

VA SENIOR EXECUTIVE ACCOUNTABILITY 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. 2772]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2772) to amend title 38, United States Code, to provide for requirements relating to the reassignment of Department of Veterans Affairs senior executive employees, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

H.R. 2772, “VA Senior Executive Accountability Act” or the “SEA Act,” introduced by Representative Scott Taylor of Virginia on June 6, 2017. H.R. 2772 would require the Secretary of the U.S. Department of Veterans Affairs (VA) to personally approve of a reassignment of any VA employee, submit a semiannual report to Congress identifying those employees who were reassigned and the costs associated with this reassignment.

## BACKGROUND AND NEED FOR LEGISLATION

*Section 1. Short title*

This section would create the short title of this bill to be the “VA Senior Executive Accountability Act” or the “SEA Act”.

*Section 2. Semiannual report on reassignment of Department of Veterans Affairs Senior Executive Employees*

In 2015, the U.S. Department of Veterans Affairs Office of Inspector General (VAOIG) published a report that concluded that members of VA’s Senior Executive Service (SES) used their management positions to be reassigned to another position within the Department for personal gain.<sup>1</sup> Following this report, and the subsequent Committee investigation, the VA suspended indefinitely the use of the Appraised Value Offer (AVO) program that the Department used to help sell the homes of SES employees when they were reassigned to a new position within the Department, often at a significant expense to the taxpayer.

November 10, 2016, VA quietly reauthorized the AVO program with little to no transparency on its use or new implementation policy to avoid abuse. The Committee remains concerned about the use of the AVO program and believes that there needs to be a mechanism put in place to provide transparency of the cost to taxpayers of any reassignment of a SES employee. Additionally, the Committee is concerned about the perceived practice that VA moves senior officials to another location within the Department instead of providing true accountability for the misconduct or poor performance for members of the SES. For example, the Department has reassigned an offending SES employee to an administrative position for brief period to only reassign the employee to another SES position within the Department at a later date. The Committee believes that transparency of the reassignment of all SES employees is important, which is why this section, therefore, would require VA to semiannually report to Congress about where senior executives are being moved and to report all expenses associated with such moves. In addition, this report would also require that the Secretary personally approve and sign off on all reassignments of SES employees to ensure that such moves are justified and are in the best interests of the Department, veterans, and taxpayers.

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<sup>1</sup>U.S. Department of Veterans Affairs Office of Inspector General, “Inappropriate Use of Position and Misuse of Relocation Program and Incentives,” September 28, 2015, <https://www.va.gov/oig/pubs/VAOIG-15-02997-526.pdf>.

## HEARINGS

On June 29 2017, the Subcommittee on Economic Opportunity held a legislative hearing on several bills pending before the Subcommittee, including H.R. 2772. 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. 2772, favorably forwarded to the full Committee 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. 2772 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. 2772 reported favorably 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. 2772 are to improve transparency of the reassignment of members of the SES at VA.

#### EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 2772 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. 2772, 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. 2772, 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. 2772, the SEA 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. 2772—SEA Act*

H.R. 2772 would bar a member of the Senior Executive Service (SES) employed by the Department of Veterans Affairs (VA) from being reassigned within the agency without written approval by the Secretary of VA. H.R. 2772 also would require VA to submit semi-annual reports to the Congress on reassigned SES employees.

CBO expects that changing the requirements for reassigning SES employees would have no budgetary effect. On the basis of information from VA regarding reports of a similar nature, CBO estimates that implementing H.R. 2772 would cost less than \$500,000 over the 2017–2022 period, subject to the availability of appropriations.

Enacting H.R. 2772 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2772 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2772 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. 2772, 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. 2772.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 2772 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. 2772 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. 2772 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. 2772 contains no direct rule making.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section cites the short of this bill to be, the "VA Senior Executive Accountability Act" or the "SEA Act".

##### *Section 2. Semiannual reports on reassignment of Department of Veterans Affairs Senior Executive Employees*

This section would amend chapter 7 of title 38, U.S.C., to create a new section 719 entitled, "§ 719. Reassignment of Senior Executives."

Subsection (a) of the new section 719 would require that no member of the SES may be reassigned unless the reassignment is approved, in writing, by the Secretary of Veterans Affairs.

Subsection (b) of the new section 719 would require that no later than June 30 and December 31 of each year, the Secretary to submit to Congress a report on the reassignment of individuals employed in the SES to other locations within the Department during the reporting period. Each such report would describe the purpose of each such reassignment and the costs associated with such reassignment.

Subsection (c) of the new section 719 would give the term “senior executive position” the definition as provided by section 713(g)(3) 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

### PART I—GENERAL PROVISIONS

\* \* \* \* \*

#### CHAPTER 7—EMPLOYEES

##### SUBCHAPTER I—GENERAL EMPLOYEE MATTERS

Sec.

701. Placement of employees in military installations.

\* \* \* \* \*

*719. Reassignment of senior executives.*

719. Reduction of benefits of employees convicted of certain crimes.

721. Recoupment of bonuses or awards paid to employees of Department.

723. Recoupment of relocation expenses paid on behalf of employees of Department.

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##### SUBCHAPTER I—GENERAL EMPLOYEE MATTERS

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#### **§ 719. *Reassignment of senior executives***

(a) *APPROVAL OF REASSIGNMENTS.—No individual employed in a senior executive position at the Department may be reassigned to another such position at the Department unless such reassignment is approved in writing and signed by the Secretary.*

(b) *SEMIANNUAL REPORTS REQUIRED.*—Not later than June 30 and December 31 of each year, the Secretary shall submit to Congress a report on the reassignment of individuals employed in senior executive positions at the Department to other such positions at the Department during the period covered by the report. Each such report shall describe the purpose of each such reassignment and the costs associated with such reassignment.

(c) *SENIOR EXECUTIVE POSITION DEFINED.*—In this section, the term “senior executive position” has the meaning given such term in section 713(g)(3) of this title.

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