

Union Calendar No. 17

115TH CONGRESS
1ST SESSION

H. R. 1367

[Report No. 115–35, Part I]

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2017

Mr. WENSTRUP introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Oversight and Government Reform, 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

MARCH 10, 2017

Additional sponsors: Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. DUNN, Mr. SESSIONS, and Ms. SINEMA

MARCH 10, 2017

Reported from the Committee on Veterans' Affairs

MARCH 10, 2017

The Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, 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,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Modification to annual determination of staffing shortages in Veterans Health Administration.
- Sec. 3. Executive management fellowship program.
- Sec. 4. Accountability of leaders for managing the Department of Veterans Affairs.
- Sec. 5. Modification to veterans preference.
- Sec. 6. Reemployment of former employees.
- Sec. 7. Recruiting database.
- Sec. 8. Human resources academy.
- Sec. 9. Promotional opportunities for technical experts.
- Sec. 10. Comptroller General study on succession planning.
- Sec. 11. Information on hiring effectiveness.
- Sec. 12. Employment of students and recent graduates.
- Sec. 13. Exit surveys.

5 **SEC. 2. MODIFICATION TO ANNUAL DETERMINATION OF**
 6 **STAFFING SHORTAGES IN VETERANS HEALTH**
 7 **ADMINISTRATION.**

8 Section 7412(a) of title 38, United States Code, is
 9 amended—

10 (1) by striking “the five occupations” and in-
 11 sserting “the five clinical occupations and the five
 12 nonclinical occupations”; and

13 (2) by striking “throughout the Department”
 14 and inserting “with respect to each medical center of
 15 the Department,”.

1 **SEC. 3. EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM.**

2 (a) FELLOWSHIP PROGRAM.—Chapter 7 of title 38,
3 United States Code, is amended by adding at the end the
4 following new subchapter:

5 “SUBCHAPTER III—EXECUTIVE MANAGEMENT
6 FELLOWSHIP PROGRAM

7 “§ 741. **Executive Management Fellowship Program**

8 “(a) FELLOWSHIP PROGRAM.—There is in the De-
9 partment an Executive Management Fellowship Program.
10 The purpose of the program shall be to provide—

11 “(1) eligible employees of the Veterans Benefits
12 Administration and the Veterans Health Administra-
13 tion with training and experience in the private sec-
14 tor; and

15 “(2) eligible employees of a private-sector entity
16 with training and experience in the Department of
17 Veterans Affairs.

18 “(b) FELLOWSHIP.—(1) A fellowship provided under
19 this section is a one-year fellowship during which—

20 “(A) with respect to a Department participant,
21 the participant receives training and experience at a
22 private-sector entity that is engaged in the adminis-
23 tration and delivery of health care or other services
24 similar to the benefits administered by the Sec-
25 retary; and

1 “(B) with respect to a private-sector partici-
2 pant, the participant receives training and experi-
3 ence at the Veterans Benefits Administration or the
4 Veterans Health Administration.

5 “(2) The Secretary shall enter into such agreements
6 with private-sector entities as are necessary to carry out
7 this section.

8 “(c) SELECTION OF RECIPIENTS.—(1) In August of
9 each year, the Secretary shall select—

10 “(A) not fewer than 18 and not more than 30
11 eligible employees of the Veterans Benefits Adminis-
12 tration and the Veterans Health Administration to
13 receive a fellowship under this section; and

14 “(B) not fewer than 18 and not more than 30
15 eligible employees of private-sector entities to receive
16 a fellowship under this section.

17 “(2) To the extent practicable, the Secretary shall se-
18 lect eligible employees under subparagraphs (A) and (B)
19 of paragraph (1) from among eligible employees who are
20 veterans in a manner that is reflective of the demographics
21 of the veteran population of the United States.

22 “(d) ELIGIBLE EMPLOYEES.—For the purposes of
23 this section, an eligible employee is—

1 “(1) with respect to an employee of the Vet-
2 erans Benefits Administration or the Veterans
3 Health Administration, an employee who—

4 “(A) is compensated at a rate of basic pay
5 not less than the minimum rate of basic pay
6 payable for grade GS–14 of the General Sched-
7 ule and not more than either the minimum rate
8 of basic pay payable to a member of the Senior
9 Executive Service under section 5382 of title 5,
10 United States Code, or the minimum rate of
11 basic pay payable pursuant to chapter 74 of
12 this title, as the case may be;

13 “(B) enters into an agreement with the
14 Secretary under subsection (e); and

15 “(C) submits to the Secretary an applica-
16 tion containing such information and assur-
17 ances as the Secretary may require; and

18 “(2) with respect to an employee of a private-
19 sector entity, an employee who—

20 “(A) is employed in a position whose du-
21 ties and responsibilities are commensurate with
22 an employee of the Department described in
23 paragraph (1);

24 “(B) enters into an agreement with the
25 Secretary under subsection (e); and

1 “(C) submits to the Secretary an applica-
2 tion containing such information and assur-
3 ances as the Secretary may require.

4 “(e) AGREEMENTS.—(1) An agreement between the
5 Secretary and a Department participant shall be in writ-
6 ing, shall be signed by the participant, and shall include
7 the following provisions:

8 “(A) The Secretary’s agreement to provide the
9 participant with a fellowship under this section;

10 “(B) The participant’s agreement—

11 “(i) to accept the fellowship;

12 “(ii) after completion of the fellowship, to
13 serve as a full-time employee in the Veterans
14 Benefits Administration or the Veterans Health
15 Administration for at least two years as speci-
16 fied in the agreement; and

17 “(iii) that, during the two-year period be-
18 ginning on the last day of the fellowship, the
19 participant will not accept employment in the
20 same industry as the industry of the private-
21 sector entity at which the participant accepts
22 the fellowship.

23 “(C) A provision that any financial obligation of
24 the United States arising out of an agreement en-
25 tered into under this subchapter, and any obligation

1 of the participant which is conditioned on such
2 agreement, is contingent upon funds being appro-
3 priated.

4 “(D) A statement of the damages to which the
5 United States is entitled under this subchapter for
6 the participant’s breach of the agreement.

7 “(E) Such other terms as the Secretary deter-
8 mines are required to be included in the agreement.

9 “(2) An agreement between the Secretary and a pri-
10 vate-sector participant shall be in writing, shall be signed
11 by the participant, and shall include the following provi-
12 sions:

13 “(A) The Secretary’s agreement to provide the
14 participant with a fellowship under this section.

15 “(B) The participant’s agreement to accept the
16 fellowship.

17 “(C) Such other terms as the Secretary deter-
18 mines are required to be included in the agreement.

19 “(f) TREATMENT OF RECIPIENTS.—(1) A Depart-
20 ment participant shall be considered an employee of the
21 Department for all purposes, including for purposes of re-
22 ceiving a salary and benefits, and shall remain eligible for
23 all promotion and incentive programs otherwise available
24 to such an employee.

1 “(2) A private-sector participant shall be considered
2 an employee of the private-sector entity that employs the
3 participant for all purposes, including for purposes of re-
4 ceiving a salary and benefits, and during the fellowship
5 shall be treated as a contractor of the Department.

6 “(g) REPORTS.—Not later than 60 days after com-
7 pleting a fellowship under this section, a recipient of the
8 fellowship shall submit to the Secretary a report on the
9 fellowship. Each such report shall describe the duties of
10 the recipient during the fellowship and any recommenda-
11 tions of the recipient for the application by the Secretary
12 of industry processes, technologies, and best practices. Not
13 later than seven days after receiving each such report, the
14 Secretary shall submit to the Committees on Veterans’ Af-
15 fairs of the Senate and House of Representatives such re-
16 port without change.

17 “(h) DEFINITIONS.—In this section:

18 “(1) The term ‘Department participant’ means
19 an employee of the Veterans Benefits Administration
20 or the Veterans Health Administration who is par-
21 ticipating in the fellowship under this section.

22 “(2) The term ‘private-sector entity’ includes
23 an entity operating under a public-private partner-
24 ship.

1 is appointed as a career appointee (as that term is defined
2 in section 3132(a)(4) of title 5) within the Senior Execu-
3 tive Service at the Department.

4 “(b) ELEMENTS OF PLAN.—Each annual perform-
5 ance plan conducted under subsection (a) with respect to
6 a political appointee of the Department shall include an
7 assessment of whether the appointee is meeting the fol-
8 lowing goals:

9 “(1) Recruiting, selecting, and retaining well-
10 qualified individuals for employment at the Depart-
11 ment.

12 “(2) Engaging and motivating employees.

13 “(3) Training and developing employees and
14 preparing those employees for future leadership roles
15 within the Department.

16 “(4) Holding each employee of the Department
17 that is a manager accountable for addressing issues
18 relating to performance, in particular issues relating
19 to the performance of employees that report to the
20 manager.

21 “(c) DEFINITION OF POLITICAL APPOINTEE.—In
22 this section, the term ‘political appointee’ means an em-
23 ployee of the Department who holds—

24 “(1) a position which has been excepted from
25 the competitive service by reason of its confidential,

1 policy-determining, policy-making, or policy-advocating character; or

2
3 “(2) a position in the Senior Executive Service
4 as a noncareer appointee (as such term is defined in
5 section 3132(a) of title 5).”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 7 of such title is amended by
8 inserting after the item relating to section 717 the following new item:

“719. Annual performance plan for political appointees.”.

10 **SEC. 5. MODIFICATION TO VETERANS PREFERENCE.**

11 (a) ACTIVE DUTY REQUIREMENT.—Section
12 2108(1)(B) and (D) of title 5, United States Code, are
13 amended by striking “consecutive” in each instance it appears and inserting “cumulative”.

14
15 (b) EXPANSION OF ELIGIBILITY OF RETIRED VETERANS.—Section 2108(4) of title 5, United States Code,
16
17 is amended to read as follows:

18 “(4) ‘preference eligible’ includes a retired
19 member of the armed forces; and”.

20 **SEC. 6. REEMPLOYMENT OF FORMER EMPLOYEES.**

21 (a) IN GENERAL.—The Secretary of Veterans Affairs
22 may noncompetitively appoint a qualified former employee
23 to any position within the competitive service or any excepted service position under chapter 74 of title 38, United
24 States Code, at the Department of Veterans Affairs that
25

1 is one grade higher than the grade of the position at the
2 Department most recently occupied by the employee.

3 (b) LIMITATION.—The Secretary may not appoint a
4 qualified former employee to a position that is more than
5 one grade (or equivalent) higher than the position at the
6 Department most recently occupied by the employee.

7 (c) DEFINITION OF QUALIFIED FORMER EM-
8 PLOYEE.—For purposes of this section, the term “quali-
9 fied former employee” means any individual who—

10 (1) formerly occupied any position at the De-
11 partment of Veterans Affairs within two years before
12 applying for reemployment at the Department;

13 (2) voluntarily left such position, or was subject
14 to a reduction in force, and had a satisfactory per-
15 formance record while occupying such position; and

16 (3) since leaving such position has maintained
17 licensing requirements, related to the position, if
18 any, and gained skill, knowledge, or other factors re-
19 lated to the position.

20 **SEC. 7. RECRUITING DATABASE.**

21 (a) ESTABLISHMENT.—The Secretary of Veterans
22 Affairs shall establish a single database that lists each va-
23 cant position in the Department of Veterans Affairs that
24 the Secretary determines is critical to the mission of the
25 Department, difficult to fill, or both.

1 (b) QUALIFIED APPLICANT.—If the Secretary deter-
2 mines that an applicant for a vacant position listed in the
3 database established under subsection (a) is qualified for
4 such position but does not select the applicant for such
5 position, the Secretary, at the election of the applicant,
6 shall consider the applicant for other similar vacant posi-
7 tions listed in the database for which the applicant is
8 qualified.

9 (c) PROLONGED VACANCIES.—If the Secretary does
10 not fill a vacant position listed in the database established
11 under subsection (a) after a period determined appro-
12 priate by the Secretary, the Secretary—

13 (1) shall ensure that applicants described in
14 subsection (b) are considered for such position; and

15 (2) shall use the database established under
16 subsection (a) to assist in filling such position.

17 (d) REPORT.—Not later than one year after the date
18 of the enactment of this Act, the Secretary shall submit
19 to Congress a report on the use and efficacy of the data-
20 base established under subsection (a).

21 **SEC. 8. HUMAN RESOURCES ACADEMY.**

22 (a) IN GENERAL.—The Secretary of Veterans Affairs
23 shall provide to human resources professionals of the Vet-
24 erans Health Administration of the Department of Vet-
25 erans Affairs training on how to best recruit and retain

1 employees of the Veterans Health Administration, includ-
2 ing with respect to any recruitment and retention matters
3 that are unique to the Veterans Health Administration
4 pursuant to chapter 74 of title 38, United States Code,
5 or other provisions of law. The Secretary shall provide
6 such training in a manner that the Secretary determines
7 appropriate in light of budget, travel, and other con-
8 straints.

9 (b) AMOUNT OF TRAINING.—The Secretary shall en-
10 sure that each human resources professional of the Vet-
11 erans Health Administration receives the training de-
12 scribed in subsection (a)—

13 (1) as soon as practicable after being hired by
14 the Secretary as a human resource professional; and

15 (2) annually thereafter.

16 (c) CERTIFICATION.—The Secretary shall require
17 that each human resources professional of the Veterans
18 Health Administration, upon the completion of the train-
19 ing described in subsection (a), certifies that the profes-
20 sional received the training and understands the informa-
21 tion provided by the training.

22 (d) ANNUAL REPORT.—The Secretary shall submit
23 to the Committees on Veterans' Affairs of the House of
24 Representatives and the Senate an annual report on the
25 training described in subsection (a), including the cost of

1 providing such training and the number of human re-
2 sources professionals who received such training during
3 the year covered by the report.

4 **SEC. 9. PROMOTIONAL OPPORTUNITIES FOR TECHNICAL**
5 **EXPERTS.**

6 Not later than one year after the date of the enact-
7 ment of this Act, the Secretary of Veterans Affairs shall
8 establish a promotional track system for employees of the
9 Department of Veterans Affairs that the Secretary deter-
10 mines are technical experts pursuant to regulations pre-
11 scribed by the Secretary for purposes of carrying out this
12 section. Such system shall—

13 (1) provide any such employee the opportunity
14 to advance within the Department without being re-
15 quired to transition to a management position; and

16 (2) for purposes of achieving career advance-
17 ment—

18 (A) provide for the establishment of new
19 positions within the Department; and

20 (B) notwithstanding any other provision of
21 law, provide for increases in pay for any such
22 employee.

1 **SEC. 10. COMPTROLLER GENERAL STUDY ON SUCCESSION**
2 **PLANNING.**

3 (a) STUDY.—The Comptroller General of the United
4 States shall conduct a study on each of the following:

5 (1) The succession planning at each medical fa-
6 cility of the Department of Veterans Affairs.

7 (2) The succession planning at the Veterans
8 Benefits Administration and the National Cemetery
9 Administration of the Department.

10 (b) ELEMENTS.—The study under subsection (a)
11 shall include, for each entity studied under the study, the
12 following:

13 (1) A determination of the mission-critical posi-
14 tions within the entity and the vacancy risk of such
15 positions.

16 (2) An analysis of the future needs for mission-
17 critical positions and gaps within the existing talent
18 pool of the entity.

19 (3) A description of strategies to close skill
20 gaps through the use of training for existing staff,
21 targeted recruitment, and hiring.

22 (4) A plan to regularly evaluate progress of
23 staff and update existing succession plans using
24 clear and measurable metrics and benchmarks.

1 (5) A demonstration of the capacity of the enti-
2 ty to execute succession plans with successful succes-
3 sion management strategies.

4 (6) Any other matters the Comptroller General
5 determines appropriate.

6 (c) REPORT.—Not later than one year after the date
7 of the enactment of this Act, the Comptroller General shall
8 submit to the Committees on Veterans' Affairs of the
9 House of Representatives and the Senate a report con-
10 taining each study conducted under subsection (a).

11 **SEC. 11. INFORMATION ON HIRING EFFECTIVENESS.**

12 (a) IN GENERAL.—The Secretary of Veterans Affairs
13 shall measure and collect information on indicators of hir-
14 ing effectiveness as follows:

15 (1) With respect to recruiting and hiring—

16 (A) the ability to reach and recruit well-
17 qualified talent from diverse talent pools, in-
18 cluding sources of candidates for mission-crit-
19 ical occupations;

20 (B) the use and impact of special hiring
21 authorities and flexibilities to recruit most
22 qualified applicants, including the use of stu-
23 dent internships as a talent pool for permanent
24 hires;

1 (C) the use and impact of special hiring
2 authorities and flexibilities to recruit diverse
3 candidates, including veteran, minority and dis-
4 abled candidates;

5 (D) the use and impact of special hiring
6 authorities and flexibilities to recruit candidates
7 for mission-critical occupations and occupations
8 with shortages;

9 (E) the age, educational level, and source
10 of applicants;

11 (F) the length of time between the date on
12 which a position is advertised and the date on
13 which a first offer of employment is made;

14 (G) the length of time between the date on
15 which a first offer of employment for a position
16 is made and the date on which a new hire
17 starts in that position;

18 (H) the number of internal and external
19 applicants for positions; and

20 (I) the number of offers accepted com-
21 pared to the number of offers made for perma-
22 nent positions.

23 (2) With respect to the hiring authority—

24 (A) the satisfaction of the hiring authority
25 with—

- 1 (i) the quality of new hires;
- 2 (ii) the match between the skills of
- 3 newly hired individuals and the needs of
- 4 the Department;
- 5 (iii) the hiring process and hiring out-
- 6 comes after the first year of the employ-
- 7 ment of a new hire; and
- 8 (iv) the length of time that elapses to
- 9 fill a position and for a new hire to begin
- 10 working in a new position; and
- 11 (B) mission-critical deficiencies filled by
- 12 new hires and the connection between mission-
- 13 critical deficiencies and annual agency perform-
- 14 ance.
- 15 (3) Satisfaction of employment applicants with
- 16 the hiring process, including with respect to the clar-
- 17 ity of job announcement, reasons for withdrawal of
- 18 applications, user-friendliness of the application
- 19 process, communication regarding status of applica-
- 20 tion, and timeliness of hiring decision.
- 21 (4) With respect to a newly hired employee—
- 22 (A) the satisfaction of the employee with
- 23 the hiring process as described in paragraph
- 24 (3);

1 (B) the satisfaction with the process of
2 joining and becoming oriented with the Depart-
3 ment, including with respect to the timeliness of
4 such process after the hiring decision, the ori-
5 entation process, and being provided with time-
6 ly and useful new employee information and as-
7 sistance after the hire is made but before the
8 new hire starts in that position and after the
9 new hire has begun;

10 (C) attrition and reasons for leaving;

11 (D) investment in training and develop-
12 ment for the employee during the first year of
13 employment; and

14 (E) significant barriers to the effective re-
15 cruitment, selection, joining and becoming ori-
16 ented with the Department, and retention of
17 employees.

18 (b) DISAGGREGATION OF DATA.—To the extent prac-
19 ticable and in a manner which protects personally identifi-
20 able information of applicants and employees, the Sec-
21 retary shall collect and report data collected under sub-
22 section (a) disaggregated by facility or Veterans Inte-
23 grated Service Network.

24 (c) REPORTS.—

1 (1) IN GENERAL.—On an annual basis, the Sec-
2 retary shall submit to the Committees on Veterans’
3 Affairs of the House of Representatives and the Sen-
4 ate a report of the information collected under sub-
5 section (a).

6 (2) AVAILABILITY OF RECRUITING AND HIRING
7 INFORMATION.—On an annual basis, the Secretary
8 shall make publicly available the information col-
9 lected under subsection (a) in a consistent and ma-
10 chine-readable format to allow for a comparison of
11 hiring effectiveness and experience by Veterans Inte-
12 grated Service Network or comparable public or pri-
13 vate sector organization.

14 **SEC. 12. EMPLOYMENT OF STUDENTS AND RECENT GRAD-**
15 **UATES.**

16 (a) IN GENERAL.—The Secretary of Veterans Affairs
17 shall prescribe regulations to allow for excepted service ap-
18 pointments of students and recent graduates leading to
19 conversion to career or career conditional employment of
20 a student or recent graduate of a qualifying educational
21 institution, as defined by the Department.

22 (b) APPLICABILITY.—The conversion authority de-
23 scribed in subsection (a) shall be applicable to individuals
24 in good standing who—

1 (1) are employed in a qualifying internship or
2 fellowship program at the Department;

3 (2) are employed in the Department in a volun-
4 teer capacity and performing substantive duties com-
5 parable to those of individuals in internship or fel-
6 lowship programs and meet the required number of
7 hours for conversion; or

8 (3) are employed in the Department under a
9 contract or agreement with an external nonprofit or-
10 ganization and performing substantive duties com-
11 parable to those of individuals in internship or fel-
12 lowship programs.

13 (c) UNIFORMITY.—For the purposes of subsections
14 (b)(2) and (b)(3), hours of work performed by an indi-
15 vidual employed shall be considered equal to those per-
16 formed by an individual employed in a qualifying intern-
17 ship or fellowship program by the Department.

18 **SEC. 13. EXIT SURVEYS.**

19 (a) IN GENERAL.—The Secretary of Veterans Affairs
20 shall develop and carry out a standardized exit survey to
21 be voluntarily completed by career and noncareer employ-
22 ees and executives of the Department of Veterans Affairs
23 who voluntarily separate from the Department. Such exit
24 survey shall be developed in consultation with an appro-

1 piate non-Department entity with experience developing
2 such surveys.

3 (b) SURVEY CONTENT.—The survey shall include, at
4 a minimum—

5 (1) reasons for leaving the Department;

6 (2) efforts made by the supervisor of the em-
7 ployee to retain the individual;

8 (3) the extent of job satisfaction and engage-
9 ment during the employment;

10 (4) the intent of employee to either remain em-
11 ployed within the Federal Government or to leave
12 employment with the Federal Government; and

13 (5) such other matters as the Secretary deter-
14 mines appropriate.

15 (c) ANONYMITY OF SURVEY CONTENT.—The Sec-
16 retary shall ensure that, to the extent possible, data col-
17 lected under subsection (a) is anonymized and personally
18 identifiable information is removed.

19 (d) SHARING OF SURVEY DATA.—The Secretary
20 shall ensure that the results of the survey required by sub-
21 section (a) are shared on an annual basis with directors
22 and managers of facilities of the Department and the Vet-
23 erans Integrated Service Networks.

24 (e) REPORT.—Not later than one year after the date
25 of the enactment of this Act, and annually thereafter, the

1 Secretary shall submit to the Committees on Veterans' Af-
2 fairs of the House of Representatives and the Senate a
3 report containing the aggregate results of the exit survey
4 under subsection (a) covering the year prior to the report.

5 The report shall include—

6 (1) an analysis of the most common reasons
7 employees choose to leave the Department;

8 (2) steps the Secretary is taking to improve re-
9 tention, particularly for mission-critical occupations;

10 (3) the demographic characteristics of employ-
11 ees choosing to leave the Department;

12 (4) any legislative barriers to improving em-
13 ployee retention; and

14 (5) the number of employees who took the exit
15 survey under subsection (a).

Union Calendar No. 17

115TH CONGRESS
1ST Session

H. R. 1367

[Report No. 115-35, Part I]

A BILL

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.

MARCH 10, 2017

Reported from the Committee on Veterans' Affairs

MARCH 10, 2017

The Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed