

DEPARTMENT OF VETERANS AFFAIRS BONUS
TRANSPARENCY ACT

JULY 24, 2017.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. ROE of Tennessee, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 1690]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1690) to amend title 38, United States Code, to require the Secretary of Veterans Affairs to submit an annual report regarding performance awards and bonuses awarded to certain high-level employees of the Department of Veterans Affairs, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “Department of Veterans Affairs Bonus Transparency Act”.

SEC. 2. ANNUAL REPORT ON PERFORMANCE AWARDS AND BONUSES AWARDED TO CERTAIN HIGH-LEVEL EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is amended by inserting after section 717 the following new section:

“§ 718. Annual report on performance awards and bonuses awarded to certain high-level employees

“(a) IN GENERAL.—Not later than 120 days after the end of each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report that contains, for the most recent fiscal year ending before the submittal of the report, a description of the performance awards and bonuses awarded to Regional Office Directors of the Department, Directors of Medical Centers of the Department, Directors of Veterans Integrated Service Networks, and any other individual employed in a senior executive position.

“(b) ELEMENTS.—Each report submitted under subsection (a) shall include the following with respect to each performance award or bonus awarded to an individual described in such subsection:

“(1) The amount of each award or bonus.

“(2) The job title of the individual awarded the award or bonus.

“(3) The location where the individual awarded the award or bonus works.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Veterans’ Affairs and the Committee on Appropriations of the Senate; and

“(B) the Committee on Veterans’ Affairs and the Committee on Appropriations of the House of Representatives.

“(2) The term ‘individual’ means—

“(A) a career appointee (as that term is defined in section 3132(a)(4) of title 5); or

“(B) any individual who occupies an administrative or executive position and who was appointed under section 7306(a) or section 7401(1) of this title.

“(3) The term ‘senior executive position’ means—

“(A) with respect to a career appointee (as that term is defined in section 3132(a)(4) of title 5), a Senior Executive Service position (as such term is defined in section 3132(a)(2) of title 5); and

“(B) with respect to an individual appointed under section 7306(a) or section 7401(1) of this title, an administrative or executive position.”

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

“718. Annual report on performance awards and bonuses awarded to certain high-level employees.”.

PURPOSE AND SUMMARY

H.R. 1690, “The Department of Veterans Affairs Bonus Transparency Act,” was introduced Representative Claudia Tenney of New York on March 22, 2017. H.R. 1690, as amended, would require the Department of Veterans Affairs (VA) to submit an annual report to specified committees of Congress on the performance awards and bonuses presented to Senior Executive Service (SES) employees.

BACKGROUND AND NEED FOR LEGISLATION

Section 1. Short title

This section would cite the short title of this bill to be the “Department of Veterans Affairs Bonus Transparency Act”.

Section 2. Annual report on performance awards and bonuses awarded to certain high-level employees of the Department of Veterans Affairs

For several years there has been an increased focus on the performance awards and bonuses provided to SES employees at VA. While the Committee believes that such awards should certainly be given to top performers, there have been several instances in the past several years where awards have been given to members of the SES who have clearly not performed to the level that would merit a performance award. The Committee believes that the American people deserve a level of transparency on such bonuses that in some cases have topped \$30,000. While the Committee has received copies of performance reviews and awards in the past, VA has only provided this information after a long and protracted delay of several months.

This section, therefore, would require VA, within 120 days after the end of each fiscal year, to provide to the U.S. House and Senate Committees on Veterans' Affairs and the U.S. House and Senate Committees on Appropriations a report summarizing the performance reviews and bonuses provided to VA Regional Office Directors, VA Medical Centers Directors, Veterans Integrated Service Network Directors, and any other individual employed in a SES position. The Committee believes such a requirement will bring needed transparency to the SES bonus process while not stifling the award of performance awards to top performers.

HEARINGS

On June, 29 2017, the Subcommittee on Economic Opportunity held a legislative hearing on several bills pending before the Subcommittee including H.R. 1690. The following witnesses testified:

The Honorable Elise Stefanik, U.S. House of Representatives, 21st district of New York; The Honorable Robert Wittman, U.S. House of Representatives, 1st district of Virginia; The Honorable Claudia Tenney, U.S. House of Representatives, 22nd district of New York; The Honorable David Cicilline, U.S. House of Representatives, 1st district of Rhode Island; The Honorable Scott Taylor, U.S. House of Representatives, 2nd district of Virginia; Mr. Curtis L. Coy, Deputy Under Secretary for Economic Opportunity, Veterans Benefits Administration, U.S. Department of Veterans Affairs, who was accompanied by Ms. Tia Butler, Executive Director, Corporate Senior Executive Management Office, Human Resources and Administration, U.S. Department of Veterans Affairs and Mr. Jeffrey London, Director, Loan Guaranty Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Maj. Gen. Jeffrey E. Phillips, USAR (Ret.), Executive Director, Reserve Officers Association; and Mr. Gabriel Stultz, Legislative Counsel, Paralyzed Veterans of America.

The following organizations submitted statements for the record: U.S. Department of Defense and U.S. Chamber of Commerce.

SUBCOMMITTEE CONSIDERATION

On July 12, 2017 the Subcommittee on Economic Opportunity met in an open markup session, a quorum being present, and ordered H.R. 1690, as amended, favorably forwarded to the full Committee by voice vote. During consideration of the bill, the following amendment was considered:

An amendment offered by Ranking Member Beto O'Rourke of Texas that would change the time after the end of the fiscal year that VA would have to report on performance awards from 30 days to 120 days. The amendment was agreed to by voice vote.

A motion by Ranking Member Beto O'Rourke of Texas to forward H.R. 1690, as amended, favorably to the full Committee was agreed to by voice vote.

COMMITTEE CONSIDERATION

On July 19, 2017, the full Committee met in open markup session, a quorum being present, and ordered H.R. 1690, as amended, be reported favorably to the House of Representatives by voice vote.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, no recorded votes were taken on amendments or in connection with ordering H.R. 1690, as amended, reported to the House.

COMMITTEE OVERSIGHT FINDINGS

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 descriptive portions of this report.

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 goals and objectives of H.R. 1690, as amended, are to provide improve transparency of bonuses provided to members of the SES at VA.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1690, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 1690, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 1690, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 21, 2017.

Hon. PHIL ROE, M.D.,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1690, the Department of Veterans Affairs Bonus Transparency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director).

Enclosure.

H.R. 1690—Department of Veterans Affairs Bonus Transparency Act

H.R. 1690 would require the Department of Veterans Affairs (VA) to submit annual reports to the Congress detailing information on performance awards and bonuses paid to certain high-level executives of the agency, including Regional Office Directors, Directors of Medical Centers, Directors of Veterans Integrated Service Networks, and all other senior executive positions (that is, the Senior Executive Service and other administrators or executive positions). VA would be required to provide the amount of each award as well as the job title and work location of the person receiving such an award.

On the basis of information from VA regarding reports of a similar nature, CBO estimates that implementing H.R. 1690 would cost less than \$500,000 over the 2017–2022 period, subject to the availability of appropriated funds.

Enacting H.R. 1690 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 1690 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1690 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Dwayne M. Wright. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director of Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 1690, as amended, prepared by the Director

of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 1690, as amended.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 1690, as amended, is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 1690, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1690, as amended, 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 RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), H.R. 1690, as amended, would not prescribe the Secretary to create any new regulations.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites the short title of this bill to be, "Department of Veterans Affairs Bonus Transparency Act."

Section 2. Annual report on performance awards and bonuses awarded to certain high-level employees of the Department of Veterans Affairs

This section would amend chapter 7 of title 38, U.S.C. to create the following new section: "§ 718. Annual report on performance awards and bonuses awarded to certain high-level employees".

Subsection (a) of the new section 718 would require that the Secretary of VA, within 120 days of the end of each fiscal year, to provide a report to the appropriate committees of Congress on the performance awards and bonuses provided to members of the SES.

Subsection (b) of the new section 718 would require the report required by subsection (a) to include information regarding: (1) the

amount of the bonus provided, (2) the job title of the individual awarded such a bonus, (3) and the location of the employee who received such an award.

Subsection (c) of the new section 718 would define certain terms used in this section. Subsection (c)(1) defines appropriate committees as the House and Senate Committee on Veterans' Affairs and the House and Senate Committees on Appropriations. Subsection (c)(2) defines the term "individual" to mean any career employees as defined by section 3132(a)(4) of title 5, U.S.C. or someone who was appointed under section 7306(a) or section 7401(a) of title 38, U.S.C. Subsection (c)(3) defines the term "senior executive position" as defined by the definition of a career employee by section 3132(a)(4) of title 5, U.S.C. The term "senior executive" defined by section 3132(a)(2) of title 5, U.S.C. For "individuals appointed under title 38 U.S.C." the term is defined by section 7306(a) or 7401(a) of title 38 U.S.C.

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, existing law in which no change is proposed is shown in roman):

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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CHAPTER 7—EMPLOYEES

SUBCHAPTER I—GENERAL EMPLOYEE MATTERS

Sec.

701. Placement of employees in military installations.

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718. *Annual report on performance awards and bonuses awarded to certain high-level employees.*

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SUBCHAPTER I—GENERAL EMPLOYEE MATTERS

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§718. Annual report on performance awards and bonuses awarded to certain high-level employees

(a) *IN GENERAL.*—Not later than 120 days after the end of each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report that contains, for the most recent fiscal year ending before the submittal of the report, a description of the performance awards and bonuses awarded to Regional Office Directors of the Department, Directors of Medical Centers of the Department, Directors of Veterans Integrated Service Networks, and any other individual employed in a senior executive position.

(b) *ELEMENTS.*—Each report submitted under subsection (a) shall include the following with respect to each performance award or bonus awarded to an individual described in such subsection:

(1) The amount of each award or bonus.

(2) The job title of the individual awarded the award or bonus.

(3) The location where the individual awarded the award or bonus works.

(c) *DEFINITIONS.*—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Veterans’ Affairs and the Committee on Appropriations of the Senate; and

(B) the Committee on Veterans’ Affairs and the Committee on Appropriations of the House of Representatives.

(2) The term “individual” means—

(A) a career appointee (as that term is defined in section 3132(a)(4) of title 5); or

(B) any individual who occupies an administrative or executive position and who was appointed under section 7306(a) or section 7401(1) of this title.

(3) The term “senior executive position” means—

(A) with respect to a career appointee (as that term is defined in section 3132(a)(4) of title 5), a Senior Executive Service position (as such term is defined in section 3132(a)(2) of title 5); and

(B) with respect to an individual appointed under section 7306(a) or section 7401(1) of this title, an administrative or executive position.

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