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IN FOCUS

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FERS, MSPB, and FEHB Provisions in H.R. 1, as Passed by the House

On May 22, 2025, the House passed H.R. 1, the One Big Beautiful Bill Act. The version of this budget reconciliation measure agreed to by the House includes four provisions that would amend aspects of the Federal Employees' Retirement System (FERS), fees collected by the Merit Systems Protection Board (MSPB), and the Federal Employees Health Benefits (FEHB) Program. Several of these provisions were modified from the versions in the reconciliation text submitted by the House Committee on Oversight and Government Reform (HOGR) to the House Budget Committee, as directed in H.Con.Res. 14, the Concurrent Resolution on the Budget for FY2025.

This In Focus provides information on the FERS, MSPB, and FEHB provisions in Title IX (Sections 90001-90004) of H.R. 1, as passed by the House. It also discusses modifications to these provisions, as compared with the version of the reconciliation text submitted by HOGR to the House Budget Committee. (For details on the HOGR reconciliation committee print, see CRS In Focus IF12996, *House Oversight and Government Reform (HOGR) Reconciliation Committee Print Pursuant to H.Con.Res. 14*.)

Section 90001—Elimination of the FERS Annuity Supplement

FERS is the retirement plan that covers the majority of the civilian federal workforce hired since 1984, including Members of Congress and congressional staff. FERS was created by the Federal Employees' Retirement System Act of 1986 (P.L. 99-335), which integrated federal civilian workers into the Social Security program and reduced pension costs for the federal government. (For additional information, see CRS Report R47084, *Federal Retirement Plans: Frequently Asked Questions*). FERS has three elements: (1) Social Security, (2) the FERS basic annuity (including the FERS annuity supplement), and (3) the Thrift Savings Plan (TSP). FERS law is codified in Chapter 84 of Title 5 of the *U.S. Code*. As of FY2023, there were 2,804,800 current employees covered by FERS and 1,235,000 annuitants (1,134,000 retirees and 101,000 survivors).

Under current law, some FERS employees may be entitled to the FERS annuity supplement, which is paid to certain workers eligible to retire prior to age 62 (e.g., workers who retire at 55 or older with at least 30 years of service; at the age of 60—or, in some circumstances, at earlier ages—with at least 20 years of service; or federal employees who retire under special provisions for law enforcement officers [LEOs] and related personnel). This annuity supplement is equal to the estimated Social Security benefit that the individual earned while employed by the federal government and is paid only until the age of 62, regardless of whether the retiree chooses to apply for Social Security retired worker benefits at age 62 (i.e., the earliest age Social Security retired worker benefits may be claimed).

Section 90001 would eliminate the FERS annuity supplement, effective beginning January 2028, for individuals not yet entitled to a FERS annuity supplement before that date. This section would exempt from the elimination of the FERS annuity supplement LEOs and related personnel who (1) are separated from service under mandatory retirement provisions (i.e., generally age 57 for LEOs and age 56 for air traffic controllers) or (2) qualify for immediate retirement (i.e., at age 50 with 20 years of service or at any age with 25 years of service).

The version of this proposal in the HOGR reconciliation committee print (Section 90002 of that version) would have been effective upon enactment and would have exempted only LEOs and related personnel who were separated from service under mandatory retirement provisions.

Section 90002—Election for At-Will Employment and Lower FERS Contributions for New Federal Civil Service Hires

Under current law, employees first hired (or rehired with less than five years of service) after 2013 contribute 4.4% of pay to FERS (or 4.9% for LEOs and related personnel). Section 90002 would increase the contribution rate by 5.0 percentage points to 9.4% of pay for initially appointed employees on or after enactment unless these employees elect to be employed on an at-will basis. Employees who make this irrevocable election could be subject to adverse actions—including removal—without notice or the right to appeal the action. Under this provision, the heads of the employing agencies could act "for good cause, bad cause, or no cause at all," although these at-will employees would retain "protections relating to prohibited personnel practices (as that term is defined in [5 U.S.C. §2302])." The proposal would exempt from the at-will election—and FERS contribution increases—positions subject to mandatory separation (i.e., LEOs and related personnel). Employees who may not currently appeal their removals to the MSPB, such as political appointees and most U.S. Postal Service employees, also appear to be carved out of the section.

The version of this proposal in the HOGR reconciliation committee print (Section 90004 of that version) did not include an exemption for LEOs and related personnel.

Section 90003—Merit Systems Protection Board Fees

Section 90003 would amend Section 7701 of Title 5 to direct the MSPB to establish a filing fee for federal employees who file claims or appeals with the board. The provision ties the fee to the amount required for federal district court filings under Section 1914(a) of Title 28 of the U.S. Code, or $350. The fee would be reimbursed if the employee's claim or appeal is successful. The provision also provides exceptions for actions brought by the Office of Special Counsel to the MSPB and claims alleging retaliation against whistleblowers.

This proposal is the same as the proposal in Section 90005 of the HOGR reconciliation committee print.

Section 90004—Federal Employees Health Benefit Provision

The FEHB Program provides health insurance to federal employees, retirees, and their eligible dependents, as well as certain Tribal employees and their families. The Postal Service Health Benefits Program (PSHB), which is a separate program within FEHB, provides health insurance to U.S. Postal Service employees, retirees, and their eligible dependents. (References to FEHB in this section include PSHB.) Pursuant to statute and implementing regulations by the Office of Personnel Management (OPM), Members of Congress and designated staff enroll in FEHB coverage via DC Health Link with operations that vary from what is described in this section. Section 90004 applies to the FEHB program broadly and does not explicitly address coverage for Members of Congress and designated staff.

OPM administers the FEHB Program and relies on employing offices to help with certain functions, such as enrollment and eligibility determinations. As part of its functions, OPM administers the Employees Health Benefits Fund, which is a revolving trust fund to collect and disburse premiums to FEHB insurers and maintain program reserves. Eligible employees can enroll in FEHB coverage when hired, during open season, and during special enrollment periods after certain qualifying life events, such as marriage, childbirth, or adoption. Under current law, employing offices and FEHB insurers are generally responsible for enrolling federal employees and their dependents in coverage. For a retiree, the employing office makes an initial eligibility determination before OPM makes the final determination. Historically, OPM did not require employing offices to verify family member eligibility at the time of enrollment, but in 2021, OPM began requiring family member eligibility determinations in some instances. Currently, the employing office must require proof of family member eligibility during an employee's initial opportunity to enroll and changes in enrollment due to qualifying life events. FEHB insurers must also obtain proof of family members' eligibility when they are added to family coverage. In addition, OPM, employing offices, and FEHB insurers may request proof of enrolled family members' eligibility at any time, and ineligible family members are removed from coverage.

Section 90004 would require OPM to develop processes to verify family member eligibility when an enrollee tries to add the individual for coverage, to verify the veracity of a qualifying life event when an enrollee tries to add a family member for coverage, and to remove ineligible FEHB-enrolled family members and notify the OPM inspector general of such disenrollment. It would also require OPM to conduct a comprehensive audit regarding family members enrolled in FEHB by reviewing documents supporting family member eligibility, and OPM would be responsible for referring ineligible individuals to the OPM inspector general. Additionally, Section 90004 would require OPM to keep family member FEHB eligibility records for specified time periods and to include an assessment of ineligible FEHB-enrolled family members in any fraud risk assessment.

Section 90004 would allow for some Employees Health Benefits Fund amounts to be available to OPM annually starting in FY2026 to develop, maintain, and conduct ongoing eligibility verification and oversight and oversight of the FEHB enrollment and eligibility systems. Separately, some other amounts would be available annually starting in FY2026 for OPM inspector general oversight and audit activities. Additional amounts would also be available to OPM in FY2026 (to remain available until expended) to conduct the required audit of enrolled family members.

This proposal is mostly the same as the proposal in Section 90006 of the HOGR reconciliation committee print, which would have included employing offices in the comprehensive FEHB audit of enrolled family members to a greater extent by requiring OPM to conduct the comprehensive FEHB family member audit in coordination with employing offices and allowing OPM to transfer funds to employing offices for the audit, as necessary.

Provisions in HOGR Committee Print Not Included in H.R. 1, as Passed by the House

The HOGR committee print, as submitted to the House Budget Committee, included two provisions that were not included in H.R. 1, as passed by the House. First, Section 90001 of the HOGR committee print would have increased required FERS employee contributions for those hired before 2014, except for LEOs and related personnel.

Second, Section 90003 of the HOGR committee print would also have changed the measure of pay used to calculate federal retirement benefits. Under current law, benefits under FERS and the older Civil Service Retirement System are calculated using the average of the highest three consecutive years of basic pay (*high-3 pay*). Under Section 90003 of the HOGR committee print, the average of the highest five consecutive years of basic pay (*high-5 pay*) would have been used, effective for new retirees beginning in January 2027. LEOs and related personnel would not have been subject to this change from high-3 to high-5 pay.

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