overpayment from TSA to OPM totals $12 million. Under S. 1888 OPM would not refund that amount to TSA. Because payments between TSA and OPM are intragovernmental transfers, those transactions do not affect the deficit.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

TABLE 3. CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1888, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS ON OCTOBER 4, 2017

	By Fiscal Year, in Millions of Dollars												
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2018-2023	2018-2028
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	6	14	18	27	40	44	43	41	40	38	106	313
Memorandum:													
Increases in Direct Spending	0	6	15	18	27	40	44	43	41	40	38	107	314
Increases in Revenues	0	0	1	0	0	0	0	0	0	0	0	1	1

Components do not sum to totals because of rounding.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1888 contains no intergovernmental or private-sector mandates as defined in UMRA.

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting S. 1888 would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2029.

PREVIOUS CBO ESTIMATE

On June 8, 2018, CBO transmitted an estimate for S. 2987, the John S. McCain National Defense Authorization Act for Fiscal Year 2019. Section 1123 of that bill would have authorized voluntary separation payments up to $40,000 and linked them to inflation in the same manner as would S. 1888. The estimated budgetary effects for those provisions are the same.

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