

**Calendar No. 160**

114TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
114-89

WOUNDED WARRIORS FEDERAL LEAVE  
ACT OF 2015

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 242

TO AMEND TITLE 5, UNITED STATES CODE, TO PROVIDE LEAVE  
TO ANY NEW FEDERAL EMPLOYEE WHO IS A VETERAN WITH A  
SERVICE-CONNECTED DISABILITY RATED AT 30 PERCENT OR  
MORE FOR PURPOSES OF UNDERGOING MEDICAL TREATMENT  
FOR SUCH DISABILITY, AND FOR OTHER PURPOSES



JULY 23, 2015.—Ordered to be printed

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### WOUNDED WARRIORS FEDERAL LEAVE ACT OF 2015

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Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, submitted the following

### R E P O R T

[To accompany S. 242]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 242) to amend title 5, United States Code, to provide leave to any new Federal employee who is a veteran with a service-connected disability rated at 30 percent or more for purposes of undergoing medical treatment for such disability, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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#### I. PURPOSE AND SUMMARY

S. 242, the Wounded Warriors Federal Leave Act of 2015, seeks to provide federal employees who are veterans with a service-connected disability rating of 30 percent or more with up to 104 hours of leave to undergo medical treatment for such disability during the first year of their employment with the federal government. The additional leave does not roll over and the employee must certify that the leave was used in connection with treatment of the service-connected disability.

## II. BACKGROUND AND THE NEED FOR LEGISLATION

Under current law, full-time federal employees accrue four hours of sick leave for each full bi-weekly pay period, amounting to a total of 104 hours, or 13 days, of annual sick leave.<sup>1</sup> While unused sick leave may be carried over from year to year, first-year full-time federal employees start their careers in the federal workforce with no hours of sick leave available. A federal agency may grant advanced sick leave to a federal employee, up to 240 hours, yet this leave must be paid back by the employee.<sup>2</sup>

The lack of initial sick leave for full-time federal workers can be onerous for disabled veterans. At the Marine Corps Air Station in Cherry Point, North Carolina, for example, a federal manager noted that an employee within his or her first year of federal employment with a disability rating from the Department of Veterans Affairs (VA) used 30 hours of sick leave within the first three months of the year. If this rate were to remain constant, 120 hours would be required for the entire year. Moreover, VA medical facilities are not always centrally located, forcing patients to drive hours to seek medical attention.<sup>3</sup>

Federal agencies employ nine percent of the veteran workforce.<sup>4</sup> According to the Office of Personnel Management (OPM), in fiscal year 2013, 7.6 percent of the 162,839 new hires, including part-time and full-time, as well as seasonal and non-seasonal, were rated by the VA as having disabilities connected with their military service that make them 30 percent or more disabled.<sup>5</sup>

The Federal Managers Association has reported that “[w]hile federal employees can be advanced leave and banks are available, it often does not cover what is needed to meet these medical requirements for chronic disabilities and they are forced to take leave without pay.”<sup>6</sup>

The Wounded Warriors Federal Leave Act of 2015 would address the lack of initial sick leave for disabled veterans by providing up to 104 hours of additional sick leave for federal employees who are disabled veterans during their first year of employment for the treatment of conditions related to their prior service in the military. The additional leave may only be used during the first year of employment with the federal government and does not rollover into succeeding years.

## III. LEGISLATIVE HISTORY

S. 242, the Wounded Warriors Federal Leave Act of 2015, was introduced on January 22, 2015, by Senators Tester and Moran and the bill was then referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered the bill at a March 4, 2015, business meeting and ordered the bill reported favorably en bloc by voice vote. Members present for the vote were

<sup>1</sup> 5 U.S.C. § 6307.

<sup>2</sup> 5 C.F.R. § 630.402.

<sup>3</sup> Mooney, C., et al. *Is travel distance a barrier to veterans' use of VA hospitals for medical surgical care?*, *Social Science & Medicine*, 50(12), 1743–55 (July 2000).

<sup>4</sup> Bureau of Labor Statistics News Release: “Employment Situation of Veterans—2014,” Mar. 18, 2015, <http://www.bls.gov/news.release/pdf/vet.pdf>, last accessed May 22, 2015.

<sup>5</sup> *Id.*

<sup>6</sup> Federal Managers Association Issue Brief: “Investing in the Federal Workforce—2015,” <http://www.fedmanagers.org/FMA/files/ccLibraryFiles/Filename/000000000608/Investing%20in%20the%20Federal%20Workforce%202015.pdf>, last accessed May 22, 2015.

Senators Johnson, Portman, Lankford, Ayotte, Ernst, Carper, McCaskill, Baldwin, Heitkamp, and Peters.

#### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

##### *Section 1. Short title*

This section provides the bill's short title, the "Wounded Warriors Federal Leave Act of 2015."

##### *Section 2. Additional leave for federal employees who are disabled veterans*

Section 2(a) adds a new section (6329) to Subchapter II of chapter 63 of title 5, United States Code, to add a category of "Other Paid Leave" referred to as "Disabled veteran leave" and to govern its use by federal employees.

New Section 6329(a) defines the terms employee, service-connected, and veteran.

New Section 6329(b) provides that during the first 12 months of employment with the federal government, a veteran with a service-connected disability rated 30 percent or more by the VA is entitled to leave without loss or reduction in pay, but only for undergoing medical treatment for such disability that sick leave would normally be used.

New Section 6329(c) limits such sick leave provided under 6329(b) to 104 hours and provides that such sick leave is not carried over at the end of the first year of employment and is forfeited.

New Section 6329(d) requires the employee to certify that they are using the leave for treatment of their service-connected disability in order to receive it.

Section 2(b) provides a technical and conforming amendment to the tables in chapter 63 of title 5, United States Code.

Section 2(c) provides a timeline for implementation of one year after the date of enactment of this Act.

Section 2(d) requires that within one year of enactment, the Postmaster General and the Director of OPM prescribe regulations to provide the additional leave and to brief Congress on a quarterly basis during the first year after enactment.

#### V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

## VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MARCH 30, 2015.

Hon. RON JOHNSON, *Chairman,*  
*Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 242, the Wounded Warriors Federal Leave Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dan Ready.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*S. 242—Wounded Warriors Federal Leave Act of 2015*

Summary: S. 242 would provide additional sick leave to veterans with a disability rated at 30 percent or greater who are newly hired by the federal government. That additional leave would have to be used for treatment of the employee's disability and would expire one year after it became available to the employee. CBO estimates that implementing S. 242 would cost \$55 million over the next five years, subject to appropriation of the necessary funds. That cost represents the value of the additional sick leave that CBO estimates would be provided to newly hired veterans. In some cases that additional leave would lead to additional spending by agencies; in other cases agencies would lose the value of the work of the people using the additional days of leave.

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

S. 242 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of S. 242 is shown in the following table. The costs of this legislation fall in all budget functions except function 900 (net interest) and 950 (offsetting receipts).

	By fiscal year, in millions of dollars—						
	2015	2016	2017	2018	2019	2020	2015–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level .....	0	3	14	15	15	16	63
Estimated Outlays .....	0	2	9	14	15	16	55

Basis of estimate: For this estimate, CBO assumes S. 242 will be enacted late in fiscal year 2015 and the amounts estimated to be needed will be appropriated each year.

The legislation would provide a maximum of 104 hours of additional sick leave to veterans with a disability rated at 30 percent or greater who are newly hired by the federal government. The bill specifies that the additional leave would become available for employees hired one year or more after the date of enactment. That additional leave would have to be used for treatment of the employ-

ee's disability and would expire one year after it became available to the employee.

In 2009, President Obama signed an executive order establishing the Veterans Employment Initiative, which was designed to increase federal hiring of veterans. According to the Veterans Employment Council, the proportion of newly hired federal workers who are veterans increased from 35 percent in 2008 to 46 percent in 2013 (the most recent year for which data are available). During those years, the proportion of hired employees who are veterans with a disability rating of 30 percent or greater also increased, from 5.5 percent to 10.7 percent (from 7,000 to 11,000 employees per year). The rate of increase in hiring of disabled veterans has slowed recently, but CBO expects that about 8,000 to 9,000 disabled veterans will continue to be hired by the federal government each year through 2020.

The potential budgetary effects of this bill derive from the use of additional sick leave. The Office of Personnel Management (OPM) calculates that the average salary of new hires who are veterans with a disability rated at 30 percent or greater is \$51,000. Data from OPM and research by the Congressional Research Service indicate that disabled veterans use more sick leave than other employees and that the temporary nature of the additional sick leave would encourage employees to use the benefit at a higher rate than regular leave. On average, CBO estimates that 60 percent of the leave made available under the bill would be used. Based on the anticipated number of new hires of disabled veterans, their average hourly rate, and their projected use of the additional sick leave that the bill would make available, CBO estimates that the legislation would cost \$55 million over the 2015–2020 period.

How that additional cost would affect the federal budget is difficult to determine. Some of the disabled veterans who would be aided by this bill would, under current law, use annual leave to receive treatment for their disability; the provision of additional sick leave under the bill could mean that they have more accumulated leave when they separate from the government, which would lead to larger cash payments by the government at that time. Some government agencies might hire additional people or contract for additional services to make up for the lost output of the disabled workers who would take additional leave under the bill; that would raise federal costs in the near term, subject to the availability of appropriated funds. Some of the affected veterans would take more sick leave in total, and the agencies for which they work might not hire additional people or contract for additional services; in those cases, there would be no direct budgetary effect, but the government would lose the value of the work of those people on those additional days of sick leave. Therefore, although the additional cost would appear in different ways for disabled veterans and agencies in different circumstances, the government would nonetheless bear a cost for the additional leave that was taken.

Pay-as-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 242 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous estimate: On March 4, 2015, CBO transmitted a cost estimate for H.R. 313, the Wounded Warriors Federal Leave Act of 2015, as ordered reported by the House Committee on Oversight and Government Reform on January 27, 2015. H.R. 313 is similar to S. 242, and the estimated budgetary effects are the same.

Estimate prepared by: Federal costs: Dan Ready; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

#### VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 242 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

### **TITLE—GOVERNMENT ORGANIZATIONS AND EMPLOYEES**

\* \* \* \* \*

#### **PART III—EMPLOYEES**

\* \* \* \* \*

#### **SUBPART E—ATTENDANCE AND LEAVE**

\* \* \* \* \*

#### **CHAPTER 63—LEAVE**

\* \* \* \* \*

#### **Subchapter II—Other Paid Leave**

\* \* \* \* \*

#### **§ 6329. Disabled veteran leave**

(a) *DEFINITIONS.—In this section—*

(1) *notwithstanding section 6301, the term “employee”—*

(A) *has the meaning given such term in section 2105; and*

(B) *includes an officer or employee of the United States Postal Service or of the Postal Regulatory Commission;*

(2) *the term “service-connected” has the meaning given such term in section 101(16) of title 38; and*

(3) *the term “veteran” has the meaning given such term in section 101(2) of title 38.*

(b) *LEAVE CREDITED.—During the 12-month period beginning on the first day of the employment of an employee who is a veteran with a service-connected disability rated as 30 percent or more disabling, the employee is entitled to leave, without loss or reduction*



*in pay, for purposes of undergoing medical treatment for such disability for which sick leave could regularly be used.*

*(c) LIMITATIONS.—*

*(1) AMOUNT OF LEAVE.—The leave credited to an employee under subsection (b) may not exceed 104 hours.*

*(2) NO CARRY OVER.—Any leave credited to an employee under subsection (b) that is not used during the 12-month period described in such subsection may not be carried over and shall be forfeited.*

*(d) CERTIFICATION.—In order to verify that leave credited to an employee under subsection (b) is used for treating a service-connected disability, the employee shall submit to the head of the employing agency a certification, in such form and manner as the Director of the Office of Personnel Management may prescribe, that the employee used the leave for purposes of being furnished treatment for the disability by a health care provider.*

