

114TH CONGRESS  
2D SESSION

# H. R. 677

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## AN ACT

To amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “American Heroes COLA Act of 2015”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Expansion of eligibility for medallions.
- Sec. 3. Definitions relating to claims for benefits under laws administered by the Secretary of Veterans Affairs.
- Sec. 4. Quarterly reports on formal and informal claims for benefits under laws administered by Secretary of Veterans Affairs.
- Sec. 5. Expedited payment of survivor’s benefits.
- Sec. 6. Priority for processing claims of the Department of Veterans Affairs.
- Sec. 7. Treatment of medical evidence provided by non-Department of Veterans Affairs medical professionals in support of claims for disability compensation.
- Sec. 8. Automatic annual increase in rates of disability compensation and dependency and indemnity compensation.
- Sec. 9. Improvement of fiduciaries for veterans.
- Sec. 10. Board of Veterans’ Appeals video hearings.
- Sec. 11. Improvements to authority for performance of medical disabilities examinations by contract physicians.
- Sec. 12. Pilot program on fully developed appeals.
- Sec. 13. Deadline for certification of appeals forms by regional offices of the Department of Veterans Affairs.
- Sec. 14. Evaluation of backlog of disability claims and appeals of claims of Department of Veterans Affairs.
- Sec. 15. Methods for validating certain World War II Merchant Mariner service considered to be active service by the Secretary of Veterans Affairs.
- Sec. 16. Designation of American World War II Cities.
- Sec. 17. Sense of Congress regarding American veterans disabled for life.
- Sec. 18. Extension of pilot program on counseling in retreat settings for women veterans newly separated from service in the Armed Forces.

8 **SEC. 2. EXPANSION OF ELIGIBILITY FOR MEDALLIONS.**

9 Section 2306(d)(4) of title 38, United States Code,  
 10 is amended to read as follows:

11 “(4)(A) In lieu of furnishing a headstone or marker  
 12 under this subsection to a deceased individual described

1 in subparagraph (B), the Secretary may furnish, upon re-  
2 quest, a medallion or other device of a design determined  
3 by the Secretary to signify the deceased individual's status  
4 as a veteran, to be attached to a headstone or marker fur-  
5 nished at private expense.

6 “(B) A deceased individual described in this sub-  
7 section is an individual who—

8 “(i) served in the Armed Forces on or after  
9 April 6, 1917; and

10 “(ii) is eligible for a headstone or marker fur-  
11 nished under paragraph (1) (or would be so eligible  
12 but for the date of the death of the individual).”.

13 **SEC. 3. DEFINITIONS RELATING TO CLAIMS FOR BENEFITS**  
14 **UNDER LAWS ADMINISTERED BY THE SEC-**  
15 **RETARY OF VETERANS AFFAIRS.**

16 (a) DEFINITIONS.—

17 (1) IN GENERAL.—Section 5100 of title 38,  
18 United States Code, is amended to read as follows:

19 **“§ 5100. Definitions**

20 “In this chapter:

21 “(1) The term ‘claimant’ means any individual  
22 applying for, or submitting a claim for, any benefit  
23 under the laws administered by the Secretary.

24 “(2) The term ‘claim’ means a communication  
25 in writing requesting a determination of entitlement

1 or evidencing a belief in entitlement to a benefit  
2 under the laws administered by the Secretary.

3 “(3) The term ‘formal claim’ means a claim  
4 submitted on an application form prescribed by the  
5 Secretary.”.

6 (2) CLERICAL AMENDMENT.—The table of sec-  
7 tions at the beginning of chapter 51 of such title is  
8 further amended by striking the item relating to sec-  
9 tion 5100 and inserting the following new item:

“5100. Definitions.”.

10 (b) EFFECTIVE DATE.—Section 5100 of title 38,  
11 United States Code, as amended by subsection (a), shall  
12 take effect on the date of the enactment of this Act and  
13 shall apply with respect to a claim submitted on or after  
14 such date.

15 **SEC. 4. QUARTERLY REPORTS ON FORMAL AND INFORMAL**  
16 **CLAIMS FOR BENEFITS UNDER LAWS ADMIN-**  
17 **ISTERED BY SECRETARY OF VETERANS AF-**  
18 **FAIRS.**

19 (a) QUARTERLY REPORTS.—During the five-year pe-  
20 riod beginning on the date of the enactment of this Act,  
21 the Secretary shall submit to the Committees on Veterans’  
22 Affairs of the Senate and House of Representatives quar-  
23 terly reports on formal and informal claims submitted to  
24 the Secretary. Each such report shall include, for the 3-  
25 month period covered by the report—

1           (1) the total number of claims submitted to the  
2       Secretary;

3           (2) the total number of informal claims sub-  
4       mitted to the Secretary;

5           (3) the total number of formal claims submitted  
6       to the Secretary;

7           (4) the total number of forms indicating an in-  
8       tent to file a claim for benefits submitted to the Sec-  
9       retary;

10          (5) the total number of claims notification let-  
11       ters that included an invitation to the claimant to  
12       submit an additional formal claim that was reason-  
13       ably raised during the adjudication of the claim for  
14       which the notification letter is sent;

15          (6) of the claimants who received notification  
16       letters described in paragraph (5), the total number  
17       who submitted a formal claim in response to the in-  
18       vitation included in the letter;

19          (7) the total number of electronically filed  
20       claims submitted to the Secretary; and

21          (8) the total number of fully-developed claims  
22       submitted to the Secretary.

23       (b) SENSE OF CONGRESS.—It is the sense of Con-  
24       gress that the Secretary of Veterans Affairs should de-  
25       velop a designated form for an increase or reopening of

1 a claim that does not require the resubmittal of informa-  
2 tion previously submitted on a formal claim form.

3 (c) DEFINITIONS.—In this section:

4 (1) The terms “claim”, “claimant”, and “for-  
5 mal claim” have the meanings given such terms in  
6 section 5100 of title 38, United States Code, as  
7 amended by section 4.

8 (2) The term “informal claim” means a com-  
9 munication in writing requesting a determination of  
10 entitlement or evidencing a belief in entitlement, to  
11 a benefit under the laws administered by the Sec-  
12 retary of Veterans Affairs that—

13 (A) is submitted in a format other than on  
14 an application form prescribed by the Secretary;

15 (B) indicates an intent to apply for one or  
16 more benefits under the laws administered by  
17 the Secretary;

18 (C) identifies the benefit sought;

19 (D) is made or submitted by a claimant,  
20 his or her duly authorized representative, a  
21 Member of Congress, or another person acting  
22 on behalf of a claimant who meets the require-  
23 ments established by the Secretary for such  
24 purpose; and

1           (E) may include a report of examination or  
2           hospitalization, if the report relates to a dis-  
3           ability which may establish such an entitlement.

4           (3) The term “reasonably raised” with respect  
5           to a claim means that evidence of an entitlement to  
6           a benefit under the laws administered by the Sec-  
7           retary is inferred or logically placed at issue upon a  
8           sympathetic reading of another claim and the record  
9           developed with respect to that claim.

10 **SEC. 5. EXPEDITED PAYMENT OF SURVIVOR’S BENEFITS.**

11           (a) IN GENERAL.—Section 5101(a)(1) of title 38,  
12 United States Code, is amended—

13           (1) by striking “A specific” and inserting “(A)  
14           Except as provided in subparagraph (B), a specific”;  
15           and

16           (2) by adding at the end the following new sub-  
17           paragraph:

18           “(B)(i) The Secretary may pay benefits under chap-  
19           ters 13 and 15 and sections 2302, 2307, and 5121 of this  
20           title to a survivor of a veteran who has not filed a formal  
21           claim if the Secretary determines that the record contains  
22           sufficient evidence to establish the entitlement of the sur-  
23           vivor to such benefits.

24           “(ii) For purposes of this subparagraph and section  
25           5110 of this title, the earlier of the following dates shall

1 be treated as the date of the receipt of the survivor's appli-  
2 cation for benefits described in clause (i):

3           “(I) The date on which the survivor of a vet-  
4 eran (or the representative of such a survivor) noti-  
5 fies the Secretary of the death of the veteran  
6 through a death certificate or other relevant medical  
7 evidence indicating that the death was due to a serv-  
8 ice-connected or compensable disability.

9           “(II) The head of any other department or  
10 agency of the Federal Government notifies the Sec-  
11 retary of the death of the veteran.

12           “(iii) In notifying the Secretary of the death of a vet-  
13 eran as described in clause (ii)(I), the survivor (or the rep-  
14 resentative of such a survivor) may submit to the Sec-  
15 retary additional documents relating to such death without  
16 being required to file a formal claim.”.

17           (b) REPORT.—

18           (1) IN GENERAL.—Not later than one year  
19 after the date of the enactment of this Act, the Sec-  
20 retary of Veterans Affairs shall submit to the Com-  
21 mittee on Veterans' Affairs of the Senate and the  
22 Committee on Veterans' Affairs of the House of  
23 Representatives a report on benefits paid pursuant  
24 to covered claims.

1           (2) CONTENTS.—The report under paragraph  
2 (1) shall include the following:

3           (A) The number of covered claims adjudicated during the one-year period preceding  
4 the date of the report, disaggregated by the following:  
5  
6

7           (i) Claims in which the claimant  
8 claimed entitlement to compensation on the  
9 basis of the claimant's status as the spouse  
10 of a deceased veteran.

11           (ii) Claims in which the claimant  
12 claimed entitlement to compensation on the  
13 basis of the claimant's status as the child  
14 of a deceased veteran.

15           (iii) Claims in which the claimant  
16 claimed entitlement to compensation on the  
17 basis of the claimant's status as the parent  
18 of a deceased veteran.

19           (B) The number of covered claims that  
20 were adjudicated during such period and for  
21 which compensation was not awarded,  
22 disaggregated by clauses (i) through (iii) of  
23 subparagraph (A).

24           (C) A comparison of the accuracy and  
25 timeliness of covered claims adjudicated during

1 such period with non-covered claims filed by  
2 survivors of a veteran.

3 (D) The findings of the Secretary with re-  
4 spect to adjudicating covered claims.

5 (E) Such recommendations as the Sec-  
6 retary may have for legislative or administrative  
7 action to improve the adjudication of claims  
8 submitted to the Secretary for benefits under  
9 chapters 13 and 15 and sections 2302, 2307,  
10 and 5121 of title 38, United States Code.

11 (3) COVERED CLAIM DEFINED.—In this sub-  
12 section, the term “covered claim” means a claim  
13 covered by section 5101(a)(1)(B) of title 38, United  
14 States Code, as added by subsection (a).

15 (c) EFFECTIVE DATE.—The amendments made by  
16 subsection (a) shall apply with respect to claims for bene-  
17 fits based on a death occurring on or after the date of  
18 the enactment of this Act.

19 **SEC. 6. PRIORITY FOR PROCESSING CLAIMS OF THE DE-**  
20 **PARTMENT OF VETERANS AFFAIRS.**

21 (a) IN GENERAL.—Subchapter I of chapter 51 of title  
22 38, United States Code, is amended by adding at the end  
23 the following new section:

1 **“§ 5109C. Priority for processing claims**

2 “(a) PRIORITY.—In processing claims for compensa-  
3 tion under this chapter, the Secretary shall provide the  
4 following claimants with priority over other claimants:

5 “(1) Veterans who have attained the age of 70.

6 “(2) Veterans who are terminally ill.

7 “(3) Veterans with life-threatening illnesses.

8 “(4) Homeless veterans (as defined in section  
9 2002 of this title).

10 “(5) Veterans who were awarded the Medal of  
11 Honor.

12 “(6) Veterans who are former prisoners of war.

13 “(7) Veterans whose claims are being reviewed  
14 again in relation to a previously denied claim relat-  
15 ing to military sexual trauma.

16 “(8) Veterans whom the Secretary determines,  
17 on a case-by-case basis, are seriously or very seri-  
18 ously injured.

19 “(9) Veterans whom the Secretary determines,  
20 on a case-by-case basis, should be given priority  
21 under this section based on an application for good  
22 cause established by the Secretary.

23 “(b) REGULATIONS.—The Secretary shall prescribe  
24 regulations to carry out subsection (a).”.

25 (b) CLERICAL AMENDMENT.—The table of sections  
26 at the beginning of such chapter is amended by inserting

1 after the item relating to section 5109B the following new  
2 item:

“5109C. Priority for processing claims.”.

3 **SEC. 7. TREATMENT OF MEDICAL EVIDENCE PROVIDED BY**  
4 **NON-DEPARTMENT OF VETERANS AFFAIRS**  
5 **MEDICAL PROFESSIONALS IN SUPPORT OF**  
6 **CLAIMS FOR DISABILITY COMPENSATION.**

7 (a) ACCEPTANCE OF REPORTS OF PRIVATE PHYSI-  
8 CIAN EXAMINATIONS.—Section 5125 of title 38, United  
9 States Code, is amended—

10 (1) by striking “For purposes” and inserting  
11 “(a) IN GENERAL.—For purposes”; and

12 (2) by adding at the end the following new sub-  
13 sections:

14 “(b) SUFFICIENCY OF EVIDENCE.—If a veteran has  
15 submitted a medical opinion or report of a medical exam-  
16 ination administered by a private physician in support of  
17 the veteran’s claim, the Secretary may not order a medical  
18 examination to be administered by a Department physi-  
19 cian unless the Secretary provides the veteran with a thor-  
20 ough explanation of why the medical opinion or report  
21 submitted by the veteran was not sufficiently complete and  
22 the reason why additional medical evidence is necessary.

23 “(c) SUFFICIENTLY COMPLETE DEFINED.—For pur-  
24 poses of a medical opinion or report described in sub-  
25 section (a), the term ‘sufficiently complete’ means com-

1 petent, credible, probative, and containing such informa-  
2 tion as may be required to make a decision on the claim  
3 for which the medical opinion or report is provided.”.

4 (b) APPLICATION.—The amendment made by sub-  
5 section (a) shall apply with respect to medical evidence  
6 submitted after the date that is one year after the date  
7 of the enactment of this Act by veterans who have not  
8 submitted any claim for disability compensation to the  
9 Secretary of Veterans Affairs before such date.

10 (c) ANNUAL REPORTS.—

11 (1) IN GENERAL.—During the three-year period  
12 beginning three years after the date of the enact-  
13 ment of this Act, the Secretary of Veterans Affairs  
14 shall submit to the Committees on Veterans’ Affairs  
15 of the House of Representatives and the Senate an  
16 annual report on the implementation of section  
17 5125(b) of title 38, United States Code, as added by  
18 subsection (a).

19 (2) MATTERS INCLUDED.—Each report under  
20 paragraph (1) shall include, with respect to the year  
21 covered by the report, the following:

22 (A) The number of veterans who submitted  
23 a medical opinion or report of a medical exam-  
24 ination administered by a private physician in  
25 support of the veteran’s claim for disability

1 compensation as described in section 5125(b) of  
2 title 38, United States Code, as added by sub-  
3 section (a).

4 (B) Of the number of veterans described in  
5 subparagraph (A), the number of veterans  
6 whose medical opinion or report of a medical  
7 examination administered by a private physician  
8 was determined by the Secretary to not be suf-  
9 ficiently complete pursuant to such section  
10 5125(b), including the five most frequent rea-  
11 sons for such a determination.

12 (C) A comparison of the approval rate of  
13 claims for disability compensation with respect  
14 to—

15 (i) veterans who submitted medical  
16 opinions or reports of a medical examina-  
17 tion administered by a private physician in  
18 support of the veteran's claim; and

19 (ii)(I) veterans who did submit such  
20 opinions or reports but such opinions or  
21 reports were determined by the Secretary  
22 to not be sufficiently complete pursuant to  
23 such section 5125(b); and

24 (II) veterans who did not submit such  
25 opinions or reports.

1 **SEC. 8. AUTOMATIC ANNUAL INCREASE IN RATES OF DIS-**  
2 **ABILITY COMPENSATION AND DEPENDENCY**  
3 **AND INDEMNITY COMPENSATION.**

4 (a) INDEXING TO SOCIAL SECURITY INCREASES.—  
5 Section 5312 of title 38, United States Code, is amended  
6 by adding at the end the following new subsection:

7 “(d)(1) During the nine-year period beginning on De-  
8 cember 1, 2016, whenever there is an increase in benefit  
9 amounts payable under title II of the Social Security Act  
10 (42 U.S.C. 401 et seq.) as a result of a determination  
11 made under section 215(i) of such Act (42 U.S.C. 415(i)),  
12 the Secretary shall, effective on the date of such increase  
13 in benefit amounts, increase the dollar amounts in effect  
14 for the payment of disability compensation and depend-  
15 ency and indemnity compensation by the Secretary, as  
16 specified in paragraph (2), as such amounts were in effect  
17 immediately before the date of such increase in benefit  
18 amounts payable under title II of the Social Security Act,  
19 by the same percentage as the percentage by which such  
20 benefit amounts are increased.

21 “(2) The dollar amounts to be increased pursuant to  
22 paragraph (1) are the following:

23 “(A) WARTIME DISABILITY COMPENSATION.—  
24 Each of the dollar amounts in effect under section  
25 1114 of this title.

1           “(B) ADDITIONAL COMPENSATION FOR DE-  
2           PENDENTS.—Each of the dollar amounts in effect  
3           under section 1115(1) of this title.

4           “(C) CLOTHING ALLOWANCE.—The dollar  
5           amount in effect under section 1162 of this title.

6           “(D) DEPENDENCY AND INDEMNITY COM-  
7           PENSATION TO SURVIVING SPOUSE.—Each of the  
8           dollar amounts in effect under subsections (a)  
9           through (d) of section 1311 of such title.

10          “(E) DEPENDENCY AND INDEMNITY COM-  
11          PENSATION TO CHILDREN.—Each of the dollar  
12          amounts in effect under sections 1313(a) and 1314  
13          of such title.

14          “(3) Whenever there is an increase under paragraph  
15 (1) in amounts in effect for the payment of disability com-  
16 pensation and dependency and indemnity compensation,  
17 the Secretary shall publish such amounts, as increased  
18 pursuant to such paragraph, in the Federal Register at  
19 the same time as the material required by section  
20 215(i)(2)(D) of the Social Security Act (42 U.S.C.  
21 415(i)(2)(D)) is published by reason of a determination  
22 under section 215(i) of such Act (42 U.S.C. 415(i)).

23          “(4) Each dollar amount increased under paragraph  
24 (1), if not a whole dollar amount, shall be rounded to the  
25 next lower whole dollar amount.

1       “(5) The Secretary of Veterans Affairs may adjust  
2 administratively, consistent with the increases made under  
3 subsection (a), the rates of disability compensation pay-  
4 able to persons under section 10 of Public Law 85–857  
5 (72 Stat. 1263) who have not received compensation  
6 under chapter 11 of this title.”.

7       (b) EFFECTIVE DATE.—Subsection (d) of section  
8 5312 of title 38, United States Code, as added by sub-  
9 section (a) of this section, shall take effect on December  
10 1, 2016.

11 **SEC. 9. IMPROVEMENT OF FIDUCIARIES FOR VETERANS.**

12       (a) APPOINTMENT AND SUPERVISION.—

13               (1) Section 5502 of title 38, United States  
14 Code, is amended to read as follows:

15 **“§ 5502. Appointment of fiduciaries**

16       “(a) APPOINTMENT.—Where it appears to the Sec-  
17 retary that the interest of the beneficiary would be served  
18 thereby, payment of benefits under any law administered  
19 by the Secretary may be made directly to the beneficiary  
20 or to a relative or some other fiduciary for the use and  
21 benefit of the beneficiary, regardless of any legal disability  
22 on the part of the beneficiary.

23       “(b) APPEALS.—(1) If the Secretary determines a  
24 beneficiary to be mentally incompetent for purposes of ap-  
25 pointing a fiduciary under this chapter, the Secretary shall

1 provide such beneficiary with a written statement detailing  
2 the reasons for such determination.

3 “(2) A beneficiary whom the Secretary has deter-  
4 mined to be mentally incompetent for purposes of appoint-  
5 ing a fiduciary under this chapter may appeal such deter-  
6 mination.

7 “(c) MODIFICATION.—(1) A beneficiary for whom the  
8 Secretary appoints a fiduciary under this chapter may, at  
9 any time, request the Secretary to—

10 “(A) remove the fiduciary so appointed; and

11 “(B) have a new fiduciary appointed.

12 “(2) The Secretary shall comply with a request under  
13 paragraph (1) if the Secretary determines that the request  
14 is made in good faith and—

15 “(A) the fiduciary requested to be removed re-  
16 ceives a fee from the beneficiary and a suitable vol-  
17 unteer fiduciary is available to assist the beneficiary;  
18 or

19 “(B) the beneficiary provides credible informa-  
20 tion that the fiduciary requested to be removed is—

21 “(i) not acting in the interest of the bene-  
22 ficiary; or

23 “(ii) unable to effectively serve the bene-  
24 ficiary because of an irreconcilable personality  
25 conflict or disagreement.

1       “(3) The Secretary shall ensure that any removal or  
2 new appointment of a fiduciary under paragraph (1) does  
3 not delay or interrupt the beneficiary’s receipt of benefits  
4 administered by the Secretary.

5       “(d) INDEPENDENCE.—A fiduciary appointed by the  
6 Secretary shall operate independently of the Department  
7 to determine the actions that are in the interest of the  
8 beneficiary.

9       “(e) PREDESIGNATION.—A veteran may predesignate  
10 a fiduciary by—

11               “(1) submitting written notice to the Secretary  
12 of the predesignated fiduciary; or

13               “(2) submitting a form provided by the Sec-  
14 retary for such purpose.

15       “(f) APPOINTMENT OF NON-PREDESIGNATED FIDU-  
16 CIARY.—If a beneficiary designates an individual to serve  
17 as a fiduciary under subsection (e) and the Secretary ap-  
18 points an individual not so designated as the fiduciary for  
19 such beneficiary, the Secretary shall notify such bene-  
20 ficiary of—

21               “(1) the reason why such designated individual  
22 was not appointed; and

23               “(2) the ability of the beneficiary to modify the  
24 appointed fiduciary under subsection (c).

1           “(g) PRIORITY OF APPOINTMENT.—In appointing a  
2 fiduciary under this chapter, if a beneficiary does not des-  
3 ignate a fiduciary pursuant to subsection (e), to the extent  
4 possible the Secretary shall appoint a person who is—

5                   “(1) a relative of the beneficiary;

6                   “(2) appointed as guardian of the beneficiary  
7 by a court of competent jurisdiction; or

8                   “(3) authorized to act on behalf of the bene-  
9 ficiary under a durable power of attorney.”.

10           (2) CLERICAL AMENDMENT.—The table of sec-  
11 tions at the beginning of chapter 55 of title 38,  
12 United States Code, is amended by striking the item  
13 relating to section 5502 and inserting the following:

“5502. Appointment of fiduciaries.”.

14           (b) SUPERVISION.—

15                   (1) IN GENERAL.—Chapter 55 of title 38,  
16 United States Code, is amended by inserting after  
17 section 5502, as amended by subsection (a)(1), the  
18 following new section:

19 **“§ 5502A. Supervision of fiduciaries**

20           “(a) COMMISSION.—(1)(A) In a case in which the  
21 Secretary determines that a commission is necessary in  
22 order to obtain the services of a fiduciary in the best inter-  
23 ests of a beneficiary, the Secretary may authorize a fidu-  
24 ciary appointed by the Secretary to obtain from the  
25 monthly benefits provided to the beneficiary a reasonable

1 commission for fiduciary services rendered, but the com-  
2 mission for any month may not exceed the lesser of the  
3 following amounts:

4           “(i) The amount that equals three percent of  
5           the monthly monetary benefits under laws adminis-  
6           tered by the Secretary paid on behalf of the bene-  
7           ficiary to the fiduciary.

8           “(ii) \$35.

9           “(B) A commission paid under this paragraph may  
10 not be derived from any award to a beneficiary regarding  
11 back pay or retroactive benefits payments.

12           “(C) A commission may not be authorized for a fidu-  
13 ciary who receives any other form of remuneration or pay-  
14 ment in connection with rendering fiduciary services for  
15 benefits under this title on behalf of the beneficiary.

16           “(D) In accordance with section 6106 of this title,  
17 a commission may not be paid to a fiduciary if the Sec-  
18 retary determines that the fiduciary misused any benefit  
19 payments of a beneficiary.

20           “(E) If the Secretary determines that the fiduciary  
21 has misused any benefit or payments of a beneficiary, the  
22 Secretary may revoke the fiduciary status of the fiduciary.

23           “(2) Where, in the opinion of the Secretary, any fidu-  
24 ciary receiving funds on behalf of a Department bene-  
25 ficiary is acting in such a number of cases as to make

1 it impracticable to conserve properly the estates or to su-  
2 pervise the persons of the beneficiaries, the Secretary may  
3 refuse to make future payments in such cases as the Sec-  
4 retary may deem proper.

5       “(b) COURT.—Whenever it appears that any fidu-  
6 ciary, in the opinion of the Secretary, is not properly exe-  
7 cuting or has not properly executed the duties of the trust  
8 of such fiduciary or has collected or paid, or is attempting  
9 to collect or pay, fees, commissions, or allowances that are  
10 inequitable or in excess of those allowed by law for the  
11 duties performed or expenses incurred, or has failed to  
12 make such payments as may be necessary for the benefit  
13 of the ward or the dependents of the ward, then the Sec-  
14 retary may appear, by the Secretary’s authorized attorney,  
15 in the court which has appointed such fiduciary, or in any  
16 court having original, concurrent, or appellate jurisdiction  
17 over said cause, and make proper presentation of such  
18 matters. The Secretary, in the Secretary’s discretion, may  
19 suspend payments to any such fiduciary who shall neglect  
20 or refuse, after reasonable notice, to render an account  
21 to the Secretary from time to time showing the application  
22 of such payments for the benefit of such incompetent or  
23 minor beneficiary, or who shall neglect or refuse to admin-  
24 ister the estate according to law. The Secretary may re-  
25 quire the fiduciary, as part of such account, to disclose

1 any additional financial information concerning the bene-  
2 ficiary (except for information that is not available to the  
3 fiduciary). The Secretary may appear or intervene by the  
4 Secretary's duly authorized attorney in any court as an  
5 interested party in any litigation instituted by the Sec-  
6 retary or otherwise, directly affecting money paid to such  
7 fiduciary under this section.

8       “(c) PAYMENT OF CERTAIN EXPENSES.—Authority  
9 is hereby granted for the payment of any court or other  
10 expenses incident to any investigation or court proceeding  
11 for the appointment of any fiduciary or other person for  
12 the purpose of payment of benefits payable under laws ad-  
13 ministered by the Secretary or the removal of such fidu-  
14 ciary and appointment of another, and of expenses in con-  
15 nection with the administration of such benefits by such  
16 fiduciaries, or in connection with any other court pro-  
17 ceeding hereby authorized, when such payment is author-  
18 ized by the Secretary.

19       “(d) TEMPORARY PAYMENT OF BENEFITS.—All or  
20 any part of any benefits the payment of which is sus-  
21 pended or withheld under this section may, in the discre-  
22 tion of the Secretary, be paid temporarily to the person  
23 having custody and control of the incompetent or minor  
24 beneficiary, to be used solely for the benefit of such bene-  
25 ficiary, or, in the case of an incompetent veteran, may be

1 apportioned to the dependent or dependents, if any, of  
2 such veteran. Any part not so paid and any funds of a  
3 mentally incompetent or insane veteran not paid to the  
4 chief officer of the institution in which such veteran is a  
5 patient nor apportioned to the veteran's dependent or de-  
6 pendants may be ordered held in the Treasury to the credit  
7 of such beneficiary. All funds so held shall be disbursed  
8 under the order and in the discretion of the Secretary for  
9 the benefit of such beneficiary or the beneficiary's depend-  
10 ents. Any balance remaining in such fund to the credit  
11 of any beneficiary may be paid to the beneficiary if the  
12 beneficiary recovers and is found competent, or if a minor,  
13 attains majority, or otherwise to the beneficiary's fidu-  
14 ciary, or, in the event of the beneficiary's death, to the  
15 beneficiary's personal representative, except as otherwise  
16 provided by law; however, payment will not be made to  
17 the beneficiary's personal representative if, under the law  
18 of the beneficiary's last legal residence, the beneficiary's  
19 estate would escheat to the State. In the event of the death  
20 of a mentally incompetent or insane veteran, all gratuitous  
21 benefits under laws administered by the Secretary depos-  
22 ited before or after August 7, 1959, in the personal funds  
23 of patient's trust fund on account of such veteran shall  
24 not be paid to the personal representative of such veteran,  
25 but shall be paid to the following persons living at the

1 time of settlement, and in the order named: The surviving  
2 spouse, the children (without regard to age or marital sta-  
3 tus) in equal parts, and the dependent parents of such  
4 veteran, in equal parts. If any balance remains, such bal-  
5 ance shall be deposited to the credit of the applicable cur-  
6 rent appropriation; except that there may be paid only so  
7 much of such balance as may be necessary to reimburse  
8 a person (other than a political subdivision of the United  
9 States) who bore the expenses of last sickness or burial  
10 of the veteran for such expenses. No payment shall be  
11 made under the two preceding sentences of this subsection  
12 unless claim therefor is filed with the Secretary within five  
13 years after the death of the veteran, except that, if any  
14 person so entitled under said two sentences is under legal  
15 disability at the time of death of the veteran, such five-  
16 year period of limitation shall run from the termination  
17 or removal of the legal disability.

18       “(e) ESCHEATMENT.—Any funds in the hands of a  
19 fiduciary appointed by a State court or the Secretary de-  
20 rived from benefits payable under laws administered by  
21 the Secretary, which under the law of the State wherein  
22 the beneficiary had last legal residence would escheat to  
23 the State, shall escheat to the United States and shall be  
24 returned by such fiduciary, or by the personal representa-  
25 tive of the deceased beneficiary, less legal expenses of any

1 administration necessary to determine that an escheat is  
2 in order, to the Department, and shall be deposited to the  
3 credit of the applicable revolving fund, trust fund, or ap-  
4 propriation.

5 “(f) ASSISTANCE.—The Secretary shall provide to a  
6 fiduciary appointed under section 5502 of this title mate-  
7 rials and tools to assist the fiduciary in carrying out the  
8 responsibilities of the fiduciary under this chapter, includ-  
9 ing—

10 “(1) handbooks, brochures, or other written  
11 material that explain the responsibilities of a fidu-  
12 ciary under this chapter;

13 “(2) tools located on an Internet website, in-  
14 cluding forms to submit to the Secretary required  
15 information; and

16 “(3) assistance provided by telephone.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-  
18 tions at the beginning of chapter 55 of title 38,  
19 United States Code, is amended by inserting after  
20 the item relating to section 5502 the following new  
21 item:

“5502A. Supervision of fiduciaries.”.

22 (c) DEFINITION OF FIDUCIARY.—Section 5506 of  
23 title 38, United States Code, is amended—

24 (1) by striking “For purposes” and inserting  
25 “(a) For purposes”; and

1           (2) by adding at the end the following new sub-  
2           section:

3           “(b)(1) For purposes of subsection (a), the term ‘per-  
4           son’ includes any—

5                   “(A) State or local government agency whose  
6                   mission is to carry out income maintenance, social  
7                   service, or health care-related activities;

8                   “(B) any State or local government agency with  
9                   fiduciary responsibilities; or

10                   “(C) any nonprofit social service agency that  
11                   the Secretary determines—

12                           “(i) regularly provides services as a fidu-  
13                           ciary concurrently to five or more individuals;  
14                           and

15                           “(ii) is not a creditor of any such indi-  
16                           vidual.

17           “(2) The Secretary shall maintain a list of State or  
18           local agencies and nonprofit social service agencies under  
19           paragraph (1) that are qualified to act as a fiduciary  
20           under this chapter. In maintaining such list, the Secretary  
21           may consult the lists maintained under section 807(h) of  
22           the Social Security Act (42 U.S.C. 1007(h)).”.

23           (d) QUALIFICATIONS.—Section 5507 of title 38,  
24           United States Code, is amended to read as follows:

1 **“§ 5507. Inquiry, investigations, and qualification of**  
2 **fiduciaries**

3 “(a) INVESTIGATION.—Any certification of a person  
4 for payment of benefits of a beneficiary to that person as  
5 such beneficiary’s fiduciary under section 5502 of this title  
6 shall be made on the basis of—

7 “(1) an inquiry or investigation by the Sec-  
8 retary of the fitness of that person to serve as fidu-  
9 ciary for that beneficiary to be conducted in advance  
10 of such certification and in accordance with sub-  
11 section (b);

12 “(2) adequate evidence that certification of that  
13 person as fiduciary for that beneficiary is in the in-  
14 terest of such beneficiary (as determined by the Sec-  
15 retary under regulations);

16 “(3) adequate evidence that the person to serve  
17 as fiduciary protects the private information of a  
18 beneficiary in accordance with subsection (d)(1); and

19 “(4) the furnishing of any bond that may be re-  
20 quired by the Secretary in accordance with sub-  
21 section (f).

22 “(b) ELEMENTS OF INVESTIGATION.—(1) In con-  
23 ducting an inquiry or investigation of a proposed fiduciary  
24 under subsection (a)(1), the Secretary shall conduct—

1           “(A) a face-to-face interview with the proposed  
2           fiduciary by not later than 30 days after the date on  
3           which such inquiry or investigation begins; and

4           “(B) a background check of the proposed fidu-  
5           ciary to—

6                   “(i) in accordance with paragraph (2), de-  
7                   termine whether the proposed fiduciary has  
8                   been convicted of a crime; and

9                   “(ii) determine whether the proposed fidu-  
10                  ciary will serve the best interest of the bene-  
11                  ficiary, including by conducting a credit check  
12                  of the proposed fiduciary and checking the  
13                  records under paragraph (5).

14          “(2) The Secretary shall request information con-  
15          cerning whether that person has been convicted of any of-  
16          fense under Federal or State law. If that person has been  
17          convicted of such an offense, the Secretary may certify the  
18          person as a fiduciary only if the Secretary finds that the  
19          person is an appropriate person to act as fiduciary for the  
20          beneficiary concerned under the circumstances.

21          “(3) The Secretary shall conduct the background  
22          check described in paragraph (1)(B)—

23                  “(A) each time a person is proposed to be a fi-  
24                  duciary, regardless of whether the person is serving  
25                  or has served as a fiduciary; and

1           “(B) at no expense to the beneficiary.

2           “(4) Each proposed fiduciary shall disclose to the  
3 Secretary the number of beneficiaries that the fiduciary  
4 acts on behalf of.

5           “(5) The Secretary shall maintain records of any per-  
6 son who has—

7           “(A) previously served as a fiduciary; and

8           “(B) had such fiduciary status revoked by the  
9 Secretary.

10          “(6)(A) If a fiduciary appointed by the Secretary is  
11 convicted of a crime described in subparagraph (B), the  
12 Secretary shall notify the beneficiary of such conviction  
13 by not later than 14 days after the date on which the Sec-  
14 retary learns of such conviction.

15          “(B) A crime described in this subparagraph is a  
16 crime—

17           “(i) for which the fiduciary is convicted while  
18 serving as a fiduciary for any person;

19           “(ii) that is not included in a report submitted  
20 by the fiduciary under section 5509(a) of this title;  
21 and

22           “(iii) that the Secretary determines could affect  
23 the ability of the fiduciary to act on behalf of the  
24 beneficiary.

1       “(c) INVESTIGATION OF CERTAIN PERSONS.—(1) In  
2 the case of a proposed fiduciary described in paragraph  
3 (2), the Secretary, in conducting an inquiry or investiga-  
4 tion under subsection (a)(1), may carry out such inquiry  
5 or investigation on an expedited basis that may include  
6 giving priority to conducting such inquiry or investigation.  
7 Any such inquiry or investigation carried out on such an  
8 expedited basis shall be carried out under regulations pre-  
9 scribed for purposes of this section.

10       “(2) Paragraph (1) applies with respect to a proposed  
11 fiduciary who is—

12           “(A) the parent (natural, adopted, or step-  
13 parent) of a beneficiary who is a minor;

14           “(B) the spouse or parent of an incompetent  
15 beneficiary;

16           “(C) a person who has been appointed a fidu-  
17 ciary of the beneficiary by a court of competent ju-  
18 risdiction;

19           “(D) being appointed to manage an estate  
20 where the annual amount of veterans benefits to be  
21 managed by the proposed fiduciary does not exceed  
22 \$3,600, as adjusted pursuant to section 5312 of this  
23 title; or

1           “(E) a person who is authorized to act on be-  
2           half of the beneficiary under a durable power of at-  
3           torney.

4           “(d) PROTECTION OF PRIVATE INFORMATION.—(1)  
5 A fiduciary shall take all reasonable precautions to—

6           “(A) protect the private information of a bene-  
7           ficiary, including personally identifiable information;  
8           and

9           “(B) securely conducts financial transactions.

10          “(2) A fiduciary shall notify the Secretary of any ac-  
11          tion of the fiduciary that compromises or potentially com-  
12          promises the private information of a beneficiary.

13          “(e) POTENTIAL MISUSE OF FUNDS.—(1) If the Sec-  
14          retary has reason to believe that a fiduciary may be mis-  
15          using all or part of the benefit of a beneficiary, the Sec-  
16          retary shall—

17                 “(A) conduct a thorough investigation to deter-  
18                 mine the veracity of such belief; and

19                 “(B) if such veracity is established, transmit to  
20                 the officials described in paragraph (2) a report of  
21                 such investigation.

22          “(2) The officials described in this paragraph are the  
23          following:

24                 “(A) The Attorney General.

1           “(B) Each head of a Federal department or  
2           agency that pays to a fiduciary or other person ben-  
3           efits under any law administered by such depart-  
4           ment of agency for the use and benefit of a minor,  
5           incompetent, or other beneficiary.

6           “(f) BOND.—In determining whether a proposed fi-  
7           duciary is required to furnish a bond under subsection  
8           (a)(4), the Secretary shall consider—

9           “(1) the existence of any familial or other per-  
10          sonal relationship between the proposed fiduciary  
11          and the beneficiary; and

12          “(2) the care the proposed fiduciary has taken  
13          to protect the interests of the beneficiary.

14          “(g) LIST OF FIDUCIARIES.—Each regional office of  
15          the Veterans Benefits Administration shall maintain a list  
16          of the following:

17          “(1) The name and contact information of each  
18          fiduciary, including address, telephone number, and  
19          email address.

20          “(2) With respect to each fiduciary described in  
21          paragraph (1)—

22                  “(A) the date of the most recent back-  
23                  ground check and credit check performed by the  
24                  Secretary under this section;

1           “(B) the date that any bond was paid  
2           under this section;

3           “(C) the name, address, and telephone  
4           number of each beneficiary the fiduciary acts on  
5           behalf of; and

6           “(D) the amount that the fiduciary con-  
7           trols with respect to each beneficiary described  
8           in subparagraph (C).”.

9           (e) ANNUAL RECEIPT OF PAYMENTS.—

10           (1) IN GENERAL.—Section 5509 of title 38,  
11           United States Code, is amended—

12           (A) in subsection (a)—

13           (i) by striking “may require a fidu-  
14           ciary to file a” and inserting “shall require  
15           a fiduciary to file an annual”; and

16           (ii) by adding at the end the following  
17           new sentence: “The Secretary shall trans-  
18           mit such annual report or accounting to  
19           the beneficiary and any legal guardian of  
20           such beneficiary.”;

21           (B) by adding at the end the following new  
22           subsections:

23           “(c) MATTERS INCLUDED.—Except as provided by  
24           subsection (f), an annual report or accounting under sub-  
25           section (a) shall include the following:

1           “(1) For each beneficiary that a fiduciary acts  
2           on behalf of—

3                   “(A) the amount of the benefits of the ben-  
4                   eficiary provided under any law administered by  
5                   the Secretary accrued during the year, the  
6                   amount spent, and the amount remaining; and

7                   “(B) if the fiduciary serves the beneficiary  
8                   with respect to benefits not administered by the  
9                   Secretary, an accounting of all sources of bene-  
10                  fits or other income the fiduciary oversees for  
11                  the beneficiary.

12           “(2) A list of events that occurred during the  
13           year covered by the report that could affect the abil-  
14           ity of the fiduciary to act on behalf of the bene-  
15           ficiary, including—

16                   “(A) the fiduciary being convicted of any  
17                   crime;

18                   “(B) the fiduciary declaring bankruptcy;  
19                   and

20                   “(C) any judgments entered against the fi-  
21                   duciary.

22           “(d) RANDOM AUDITS.—The Secretary shall annu-  
23           ally conduct random audits of fiduciaries who receive a  
24           commission pursuant to subsection 5502A(a)(1) of this  
25           title.

1       “(e) STATUS OF FIDUCIARY.—If a fiduciary includes  
2 in the annual report events described in subsection (c)(2),  
3 the Secretary may take appropriate action to adjust the  
4 status of the fiduciary as the Secretary determines appro-  
5 priate, including by revoking the fiduciary status of the  
6 fiduciary.

7       “(f) CAREGIVERS AND CERTAIN OTHER FIDU-  
8 CIARIES.—(1)(A) In carrying out this section, the Sec-  
9 retary shall ensure that a caregiver fiduciary is required  
10 only to file an annual report or accounting under sub-  
11 section (a) with respect to the amount of the benefits of  
12 the beneficiary provided under any law administered by  
13 the Secretary—

14               “(i) spent on—

15                       “(I) food and housing for the beneficiary;

16                       and

17                       “(II) clothing, health-related expenses,

18                       recreation, and other personal items for the

19                       beneficiary; and

20               “(ii) saved for the beneficiary.

21       “(B) The Secretary shall coordinate with the Under  
22 Secretary for Benefits and the Under Secretary for Health  
23 to—

1           “(i) minimize the frequency with which employ-  
2           ees of the Department visit the home of a caregiver  
3           fiduciary and beneficiary; and

4           “(ii) limit the extent of supervision by such  
5           Under Secretaries with respect to such a fiduciary  
6           and beneficiary.

7           “(C) In this paragraph, the term ‘caregiver fiduciary’  
8           means a fiduciary who—

9           “(i) in addition to acting as a fiduciary for a  
10           beneficiary, is approved by the Secretary to be a  
11           provider of personal care services for the beneficiary  
12           under paragraph (3)(A)(i) of section 1720G(a) of  
13           this title;

14           “(ii) in carrying out such care services to such  
15           beneficiary, has undergone not less than four home  
16           visits under paragraph (9)(A) of such section; and

17           “(iii) has not been required by the Secretary to  
18           take corrective action pursuant to paragraph (9)(C)  
19           of such section.

20           “(2) In carrying out this section, the Secretary may  
21           adjust the matters required under an annual report or ac-  
22           counting under subsection (a) with respect to a fiduciary  
23           whom the Secretary determines to have effectively pro-  
24           tected the interests of the beneficiary over a sustained pe-  
25           riod.”; and

1 (C) by striking the section heading and in-  
2 serting the following: “**Annual reports and**  
3 **accountings of fiduciaries**”.

4 (2) CLERICAL AMENDMENT.—The table of sec-  
5 tions at the beginning of chapter 55 of title 38,  
6 United States Code, is amended by striking the item  
7 relating to section 5509 and inserting the following  
8 new item:

“5509. Annual reports and accountings of fiduciaries.”.

9 (f) REPAYMENT OF MISUSED BENEFITS.—Section  
10 6107(a)(2)(C) of title 38, United States Code, is amended  
11 by inserting before the period the following: “, including  
12 by the Secretary not acting in accordance with section  
13 5507 of this title”.

14 (g) ANNUAL REPORTS.—Section 5510 of title 38,  
15 United States Code, is amended by striking “The Sec-  
16 retary shall include in the Annual Benefits Report of the  
17 Veterans Benefits Administration or the Secretary’s An-  
18 nual Performance and Accountability Report” and insert-  
19 ing “Not later than July 1 of each year, the Secretary  
20 shall submit to the Committees on Veterans’ Affairs of  
21 the House of Representatives and the Senate a separate  
22 report containing”.

23 (h) REPORT.—Not later than two years after the date  
24 of the enactment of this Act, the Secretary of Veterans  
25 Affairs shall submit to the Committee on Veterans’ Affairs

1 of the Senate and the Committee on Veterans' Affairs of  
2 the House of Representatives a comprehensive report on  
3 the implementation of the amendments made by this Act,  
4 including—

5 (1) detailed information on the establishment of  
6 new policies and procedures pursuant to such  
7 amendments and training provided on such policies  
8 and procedures; and

9 (2) a discussion of whether the Secretary  
10 should provide fiduciaries with standardized finan-  
11 cial software to simplify reporting requirements.

12 (i) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect on the date that is one year  
14 after the date of the enactment of this Act.

15 **SEC. 10. BOARD OF VETERANS' APPEALS VIDEO HEARINGS.**

16 Section 7107 of title 38, United States Code, is  
17 amended—

18 (1) in subsection (d), by amending paragraph  
19 (1) to read as follows:

20 “(1)(A) Upon request for a hearing, the Board shall  
21 determine, for purposes of scheduling the hearing for the  
22 earliest possible date, whether a hearing before the Board  
23 will be held at its principal location or at a facility of the  
24 Department or other appropriate Federal facility located  
25 within the area served by a regional office of the Depart-

1 ment. The Board shall also determine whether to provide  
2 a hearing through the use of the facilities and equipment  
3 described in subsection (e)(1) or by the appellant person-  
4 ally appearing before a Board member or panel.

5 “(B) The Board shall notify the appellant of the de-  
6 terminations of the location and type of hearing made  
7 under subparagraph (A). Upon notification, the appellant  
8 may request a different location or type of hearing as de-  
9 scribed in such subparagraph. If so requested, the Board  
10 shall grant such request and ensure that the hearing is  
11 scheduled at the earliest possible date without any undue  
12 delay or other prejudice to the appellant.”; and

13 (2) in subsection (e), by amending paragraph  
14 (2) to read as follows:

15 “(2) Any hearing provided through the use of the fa-  
16 cilities and equipment described in paragraph (1) shall be  
17 conducted in the same manner as, and shall be considered  
18 the equivalent of, a personal hearing.”.

19 **SEC. 11. IMPROVEMENTS TO AUTHORITY FOR PERFORM-**  
20 **ANCE OF MEDICAL DISABILITIES EXAMINA-**  
21 **TIONS BY CONTRACT PHYSICIANS.**

22 (a) EXTENSION OF TEMPORARY AUTHORITY.—Sub-  
23 section (c) of section 704 of the Veterans Benefits Act  
24 of 2003 (38 U.S.C. 5101 note) is amended by striking

1 “December 31, 2015” and inserting “December 31,  
2 2017”.

3 (b) LICENSURE OF CONTRACT PHYSICIANS.—

4 (1) TEMPORARY AUTHORITY.—Such section  
5 704 is further amended—

6 (A) by redesignating subsection (d) as sub-  
7 section (e); and

8 (B) by inserting after subsection (c) the  
9 following new subsection (d):

10 “(d) LICENSURE OF CONTRACT PHYSICIANS.—

11 “(1) IN GENERAL.—Notwithstanding any law  
12 regarding the licensure of physicians, a physician de-  
13 scribed in paragraph (2) may conduct an examina-  
14 tion pursuant to a contract entered into under sub-  
15 section (b) at any location in any State, the District  
16 of Columbia, or a Commonwealth, territory, or pos-  
17 session of the United States, so long as the examina-  
18 tion is within the scope of the authorized duties  
19 under such contract.

20 “(2) PHYSICIAN DESCRIBED.—A physician de-  
21 scribed in this paragraph is a physician who—

22 “(A) has a current unrestricted license to  
23 practice the health care profession of the physi-  
24 cian;

1           “(B) is not barred from practicing such  
2 health care profession in any State, the District  
3 of Columbia, or a Commonwealth, territory, or  
4 possession of the United States; and

5           “(C) is performing authorized duties for  
6 the Department of Veterans Affairs pursuant to  
7 a contract entered into under subsection (b).”.

8           (2) PILOT PROGRAM.—Section 504 of the Vet-  
9 erans’ Benefits Improvement Act of 1996 (38  
10 U.S.C. 5101 note) is amended—

11           (A) by redesignating subsections (c) and  
12 (d) as subsections (d) and (e), respectively; and

13           (B) by inserting after subsection (b) the  
14 following new subsection (c):

15           “(c) LICENSURE OF CONTRACT PHYSICIANS.—

16           “(1) IN GENERAL.—Notwithstanding any law  
17 regarding the licensure of physicians, a physician de-  
18 scribed in paragraph (2) may conduct an examina-  
19 tion pursuant to a contract entered into under sub-  
20 section (a) at any location in any State, the District  
21 of Columbia, or a Commonwealth, territory, or pos-  
22 session of the United States, so long as the examina-  
23 tion is within the scope of the authorized duties  
24 under such contract.

1           “(2) PHYSICIAN DESCRIBED.—A physician de-  
2           scribed in this paragraph is a physician who—

3                   “(A) has a current unrestricted license to  
4           practice the health care profession of the physi-  
5           cian;

6                   “(B) is not barred from practicing such  
7           health care profession in any State, the District  
8           of Columbia, or a Commonwealth, territory, or  
9           possession of the United States; and

10                   “(C) is performing authorized duties for  
11           the Department of Veterans Affairs pursuant to  
12           a contract entered into under subsection (a).”.

13 **SEC. 12. PILOT PROGRAM ON FULLY DEVELOPED APPEALS.**

14           (a) IN GENERAL.—The Secretary of Veterans Affairs  
15           shall carry out a pilot program to provide the option of  
16           an alternative appeals process that shall more quickly de-  
17           termine such appeals in accordance with this section.

18           (b) ELECTION.—

19                   (1) FILING.—In accordance with paragraph  
20           (2), a claimant may elect to file a fully developed ap-  
21           peal under the pilot program under subsection (a) by  
22           filing with the Secretary the following:

23                   (A) The notice of disagreement under  
24           chapter 71 of title 38, United States Code,  
25           along with the written election of the claimant

1 to have the appeal determined under the pilot  
2 program.

3 (B) All evidence that the claimant believes  
4 is needed for the appeal as of the date of the  
5 filing.

6 (C) A statement of the argument in sup-  
7 port of the claim, if any.

8 (2) TIMING.—A claimant shall make an election  
9 under paragraph (1) as part of the notice of dis-  
10 agreement filed by the claimant in accordance with  
11 paragraph (1)(A).

12 (3) REVERSION.—

13 (A) At any time, a claimant who makes an  
14 election under paragraph (1) may elect to revert  
15 to the standard appeals process. Such a rever-  
16 sion shall be final.

17 (B) A claimant described in subparagraph  
18 (A), or a claimant who makes an election under  
19 paragraph (1) but is later determined to be in-  
20 eligible for the pilot program under subsection  
21 (a), shall revert to the standard appeals process  
22 without any penalty to the claimant other than  
23 the loss of the docket number associated with  
24 the fully developed appeal.

1           (4) OUTREACH.—In providing claimants with  
2 notices of the determination of a claim during the  
3 period in which the pilot program under subsection  
4 (a) is carried out, the Secretary shall conduct out-  
5 reach as follows:

6           (A) The Secretary shall provide to the  
7 claimant (and to the representative of record of  
8 the claimant, if any) information regarding—

9           (i) the pilot program, including the  
10 advantages and disadvantages of the pro-  
11 gram;

12           (ii) how to make an election under  
13 paragraph (1);

14           (iii) the limitation on the use of new  
15 evidence described in paragraph (3) of sub-  
16 section (c) and the development of infor-  
17 mation under paragraph (4) of such sub-  
18 section; and

19           (iv) the ability of the claimant to seek  
20 advice and education regarding such proc-  
21 ess from veterans service organizations, at-  
22 torneys, and claims agents recognized  
23 under chapter 59 of title 38, United States  
24 Code.

1           (B) The Secretary shall collaborate, part-  
2 ner with, and give weight to the advice of the  
3 three veterans service organizations with the  
4 most members to publish on the Internet  
5 website of the Department of Veterans Affairs  
6 an online tutorial explaining the advantages and  
7 disadvantages of the pilot program.

8           (c) TREATMENT BY DEPARTMENT AND BOARD.—

9           (1) PROCESS.—Upon the election of a claimant  
10 to file a fully developed appeal pursuant to sub-  
11 section (b)(1), the Secretary shall—

12           (A) not provide the claimant with a state-  
13 ment of the case nor require the claimant to file  
14 a substantive appeal; and

15           (B) transfer jurisdiction over the fully de-  
16 veloped appeal directly to the Board of Vet-  
17 erans' Appeals.

18           (2) DOCKET.—

19           (A) The Board of Veterans' Appeals  
20 shall—

21           (i) maintain fully developed appeals  
22 on a separate docket than standard ap-  
23 peals;

24           (ii) decide fully developed appeals in  
25 the order that the fully developed appeals

1 are received on the fully developed appeal  
2 docket;

3 (iii) except as provided by subpara-  
4 graph (B), decide not more than one fully  
5 developed appeal for each four standard  
6 appeals decided; and

7 (iv) to the extent practicable, decide  
8 each fully developed appeal by the date  
9 that is one year following the date on  
10 which the claimant files the notice of dis-  
11 agreement.

12 (B) Beginning one year after the date on  
13 which the pilot program under subsection (a)  
14 commences, the Board may adjust the number  
15 of standard appeals decided for each fully devel-  
16 oped appeal under subparagraph (A)(iii) if the  
17 Board determines that such adjustment is fair  
18 for both standard appeals and fully developed  
19 appeals.

20 (3) LIMITATION ON USE OF NEW EVIDENCE.—

21 (A) Except as provided by subparagraphs  
22 (B) and (C)—

23 (i) a claimant may not submit or iden-  
24 tify to the Board of Veterans' Appeals any  
25 new evidence relating to a fully developed

1 appeal after filing such appeal unless the  
2 claimant reverts to the standard appeals  
3 process pursuant to subsection (b)(3); and

4 (ii) if a claimant submits or identifies  
5 any such new evidence, such submission or  
6 identification shall be deemed to be an  
7 election to make such a reversion pursuant  
8 to subsection (b)(3).

9 (B) Subparagraph (A) shall not apply to  
10 evidence developed pursuant to paragraphs (4)  
11 and (5). The Board shall consider such evidence  
12 in the first instance without consideration by  
13 the Veterans Benefits Administration.

14 (C) The representative of record of a  
15 claimant for appeals purposes, if any, shall be  
16 provided an opportunity to review the fully de-  
17 veloped appeal of the claimant and submit any  
18 additional arguments or evidence that the rep-  
19 resentative determines necessary during a pe-  
20 riod specified by the Board for purposes of this  
21 subparagraph.

22 (4) PROHIBITION ON REMAND FOR ADDITIONAL  
23 DEVELOPMENT.—If the Board of Veterans' Appeals  
24 determines that a fully developed appeal requires

1 Federal records, independent medical opinions, or  
2 new medical examinations, the Board shall—

3 (A) in accordance with paragraph (5), take  
4 such actions as may be necessary to develop  
5 such records, opinions, or examinations in ac-  
6 cordance with section 5103A of title 38, United  
7 States Code;

8 (B) retain jurisdiction of the fully devel-  
9 oped appeal without requiring a determination  
10 by the Veterans Benefits Administration based  
11 on such records, opinions, or examinations;

12 (C) ensure the claimant, and the represent-  
13 ative of record of a claimant, if any, receives a  
14 copy of such records, opinions, or examinations;  
15 and

16 (D) provide the claimant a period of 90  
17 days after the date of mailing such records,  
18 opinions, or examinations during which the  
19 claimant may provide the Board any additional  
20 evidence without requiring the claimant to make  
21 a reversion pursuant to subsection (b)(3).

22 (5) DEVELOPMENT UNIT.—

23 (A) The Board of Veterans' Appeals shall  
24 establish an office to develop Federal records,  
25 independent medical opinions, and new medical

1 examinations pursuant to paragraph (4)(A)  
2 that the Board determines necessary to decide  
3 a fully developed appeal.

4 (B) The Secretary shall—

5 (i) ensure that the Veterans Benefits  
6 Administration cooperates with the Board  
7 of Veterans' Appeals in carrying out sub-  
8 paragraph (A); and

9 (ii) transfer employees of the Veterans  
10 Benefits Administration who, prior to the  
11 enactment of this Act, were responsible for  
12 processing claims remanded by the Board  
13 of Veterans' Appeals to positions within  
14 the office of the Board established under  
15 subparagraph (A) in a number the Sec-  
16 retary determines sufficient to carry out  
17 such subparagraph.

18 (6) HEARINGS.—Notwithstanding section 7107  
19 of title 38, United States Code, the Secretary may  
20 not provide hearings with respect to fully developed  
21 appeals. If a claimant requests to hold a hearing  
22 pursuant to such section 7107, such request shall be  
23 deemed to be an election to revert to the standard  
24 appeals process pursuant to subsection (b)(3).

1           (d) DURATION; APPLICATION.—The Secretary shall  
2 carry out the pilot program under subsection (a) for a five-  
3 year period beginning one year after the date of the enact-  
4 ment of this Act. This section shall apply only to fully  
5 developed appeals that are filed during such period.

6           (e) REPORTS.—During each year in which the pilot  
7 program under subsection (a) is carried out, the Secretary  
8 shall submit to the Committees on Veterans' Affairs of  
9 the House of Representatives and the Senate a report on  
10 the pilot program. The first such report shall be submitted  
11 by not later than 180 days after the date on which the  
12 pilot program commences. Each report shall include the  
13 following:

14           (1) For the period covered by the report—

15                   (A) the number of claimants who filed a  
16 fully developed appeal under the pilot program;

17                   (B) the average processing time for each  
18 such appeal, measured by each phase of the ap-  
19 peal, and, if the processing time for appeals ex-  
20 ceed one year, the reasons for such processing  
21 time;

22                   (C) a summary of reasons for which the  
23 development of evidence was required under  
24 subsection (c)(5);

1 (D) the number of issues decided, listed by  
2 the disposition of the issue;

3 (E) of the number identified in subpara-  
4 graph (D), the number of issues for which evi-  
5 dence was not so developed, listed by the dis-  
6 position of the issue;

7 (F) of the number of fully developed ap-  
8 peals decided by the Board of Veterans' Ap-  
9 peals, the number of cases from each agency of  
10 original jurisdiction, listed by the disposition of  
11 the issue;

12 (G) the number of fully developed appeals  
13 appealed to the Court of Appeals for Veterans  
14 Claims, listed by the disposition of the case;

15 (H) the number of reversions made under  
16 subsection (b)(3); and

17 (I) any reasons for why a claimant was de-  
18 termined to be ineligible to participate in the  
19 pilot program.

20 (2) A review, made in conjunction with veterans  
21 service organizations, of the efforts of the Secretary  
22 to provide clear rating decisions and improve dis-  
23 ability rating notification letters, including with re-  
24 spect to—

1 (A) the opinions of veterans service organi-  
2 zations regarding such efforts; and

3 (B) how the pilot program improves such  
4 efforts.

5 (3) A recommendation for any changes to im-  
6 prove the pilot program.

7 (4) An assessment of the feasibility and advis-  
8 ability of expanding the pilot program.

9 (f) REGULATIONS.—Not later than one day after the  
10 date of the enactment of this Act, the Secretary shall pub-  
11 lish interim guidance on the pilot program under sub-  
12 section (a). Not later than 90 days after such date of en-  
13 actment, the Secretary shall prescribe regulations to carry  
14 out such pilot program.

15 (g) DEFINITIONS.—In this section:

16 (1) The term “claimant” has the meaning given  
17 that term in section 5100 of title 38, United States  
18 Code.

19 (2) The term “compensation” has the meaning  
20 given that term in section 101 of title 38, United  
21 States Code.

22 (3) The term “fully developed appeal” means  
23 an appeal of a claim for disability compensation that  
24 is—

1 (A) filed by a claimant in accordance with  
2 subsection (b)(1); and

3 (B) considered in accordance with this sec-  
4 tion.

5 (4) The term “standard appeal” means an ap-  
6 peal of a claim for disability compensation that is  
7 not a fully developed appeal.

8 **SEC. 13. DEADLINE FOR CERTIFICATION OF APPEALS**  
9 **FORMS BY REGIONAL OFFICES OF THE DE-**  
10 **PARTMENT OF VETERANS AFFAIRS.**

11 The Secretary of Veterans Affairs shall take such  
12 steps as may be necessary to ensure that when a regional  
13 office of the Department of Veterans Affairs receives a  
14 form known as “VA Form 9, Appeal to Board of Veterans’  
15 Appeals”, or any successor form, submitted by a veteran  
16 to appeal a decision relating to a claim, the regional office  
17 certifies such form by not later than one year after the  
18 date of the receipt of the form.

19 **SEC. 14. EVALUATION OF BACKLOG OF DISABILITY CLAIMS**  
20 **AND APPEALS OF CLAIMS OF DEPARTMENT**  
21 **OF VETERANS AFFAIRS.**

22 (a) IN GENERAL.—There is established a commission  
23 or task force to evaluate the backlog of claims within the  
24 Department of Veterans Affairs and the appeals process  
25 of claims.

1 (b) STUDIES.—

2 (1) BACKLOG STUDY.—

3 (A) IN GENERAL.—The Commission or  
4 Task Force, acting through the subcommittee  
5 described in subsection (d)(2)(A), shall carry  
6 out a study on the backlog of claims, including  
7 the current process the Secretary of Veterans  
8 Affairs uses to evaluate claims and appeals and  
9 the laws and regulations applicable to such  
10 claims and appeals. Such study shall be a com-  
11 prehensive evaluation and assessment of the  
12 backlog of claims, an analysis of possible im-  
13 provements to the procedures used to process  
14 such claims, and any related issues that the  
15 Commission or Task Force considers relevant.

16 (B) MATTERS INCLUDED.—In carrying out  
17 the study under subparagraph (A), the Com-  
18 mission or Task Force shall examine the fol-  
19 lowing:

20 (i) The backlog of claims, including  
21 an analysis of—

22 (I) the most effective means to  
23 quickly and accurately resolve all  
24 claims pending as of the date of the  
25 study; and

1 (II) with respect to the Depart-  
2 ment, the annual funding, number of  
3 full-time employees, workload manage-  
4 ment practices, and the progress, as  
5 of the date of the study, of the stra-  
6 tegic plan.

7 (ii) Possible improvements to the  
8 claims process, including an evaluation and  
9 recommendations with respect to whether  
10 substantive and structural changes to the  
11 overall claims process are required.

12 (iii) In carrying out the evaluation  
13 and recommendations under subparagraph  
14 (B), an examination of—

15 (I) options that make no major  
16 substantive changes to the claims  
17 process;

18 (II) options that maintain the  
19 process but make minor changes; and

20 (III) options that make broad  
21 changes to the process.

22 (2) APPEALS PROCESS STUDY.—

23 (A) IN GENERAL.—The Commission or  
24 Task Force, acting through the subcommittee  
25 described in subsection (d)(2)(B), shall carry

1 out a study on the anticipated increase of ap-  
2 peals of claims, including the current appeals  
3 process and the laws and regulations applicable  
4 to such appeals. Such study shall be a com-  
5 prehensive evaluation and assessment of such  
6 anticipated increase of appeals claims, an anal-  
7 ysis of possible improvements to the procedures  
8 used to process such appeals, and any related  
9 issues that the Commission or Task Force con-  
10 siders relevant.

11 (B) MATTERS INCLUDED.—In carrying out  
12 the study under subparagraph (A), the Com-  
13 mission or Task Force shall examine the fol-  
14 lowing:

15 (i) The anticipated surge in appeals of  
16 claims, including an analysis of—

17 (I) the most effective means to  
18 quickly and accurately resolve pending  
19 appeals and future appeals;

20 (II) with respect to both the  
21 Board and the Court of Appeals for  
22 Veterans Claims, the annual funding,  
23 number of full-time employees, work-  
24 load management practices, and the

1 progress, as of the date of the study,  
2 of the strategic plan; and

3 (III) the efficiency, effectiveness,  
4 and utility of the Veterans Benefits  
5 Management System with respect to  
6 appeals operations, including an iden-  
7 tification of key changes that may  
8 need to be implemented to such sys-  
9 tem.

10 (ii) Possible improvements to the ap-  
11 peals process, including an evaluation and  
12 recommendations with respect to whether  
13 substantive and structural changes to the  
14 overall appeals process are required.

15 (iii) In carrying out the evaluation  
16 and recommendations under clause (ii), an  
17 examination of—

18 (I) options that make no major  
19 substantive changes to the appeals  
20 process;

21 (II) options that maintain the  
22 process but make minor changes;

23 (III) options that make broad  
24 changes to the process;

1 (IV) the necessity of the multi-  
2 tiered levels of appeals at the regional  
3 office level, including filing a notice of  
4 disagreement, receipt of a statement  
5 of the case, supplemental statement of  
6 the case (if applicable), and sub-  
7 stantive appeal (VA Form 9);

8 (V) the role of the Board and the  
9 Appeals Management Center, includ-  
10 ing—

11 (aa) the effectiveness of the  
12 workload management of the  
13 Board and the Center;

14 (bb) whether the Board and  
15 Center should be regionalized or  
16 maintain the centralized struc-  
17 ture in the District of Columbia;

18 (cc) whether Board members  
19 should be required to pass the  
20 administrative law judges certifi-  
21 cation examination; and

22 (dd) whether the Board  
23 should continue to require de  
24 novo review of appeals; and

1 (VI) the role of the Court of Ap-  
2 peals for Veterans Claims and the  
3 United States Court of Appeals for  
4 the Federal Circuit, including—

5 (aa) the continued effective-  
6 ness and necessity of a multi-  
7 tiered structure of judicial re-  
8 view;

9 (bb) whether the Court of  
10 Appeals for Veterans Claims  
11 should have Article I or Article  
12 III status;

13 (cc) expansion of either the  
14 Court of Appeals for Veterans  
15 Claims or the United States  
16 Court of Appeals for the Federal  
17 Circuit jurisdiction, including by  
18 allowing such courts to hear class  
19 action lawsuits with respect to  
20 claims; and

21 (dd) the possibility of ex-  
22 panding judicial review of claims  
23 to all Federal circuit courts of  
24 appeals or allowing judicial re-  
25 view beyond the Court of Appeals

1 for Veterans Claims only by the  
2 Supreme Court.

3 (3) CONSIDERATION.—In carrying out the stud-  
4 ies under paragraph (1)(A) and (2)(A) and making  
5 any recommendations under this section, the Com-  
6 mission or Task Force shall consider the following:

7 (A) The interests of veterans, including  
8 with respect to accuracy, fairness, and trans-  
9 parency in the claims process of the Depart-  
10 ment.

11 (B) The values and requirements of the  
12 Constitution, including with respect to compli-  
13 ance with procedural and substantive due proc-  
14 ess.

15 (C) The public interest, including with re-  
16 spect to the responsible use of available re-  
17 sources.

18 (D) With respect to the study conducted  
19 under paragraph (1)(A), the importance of the  
20 claimant friendly, nonadversarial nature of the  
21 claims process.

22 (E) With respect to the study conducted  
23 under paragraph (2)(A), the importance of an  
24 appeals process that is efficient and easily un-  
25 derstandable by a claimant.

1           (4) ROLE OF SECRETARY, CHAIRMAN OF THE  
2 BOARD, AND CHIEF JUDGE.—

3           (A) INFORMATION.—In carrying out each  
4 study under paragraph (1)(A) and (2)(A), at  
5 times that the Commission or Task Force de-  
6 termines appropriate, the Commission or Task  
7 Force shall submit to the Secretary of Veterans  
8 Affairs, the Chairman of the Board, and the  
9 Chief Judge of the Court of Appeals for Vet-  
10 erans Claims, as the case may be, information  
11 with respect to remedies and solutions that the  
12 Commission or Task Force identifies pursuant  
13 to such a study.

14           (B) IMPLEMENTATION.—The Secretary,  
15 the Chairman of the Board, and the Chief  
16 Judge shall each—

17           (i) fully consider the remedies and so-  
18 lutions submitted to the Secretary, the  
19 Chairman, or the Chief Judge, as the case  
20 may be, under subparagraph (A);

21           (ii) implement such remedies and so-  
22 lutions as the Secretary, the Chairman, or  
23 the Chief Judge, respectively, determines  
24 appropriate; and

1 (iii) submit to Congress justification  
2 for failing to implement any such remedy  
3 or solution.

4 (C) PLAN.—The Commission or Task  
5 Force shall submit to the Secretary, the Chair-  
6 man of the Board, and the Chief Judge a fea-  
7 sible, timely, and cost-effective plan to eliminate  
8 the backlog of appeals of claims based on the  
9 remedies and solutions identified pursuant to  
10 the study under paragraph (2)(A) and the in-  
11 formation submitted under subparagraph (A).

12 (c) COMPREHENSIVE REPORTS.—

13 (1) INITIAL COMPREHENSIVE REPORT.—Not  
14 later than 60 days after the date on which the Com-  
15 mission or Task Force first meets, the Commission  
16 or Task Force shall submit to the President and  
17 Congress an initial comprehensive report on the  
18 studies conducted under paragraphs (1)(A) and  
19 (2)(A) of subsection (b), including—

20 (A) the findings of the causes of the back-  
21 log of claims;

22 (B) a proposed plan to handle the antici-  
23 pated surge in appeals of claims; and

24 (C) the level of cooperation the Commis-  
25 sion or Task Force has received from the Sec-

1           retary and the heads of other departments or  
2           agencies of the Federal Government.

3           (2) INTERIM COMPREHENSIVE REPORTS.—Not  
4           later than 90 days after the date on which the Com-  
5           mission or Task Force first meets, and each 30-day  
6           period thereafter ending on the date on which the  
7           Commission or Task Force submits the final com-  
8           prehensive report under paragraph (3), the Commis-  
9           sion or Task Force shall submit to the President  
10          and Congress a comprehensive report on—

11                   (A) the progress of the Secretary with re-  
12                   spect to implementing solutions to expedite the  
13                   elimination of the backlog of claims pursuant to  
14                   subsection (b)(4)(B)(ii);

15                   (B) the progress of the Secretary, the  
16                   Chairman of the Board, and the Chief Judge of  
17                   the Court of Appeals for Veterans Claims with  
18                   respect to implementing solutions to complete  
19                   appeals of claims in a timely manner in a time-  
20                   ly manner pursuant to such subsection; and

21                   (C) the level of cooperation the Commis-  
22                   sion or Task Force has received from the Sec-  
23                   retary and the heads of other departments or  
24                   agencies of the Federal Government.

1           (3) FINAL COMPREHENSIVE REPORT.—Not  
2 later than 180 days after the date on which the  
3 Commission or Task Force first meets, the Commis-  
4 sion or Task Force shall submit to the President  
5 and Congress a comprehensive report on the fol-  
6 lowing:

7           (A) With respect to the study conducted  
8 under subsection (b)(1)(A)—

9           (i) The findings, conclusions, and rec-  
10 ommendations of the Commission or Task  
11 Force with respect to the matters referred  
12 to in such subsection.

13           (ii) The recommendations of the Com-  
14 mission or Task Force for revising and im-  
15 proving the backlog of claims and the pro-  
16 cedures used to process claims.

17           (iii) The progress of the Secretary  
18 with respect to implementing solutions to  
19 expedite the elimination of the backlog of  
20 claims pursuant to subsection (b)(4)(B)(ii).

21           (iv) Other information and rec-  
22 ommendations with respect to claims as  
23 the Commission or Task Force considers  
24 appropriate.

1 (B) With respect to the study conducted  
2 under subsection (b)(2)(A)—

3 (i) The findings, conclusions, and rec-  
4 ommendations of the Commission or Task  
5 Force with respect to the matters referred  
6 to in such subsection.

7 (ii) The recommendations of the Com-  
8 mission or Task Force for revising and im-  
9 proving the appeals process;

10 (iii) The information described in sub-  
11 section (b)(4)(A).

12 (iv) The feasible, timely, and cost ef-  
13 fective plan described in subsection  
14 (b)(4)(C).

15 (v) The progress of the Secretary, the  
16 Chairman of the Board, and the Chief  
17 Judge of the Court of Appeals for Vet-  
18 erans Claims with respect to implementing  
19 solutions to provide timely appeals of  
20 claims.

21 (vi) Other information and rec-  
22 ommendations with respect to the appeals  
23 process as the Commission or Task Force  
24 considers appropriate.

25 (d) MEMBERSHIP.—

1           (1) NUMBER AND APPOINTMENT.—The Com-  
2 mission or Task Force shall be composed of 15  
3 members, appointed as follows:

4           (A) Two members appointed by the Speak-  
5 er of the House of Representatives, one of  
6 whom shall be designated to serve upon the  
7 Subcommittee on the Backlog of Claims and  
8 one of whom shall be designated to serve upon  
9 the Subcommittee on Appeals.

10          (B) Two members appointed by the minor-  
11 ity leader of the House of Representatives, one  
12 of whom shall be designated to serve upon the  
13 Subcommittee on the Backlog of Claims and  
14 one of whom shall be designated to serve upon  
15 the Subcommittee on Appeals.

16          (C) Two members appointed by the major-  
17 ity leader of the Senate, one of whom shall be  
18 designated to serve upon the Subcommittee on  
19 the Backlog of Claims and one of whom shall  
20 be designated to serve upon the Subcommittee  
21 on Appeals.

22          (D) Two members appointed by the minor-  
23 ity leader of the Senate, one of whom shall be  
24 designated to serve upon the Subcommittee on  
25 the Backlog of Claims and one of whom shall

1 be designated to serve upon the Subcommittee  
2 on Appeals.

3 (E) Three members appointed by the  
4 President, two of whom shall be designated to  
5 serve upon the Subcommittee on the Backlog of  
6 Claims and one of whom shall be designated to  
7 serve upon the Subcommittee on Appeals.

8 (F) One member appointed by the Sec-  
9 retary of Defense, whom shall be designated to  
10 serve upon the Subcommittee on the Backlog of  
11 Claims.

12 (G) Two members appointed by the Sec-  
13 retary of Veterans Affairs, one of whom shall be  
14 designated to serve upon the Subcommittee on  
15 the Backlog of Claims and one of whom shall  
16 be designated to serve upon the Subcommittee  
17 on Appeals.

18 (H) One member appointed by the Chief  
19 Judge of the Court of Appeals for Veterans  
20 Claims, whom shall be designated to serve upon  
21 the Subcommittee on Appeals.

22 (2) SUBCOMMITTEES.—The Commission or  
23 Task Force shall have two subcommittees as follows:

1           (A) A Subcommittee on the Backlog of  
2           Claims consisting of the eight members des-  
3           ignated in accordance with paragraph (1).

4           (B) A Subcommittee on Appeals consisting  
5           of the seven members designated in accordance  
6           with paragraph (1).

7           (3) QUALIFICATIONS.—Each member appointed  
8           under paragraph (1) shall be appointed based on the  
9           experience of the member as a veteran or on the  
10          subject matter expertise or other relevant experience  
11          of the member.

12          (4) ADVISORS.—

13           (A) IN GENERAL.—In addition to the 15  
14          members appointed under paragraph (1), the  
15          Commission or Task Force shall—

16           (i) have five nonvoting, nonmember  
17          advisors, appointed by a majority of the  
18          Commission or Task Force, each from a  
19          different organization that represents the  
20          interests of veterans; and

21           (ii) seek advice from experts from  
22          nongovernmental organizations (including  
23          veterans service organizations and military  
24          organizations), the Internet technology in-  
25          dustry, and the insurance industry.

1           (B) ADVICE.—Individuals described in  
2           clause (i) and (ii) of subparagraph (A) shall  
3           provide advice to both subcommittees described  
4           in paragraph (2).

5           (5) CHAIRMAN.—The President shall designate  
6           a member of the Commission or Task Force who is  
7           appointed by the President and designated to serve  
8           upon the Subcommittee on the Backlog of Claims to  
9           serve as the chairman of the Commission or Task  
10          Force. The chairman may designate a member to  
11          serve as the chairman of the Subcommittee on the  
12          Backlog of Claims and a member to serve as the  
13          chairman of the Subcommittee on Appeals to chair  
14          such subcommittees as the designee of the chairman  
15          of the Commission or Task Force.

16          (6) PERIOD OF APPOINTMENT.—Members of  
17          the Commission or Task Force shall be appointed  
18          for the life of the Commission or Task Force. A va-  
19          cancy shall not affect its powers.

20          (7) VACANCY.—A vacancy on the Commission  
21          or Task Force shall be filled in the manner in which  
22          the original appointment was made.

23          (8) APPOINTMENT DEADLINE.—The appoint-  
24          ment of members of the Commission or Task Force  
25          established in this section shall be made not later

1 than 15 days after the date of the enactment of this  
2 Act.

3 (e) MEETINGS.—

4 (1) INITIAL MEETING.—The Commission or  
5 Task Force shall hold its first meeting not later  
6 than 15 days after the date on which a majority of  
7 the members are appointed.

8 (2) MEETINGS.—The Commission or Task  
9 Force shall meet at the call of the chairman.

10 (3) QUORUM.—A majority of the members of  
11 the Commission or Task Force shall constitute a  
12 quorum, but a lesser number may hold hearings.

13 (f) POWERS OF THE COMMISSION OR TASK FORCE.—

14 (1) HEARINGS.—The Commission or Task  
15 Force may hold such hearings, sit and act at such  
16 times and places, take such testimony, and receive  
17 such evidence as the Commission or Task Force con-  
18 siders advisable to carry out the purposes of this  
19 section.

20 (2) INFORMATION FROM FEDERAL AGENCIES.—

21 The Commission or Task Force may secure directly  
22 from any department or agency of the Federal Gov-  
23 ernment such information as the Commission or  
24 Task Force considers necessary to carry out the pro-  
25 visions of this section. Upon request of the chair-

1 man, the head of such department or agency shall  
2 furnish such information to the Commission or Task  
3 Force.

4 (3) POSTAL SERVICES.—The Commission or  
5 Task Force may use the United States mails in the  
6 same manner and under the same conditions as  
7 other departments and agencies of the Federal Gov-  
8 ernment.

9 (4) GIFTS.—The Commission or Task Force  
10 may accept, use, and dispose of gifts or donations of  
11 service or property.

12 (g) PERSONNEL MATTERS.—

13 (1) COMPENSATION OF MEMBERS.—Each mem-  
14 ber of the Commission or Task Force who is not an  
15 officer or employee of the United States shall be  
16 compensated at a rate equal to the daily equivalent  
17 of the annual rate of basic pay prescribed for level  
18 IV of the Executive Schedule under section 5315 of  
19 title 5, United States Code, for each day (including  
20 travel time) during which the member is engaged in  
21 the performance of the duties of the Commission or  
22 Task Force. All members of the Commission or  
23 Task Force who are officers or employees of the  
24 United States shall serve without compensation in

1 addition to that received for their services as officers  
2 or employees of the United States.

3 (2) TRAVEL EXPENSES.—The members of the  
4 Commission or Task Force shall be allowed travel  
5 expenses, including per diem in lieu of subsistence,  
6 at rates authorized for employees of agencies under  
7 subchapter I of chapter 57 of title 5, United States  
8 Code, while away from their homes or regular places  
9 of business in the performance of service of the  
10 Commission or Task Force.

11 (3) STAFF.—

12 (A) APPOINTMENT.—The chairman of the  
13 Commission or Task Force may, without regard  
14 to the civil service laws and regulations, appoint  
15 an executive director and such other personnel  
16 as may be necessary to enable the Commission  
17 or Task Force to perform its duties. The ap-  
18 pointment of an executive director shall be sub-  
19 ject to the approval of the Commission or Task  
20 Force.

21 (B) COMPENSATION.—The chairman of  
22 the Commission or Task Force may fix the  
23 compensation of the executive director and  
24 other personnel without regard to the provisions  
25 of chapter 51 and subchapter III of chapter 53

1 of title 5, United States Code, relating to classi-  
2 fication of positions and General Schedule pay  
3 rates, except that the rate of pay for the execu-  
4 tive director and other personnel may not ex-  
5 ceed the rate payable for level V of the Execu-  
6 tive Schedule under section 5316 of such title.

7 (4) DETAIL OF GOVERNMENT EMPLOYEES.—  
8 Upon request of the chairman of the Commission or  
9 Task Force, the head of any department or agency  
10 of the Federal Government may detail, on a nonre-  
11 imburseable basis, any personnel of that department  
12 or agency to the Commission or Task Force to assist  
13 it in carrying out its duties.

14 (5) PROCUREMENT OF TEMPORARY AND INTER-  
15 MITTENT SERVICES.—The chairman of the Commis-  
16 sion or Task Force may procure temporary and  
17 intermittent services under section 3109(b) of title  
18 5, United States Code, at rates for individuals which  
19 do not exceed the daily equivalent of the annual rate  
20 of basic pay prescribed for level V of the Executive  
21 Schedule under section 5316 of such title.

22 (h) TERMINATION OF COMMISSION OR TASK  
23 FORCE.—The Commission or Task Force shall terminate  
24 60 days after the date on which the Commission or Task

1 Force submits the final comprehensive report under sub-  
2 section (c)(3).

3 (i) FUNDING.—

4 (1) IN GENERAL.—The Secretary shall, upon  
5 the request of the chairman of the Commission or  
6 Task Force, make available to the Commission or  
7 Task Force such amounts as the Commission or  
8 Task Force may require to carry out the duties of  
9 the Commission or Task Force under this section.

10 (2) AVAILABILITY.—Any sums made available  
11 to the Commission or Task Force shall remain avail-  
12 able, without fiscal year limitation, until the termi-  
13 nation of the Commission or Task Force.

14 (j) DEFINITIONS.—In this section:

15 (1) The term “appeals process” means the  
16 process to appeal the determination by the Secretary  
17 of a claim beginning with the notice of disagreement  
18 filed pursuant to section 7105 of title 38, United  
19 States Code, and ending with the review of a deci-  
20 sion by the Supreme Court pursuant to section  
21 7292(c) of such title.

22 (2) The term “Board” means the Board of Vet-  
23 erans’ Appeals.

24 (3) The term “strategic plan” means the Stra-  
25 tegic Plan to Eliminate the Compensation Claims

1 Backlog, published by the Secretary of Veterans Af-  
2 fairs on January 25, 2013.

3 (k) EFFECTIVE DATE.—This section shall take effect  
4 on the date that is one year after the date of the enact-  
5 ment of this Act.

6 **SEC. 15. METHODS FOR VALIDATING CERTAIN WORLD WAR**

7 **II MERCHANT MARINER SERVICE CONSID-**  
8 **ERED TO BE ACTIVE SERVICE BY THE SEC-**  
9 **RETARY OF VETERANS AFFAIRS.**

10 (a) IN GENERAL.—For the purposes of verifying that  
11 an individual performed service under honorable condi-  
12 tions that satisfies the requirements of a coastwise mer-  
13 chant seaman who is recognized pursuant to section 401  
14 of the GI Bill Improvement Act of 1977 (Public Law 95–  
15 202; 38 U.S.C. 106 note) as having performed active duty  
16 service for the purposes described in subsection (c)(1), the  
17 Secretary of Defense shall accept the following:

18 (1) In the case of an individual who served on  
19 a coastwise merchant vessel seeking such recognition  
20 for whom no applicable Coast Guard shipping or dis-  
21 charge form, ship logbook, merchant mariner’s docu-  
22 ment or Z-card, or other official employment record  
23 is available, the Secretary shall provide such recogni-  
24 tion on the basis of applicable Social Security Ad-  
25 ministration records submitted for or by the indi-

1       vidual, together with validated testimony given by  
2       the individual or the primary next of kin of the indi-  
3       vidual that the individual performed such service  
4       during the period beginning on December 7, 1941,  
5       and ending on December 31, 1946.

6               (2) In the case of an individual who served on  
7       a coastwise merchant vessel seeking such recognition  
8       for whom the applicable Coast Guard shipping or  
9       discharge form, ship logbook, merchant mariner's  
10      document or Z-card, or other official employment  
11      record has been destroyed or otherwise become un-  
12      available by reason of any action committed by a  
13      person responsible for the control and maintenance  
14      of such form, logbook, or record, the Secretary shall  
15      accept other official documentation demonstrating  
16      that the individual performed such service during pe-  
17      riod beginning on December 7, 1941, and ending on  
18      December 31, 1946.

19              (3) For the purpose of determining whether to  
20      recognize service allegedly performed during the pe-  
21      riod beginning on December 7, 1941, and ending on  
22      December 31, 1946, the Secretary shall recognize  
23      masters of seagoing vessels or other officers in com-  
24      mand of similarly organized groups as agents of the  
25      United States who were authorized to document any

1 individual for purposes of hiring the individual to  
2 perform service in the merchant marine or dis-  
3 charging an individual from such service.

4 (b) TREATMENT OF OTHER DOCUMENTATION.—

5 Other documentation accepted by the Secretary of Defense  
6 pursuant to subsection (a)(2) shall satisfy all requirements  
7 for eligibility of service during the period beginning on De-  
8 cember 7, 1941, and ending on December 31, 1946.

9 (c) BENEFITS ALLOWED.—

10 (1) BURIAL BENEFITS ELIGIBILITY.—Service of  
11 an individual that is considered active duty pursuant  
12 to subsection (a) shall be considered as active duty  
13 service with respect to providing burial benefits  
14 under chapters 23 and 24 of title 38, United States  
15 Code, to the individual.

16 (2) MEDALS, RIBBONS, AND DECORATIONS.—  
17 An individual whose service is recognized as active  
18 duty pursuant to subsection (a) may be awarded an  
19 appropriate medal, ribbon, or other military decora-  
20 tion based on such service.

21 (3) STATUS OF VETERAN.—An individual whose  
22 service is recognized as active duty pursuant to sub-  
23 section (a) shall be honored as a veteran but shall  
24 not be entitled by reason of such recognized service

1 to any benefit that is not described in this sub-  
2 section.

3 (d) DETERMINATION OF COASTWISE MERCHANT  
4 SEAMAN.—The Secretary of Defense shall verify that an  
5 individual performed service under honorable conditions  
6 that satisfies the requirements of a coastwise merchant  
7 seaman pursuant to this section without regard to the sex,  
8 age, or disability of the individual during the period in  
9 which the individual served as such a coastwise merchant  
10 seaman.

11 (e) DEFINITION OF PRIMARY NEXT OF KIN.—In this  
12 section, the term “primary next of kin” with respect to  
13 an individual seeking recognition for service under this  
14 section means the closest living relative of the individual  
15 who was alive during the period of such service.

16 (f) EFFECTIVE DATE.—This section shall take effect  
17 90 days after the date of the enactment of this Act.

18 **SEC. 16. DESIGNATION OF AMERICAN WORLD WAR II CIT-**

19 **IES.**

20 (a) IN GENERAL.—The Secretary of Veterans Affairs  
21 shall designate at least one city in the United States each  
22 year as an “American World War II City”.

23 (b) CRITERIA FOR DESIGNATION.—After the des-  
24 ignation made under subsection (c), the Secretary, in con-  
25 sultation with the Secretary of Defense, shall make each

1 designation under subsection (a) based on the following  
2 criteria:

3           (1) Contributions by a city to the war effort  
4           during World War II, including those related to de-  
5           fense manufacturing, bond drives, service in the  
6           Armed Forces, and the presence of military facilities  
7           within the city.

8           (2) Efforts by a city to preserve the history of  
9           the city's contributions during World War II, includ-  
10          ing through the establishment of preservation orga-  
11          nizations or museums, restoration of World War II  
12          facilities, and recognition of World War II veterans.

13          (c) **FIRST AMERICAN WORLD WAR II CITY.**—The  
14          city of Wilmington, North Carolina, is designated as an  
15          “American World War II City”.

16 **SEC. 17. SENSE OF CONGRESS REGARDING AMERICAN VET-**  
17 **ERANS DISABLED FOR LIFE.**

18          (a) **FINDINGS.**—Congress makes the following find-  
19          ings:

20               (1) There are at least 3,600,000 veterans cur-  
21               rently living with service-connected disabilities.

22               (2) As a result of their service, many veterans  
23               are permanently disabled throughout their lives and  
24               in many cases must rely on the support of their fam-

1 ilies and friends when these visible and invisible bur-  
2 dens become too much to bear alone.

3 (3) October 5, which is the anniversary of the  
4 dedication of the American Veterans Disabled for  
5 Life Memorial, has been recognized as an appro-  
6 priate day on which to honor American veterans dis-  
7 abled for life each year.

8 (b) SENSE OF CONGRESS.—Congress—

9 (1) expresses its appreciation to the men and  
10 women left permanently wounded, ill, or injured as  
11 a result of their service in the Armed Forces;

12 (2) supports the annual recognition of Amer-  
13 ican veterans disabled for life each year; and

14 (3) encourages the American people to honor  
15 American veterans disabled for life each year with  
16 appropriate programs and activities.

17 **SEC. 18. EXTENSION OF PILOT PROGRAM ON COUNSELING**  
18 **IN RETREAT SETTINGS FOR WOMEN VET-**  
19 **ERANS NEWLY SEPARATED FROM SERVICE IN**  
20 **THE ARMED FORCES.**

21 Section 203(d) of the Caregivers and Veterans Omni-  
22 bus Health Services Act of 2010 (Public Law 111–163;

1 38 U.S.C. 1712A note) is amended by striking “December  
2 31, 2016” and inserting “December 31, 2021”.

Passed the House of Representatives February 9,  
2016.

Attest:

*Clerk.*



114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 677

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## AN ACT

To amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.