



S. 114 – Department of Veterans Affairs Bonus Transparency Act, as amended (VA Choice and Quality Employment Act of 2017) (Heller, R-NV)

CONTACT: [Amanda Lincoln](mailto:Amanda.Lincoln@rsc.house.gov), 202-226-2076

FLOOR SCHEDULE:

Expected to be considered on July 28, 2017, under a [closed rule](#).

TOPLINE SUMMARY:

[The House Amendment to S. 114](#) would authorize and appropriate \$2.1 billion for the Veterans' Choice Fund, authorize major medical facility leases at certain specified locations throughout the Department of Veterans Affairs (VA), and includes numerous provisions geared toward improving VA workforce recruitment and training. To offset \$1.89 billion of the Choice appropriation, the bill would also extend for another three years the following current law provisions: (1) the \$90 per month limitation on VA pensions paid to Medicaid-eligible veterans residing in nursing homes, (2) the Secretary's authority to collect fees for VA housing loans, and (3) the Secretary's authority to use IRS income information to verify VA pensions.

COST:

No Congressional Budget Office (CBO) estimate is currently available. The Majority Leader's Office has provided a preliminary CBO estimate which estimates that enacting S. 114, as amended, would increase direct spending by \$1.344 billion over the FY 2017-2027 period. The majority of that direct spending estimate is related to CBO's estimate that the bill's authorization of major medical facility leases would increase direct spending by \$1.134 billion during this period. The House Budget Committee, however, has ultimate budget scoring authority and has determined that the provision should not score given that appropriators will be responsible for liquidating the costs of the leases on a year-by-year basis. Thus, the House Budget Committee estimates that enacting S. 114, as amended, would increase direct spending by \$210 million over the FY 2017-2027 period.

In addition, CBO estimates that the bill would have a discretionary cost of \$307 million; such spending would be subject to the availability of appropriated funds.

CONSERVATIVE CONCERNS:

Some conservatives may be concerned that policies included to offset the new appropriation to the Veterans' Choice Fund do not cover the full cost of the appropriation. Some conservatives may also be concerned that those policies are also used to offset H.R. 1058 (pension limitation), which passed the House by voice vote on July 24, 2017, and H.R. 3262 (loan fees) and H.R. 95 (pension limitation and loan fees), which the House is expected to consider on July 28, 2017. This is triple-counting, given that the same policy cannot simultaneously offset the cost of multiple bills.

Some conservatives may also be concerned that some of the savings generated by the pension limitation would be offset by increased Medicaid spending and may shift costs to states, given that reduced pensions would result in Medicaid taking responsibility for payments to nursing homes that would otherwise be paid by veterans.

- **Expand the Size and Scope of the Federal Government?** The bill includes a \$2.1 billion appropriation to the Veterans Choice Fund and would create several new programs.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

BACKGROUND:

The Veterans Choice Program (Choice) allows certain eligible veterans to receive medical care in the community rather than through VA providers, and was established as a temporary program under the [Veterans Access, Choice, and Accountability Act of 2014](#). By law, Choice was scheduled to expire on August 7, 2017, or at such time as the \$10 billion appropriated to the Veterans Choice Fund in 2014 was exhausted, whichever came first.

Congress acted to eliminate the sunset date in order to allow the unspent funds to be used to allow eligible veterans to continue to receive community care through Choice given that VA expected that somewhere between \$800 million and \$1.2 billion of the original appropriation would remain available after August 7 according to the [Committee Report, S. 544](#), the bill to eliminate the sunset date, passed the House by voice on April 5 and was signed into law on April 19.

VA has recently [revised the estimates](#) cited in the Committee Report, however, and anticipated balances have largely been exhausted given that VA is issuing substantially more Choice authorizations than expected, including 32 percent more authorizations in May and June of 2017 than during the same time period in 2016. The expiration of funds threaten to disrupt these veterans' access to care.

DETAILED SUMMARY AND ANALYSIS:

Section 1 of the House amendments to S. 114 would authorize and appropriate \$2.1 billion to the Veterans Choice Fund, to be available in any fiscal year.

Section 2 of the bill includes numerous provisions related to personnel matters at the Department of Veterans Affairs. Specifically, the bill would:

- Require the VA Inspector General to publish, at a minimum, the five clinical occupations and five nonclinical occupations of VA personnel with the most staffing shortages throughout each VA medical center over the last five years. Currently, the IG publishes this information for the top five occupations throughout the VA as a whole, without distinction between clinical and nonclinical occupations.
- Require the VA Secretary to implement a new Executive Management Fellowship Program to provide certain Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) employees with training and experience in the private sector, and eligible private sector employees with training and experience in the VA. The Secretary would select between 18 and 30 VBA, VHA, and private sector employees to receive a fellowship, which would last for one year. Participants would be required to agree to service in the VBA or VHA for at least two years after completing the fellowship, and agree, for the duration of the two years, not to accept private sector employment in the same industry as the private sector entity in which they completed the fellowship. Participants would be required to submit a report on the fellowship to the Secretary within 60 days of

completion, which would be transmitted to Congress within seven days of the Secretary's receipt. The reports would detail the participant's duties during the fellowship and any recommendations of best practices or other industry processes and technologies the Secretary could apply to the VA.

- Require the VA to conduct an annual performance plan for political appointees similar to the plan for Senior Executive Service career appointees.
- Authorize the VA to non-competitively reappoint a former VA employee to any position that is not more than one grade higher than their former position, as long as the employee left voluntarily or was subject to a reduction in force within the last two years and maintained any relevant licensures and credentials.
- Require the VA to establish a promotional track system for VA employees who are technical experts without requiring them to take managerial positions, for the purposes of achieving career advancement or providing for the establishment of new positions within VA. The Secretary would have discretion to determine via regulation which employees are technical experts.
- Require the VA to issue regulations to allow for expected service appointments of students and recent graduates leading to conversion to career or career conditional employment of a student or recent graduate.
- Create a new program encouraging service members with a health care-related military occupational specialty to seek employment within the VHA.
- Require the VA to create a single database to maintain a list of all vacancies the Secretary deems mission critical, difficult to fill, or both, and a list of each vacancy for a mental health professional. The Secretary would be authorized to use the database to help fill such positions, and would be required to report to Congress within one year of enactment on the database's use and efficacy.
- Require the VA to provide virtual training for VHA human resources professionals on how to best recruit and retain employees, and report annually to Congress on the training, including its cost.
- Require the Secretary to develop a plan to hire highly qualified directors for medical centers that have not had a permanent director. The Secretary would be required to submit this plan to Congress and provide a list of each medical center without a permanent director every six months.
- Require the Secretary to develop a standard exit survey and request that employees voluntarily leaving VA service complete it, and report to Congress annually on aggregate results.
- Require that VA physician assistants receive competitive pay comparable to the pay of physician assistants in the private sector.
- Expand VA's direct hiring authority in the case of a severe shortage of highly qualified candidates.
- Require the GAO to conduct a study on VA's succession planning policies and guidance with VHA, VBA, and the National Cemetery Association (NCA).

Section 3 of the bill would authorize major medical facility leases through the VA at specified locations with loan amounts that are not to exceed the amount dictated for each location. The bill would also appropriate \$274,634,000 million for these leases in FY 2018. Locations specified in this bill include:

- Ann Arbor, Michigan
- Birmingham, Alabama
- Boston, Massachusetts
- Charleston, South Carolina
- Corpus Christi, Texas
- Daytona Beach, Florida
- Denver, Colorado
- Fredericksburg, Virginia
- Gainesville, Florida
- Hampton Roads, Virginia
- Indianapolis, Indiana
- Jacksonville, Florida
- Missoula, Montana
- Northern Colorado, Colorado
- Ocala, Florida
- Oxnard, California
- Pike County, Georgia
- Pittsburgh, Pennsylvania
- Portland, Maine
- Raleigh, North Carolina
- Rochester, New York
- San Diego, California
- Santa Rosa, California
- Tampa, Florida
- Lakeland, Tampa, Florida
- Terre Haute, Indiana
- Rapid City, South Dakota

Section 4 would partially offset the appropriation to the Veterans' Choice Fund by (1) extending current law requirements that limit pensions to \$90 per month for any veteran or survivor who is receiving Medicaid coverage in a Medicaid-approved nursing home from September 30, 2024 through September 30, 2027; (2) extending the Secretary's authority to collect increased fees for certain housing loans made, insured, or guaranteed by VA from September 30, 2024 through September 30, 2027; and (3) extending the Secretary's authority to use IRS data to verify income for means-tested veterans' pensions from September 30, 2024 through September 30, 2027.

COMMITTEE ACTION:

This bill was introduced by Senator Heller (R-NV) on January 12, 2017, and referred to the Senate Committee on Veterans Affairs where it was discharged by Unanimous Consent on May 25, 2017. The Senate passed the bill without amendment by Unanimous Consent on May 25, 2017. The House has amended and fully replaced the Senate-passed language. No Committee action has occurred in the House.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

Statements of constitutional authority are not required for Senate bills.