

**Suspend the Rules and Pass the Bill, H.R. 5721, with An Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 5721

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

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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

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## 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”.

1 **SEC. 2. INAPPLICABILITY OF PAPERWORK REDUCTION**  
2 **ACT.**

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

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

7 “Subchapter I of chapter 35 of title 44, United States  
8 Code (commonly known as the ‘Paperwork Reduction  
9 Act’) shall not apply to research activities of the Depart-  
10 ment, including activities under subchapter V of chapter  
11 73.”.

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

“120. Inapplicability of Paperwork Reduction Act.”.

15 **SEC. 3. RESEARCH AND DEVELOPMENT.**

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

19 **“SUBCHAPTER V—RESEARCH AND**  
20 **DEVELOPMENT**

21 **“§ 7381. Office of Research and Development**

22 “(a) OFFICE OF RESEARCH AND DEVELOPMENT.—  
23 There is in the Veterans Health Administration an Office  
24 of Research and Development (in this section referred to  
25 as the ‘Office’).

1           “(b) PURPOSES.—The function of the Office is to  
2 serve veterans through a full spectrum of research (includ-  
3 ing pre-clinical, clinical, and health systems science), tech-  
4 nology transfer, and application.

5           “(c) CHIEF RESEARCH AND DEVELOPMENT OFFI-  
6 CER.—The head of the Office is the Chief Research and  
7 Development Officer.

8           “(d) ORGANIZATION AND PERSONNEL.—The Office  
9 shall be organized in such manner, and its personnel shall  
10 perform such duties and have such titles, as the Secretary  
11 may prescribe.

12 **“§ 7382. Research personnel**

13           “(a) WAIVER OF INTERGOVERNMENTAL PERSONNEL  
14 ACT MOBILITY PROGRAM LIMITS.—The Secretary may  
15 waive the limit on the period and number of assignments  
16 required under section 3372(a) of title 5 with respect to  
17 an individual who performs research for the Department  
18 under the mobility program under subchapter VI of chap-  
19 ter 33 of such title (commonly referred to as the ‘Intergov-  
20 ernmental Personnel Act Mobility Program’).

21           “(b) OUTSIDE EARNED INCOME FOR RESEARCH FOR  
22 THE DEPARTMENT.—(1) Compensation from a nonprofit  
23 corporation established under subchapter IV of this chap-  
24 ter, or a university affiliated with the Department, may  
25 be paid, without regard to section 209 of title 18, to an

1 employee described in paragraph (2), for research con-  
2 ducted pursuant to section 7303 of this title if—

3 “(A) the research has been approved in accord-  
4 ance with procedures prescribed by the Under Sec-  
5 retary for Health;

6 “(B) the employee conducts research under the  
7 supervision of personnel of the Department; and

8 “(C) the Secretary agreed to the terms of such  
9 compensation in writing.

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

14 (b) CLERICAL AMENDMENT.—The table of sections  
15 at the beginning of such chapter is amended by adding  
16 at the end the following:

“SUBCHAPTER V—RESEARCH AND DEVELOPMENT

“7381. Office of Research and Development.

“7382. Research personnel.”.

17 (c) SERVICE OF INCUMBENT.—The individual serving  
18 as the Chief Research and Development Officer of the Of-  
19 fice of Research and Development as of the date of the  
20 enactment of this Act may continue to serve as such Chief  
21 Research and Development Officer commencing as of that  
22 date, without further appointment.

1 **SEC. 4. EXPANSION OF HIRING AUTHORITIES FOR CERTAIN**  
2 **CLASSES OF RESEARCH OCCUPATIONS.**

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

7 **SEC. 5. OTHER TRANSACTION AUTHORITY.**

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

12 (b) **REQUIREMENTS.**—The Secretary may enter into  
13 a transaction under subsection (a) to carry out extramural  
14 basic or applied research if each of the following criteria  
15 are met:

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

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

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

1           (4) Not less than 33 percent of the total cost  
2 of the research (regardless of the percentage of such  
3 total cost for which the transaction is funding) is  
4 paid for, or provided through nonmonetary contribu-  
5 tions, by sources other than the Federal Govern-  
6 ment, unless the senior procurement executive deter-  
7 mines that—

8           (A) meeting such threshold for non-Fed-  
9 eral sources of funding or contributions is not  
10 possible; and

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

13 (c) PROVISION OF INFORMATION.—

14           (1) CONGRESS.—

15           (A) NOTIFICATION.—Not later than 30  
16 days after the date on which the Secretary en-  
17 ters into a transaction under this section, the  
18 Secretary shall notify the appropriate congress-  
19 sional committees of such transaction, including  
20 a copy of each determination made under sub-  
21 section (b).

22           (B) BY REQUEST.—Upon the request of an  
23 appropriate congressional committee, the Sec-  
24 retary shall submit to the appropriate congress-  
25 sional committees a copy of a transaction under

1           this section or performance or financial infor-  
2           mation relating to such transaction.

3           (2) COMPTROLLER GENERAL OF THE UNITED  
4           STATES.—With respect to transactions entered into  
5           under this section, the Secretary shall ensure that,  
6           upon request, the Comptroller General of the United  
7           States may examine records of any party to the  
8           transaction or any entity that participates in the  
9           performance of the transaction if such records are  
10          generated in the performance of the transaction or  
11          are directly related to the transaction.

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

14          (e) TERMINATION.—The authority to enter into  
15          transactions under this section shall terminate on the date  
16          that is three years after the date of the enactment of this  
17          Act.

18          (f) DEFINITIONS.—In this section:

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

21                         (A) The Committees on Veterans’ Affairs  
22                         of the House of Representatives and the Sen-  
23                         ate.

24                         (B) The Subcommittees on Military Con-  
25                         struction, Veterans’ Affairs, and Related Agen-

1           cies of the Committees on Appropriations of the  
2           House of Representatives and the Senate.

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

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

11          (4) The term “nontraditional contractor”  
12          means an entity that is not currently performing  
13          and has never performed any contract or sub-  
14          contract for any department or agency of the Fed-  
15          eral Government.

16          (5) The term “senior procurement executive”  
17          means the official of the Department of Veterans Af-  
18          fairs designated under section 1702(c) of title 41,  
19          United States Code.

20 **SEC. 6. AUTHORIZING A CAREER DEVELOPMENT AWARD**  
21                                   **GRANT PROGRAM FOR MEDICAL RESEARCH**  
22                                   **AT R3 RESEARCH INSTITUTIONS.**

23          (a) GRANTS AUTHORIZED.—

24                  (1) IN GENERAL.—The CRDO may establish a  
25          grant program—



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

3 (B) that is a CDA-1 level award of the ca-  
4 reer development program of the Department of  
5 Veterans Affairs; and

6 (C) modelled on the Historically Black Col-  
7 leges and Universities Research Scientist Train-  
8 ing Program of the Department.

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

11 (A) to an individual—

12 (i) employed by an R3 research insti-  
13 tution; and

14 (ii) whom the CRDO determines is in  
15 the early stage of a career as a scientist;  
16 and

17 (B) based on a peer review process.

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

22 (4) MEETINGS.—As a condition of a grant  
23 under this section, a grantee shall periodically meet  
24 with researchers and administrators at a medical  
25 center of the Department of Veterans Affairs, lo-

1 cated near the R3 research institution that employs  
2 such grantee, to discuss research described in para-  
3 graph (1).

4 (b) REGULATIONS.—If the CRDO establishes a grant  
5 program under this section, the CRDO shall prescribe reg-  
6 ulations regarding—

7 (1) the evaluation of applications for grants  
8 under the program; and

9 (2) administration of the program.

10 (c) CRDO DEFINED.—The term “CRDO” means the  
11 Chief Research and Development Officer of the Office of  
12 Research and Development of the Department of Veterans  
13 Affairs.

14 **SEC. 7. COMPTROLLER GENERAL STUDY ON DEDICATED**  
15 **RESEARCH TIME FOR CERTAIN PERSONNEL**  
16 **OF THE DEPARTMENT OF VETERANS AF-**  
17 **FAIRS.**

18 (a) STUDY.—The Comptroller General of the United  
19 States shall conduct a study on the amount of time dedi-  
20 cated for research for clinician-scientists appointed by the  
21 Secretary of Veterans Affairs.

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

24 (1) A review of the policies and practices of the  
25 Department of Veterans Affairs regarding the time

1 dedicated for research for the personnel specified in  
2 subsection (a).

3 (2) An assessment of the effect of such policies  
4 and practices on the following:

5 (A) The recruitment and retention efforts  
6 of the Department.

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

9 (C) The efficient use of resources available  
10 for research on issues relating to veterans'  
11 health.

12 **SEC. 8. CLERICAL AMENDMENT.**

13 Section 704 of the Commander John Scott Hannon  
14 Veterans Mental Health Care Improvement Act of 2019  
15 (Public Law 116–171 (38 U.S.C. 7303 note)) is amended  
16 as follows:

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

19 (2) In subsection (a)—

20 (A) by striking “clinical research” and in-  
21 serting “clinical trials”; and

22 (B) by striking “accredited”.

23 (3) In subsection (b)—

24 (A) in paragraph (1)—

1 (i) by striking “identify accredited”  
2 and inserting “designate”; and

3 (ii) by striking “research” and insert-  
4 ing “trials”; and

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

7 (4) In subsection (c)—

8 (A) in paragraph (1)—

9 (i) by inserting “commercial” before  
10 “institutional review boards used”;

11 (ii) by inserting “and central Federal  
12 agency institutional review boards” before  
13 “used by the Department”; and

14 (iii) by striking “, including central  
15 institutional review boards and commercial  
16 institutional review boards” and inserting  
17 “in clinical investigations (as that term is  
18 defined in section 50.3 of title 21, Code of  
19 Federal Regulations, or successor regula-  
20 tion)”; and

21 (B) in paragraph (2)—

22 (i) in subparagraph (A), by striking  
23 “an” and inserting “such”;

24 (ii) in subparagraph (B)—

1 (I) by inserting “commercial or  
2 central Federal agency” before “insti-  
3 tutional review board”; and

4 (II) by striking “or institutional  
5 review boards” and inserting “or  
6 boards”; and

7 (iii) in subparagraph (C) by inserting  
8 “(as determined by the Secretary)” after  
9 “submission”.