115TH CONGRESS 1ST SESSION H.R. 1367

AUTHENTICATED U.S. GOVERNMENT INFORMATION

> To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2017

Mr. WENSTRUP introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Oversight and Government 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 improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.
 - 1 Be it enacted by the Senate and House of Representa-
 - 2 tives of the United States of America in Congress assembled,

3 SECTION 1. TABLE OF CONTENTS.

- 4 The table of contents for this Act is as follows:
 - Sec. 1. Table of contents.
 - Sec. 2. Modification to annual determination of staffing shortages in Veterans Health Administration.
 - Sec. 3. Executive management fellowship program.
 - Sec. 4. Accountability of leaders for managing the Department of Veterans Affairs.

Sec. 7. Recruiting database. Sec. 8. Human resources academy. Sec. 9. Promotional opportunities for technical experts. Sec. 10. Comptroller General study on succession planning. Sec. 11. Information on hiring effectiveness. Sec. 12. Employment of students and recent graduates. Sec. 13. Exit surveys. 1 SEC. 2. MODIFICATION TO ANNUAL DETERMINATION OF 2 STAFFING SHORTAGES IN VETERANS HEALTH 3 ADMINISTRATION. 4 Section 7412(a) of title 38, United States Code, is amended-5 (1) by striking "the five occupations" and in-6 7 serting "the five clinical occupations and the five 8 nonclinical occupations"; and 9 (2) by striking "throughout the Department" 10 and inserting "with respect to each medical center of 11 the Department,". 12 SEC. 3. EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM. 13 (a) FELLOWSHIP PROGRAM.—Chapter 7 of title 38, United States Code, is amended by adding at the end the 14 15 following new subchapter: 16 "SUBCHAPTER III—EXECUTIVE MANAGEMENT 17 FELLOWSHIP PROGRAM 18 "§ 741. Executive Management Fellowship Program 19 "(a) FELLOWSHIP PROGRAM.—There is in the De-20 partment an Executive Management Fellowship Program.

The purpose of the program shall be to provide—

Sec. 5. Modification to veterans preference. Sec. 6. Reemployment of former employees.

"(1) eligible employees of the Veterans Benefits 1 2 Administration and the Veterans Health Administration with training and experience in the private sec-3 4 tor; and "(2) eligible employees of a private-sector entity 5 6 with training and experience in the Department of 7 Veterans Affairs. "(b) FELLOWSHIP.—(1) A fellowship provided under 8 this section is a one-year fellowship during which— 9 10 "(A) with respect to a Department participant, 11 the participant receives training and experience at a 12 private-sector entity that is engaged in the adminis-13 tration and delivery of health care or other services 14 similar to the benefits administered by the Sec-15 retary; and "(B) with respect to a private-sector partici-16 17 pant, the participant receives training and experi-18 ence at the Veterans Benefits Administration or the 19 Veterans Health Administration. "(2) The Secretary shall enter into such agreements 20 21 with private-sector entities as are necessary to carry out 22 this section.

23 "(c) SELECTION OF RECIPIENTS.—(1) In August of
24 each year, the Secretary shall select—

"(A) not fewer than 18 and not more than 30 1 2 eligible employees of the Veterans Benefits Adminis-3 tration and the Veterans Health Administration to 4 receive a fellowship under this section; and "(B) not fewer than 18 and not more than 30 5 6 eligible employees of private-sector entities to receive 7 a fellowship under this section. 8 "(2) To the extent practicable, the Secretary shall se-9 lect eligible employees under subparagraphs (A) and (B) 10 of paragraph (1) from among eligible employees who are veterans in a manner that is reflective of the demographics 11 of the veteran population of the United States. 12 13 "(d) ELIGIBLE EMPLOYEES.—For the purposes of 14 this section, an eligible employee is— "(1) with respect to an employee of the Vet-15 16 Benefits Administration or the Veterans erans 17 Health Administration, an employee who— 18 "(A) is compensated at a rate of basic pay 19 not less than the minimum rate of basic pay 20 payable for grade GS-14 of the General Sched-21 ule and not more than either the minimum rate 22 of basic pay payable to a member of the Senior 23 Executive Service under section 5382 of title 5, 24 United States Code, or the minimum rate of

1	basic pay payable pursuant to chapter 74 of
2	this title, as the case may be;
3	"(B) enters into an agreement with the
4	Secretary under subsection (e); and
5	"(C) submits to the Secretary an applica-
6	tion containing such information and assur-
7	ances as the Secretary may require; and
8	((2) with respect to an employee of a private-
9	sector entity, an employee who—
10	"(A) is employed in a position whose du-
11	ties and responsibilities are commensurate with
12	an employee of the Department described in
13	paragraph (1);
14	"(B) enters into an agreement with the
15	Secretary under subsection (e); and
16	"(C) submits to the Secretary an applica-
17	tion containing such information and assur-
18	ances as the Secretary may require.
19	"(e) AGREEMENTS.—(1) An agreement between the
20	Secretary and a Department participant shall be in writ-
21	ing, shall be signed by the participant, and shall include
22	the following provisions:
23	"(A) The Secretary's agreement to provide the
24	participant with a fellowship under this section;
25	"(B) The participant's agreement—

1	"(i) to accept the fellowship;
2	"(ii) after completion of the fellowship, to
3	serve as a full-time employee in the Veterans
4	Benefits Administration or the Veterans Health
5	Administration for at least two years as speci-
6	fied in the agreement; and
7	"(iii) that, during the two-year period be-
8	ginning on the last day of the fellowship, the
9	participant will not accept employment in the
10	same industry as the industry of the private-
11	sector entity at which the participant accepts
12	the fellowship.
13	"(C) A provision that any financial obligation of
14	the United States arising out of an agreement en-
15	tered into under this subchapter, and any obligation
16	of the participant which is conditioned on such
17	agreement, is contingent upon funds being appro-
18	priated.
19	"(D) A statement of the damages to which the
20	United States is entitled under this subchapter for
21	the participant's breach of the agreement.
22	"(E) Such other terms as the Secretary deter-
23	mines are required to be included in the agreement.
24	((2) An agreement between the Secretary and a pri-
25	vate-sector participant shall be in writing, shall be signed

1 by the participant, and shall include the following provi-2 sions:

3 "(A) The Secretary's agreement to provide the4 participant with a fellowship under this section.

5 "(B) The participant's agreement to accept the6 fellowship.

"(C) Such other terms as the Secretary deter-7 8 mines are required to be included in the agreement. 9 "(f) TREATMENT OF RECIPIENTS.—(1) A Department participant shall be considered an employee of the 10 Department for all purposes, including for purposes of re-11 12 ceiving a salary and benefits, and shall remain eligible for 13 all promotion and incentive programs otherwise available to such an employee. 14

15 "(2) A private-sector participant shall be considered 16 an employee of the private-sector entity that employs the 17 participant for all purposes, including for purposes of re-18 ceiving a salary and benefits, and during the fellowship 19 shall be treated as a contractor of the Department.

20 "(g) REPORTS.—Not later than 60 days after com-21 pleting a fellowship under this section, a recipient of the 22 fellowship shall submit to the Secretary a report on the 23 fellowship. Each such report shall describe the duties of 24 the recipient during the fellowship and any recommenda-25 tions of the recipient for the application by the Secretary of industry processes, technologies, and best practices. Not
 later than seven days after receiving each such report, the
 Secretary shall submit to the Committees on Veterans' Af fairs of the Senate and House of Representatives such re port without change.

6 "(h) DEFINITIONS.—In this section:

7 "(1) The term 'Department participant' means
8 an employee of the Veterans Benefits Administration
9 or the Veterans Health Administration who is par10 ticipating in the fellowship under this section.

11 "(2) The term 'private-sector entity' includes
12 an entity operating under a public-private partner13 ship.

14 "(3) The term 'private-sector participant' 15 means an employee of a private-sector entity who is 16 participating in the fellowship under this section.". 17 (b) DEADLINE FOR IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, 18 the Secretary of Veterans Affairs shall implement the Ex-19 20 ecutive Management Fellowship Program required under 21 section 741 of title 38, United States Code, as added by 22 subsection (a).

23 (c) CLERICAL AMENDMENT.—The table of sections24 at the beginning of chapter 7 of title 38, United States

1 Code, is amended by adding at the end the following new

2 items:

"SUBCHAPTER III—EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM "741. Executive Management Fellowship Program.".

3 SEC. 4. ACCOUNTABILITY OF LEADERS FOR MANAGING
 4 THE DEPARTMENT OF VETERANS AFFAIRS.

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

8 "§719. Annual performance plan for political ap9 pointees

10 "(a) IN GENERAL.—The Secretary shall conduct an 11 annual performance plan for each political appointee of 12 the Department that is similar to the annual performance 13 plan conducted for an employee of the Department who 14 is appointed as a career appointee (as that term is defined 15 in section 3132(a)(4) of title 5) within the Senior Execu-16 tive Service at the Department.

17 "(b) ELEMENTS OF PLAN.—Each annual perform18 ance plan conducted under subsection (a) with respect to
19 a political appointee of the Department shall include an
20 assessment of whether the appointee is meeting the fol21 lowing goals:

22 "(1) Recruiting, selecting, and retaining well23 qualified individuals for employment at the Depart24 ment.

1	"(2) Engaging and motivating employees.
2	"(3) Training and developing employees and
3	preparing those employees for future leadership roles
4	within the Department.
5	"(4) Holding each employee of the Department
6	that is a manager accountable for addressing issues
7	relating to performance, in particular issues relating
8	to the performance of employees that report to the
9	manager.
10	"(c) Definition of Political Appointee.—In
11	this section, the term 'political appointee' means an em-
12	ployee of the Department who holds—
13	"(1) a position which has been excepted from
14	the competitive service by reason of its confidential,
15	policy-determining, policy-making, or policy-advo-
16	cating character; or
17	"(2) a position in the Senior Executive Service
18	as a noncareer appointee (as such term is defined in
19	section 3132(a) of title 5).".
20	(b) Clerical Amendment.—The table of sections
21	at the beginning of chapter 7 of such title is amended by
22	inserting after the item relating to section 717 the fol-
23	lowing new item:
	"719. Annual performance plan for political appointees.".

1 SEC. 5. MODIFICATION TO VETERANS PREFERENCE.

2 (a) ACTIVE DUTY REQUIREMENT.—Section
3 2108(1)(B) and (D) of title 5, United States Code, are
4 amended by striking "consecutive" in each instance it ap5 pears and inserting "cumulative".

6 (b) EXPANSION OF ELIGIBILITY OF RETIRED VET7 ERANS.—Section 2108(4) of title 5, United States Code,
8 is amended to read as follows:

9 "(4) 'preference eligible' includes a retired
10 member of the armed forces; and".

11 SEC. 6. REEMPLOYMENT OF FORMER EMPLOYEES.

(a) IN GENERAL.—The Secretary of Veterans Affairs
may noncompetitively appoint a qualified former employee
to any position within the competitive service or any excepted service position under chapter 74 of title 38, United
States Code, at the Department of Veterans Affairs that
is one grade higher than the grade of the position at the
Department most recently occupied by the employee.

(b) LIMITATION.—The Secretary may not appoint a
qualified former employee to a position that is more than
one grade (or equivalent) higher than the position at the
Department most recently occupied by the employee.

23 (c) DEFINITION OF QUALIFIED FORMER EM24 PLOYEE.—For purposes of this section, the term "quali25 fied former employee" means any individual who—

(1) formerly occupied any position at the De partment of Veterans Affairs within two years before
 applying for reemployment at the Department;

4 (2) voluntarily left such position, or was subject
5 to a reduction in force, and had a satisfactory per6 formance record while occupying such position; and

7 (3) since leaving such position has maintained
8 licensing requirements, related to the position, if
9 any, and gained skill, knowledge, or other factors re10 lated to the position.

11 SEC. 7. RECRUITING DATABASE.

(a) ESTABLISHMENT.—The Secretary of Veterans
Affairs shall establish a single database that lists each vacant position in the Department of Veterans Affairs that
the Secretary determines is critical to the mission of the
Department, difficult to fill, or both.

17 (b) QUALIFIED APPLICANT.—If the Secretary deter-18 mines that an applicant for a vacant position listed in the 19 database established under subsection (a) is qualified for 20such position but does not select the applicant for such 21 position, the Secretary, at the election of the applicant, 22 shall consider the applicant for other similar vacant posi-23 tions listed in the database for which the applicant is qualified. 24

(c) PROLONGED VACANCIES.—If the Secretary does
 not fill a vacant position listed in the database established
 under subsection (a) after a period determined appro priate by the Secretary, the Secretary—

5 (1) shall ensure that applicants described in
6 subsection (b) are considered for such position; and
7 (2) shall use the database established under
8 subsection (a) to assist in filling such position.

9 (d) REPORT.—Not later than one year after the date 10 of the enactment of this Act, the Secretary shall submit 11 to Congress a report on the use and efficacy of the data-12 base established under subsection (a).

13 SEC. 8. HUMAN RESOURCES ACADEMY.

14 (a) IN GENERAL.—The Secretary of Veterans Affairs 15 shall provide to human resources professionals of the Veterans Health Administration of the Department of Vet-16 erans Affairs training on how to best recruit and retain 17 employees of the Veterans Health Administration, includ-18 19 ing with respect to any recruitment and retention matters that are unique to the Veterans Health Administration 20 21 pursuant to chapter 74 of title 38, United States Code, 22 or other provisions of law. The Secretary shall provide 23 such training in a manner that the Secretary determines appropriate in light of budget, travel, and other con-2425 straints.

(b) AMOUNT OF TRAINING.—The Secretary shall en sure that each human resources professional of the Vet erans Health Administration receives the training de scribed in subsection (a)—

5 (1) as soon as practicable after being hired by
6 the Secretary as a human resource professional; and
7 (2) annually thereafter.

8 (c) CERTIFICATION.—The Secretary shall require 9 that each human resources professional of the Veterans 10 Health Administration, upon the completion of the train-11 ing described in subsection (a), certifies that the profes-12 sional received the training and understands the informa-13 tion provided by the training.

(d) ANNUAL REPORT.—The Secretary shall submit
to the Committees on Veterans' Affairs of the House of
Representatives and the Senate an annual report on the
training described in subsection (a), including the cost of
providing such training and the number of human resources professionals who received such training during
the year covered by the report.

21 SEC. 9. PROMOTIONAL OPPORTUNITIES FOR TECHNICAL 22 EXPERTS.

Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall
establish a promotional track system for employees of the

1	Department of Veterans Affairs that the Secretary deter-
2	mines are technical experts pursuant to regulations pre-
3	scribed by the Secretary for purposes of carrying out this
4	section. Such system shall—
5	(1) provide any such employee the opportunity
6	to advance within the Department without being re-
7	quired to transition to a management position; and
8	(2) for purposes of achieving career advance-
9	ment—
10	(A) provide for the establishment of new
11	positions within the Department; and
12	(B) notwithstanding any other provision of
13	law, provide for increases in pay for any such
14	employee.
15	SEC. 10. COMPTROLLER GENERAL STUDY ON SUCCESSION
16	PLANNING.
17	(a) Study.—The Comptroller General of the United
18	States shall conduct a study on each of the following:
19	(1) The succession planning at each medical fa-
20	cility of the Department of Veterans Affairs.
21	(2) The succession planning at the Veterans
22	Benefits Administration and the National Cemetery
23	Administration of the Department.

1	(b) ELEMENTS.—The study under subsection (a)
2	shall include, for each entity studied under the study, the
3	following:
4	(1) A determination of the mission-critical posi-
5	tions within the entity and the vacancy risk of such
6	positions.
7	(2) An analysis of the future needs for mission-
8	critical positions and gaps within the existing talent
9	pool of the entity.
10	(3) A description of strategies to close skill
11	gaps through the use of training for existing staff,
12	targeted recruitment, and hiring.
13	(4) A plan to regularly evaluate progress of
14	staff and update existing succession plans using
15	clear and measurable metrics and benchmarks.
16	(5) A demonstration of the capacity of the enti-
17	ty to execute succession plans with successful succes-
18	sion management strategies.
19	(6) Any other matters the Comptroller General
20	determines appropriate.
21	(c) REPORT.—Not later than one year after the date
22	of the enactment of this Act, the Comptroller General shall
23	submit to the Committees on Veterans' Affairs of the
24	House of Representatives and the Senate a report con-
25	taining each study conducted under subsection (a).

1	SEC. 11. INFORMATION ON HIRING EFFECTIVENESS.
2	(a) IN GENERAL.—The Secretary of Veterans Affairs
3	shall measure and collect information on indicators of hir-
4	ing effectiveness as follows:
5	(1) With respect to recruiting and hiring—
6	(A) the ability to reach and recruit well-
7	qualified talent from diverse talent pools, in-
8	cluding sources of candidates for mission-crit-
9	ical occupations;
10	(B) the use and impact of special hiring
11	authorities and flexibilities to recruit most
12	qualified applicants, including the use of stu-
13	dent internships as a talent pool for permanent
14	hires;
15	(C) the use and impact of special hiring
16	authorities and flexibilities to recruit diverse
17	candidates, including veteran, minority and dis-
18	abled candidates;
19	(D) the use and impact of special hiring
20	authorities and flexibilities to recruit candidates
21	for mission-critical occupations and occupations
22	with shortages;
23	(E) the age, educational level, and source
24	of applicants;

1	(F) the length of time between the date on
2	which a position is advertised and the date on
3	which a first offer of employment is made;
4	(G) the length of time between the date on
5	which a first offer of employment for a position
6	is made and the date on which a new hire
7	starts in that position;
8	(H) the number of internal and external
9	applicants for positions; and
10	(I) the number of offers accepted com-
11	pared to the number of offers made for perma-
12	nent positions.
13	(2) With respect to the hiring authority—
14	(A) the satisfaction of the hiring authority
15	with—
16	(i) the quality of new hires;
17	(ii) the match between the skills of
18	newly hired individuals and the needs of
19	the Department;
20	(iii) the hiring process and hiring out-
21	comes after the first year of the employ-
22	ment of a new hire; and
23	(iv) the length of time that elapses to
24	fill a position and for a new hire to begin
25	working in a new position; and

- 1 (B) mission-critical deficiencies filled by 2 new hires and the connection between mission-3 critical deficiencies and annual agency perform-4 ance. (3) Satisfaction of employment applicants with 5 6 the hiring process, including with respect to the clar-7 ity of job announcement, reasons for withdrawal of 8 applications, user-friendliness of the application 9 process, communication regarding status of applica-10 tion, and timeliness of hiring decision. 11 (4) With respect to a newly hired employee— 12 (A) the satisfaction of the employee with 13 the hiring process as described in paragraph 14 (3);15 (B) the satisfaction with the process of 16 joining and becoming oriented with the Depart-17 ment, including with respect to the timeliness of 18 such process after the hiring decision, the ori-19 entation process, and being provided with time-20 ly and useful new employee information and as-21 sistance after the hire is made but before the 22 new hire starts in that position and after the 23 new hire has begun;
- 24 (C) attrition and reasons for leaving;

1 (D) investment in training and develop-2 ment for the employee during the first year of 3 employment; and 4 (E) significant barriers to the effective re-5 cruitment, selection, joining and becoming ori-6 ented with the Department, and retention of 7 employees. 8 (b) DISAGGREGATION OF DATA.—To the extent prac-9 ticable and in a manner which protects personally identifi-10 able information of applicants and employees, the Secretary shall collect and report data collected under sub-11 12 section (a) disaggregated by facility or Veterans Integrated Service Network. 13 14 (c) REPORTS.— 15 (1) IN GENERAL.—On an annual basis, the Sec-16 retary shall submit to the Committees on Veterans' 17 Affairs of the House of Representatives and the Sen-18 ate a report of the information collected under sub-19 section (a). 20 (2) AVAILABILITY OF RECRUITING AND HIRING 21 INFORMATION.—On an annual basis, the Secretary 22 shall make publicly available the information col-23 lected under subsection (a) in a consistent and ma-24 chine-readable format to allow for a comparison of

25 hiring effectiveness and experience by Veterans Inte-

1	grated Service Network or comparable public or pri-
2	vate sector organization.

3 SEC. 12. EMPLOYMENT OF STUDENTS AND RECENT GRAD4 UATES.

5 (a) IN GENERAL.—The Secretary of Veterans Affairs 6 shall prescribe regulations to allow for excepted service ap-7 pointments of students and recent graduates leading to 8 conversion to career or career conditional employment of 9 a student or recent graduate of a qualifying educational 10 institution, as defined by the Department.

(b) APPLICABILITY.—The conversion authority described in subsection (a) shall be applicable to individuals
in good standing who—

14 (1) are employed in a qualifying internship or15 fellowship program at the Department;

16 (2) are employed in the Department in a volun17 teer capacity and performing substantive duties com18 parable to those of individuals in internship or fel19 lowship programs and meet the required number of
20 hours for conversion; or

(3) are employed in the Department under a
contract or agreement with an external nonprofit organization and performing substantive duties comparable to those of individuals in internship or fellowship programs.

(c) UNIFORMITY.—For the purposes of subsections
 (b)(2) and (b)(3), hours of work performed by an indi vidual employed shall be considered equal to those per formed by an individual employed in a qualifying intern ship or fellowship program by the Department.

6 SEC. 13. EXIT SURVEYS.

7 (a) IN GENERAL.—The Secretary of Veterans Affairs 8 shall develop and carry out a standardized exit survey to 9 be voluntarily completed by career and noncareer employ-10 ees and executives of the Department of Veterans Affairs who voluntarily separate from the Department. Such exit 11 survey shall be developed in consultation with an appro-12 13 priate non-Department entity with experience developing 14 such surveys.

15 (b) SURVEY CONTENT.—The survey shall include, at16 a minimum—

17 (1) reasons for leaving the Department;

18 (2) efforts made by the supervisor of the em-19 ployee to retain the individual;

20 (3) the extent of job satisfaction and engage-21 ment during the employment;

(4) the intent of employee to either remain employed within the Federal Government or to leave
employment with the Federal Government; and

(5) such other matters as the Secretary deter mines appropriate.

3 (c) ANONYMITY OF SURVEY CONTENT.—The Sec4 retary shall ensure that, to the extent possible, data col5 lected under subsection (a) is anonymized and personally
6 identifiable information is removed.

7 (d) SHARING OF SURVEY DATA.—The Secretary
8 shall ensure that the results of the survey required by sub9 section (a) are shared on an annual basis with directors
10 and managers of facilities of the Department and the Vet11 erans Integrated Service Networks.

(e) REPORT.—Not later than one year after the date
of the enactment of this Act, and annually thereafter, the
Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a
report containing the aggregate results of the exit survey
under subsection (a) covering the year prior to the report.
The report shall include—

- (1) an analysis of the most common reasonsemployees choose to leave the Department;
- (2) steps the Secretary is taking to improve retention, particularly for mission-critical occupations;
 (3) the demographic characteristics of employees choosing to leave the Department;

(4) any legislative barriers to improving em ployee retention; and

3 (5) the number of employees who took the exit4 survey under subsection (a).

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