



H.R. 1994— VA Accountability Act of 2015 (Miller, R-FL)

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FLOOR SCHEDULE: JULY 27, 2015 UNDER A STRUCTURED [RULE](#) WHICH PROVIDES FOR ONE HOUR OF DEBATE AND MAKES IN ORDER TWO AMENDMENTS WHICH CAN BE FOUND AT THE END OF THIS DOCUMENT.

TOPLINE SUMMARY: [H.R. 1994](#) would make numerous changes at the Department of Veterans Affairs (VA) to increase transparency, strengthen accountability, and improve Congressional oversight.

CONSERVATIVE CONCERNS: There are no substantive conservative concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **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.

COST: The [Congressional Budget Office](#) (CBO) estimates implementing H.R. 1994 would, on net, decrease discretionary spending by \$145 million over the 2016-2020 period

DETAILED SUMMARY AND ANALYSIS: First, this bill would allow the secretary to remove or demote an employee due to misconduct or performance. Employees would have seven days after the VA's final decision to appeal their removal or demotion to the Merit Systems Protection Board (MSPB), and the administrative judge would have 45 days to render a final decision. If this does not happen in the allotted amount of time, the secretary's decision would be final. Currently, [GAO](#) estimates it "takes six months to a year, if not longer, to remove a permanent civil servant in the Federal Government."

Next, this bill would increase protections for those who submit a whistleblower complaint. These complaints are defined as one made by an employee of the VA disclosing a potential violation of any law, rule or regulation or a specific danger to public health or safety. When filing the initial whistle blower complaint, the employee would file it with their immediate supervisor who would submit it to the appropriate director. In the event a timely decision is not made by the supervisor, the employee could directly file the complaint with the secretary. This bill would establish a central whistleblower office which would be separate from the Office of the General Counsel and would be responsible for investigating all whistleblower complaints. Supervisors would be held accountable for retaliation against employees through suspensions and terminations. The secretary would be required to annually report to Congress on the number of whistleblower complaints received and the actions taken.

According to the [committee report](#), the five level rating system used for performance evaluations for senior executive service (SES) employees does accurately reflect the reality at the VA nor does it objectively measure performance. This bill would reform the evaluation system for those in SES positions by limiting the number of employees who can be awarded the top two levels of performance. In addition, SES employees would be

reassigned to a new position at least once every five years on a rolling basis. This would help create a mobile workforce capable of assignments across the federal government.

Under current law, a federal employee's retirement benefits can only be reduced for serious offenses such as treason and acts of terrorism. This bill would allow the secretary to reduce retirement pay for an SES employee upon conviction of a felony that influenced the individual's performance.

This bill would limit the awards and bonuses paid to VA employees to \$300 million for each of FY 2015 through 2018 and \$360 million for each of FY 2019 through 2024. Finally, it would require a study on the amount of time spent by VA employees carrying out and organizing union activities.

AMENDMENTS MADE IN ORDER:

Amendment # 2 (Benishek, R-MI; Sinema, D-AZ) – This amendment would add a new section at the end of the bill to improve the VA Inspector General's ability to report on problems at the VA including those involving VA employees.

Amendment #1 (Takano, D-CA) – This substitute amendment would: (1) give the secretary the authority to remove an employee for performance or misconduct that is a threat to public safety; (2) allow whistleblowers who were unfairly suspended or removed to receive back pay; and (3) caps the time an employee can spend on paid administrative leave to 14 days unless the secretary waives the limitation for a specific employee.

COMMITTEE ACTION: This bill was introduced by Representative Miller on April 23, 2015, and referred to the Committee on Veterans' Affairs, and the Committee on Oversight and Government Reform. On July 15, 2015, the Committee on Veterans' Affairs held a mark-up and the bill was ordered to be reported in the nature of a substitute by voice vote.

ADMINISTRATION POSITION: The administration strongly opposes H.R. 1994, as amended by the House Veterans' Affairs Committee. If the President were presented with H.R. 1994, his senior advisors would recommend that he veto the bill.

CONSTITUTIONAL AUTHORITY: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8 of the United States Constitution.

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