To amend title 38, United States Code, to require the Secretary of Veterans Affairs to submit an annual report to Congress relating to the use of official time by employees of the Department of Veterans Affairs, to limit the instances in which official time may be granted for certain purposes to employees of the Department, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

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

A BILL

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to submit an annual report to Congress relating to the use of official time by employees of the Department of Veterans Affairs, to limit the instances in which official time may be granted for certain purposes to employees of the Department, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans, Employees, and Taxpayers Protection Act of 2019” or the “VET Protection Act of 2019”.

SEC. 2. LABOR MANAGEMENT IN DEPARTMENT OF VETERANS AFFAIRS.

(a) In general.—Chapter 7 of title 38, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER IV—LABOR MANAGEMENT

§ 751. Records on use of official time

“(a) Tracking of official time.—The Secretary shall track the use of official time by employees of the Department of Veterans Affairs in a manner that accounts for such time accurately and to a specific degree without the use of estimates or ranges of time.

“(b) Annual report.—(1) Not later than December 31 of each year, the Secretary shall submit to the Office of Personnel Management and the Committees on Veterans’ Affairs of the House of Representatives and the Senate a report on the use of official time by employees of the Department during the most recently ended fiscal year.

“(2) Each report under paragraph (1) shall include, with respect to the fiscal year covered by the report, the following information:
“(A) The total amount of official time granted to employees.

“(B) The total amount of official time expended and the amount of official time expended per employee for term negotiations, mid-term negotiations, general labor-management relations, and dispute resolution.

“(C) The specific types of activities or purposes for which official time was granted, and the impact which the granting of such official time for such activities or purposes had on the operations of the Department.

“(D) The total number of employees to whom official time was granted, and, of that total, the number who were not engaged in any activities or purposes except activities or purposes involving the use of official time.

“(E) The total annual salary, job title, and amount of official time afforded to any employee.

“(F) A description of any room or space designated at the Department where official time activities will be conducted, including the square footage of any such room or space.
“(G) A list of any employee granted a waiver under section 752(d) and justification for each such waiver.

“(c) DEFINITION OF OFFICIAL TIME.—For purposes of this section, the term ‘official time’ means any period of time—

“(1) which may be granted to an employee under chapter 71 of title 5 (including a collective bargaining agreement entered into under such chapter) or chapter 74 of this title to perform representational or consultative functions; and

“(2) during which the employee would otherwise be in a duty status.

“§ 752. Limitations on use of official time for certain purposes and individuals

“(a) POLITICAL ACTIVITIES AND LOBBYING.—Notwithstanding section 7131 of title 5 or any other provision of law, any employee of the Department may not use official time to carry out political activities or activities relating to lobbying.

“(b) PROHIBITION ON USE OF OFFICIAL TIME BY CERTAIN EMPLOYEES.—The following employees of the Department may not use official time for any purpose:

“(1) Any employee appointed under section 7401(1).
“(2) Any employee with an annual rate of basic pay equal to or greater than $100,000.

“(3) Any employee who is serving a probationary period.

“(c) LIMITATION ON ALL EMPLOYEES.—Any employee of the Department not covered by subsection (b) may spend no more than 25 percent of the time such employee would otherwise be in a duty status on official time.

“(d) WAIVER.—(1) The Secretary may waive the requirements of subsection (b) or (c) with respect to an employee of the Department if the Secretary certifies, in writing, that the waiver is reasonable, necessary, and in the best interests of veterans.

“(2) The authority provided to the Secretary under this subsection shall not be subject to bargaining under this title or chapter 71 of title 5, and the exercise of, or failure to exercise, such authority shall not be an unfair labor practice under this title or such chapter.

“(e) DEFINITION OF OFFICIAL TIME.—For purposes of this section, the term ‘official time’ has the meaning given that term in section 751(c).

§ 753. Termination of collection of dues

“Notwithstanding section 7115 of title 5, any exclusive bargaining agreement entered into pursuant to chapter 71 of such title by the Department shall provide that
an employee of the Department may terminate a voluntary allotment for the payment of dues at any time. Any deductions for dues made pursuant to such allotment shall cease beginning on the first pay period after the termination is made.”.

(b) Applicability.—Sections 752 and 753 of title 38, United States Code, as added by subsection (a), shall apply with respect to any collective bargaining agreement entered into before, on, or after the date of enactment of this Act.

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“SUBCHAPTER IV—LABOR MANAGEMENT

751. Records on use of official time.
752. Limitations on use of official time for certain purposes and individuals.
753. Termination of collection of dues.”.

SEC. 3. REQUIRED PROBATIONARY PERIOD FOR NEW EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) Probationary Period.—

(1) In general.—Chapter 7 of title 38, United States Code, is further amended by inserting after section 715 the following new section:

“§ 716. Probationary period for employees

“(a) In General.—Notwithstanding sections 3321 and 3393(d) of title 5, the appointment of a covered em-
ployee shall become final only after such employee has
served a probationary period of 2 years.

“(b) COVERED EMPLOYEE.—In this section, the term
‘covered employee’—

“(1) means any individual—

“(A) appointed to a permanent position
within the competitive service at the Depart-
ment; or

“(B) appointed as a career appointee (as
that term is defined in section 3132(a)(4) of
title 5) within the Senior Executive Service at
the Department; and

“(2) does not include any individual with a pro-
bationary period prescribed by section 7403 of this
title.

“(c) PERMANENT HIRES.—Not later than 90 days
before the expiration of a covered employee’s probationary
period under subsection (a), the supervisor of the em-
ployee shall determine whether the appointment becomes
final based on regulations prescribed for such purpose by
the Secretary.

“(d) APPLICATION.—With respect to any individual
described in subsection (b)(1)(A) and to whom this section
applies, sections 7501(1) and 7511(a)(1)(A)(ii) of title 5
shall be applied to such individual by substituting ‘com-
pleted 2 years’ for ‘completed 1 year’ in each instance it appears.”.

(2) CLERICAL AND CONFORMING AMENDMENTS.—

(A) CLERICAL.—The table of sections at the beginning of such chapter, as amended by section 2, is further amended by inserting after the item relating to section 715 the following new item:

“716. Probationary period for employees.”.

(B) CONFORMING.—Title 5, United States Code, is amended—

(i) in section 3321(c)—

(I) by striking “Service, or” and inserting “Service,”; and

(II) by inserting at the end before the period the following: “, or any individual covered by section 716 of title 38”;

(ii) in section 3393(d), by inserting at the end before the period the following: “or section 716 of title 38”;

(iii) in sections 7501(1) and 7511(a)(1)(A)(ii), by inserting “or section 716 of title 38” after “title 10” in each instance it appears; and
(iv) in section 7541(1)(A)—

(I) by striking “title or” and inserting “title,”; and

(II) by inserting at the end before the semicolon the following: “, or section 716 of title 38”.

(b) APPLICATION.—Section 716 of title 38, United States Code, as added by subsection (a)(1), shall apply to any covered employee (as that term is defined in subsection (b) of such section 716, as so added) appointed after the date of the enactment of this Act.