

Union Calendar No. 395

117TH CONGRESS
2^D SESSION

H. R. 5721

[Report No. 117-551]

To amend title 38, United States Code, to improve research conducted within the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2021

Mr. TAKANO (for himself and Mr. BOST) introduced the following bill; which was referred to the Committee on Veterans' Affairs

NOVEMBER 14, 2022

Additional sponsors: Mr. MRVAN, Mr. LEVIN of California, Mr. AGUILAR, Ms. MALLIOTAKIS, Mr. COHEN, and Ms. CRAIG

NOVEMBER 14, 2022

Reported from the Committee on Veterans' Affairs; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend title 38, United States Code, to improve research conducted within 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. SHORT TITLE.**

4 This Act may be cited as the “VA Infrastructure
5 Powers Exceptional Research Act of 2021” or the
6 “VIPER Act of 2021”.

7 **SEC. 2. INAPPLICABILITY OF PAPERWORK REDUCTION**
8 **ACT.**

9 (a) IN GENERAL.—Chapter 1 of title 38, United
10 States Code, is amended by adding at the end the fol-
11 lowing new section:

12 **“§ 120. Inapplicability of Paperwork Reduction Act**

13 “Subchapter I of chapter 35 of title 44, United States
14 Code (commonly known as the ‘Paperwork Reduction
15 Act’) shall not apply to research activities of the Depart-
16 ment, including activities under subchapter V of chapter
17 73.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of such chapter is amended by adding
20 at the end the following new item:

“120. Inapplicability of Paperwork Reduction Act.”.

21 **SEC. 3. RESEARCH AND DEVELOPMENT.**

22 (a) OFFICE OF RESEARCH AND DEVELOPMENT.—
23 Chapter 73 of title 38, United States Code, is amended
24 by adding at the end the following new subchapter:

1 ter 33 of such title (commonly referred to as the ‘Intergov-
2 ernmental Personnel Act Mobility Program’).

3 “(b) OUTSIDE EARNED INCOME FOR RESEARCH FOR
4 THE DEPARTMENT.—(1) Compensation from a nonprofit
5 corporation established under subchapter IV of this chap-
6 ter, or a university affiliated with the Department, may
7 be paid, without regard to section 209 of title 18, to an
8 employee described in paragraph (2), for research con-
9 ducted pursuant to section 7303 of this title if—

10 “(A) the research has been approved in accord-
11 ance with procedures prescribed by the Under Sec-
12 retary for Health;

13 “(B) the employee conducts research under the
14 supervision of personnel of the Department; and

15 “(C) the Secretary agreed to the terms of such
16 compensation in writing.

17 “(2) An employee described in this subsection is an
18 employee who has an appointment within the Department,
19 whether with or without compensation, and without regard
20 to the source of such compensation.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by adding
23 at the end the following:

“SUBCHAPTER V—RESEARCH AND DEVELOPMENT

“7381. Office of Research and Development.

“7382. Research personnel.”.

1 (c) SERVICE OF INCUMBENT.—The individual serving
2 as the Chief Research and Development Officer of the Of-
3 fice of Research and Development as of the date of the
4 enactment of this Act may continue to serve as such Chief
5 Research and Development Officer commencing as of that
6 date, without further appointment.

7 **SEC. 4. EXPANSION OF HIRING AUTHORITIES FOR CERTAIN**
8 **CLASSES OF RESEARCH OCCUPATIONS.**

9 Section 7401(3) of title 38, United States Code, is
10 amended by inserting “statisticians, economists,
11 informaticists, data scientists, and” after “blind rehabili-
12 tation outpatient specialists,”.

13 **SEC. 5. OTHER TRANSACTION AUTHORITY.**

14 (a) AUTHORITY.—The Secretary of Veterans Affairs
15 may enter into transactions (other than contracts, cooper-
16 ative agreements, and grants) with nontraditional contrac-
17 tors to carry out extramural basic or applied research.

18 (b) REQUIREMENTS.—The Secretary may enter into
19 a transaction under subsection (a) to carry out extramural
20 basic or applied research if each of the following criteria
21 are met:

22 (1) The research is not duplicative of other re-
23 search being conducted by the Department of Vet-
24 erans Affairs under another program or through a
25 contract, cooperative agreement, or grant.

1 (2) The senior procurement executive has deter-
2 mined that entering into the transaction to carry out
3 the research is appropriate.

4 (3) The transaction will not exceed \$5,000,000
5 (including all options), unless the senior procure-
6 ment executive determines that exceeding such
7 amount is appropriate.

8 (4) Not less than 33 percent of the total cost
9 of the research (regardless of the percentage of such
10 total cost for which the transaction is funding) is
11 paid for, or provided through nonmonetary contribu-
12 tions, by sources other than the Federal Govern-
13 ment, unless the senior procurement executive deter-
14 mines that—

15 (A) meeting such threshold for non-Fed-
16 eral sources of funding or contributions is not
17 possible; and

18 (B) carrying out the research without
19 meeting such threshold is in the public interest.

20 (c) PROVISION OF INFORMATION.—

21 (1) CONGRESS.—

22 (A) NOTIFICATION.—Not later than 30
23 days after the date on which the Secretary en-
24 ters into a transaction under this section, the
25 Secretary shall notify the appropriate congres-

1 sional committees of such transaction, including
2 a copy of each determination made under sub-
3 section (b).

4 (B) BY REQUEST.—Upon the request of an
5 appropriate congressional committee, the Sec-
6 retary shall submit to the appropriate congres-
7 sional committees a copy of a transaction under
8 this section or performance or financial infor-
9 mation relating to such transaction.

10 (2) COMPTROLLER GENERAL OF THE UNITED
11 STATES.—With respect to transactions entered into
12 under this section, the Secretary shall ensure that,
13 upon request, the Comptroller General of the United
14 States may examine records of any party to the
15 transaction or any entity that participates in the
16 performance of the transaction if such records are
17 generated in the performance of the transaction or
18 are directly related to the transaction.

19 (d) REGULATIONS.—The Secretary shall prescribe
20 regulations to carry out this section.

21 (e) TERMINATION.—The authority to enter into
22 transactions under this section shall terminate on the date
23 that is three years after the date of the enactment of this
24 Act.

25 (f) DEFINITIONS.—In this section:

1 (1) The term “appropriate congressional com-
2 mittees” means the following:

3 (A) The Committees on Veterans’ Affairs
4 of the House of Representatives and the Sen-
5 ate.

6 (B) The Subcommittees on Military Con-
7 struction, Veterans’ Affairs, and Related Agen-
8 cies of the Committees on Appropriations of the
9 House of Representatives and the Senate.

10 (2) The term “entity” means a for-profit cor-
11 poration, partnership, or single proprietorship, non-
12 profit organization, or university organized and hav-
13 ing principal operations in the United States.

14 (3) The terms “extramural budget”, “re-
15 search”, and “research and development” have the
16 meaning given those terms in subsection (e) of sec-
17 tion 9 of the Small Business Act (15 U.S.C. 638).

18 (4) The term “nontraditional contractor”
19 means an entity that is not currently performing
20 and has never performed any contract or sub-
21 contract for any department or agency of the Fed-
22 eral Government.

23 (5) The term “senior procurement executive”
24 means the official of the Department of Veterans Af-

1 fairs designated under section 1702(c) of title 41,
2 United States Code.

3 **SEC. 6. AUTHORIZING A CAREER DEVELOPMENT AWARD**
4 **GRANT PROGRAM FOR MEDICAL RESEARCH**
5 **AT R3 RESEARCH INSTITUTIONS.**

6 (a) GRANTS AUTHORIZED.—

7 (1) IN GENERAL.—The CRDO may establish a
8 grant program—

9 (A) to fund research related to health care
10 furnished by the Secretary of Veterans Affairs;

11 (B) that is a CDA–1 level award of the ca-
12 reer development program of the Department of
13 Veterans Affairs; and

14 (C) modelled on the Historically Black Col-
15 leges and Universities Research Scientist Train-
16 ing Program of the Department.

17 (2) ELIGIBLE RECIPIENTS.—The CRDO may
18 award a grant under this section—

19 (A) to an individual—

20 (i) employed by an R3 research insti-
21 tution; and

22 (ii) whom the CRDO determines is in
23 the early stage of a career as a scientist;
24 and

25 (B) based on a peer review process.

1 (3) USE OF FUNDS.—A grantee under this sec-
2 tion may use the grant amount to conduct research
3 related to health care furnished by the Secretary of
4 Veterans Affairs.

5 (4) MEETINGS.—As a condition of a grant
6 under this section, a grantee shall periodically meet
7 with researchers and administrators at a medical
8 center of the Department of Veterans Affairs, lo-
9 cated near the R3 research institution that employs
10 such grantee, to discuss research described in para-
11 graph (1).

12 (b) REGULATIONS.—If the CRDO establishes a grant
13 program under this section, the CRDO shall prescribe reg-
14 ulations regarding—

15 (1) the evaluation of applications for grants
16 under the program; and

17 (2) administration of the program.

18 (c) CRDO DEFINED.—The term “CRDO” means the
19 Chief Research and Development Officer of the Office of
20 Research and Development of the Department of Veterans
21 Affairs.

1 **SEC. 7. COMPTROLLER GENERAL STUDY ON DEDICATED**
2 **RESEARCH TIME FOR CERTAIN PERSONNEL**
3 **OF THE DEPARTMENT OF VETERANS AF-**
4 **FAIRS.**

5 (a) STUDY.—The Comptroller General of the United
6 States shall conduct a study on the amount of time dedi-
7 cated for research for clinician-scientists appointed by the
8 Secretary of Veterans Affairs.

9 (b) ELEMENTS.—The study under subsection (a)
10 shall include the following:

11 (1) A review of the policies and practices of the
12 Department of Veterans Affairs regarding the time
13 dedicated for research for the personnel specified in
14 subsection (a).

15 (2) An assessment of the effect of such policies
16 and practices on the following:

17 (A) The recruitment and retention efforts
18 of the Department.

19 (B) The productivity of the personnel spec-
20 ified in subsection (a) with respect to research.

21 (C) The efficient use of resources available
22 for research on issues relating to veterans'
23 health.

24 **SEC. 8. CLERICAL AMENDMENT.**

25 Section 704 of the Commander John Scott Hannon
26 Veterans Mental Health Care Improvement Act of 2019

1 (Public Law 116–171 (38 U.S.C. 7303 note)) is amended
2 as follows:

3 (1) In the section heading, by striking “**RE-**
4 **SEARCH**” and inserting “**CLINICAL**”.

5 (2) In subsection (a)—

6 (A) by striking “research” and inserting
7 “clinical”; and

8 (B) by striking “accredited”.

9 (3) In subsection (b)—

10 (A) in paragraph (1)—

11 (i) by striking “identify accredited”
12 and inserting “designate”; and

13 (ii) by striking “research” and insert-
14 ing “trials”; and

15 (B) in paragraph (2), by striking “its ac-
16 creditation” and inserting “such designation”.

17 (4) In subsection (c)—

18 (A) in paragraph (1)—

19 (i) by inserting “commercial” before
20 “institutional”;

21 (ii) by inserting “and central Federal
22 agency institutional review boards” before
23 “used by the Department”; and

24 (iii) by striking “, including central
25 institutional review boards and commercial

1 institutional review boards” and inserting
2 “in clinical investigations (as that term is
3 defined in section 50.3 of title 21, Code of
4 Federal Regulations, or successor regula-
5 tion)”; and
6 (B) in paragraph (2)—
7 (i) in subparagraph (A), by striking
8 “an” and inserting “such”;
9 (ii) in subparagraph (B)—
10 (I) by inserting “commercial or
11 central Federal agency” before “insti-
12 tutional review board”;
13 (II) by striking “or institutional
14 review boards” and inserting “or
15 boards”; and
16 (iii) in subparagraph (C) by inserting
17 “(as determined by the Secretary)” after
18 “submission”.

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