

BOOSTING RATES OF AMERICAN VETERAN EMPLOYMENT  
ACT

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JUNE 18, 2019.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. TAKANO, from the Committee on Veterans' Affairs,  
submitted the following

R E P O R T

[To accompany H.R. 2109]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2109) to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, in awarding a contract for the procurement of goods or services, to give a preference to offerors that employ veterans, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, in awarding a contract for the procurement of goods or services, to give a preference to offerors that employ veterans was introduced by Representative Kathleen Rice, along with Representative Paul Cook on April 4, 2019. H.R. 2109 authorizes the Secretary of Veterans Affairs, when awarding federal contracts, to give preference to companies that have high concentrations of full-time veteran employees, which will reward contractors that actively hire veterans and create an incentive for others to do the same.

## BACKGROUND AND NEED FOR LEGISLATION

The Department of Veterans Affairs (VA) establishes long-term contracts with private businesses for medical equipment, supplies, services, and more. Currently, the VA gives preference for these contracts to veteran-owned small businesses, but not to businesses that actively employ veterans.

H.R. 2109 would allow the VA to consider the proportion of veterans employed on a full-time basis by a prospective contractor when awarding federal contracts. In addition, H.R. 2109 would not impose any additional costs or burdens on taxpayers, and it provides oversight of VA contractors by allowing the debarment of any company that knowingly misrepresents the number or proportion of veterans they employ.

H.R. 2109 provides oversight of VA contractors by allowing debarment, at the discretion of the VA Secretary, of those who intentionally misrepresent their proportion of veteran employees.

The intent of the legislation is to incentivize businesses, both large and small, to focus on and improve their veteran hiring and retention practices. The Committee recommends that H.R. 2109, and the newly created Sec. 8129 titled "Preference for offerors employing veterans," shall not be construed as a separate procurement strategy to Sec. 8128 and may only be taken into consideration by VA as part of the tiered evaluations process.

## HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearings and meetings were used to develop or consider H.R. 2109.

On April 9, 2019, the Subcommittee on Economic Opportunity conducted a legislative hearing on various bills introduced during the 116th Congress, including H.R. 2109.

The following witnesses testified:

Ms. Margarita Devlin, Principal Deputy Under Secretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs. Ms. Ashlynn Haycock, Deputy Policy Director, Education Support Services, Tragedy Assistance Program for Survivors (TAPS). Mr. Patrick Murray, Deputy Director, National Legislative Service, The Veterans of Foreign Wars. Mr. John Kamin, Credentialing and Education Policy Associate, National Veterans Employment and Education Division, The Amer-

ican Legion. Ms. Rebecca Burgess, Program Manager Citizenship Project, American Enterprise Institute.  
 Statements for the record were submitted by:  
 Disabled American Veterans

#### SUBCOMMITTEE CONSIDERATION

On May 1, 2019, the Subcommittee on Economic Opportunity met in an open markup session, a quorum being present, and ordered H.R. 2109 reported favorably to the Committee on Veterans' Affairs by voice vote.

During the May 1, 2019 consideration, the Subcommittee considered H.R. 2109 as introduced. No amendments were offered.

#### COMMITTEE CONSIDERATION

On May 8, 2019, the Committee on Veterans' Affairs met in an open markup session, a quorum being present, and ordered H.R. 2109 reported favorably to the House of Representatives by voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. There were no recorded votes taken on amendments or in connection with ordering H.R. 2109 reported to the House. A motion by Ranking Member Phil Roe of Tennessee to report H.R. 2109 favorably to the House of Representatives was agreed to by voice vote.

#### 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 are to authorize the Department of Veterans Affairs' the ability to give preference to companies with high concentration of veteran employees when awarding Department contracts.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 2109 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. 2196 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## 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. 2196 provided by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

According to the Congressional Budget Office estimate, because H.R. 2109 would allow VA to earmark money to contract with employers of veterans but would not affect the underlying costs of administering VA programs, CBO estimates that implementing the provision would not affect the federal budget, and not have direct spending nor spending subject to appropriation.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 15, 2019.*

Hon. MARK TAKANO,  
*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. 2109, the BRAVE Act.

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

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

<b>H.R. 2109, BRAVE Act</b>			
As ordered reported by the House Committee on Veterans' Affairs on May 8, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0
Pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 2109 would permit the Department of Veterans Affairs (VA) to give preference to firms that employ veterans when it awards contracts for goods and services. The bill also would establish penalties for firms that misrepresent the veteran status of employees when bidding on VA contracts. Under current law, VA can give preference to firms that are owned or controlled by veterans, and the department must set goals for the number of contracts awarded to such businesses.

Because the bill would allow VA to earmark money to contract with employers of veterans but would not affect the underlying costs of administering VA programs, CBO estimates that implementing the provision would not affect the federal budget.

The CBO staff contact for this estimate is Logan Smith. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 2109 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. 2109.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 2109 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. 2109 does not relate to the terms and conditions of employment or access to public services or accommodations within the legislative branch.

#### 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. 2109 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 clause 3(c)(5) of rule XIII, the Committee estimates that H.R. 2109 contains no directed rule making that would require the Secretary to prescribe regulations.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1:* Short Title: “Boosting Rates of American Veteran Employment Act or BRAVE Act”

*Section 2:* Authorizes the Secretary to give a preference to those employers which employ veterans on a full time basis. This preference shall be determined by the percentage of full time employers who are veterans. Also sets penalties for misrepresentation of the number of veterans.

## 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 VI—ACQUISITION AND DISPOSITION OF PROPERTY**

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**CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY**

## SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

Sec.

8101. Definitions.

## SUBCHAPTER II—PROCUREMENT AND SUPPLY

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8129. *Preference for offerors employing veterans.*

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## SUBCHAPTER II—PROCUREMENT AND SUPPLY

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**§ 8129. Preference for offerors employing veterans**

(a) *PREFERENCE.*—In awarding a contract for the procurement of goods or services, the Secretary may give a preference to offerors that employ veterans on a full-time basis. The Secretary shall deter-

*mine such preference based on the percentage of the full-time employees of the offeror who are veterans.*

*(b) ENFORCEMENT PENALTIES FOR MISREPRESENTATION.—(1) Any offeror that is determined by the Secretary to have willfully and intentionally misrepresented the veteran status of the employees of the offeror for purposes of subsection (a) may be debarred from contracting with the Department for a period of not less than five years.*

*(2) If the Secretary carries out a debarment under paragraph (1), the Secretary shall commence debarment action against the offeror by not later than 30 days after determining that the offeror willfully and intentionally misrepresented the veteran status of the employees of the offeror as described in paragraph (1) and shall complete debarment actions against such offeror by not later than 90 days after such determination.*

*(3) The debarment of an offeror under paragraph (1) includes the debarment of all principals in the offeror for a period of not less than five years.*

\* \* \* \* \*

