

VETERANS TRANSITION IMPROVEMENT ACT

JULY 16, 2018.—Ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 2648]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 2648) to amend title 38, United States Code, to ensure that the requirements that new Federal employees who are veterans with service-connected disabilities are provided leave for purposes of undergoing medical treatment for such disabilities apply to certain employees of the Veterans Health Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Summary and Purpose of Legislation	2
Background and Need for Legislation	2
Statement of Oversight Findings and Recommendations of the Committee	3
Statement of General Performance Goals and Objectives	3
Legislative History	3
Committee Consideration	4
Roll Call Votes	4
Explanation of Amendments	4
Application of Law to the Legislative Branch	4
Duplication of Federal Programs	4
Disclosure of Directed Rule Makings	4
Federal Advisory Committee Act	4
Unfunded Mandates Statement	5
Earmark Identification	5
Committee Estimate	5
New Budget Authority and Congressional Budget Office Cost Estimate	5
Section-by-Section Analysis	6
Changes in Existing Law Made by the Bill, as Reported	6
Correspondence	8

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans Transition Improvement Act”.

SEC. 2. DISABLED VETERAN LEAVE FOR HEALTH-CARE PROFESSIONALS IN VETERANS HEALTH ADMINISTRATION.

(a) **IN GENERAL.**—Section 6329(d)(1) of title 5, United States Code, is amended to read as follows:

“(1) the term ‘employee’ has the meaning given such term in section 2105, and includes—

“(A) an officer or employee of the United States Postal Service or the Postal Regulatory Commission; and

“(B) notwithstanding subsection (a) of section 7421 of title 38, an individual occupying a position listed in subsection (b) of such section;”.

(b) **APPLICABILITY.**—With respect to a position listed in section 7421(b) of title 38, United States Code, the amendment made by subsection (a) shall apply to any individual appointed to such a position on or after the date of enactment of this Act.

SUMMARY AND PURPOSE OF LEGISLATION

The Veterans Transition Improvement Act provides additional sick leave for veterans with service-connected disabilities hired by the Department of Veterans Affairs.

BACKGROUND AND NEED FOR LEGISLATION

In fiscal year 2016, the federal government employed 635,556 veterans, which constituted over 31 percent of the total federal civilian workforce.¹ That same year, the executive branch hired over 71,000 veterans, which comprised 31 percent of all new hires.² Nearly 22,000 veterans were hired with a service-connected disability rated at 30 percent or more.³ The Department of Veterans Affairs alone hired 5,564 veterans with a service-connected disability rated at 30 percent or more.⁴

In 2015, Congress enacted the Wounded Warrior Federal Leave Act to help disabled veterans transitioning to civilian service.⁵ As the committee report accompanying the law stated:

[F]ull-time federal workers accrue four hours of sick leave each full biweekly pay period, totaling 13 days of sick leave per year. Since federal workers begin with a zero sick leave balance, disabled veterans beginning civilian jobs often have insufficient leave to receive necessary medical treatment for post-traumatic stress disorder, severe physical injuries, and other service-connected disabilities.⁶

The Wounded Warrior Federal Leave Act allowed up to 104 hours (13 days) of immediate paid sick leave for veterans hired by federal agencies with service-connected conditions rated as 30 percent or more disabled.⁷ This sick leave is for attending medical

¹ Office of Personnel Mgm’t, Employment of Veterans in the Federal Executive Branch Fiscal Year 2016 at 2 (2017).

² *Id.* at 12.

³ *Id.*

⁴ *Id.* at 16.

⁵ Pub. L. 114–75 (2015).

⁶ H. Comm. on Oversight & Gov’t Reform, Wounded Warriors Federal Leave Act of 2015 2, 114th Cong. (2015) (H. Rep. 114–180).

⁷ 5 U.S.C. 6329.

treatment related to the service-connected disability and must be used within 12 months of beginning employment.⁸

The Secretary of the Department of Veterans Affairs (VA) has authority under current law to prescribe the “hours and conditions of employment and leaves of absence” of eight medical occupations.⁹ Generally speaking, this means the Secretary may choose which government-wide personnel rules from title 5 of the United States Code apply to these occupations, and the Secretary may alter the rules as necessary unless explicitly prohibited from doing so in statute.¹⁰ Notwithstanding this authority, in July of 2017, the Secretary extended paid sick leave to veterans in these medical positions consistent with the Wounded Warrior Federal Leave Act.¹¹ Because the law does not explicitly address medical occupations the provision is discretionary and subject to change by the Secretary. H.R. 2648 establishes in law the additional leave provided to veterans who convert to federal civilian service in the eight medical occupations at the VA and have service-connected disabilities rated at 30 percent or more.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the previous section.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goal or objective of this bill is to ensure new employees of the Veterans Health Administration who are veterans with service-connected disabilities are provided leave for purposes of undergoing medical treatment for such disabilities.

LEGISLATIVE HISTORY

On May 24, 2017, Representative Steve Stivers (R-OH) introduced H.R. 2648, the Veterans Transition Improvement Act, with Representative Mark Takano (D-CA). H.R. 2648 was referred to the Committee on Veterans’ Affairs, with an additional referral to the Committee on Oversight and Government Reform. The Committee on Oversight and Government Reform considered H.R. 2648 at a business meeting on May 23, 2018 and ordered the bill, as amended, favorably reported by voice vote.

Senator Mazie Hirono (D-HI) introduced S. 899, the Senate companion to H.R. 2648, on April 7, 2017, which was referred to the Senate Committee on Veterans’ Affairs. On March 20, 2018, the

⁸*Id.*

⁹38 U.S.C. 7421.

¹⁰*See e.g.*, 5 U.S.C. 2105(f)—“For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.” This subsection requires government-wide personnel rules relating to whistleblowers, prohibited personnel practices, Merit Systems Protection Board appellate coverage, and the like to apply to Department of Veterans Affairs employees hired under title 38 authority, and the Secretary of the Department has no legal authority to alter application of the listed provisions.

¹¹Dep’t of Veterans Affairs, VA Handbook 5011/29 Transmittal Sheet 7 (July 5, 2017).

Senate Committee on Veterans' Affairs was discharged with consideration of the bill and it passed the Senate by unanimous consent. The bill was received in the House and referred to the Committee on Veterans' Affairs, with an additional referral to the Committee on Oversight and Government Reform, the following day.

COMMITTEE CONSIDERATION

On May 23, 2018, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported, as amended, by voice vote.

ROLL CALL VOTES

There were no roll call votes requested or conducted during Committee consideration of H.R. 2648.

EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative Steve Russell (R-OK), offered an amendment in the nature of a substitute to change the title amended by the bill from title 38 (the Department of Veterans Affairs personnel authority) to title 5 (the Wounded Warrior Federal Leave Act), United States Code.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill ensures new employees of the Veterans Health Administration who are veterans with service-connected disabilities are provided leave for purposes of undergoing medical treatment for such disabilities. As such, this bill does not relate to employment or access to public services and accommodations.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67) the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 5, 2018.

Hon. TREY GOWDY,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2648, the Veterans Transition Improvement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 2648—Veterans Transition Improvement Act

H.R. 2648 would apply a federal leave policy for veterans with disabilities to medical personnel at the Department of Veterans Affairs (VA) who are also disabled veterans. Under that policy, which is specified in title V of the U.S. Code, veterans with a disability rated at 30 percent or greater who are newly hired by certain federal agencies are entitled to extra medical leave to treat such conditions, without loss or reduction in their pay.

According to VA, the bill would codify in law its current policies for medical personnel, which is to provide medical leave benefits for disabled veterans that are consistent with the provisions of title V. As a result, CBO estimates that implementing H.R. 2648 would

have no effect on the department’s personnel policies for medical employees or on federal spending for the compensation and benefits of those employees. CBO estimates that implementing H.R. 2648 would cost less than \$500,000 over the 2019–2023 period to prepare regulations; that spending would be subject to the availability of appropriated funds.

Enacting H.R. 2648 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2648 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 2648 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Ann E. Futrell. The estimate was reviewed by Theresa Gullo, Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill.

Sec. 2. Disabled veteran leave for health-care professionals in Veterans Health Administration

Section 2 amends section 6329 of title 5, United States Code, to extend coverage under the Wounded Warrior Federal Leave Act to Department of Veterans Affairs employees hired into eight medical occupations.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

SUBPART E—ATTENDANCE AND LEAVE

* * * * *

CHAPTER 63—LEAVE

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SUBCHAPTER II—OTHER PAID LEAVE

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§ 6329. Disabled veteran leave

(a) During the 12-month period beginning on the first day of employment, any employee who is a veteran with a service-connected disability rated at 30 percent or more is entitled to leave, without loss or reduction in pay, for purposes of undergoing medical treatment for such disability for which sick leave could regularly be used.

(b)(1) The leave credited to an employee under subsection (a) may not exceed 104 hours.

(2) Any leave credited to an employee pursuant to subsection (a) that is not used during the 12-month period described in such subsection may not be carried over and shall be forfeited.

(c) In order to verify that leave credited to an employee pursuant to subsection (a) is used for treating a service-connected disability, such employee shall submit to the head of the employing agency certification, in such form and manner as the Director of the Office of Personnel Management may prescribe, that such employee used such leave for purposes of being furnished treatment for such disability by a health care provider.

(d) In this section—

[(1) the term “employee” has the meaning given such term in section 2105, and includes an officer or employee of the United States Postal Service or of the Postal Regulatory Commission;]

(1) the term “employee” has the meaning given such term in section 2105, and includes—

(A) an officer or employee of the United States Postal Service or the Postal Regulatory Commission; and

(B) notwithstanding subsection (a) of section 7421 of title 38, an individual occupying a position listed in subsection (b) of such section;

(2) the term “service-connected” has the meaning given such term in section 101(16) of title 38; and

(3) the term “veteran” has the meaning given such term in section 101(2) of such title.

* * * * *

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U.S. House of Representatives
 COMMITTEE ON VETERANS' AFFAIRS

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June 19, 2018

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The Honorable Trey Gowdy
 Chairman, Committee on Oversight and Government Reform
 2157 Rayburn House Office Building
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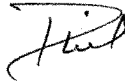
Dear Mr. Chairman:

I am writing to you concerning H.R. 2648, the "Veterans Transition Improvement Act," and its Senate companion, S. 899. There are provisions in the legislation that fall within the jurisdiction of the Committee on Veterans' Affairs.

In the interest of permitting your committee to proceed expeditiously to floor consideration of this legislation, I am willing to waive this committee's right to sequential referral. I do so with the understanding that by waiving consideration of the bills, the Committee on Veterans' Affairs does not waive any future jurisdictional claim over the subject matters contained in the bills which fall within its jurisdiction. I also request that you urge the Speaker to name members of this committee to any conference committee which is named to consider such provisions.

Please place this letter into the committee report on H.R. 2648 and into the Congressional Record during consideration of this legislation on the House floor.

Sincerely,



David P. Roe, M.D.
 Chairman

cc: The Honorable Paul D. Ryan, Speaker of the House
 The Honorable Kevin McCarthy, Majority Leader
 The Honorable Timothy J. Walz, Ranking Member, House Veterans' Affairs Committee
 Mr. Thomas J. Wickham Jr., Parliamentarian

TREY GOWDY, SOUTH CAROLINA
CHAIRMAN

ONE HUNDRED FIFTEENTH CONGRESS

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June 20, 2018

The Honorable David P. Roe, M.D.
Chairman, Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On May 23, 2018, the Committee on Oversight and Government Reform ordered reported H.R. 2648, the *Veterans Transition Improvement Act* with an amendment, by voice vote. The bill was referred primarily to the Committee on Veterans' Affairs with an additional referral to the Committee on Oversight and Government Reform. Based on our previous consultation, we intend to request S. 899—the Senate companion to H.R. 2648—be scheduled for floor consideration.

To expedite floor consideration, I ask that you forego further consideration of H.R. 2648. This in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Veterans' Affairs represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Oversight and Government Reform on H.R. 2648, as well as in the *Congressional Record* during floor consideration of S. 899, to memorialize our understanding.

Thank you for your consideration of my request.

Sincerely,


Trey Gowdy

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Elijah E. Cummings
The Honorable Timothy J. Walz
The Honorable Thomas J. Wickham, Parliamentarian

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