

116TH CONGRESS  
1ST SESSION

# H. R. 3995

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.

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## 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

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## 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.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Veterans, Employees,  
3 and Taxpayers Protection Act of 2019” or the “VET Pro-  
4 tection Act of 2019”.

5 **SEC. 2. LABOR MANAGEMENT IN DEPARTMENT OF VET-**  
6 **ERANS AFFAIRS.**

7       (a) IN GENERAL.—Chapter 7 of title 38, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing new subchapter:

10       “SUBCHAPTER IV—LABOR MANAGEMENT  
11 **“§ 751. Records on use of official time**

12       “(a) TRACKING OF OFFICIAL TIME.—The Secretary  
13 shall track the use of official time by employees of the  
14 Department of Veterans Affairs in a manner that accounts  
15 for such time accurately and to a specific degree without  
16 the use of estimates or ranges of time.

17       “(b) ANNUAL REPORT.—(1) Not later than Decem-  
18 ber 31 of each year, the Secretary shall submit to the Of-  
19 fice of Personnel Management and the Committees on  
20 Veterans’ Affairs of the House of Representatives and the  
21 Senate a report on the use of official time by employees  
22 of the Department during the most recently ended fiscal  
23 year.

24       “(2) Each report under paragraph (1) shall include,  
25 with respect to the fiscal year covered by the report, the  
26 following information:

1           “(A) The total amount of official time granted  
2           to employees.

3           “(B) The total amount of official time expended  
4           and the amount of official time expended per em-  
5           ployee for term negotiations, mid-term negotiations,  
6           general labor-management relations, and dispute  
7           resolution.

8           “(C) The specific types of activities or purposes  
9           for which official time was granted, and the impact  
10          which the granting of such official time for such ac-  
11          tivities or purposes had on the operations of the De-  
12          partment.

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

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

20          “(F) A description of any room or space des-  
21          ignated at the Department where official time activi-  
22          ties will be conducted, including the square footage  
23          of any such room or space.

1           “(G) A list of any employee granted a waiver  
2           under section 752(d) and justification for each such  
3           waiver.

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

7           “(1) which may be granted to an employee  
8           under chapter 71 of title 5 (including a collective  
9           bargaining agreement entered into under such chap-  
10          ter) or chapter 74 of this title to perform represen-  
11          tational or consultative functions; and

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

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

16          “(a) POLITICAL ACTIVITIES AND LOBBYING.—Not-  
17          withstanding section 7131 of title 5 or any other provision  
18          of law, any employee of the Department may not use offi-  
19          cial time to carry out political activities or activities relat-  
20          ing to lobbying.

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

24                  “(1) Any employee appointed under section  
25                  7401(1).

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

3           “(3) Any employee who is serving a proba-  
4           tionary period.

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

9           “(d) WAIVER.—(1) The Secretary may waive the re-  
10          quirements of subsection (b) or (c) with respect to an em-  
11          ployee of the Department if the Secretary certifies, in writ-  
12          ing, that the waiver is reasonable, necessary, and in the  
13          best interests of veterans.

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

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

22       **“§ 753. Termination of collection of dues**

23          “Notwithstanding section 7115 of title 5, any exclu-  
24          sive bargaining agreement entered into pursuant to chap-  
25          ter 71 of such title by the Department shall provide that

1 an employee of the Department may terminate a voluntary  
 2 allotment for the payment of dues at any time. Any deduc-  
 3 tions for dues made pursuant to such allotment shall cease  
 4 beginning on the first pay period after the termination is  
 5 made.”.

6 (b) APPLICABILITY.—Sections 752 and 753 of title  
 7 38, United States Code, as added by subsection (a), shall  
 8 apply with respect to any collective bargaining agreement  
 9 entered into before, on, or after the date of enactment of  
 10 this Act.

11 (c) CLERICAL AMENDMENT.—The table of sections  
 12 at the beginning of such chapter is amended by adding  
 13 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.”.

14 **SEC. 3. REQUIRED PROBATIONARY PERIOD FOR NEW EM-**  
 15 **PLOYEES OF DEPARTMENT OF VETERANS AF-**  
 16 **FAIRS.**

17 (a) PROBATIONARY PERIOD.—

18 (1) IN GENERAL.—Chapter 7 of title 38, United  
 19 States Code, is further amended by inserting after  
 20 section 715 the following new section:

21 **“§ 716. Probationary period for employees**

22 “(a) IN GENERAL.—Notwithstanding sections 3321  
 23 and 3393(d) of title 5, the appointment of a covered em-

1 ployee shall become final only after such employee has  
2 served a probationary period of 2 years.

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

5 “(1) means any individual—

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

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

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

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

22 “(d) APPLICATION.—With respect to any individual  
23 described in subsection (b)(1)(A) and to whom this section  
24 applies, sections 7501(1) and 7511(a)(1)(A)(ii) of title 5  
25 shall be applied to such individual by substituting ‘com-

1 pleted 2 years’ for ‘completed 1 year’ in each instance it  
 2 appears.”.

3 (2) CLERICAL AND CONFORMING AMEND-  
 4 MENTS.—

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

“716. Probationary period for employees.”.

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

12 (i) in section 3321(c)—

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

15 (II) by inserting at the end be-  
 16 fore the period the following: “, or  
 17 any individual covered by section 716  
 18 of title 38”;

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

22 (iii) in sections 7501(1) and  
 23 7511(a)(1)(A)(ii), by inserting “or section  
 24 716 of title 38” after “title 10” in each in-  
 25 stance it appears; and



1 (iv) in section 7541(1)(A)—

2 (I) by striking “title or” and in-  
3 sserting “title,”; and

4 (II) by inserting at the end be-  
5 fore the semicolon the following: “, or  
6 section 716 of title 38”.

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

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