119TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
119–349

PROTECTING VETERAN'S CLAIM OPTIONS ACT

OCTOBER 21, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BOST, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 3834]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3834) to amend title 38, United States Code, to clarify the jurisdiction and certain rules of evidence of the Board of Veterans' Appeals, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

The amendment is as follows:

Strike all after the enacting clause and insert the following:

69–006

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protecting Veteran's Claim Options Act".

SEC. 2. BOARD OF VETERANS' APPEALS: JURISDICTION; EVIDENCE IN CERTAIN CASES.

(a) JURISDICTION OVER A SUPPLEMENTAL CLAIM.—Section 7104 of title 38, United States Code, is amended, in subsection (a)—

(1) by inserting "(1)" before "All questions"; and

(2) by adding at the end the following new paragraph:

"(2) In an appeal of a decision under section 5108 of this title regarding a supplemental claim under section 5104C(a)(1)(B) of this title, the Board may not deny relief (including by denying review of the merits of the claim) solely on the basis that the appellant did not present or secure new and relevant evidence with respect to such supplemental claim.".

(b) EVIDENCE IN CASES REMANDED TO THE BOARD BY THE COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7113 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) CASES REMANDED BY THE COURT OF APPEALS FOR VETERANS CLAIMS.—(1) Except as provided in paragraph (2), for cases remanded to the Board by the Court of Appeals for Veterans Claims, the evidentiary record before the Board shall be limited to the evidence previously considered by the Board in such case.

"(2) The evidentiary record before the Board for cases described in paragraph (1) shall include evidence submitted by the appellant and his or her representative, if any, within 90 days following such remand, which the Board shall consider in the first instance.".

SEC. 3. EXTENSION OF CERTAIN LIMITS ON PAYMENTS OF PENSION.

Section 5503(d)(7) of title 38, United States Code, is amended by striking "November 30, 2031" and inserting "January 30, 2035".

PURPOSE AND SUMMARY

H.R. 3834, the "Protecting Veteran's Claim Options Act," was introduced by Representative Mike Bost of Illinois on July 23, 2025. The bill, as amended, would ensure that, if the Department of Veterans Affairs (VA) Board of Veterans' Appeals (Board) agrees with a Veterans Benefits Administration (VBA) decision that a veteran did not submit "new and relevant evidence" in their supplemental claim for benefits, the Board would still review that veteran's claim on the merits and not deny their entire claim, solely on that question of "new and relevant evidence." This bill, as amended, would also allow veterans to submit additional evidence to the Board after a U.S. Court of Appeals for Veterans Claims (Court) remand of a claim.

BACKGROUND AND NEED FOR LEGISLATION

Section 1: Short Title

This Act may be cited as the "Protecting Veteran's Claim Options Act".

Section 2: Board of Veterans' Appeals: Jurisdiction; Evidence in Certain Cases

The Veterans Appeals Improvement and Modernization Act of 2017 (P.L. 115–55) (AMA) was signed into law on August 23, 2017. The AMA provided claimants for VA benefits with three avenues to dispute a decision by VA on eligibility for benefits. One such avenue is supplemental claims. This option allows veterans, after receiving a decision from the agency of jurisdiction (AOJ), to submit new evidence on appeal so long as that evidence is deemed to be new and relevant. These supplemental claims, if submitted within a year after a decision is rendered on the initial claim for benefits, allow for effective date protection of one year and places the onus on VA in its "Duty to Assist" veterans in developing their supplemental claim.[1] Effective date protection allows for a claimant to receive "past-due" benefits for a favorably granted decision, meaning that VA shall pay that veteran the benefits they would have received from their granted claim starting from the most advantageous "effective date;" which is often the date the claim was first filed. The decision makers for these claims are Veterans Service Representatives (VSRs) and Rating VSRs (RVSRs).

To be considered, supplemental claims require the identification or submission of new and relevant evidence. VA defines new and relevant evidence as information not previously considered in a claimant's VA benefits claim or information that proves, or disproves, something in your claim.[2] In the case of an unfavorable supplemental claim decision, claimants have the option to request a Higher-Level Review, a Board Appeal before a Veterans Law Judge (VLJ), or file another supplemental claim.[3]

Under current law, if the claimant chooses to request a Board Appeal and a VLJ finds that VBA correctly decided that the claimant did not submit new and relevant evidence, the Board will not review the evidence again within that claim for errors on the merits. In a June 24, 2025, legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs, Mr. Evan Deichert, Acting Deputy Vice Chairman, Veterans Law Judge Board of Veterans' Appeals, Department of Veterans Affairs, testified on the issue that this presents when weighed against the principles of the AMA:

> "One of the fundamental tenets of the AMA is that VA is not required to re-adjudicate a claim absent new and relevant (NAR) evidence. On the other hand, the AMA provides a general right of appeal to the Board. These principles are in tension where a claimant receives an AOJ (e.g., VBA) decision on the merits, files a supplemental claim, and then the AOJ denies re-adjudication for lack of NAR. At that point, the claimant may still want to appeal the merits denial to the Board without new evidence, but the only determination available to appeal is the question of NAR, because the merits decision has been superseded by the NAR decision. The claimant, through a choice to file a supplemental claim without evidence instead of an appeal to the Board has lost the ability to appeal the AOJ's merits decision to the Board.

This is sometimes referred to as the "supplemental claim trap."[4]

To address this issue, this section would amend current law so that the Board may not deny relief, including denying review of the merits, to any appellant on a supplemental claim for VA benefits solely because appellant did not present new and relevant evidence on that supplemental claim. This section would eliminate the "supplemental claim trap" and ensure veterans can receive review of their appeal on a claim for benefits, without falling victim to a

---

[1] Veterans Benefits Admin., Dept' of Veterans Affairs, Manual M21–5, *Appeals and Reviews*, Chapter 4—Appeals Modernization Act (AMA) Control and Other Activities, (Updated Aug. 25, 2025).

[2] Dep't of Veterans Affs., VA.gov, *Decision reviews and appeals*, Supplemental Claims, (Accessed Sept. 19, 2025).

[3] Dep't of Veterans Affs., VA.gov, *Decision reviews and appeals*, Supplemental Claims, (Accessed Sept. 19, 2025).

[4] Testimony of Department of Veterans Affairs (June 24, 2025), HHRG-119-VR09-Wstate-DeichertE-20250624.pdf (House.gov).

legal loophole, which would deny them the right to have the review they originally sought.

Additionally, under current law it is unclear whether claimants for VA benefits have the right to submit new and relevant evidence to the Board following a remand from the Court. This section would remedy that by providing that following a Court remand, a veteran, survivor, family member, caregiver, or another claimant for VA benefits may submit evidence to the Board within 90 days. The Board would be required to consider this evidence in the first instance. In a June 24, 2025, legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs, the National Organization of Veterans' Advocates submitted a Statement for the Record in support of this bill, stating that "This provision promotes efficiency for appellants and the system overall." [5]

The Committee believes that this section is important to ensure that veterans receive Board decisions that are ". . . based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation." [6]

Section 3: Extension of Certain Limits on Payments of Pension

Under current law (38 U.S.C. § 5503(d)), the amount of VA pension paid to a veteran with no spouse or child, a veteran's surviving spouse with no child, or a veteran's child who are admitted to a VA or Medicaid sponsored nursing facility is capped at $90 a month. This section would cover the costs of the other sections of this bill by extending this pension limitation by thirty-eight months to January 30, 2035. Because they receive government-sponsored care in a nursing home, these pension beneficiaries do not require the full amount of pension to cover their cost of living. The Committee believes this short-term extension of the current limit on pension payments is a reasonable way to cover the costs associated with the other sections of this bill.

HEARINGS

On June 24, 2025, the Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs held a legislative hearing on H.R. 3834 and other bills that were pending before the subcommittee.

The following witnesses testified:

The Honorable Mike Bost, U.S. House of Representatives; The Honorable Elise Stefanik, U.S. House of Representatives; The Honorable Julia Brownley, U.S. House of Representatives; The Honorable Chuck Edwards, U.S. House of Representatives; The Honorable Tom Barrett, U.S. House of Representatives; The Honorable Tim Kennedy, U.S. House of Representatives; The Honorable Jahana Hayes, U.S. House of Representatives; Mrs. Julie Guleff, Caregiver and Surviving Spouse of Stephen Guleff, Vietnam Veteran; Mr. Michael J. Wishnie, William O. Douglas Clinical Professor of Law and Director, Veterans Legal Services Clinic, Yale Law School; Ms. Candace Wheeler, Senior

[5] Statement for the Record of the National Organization of Veterans' Advocates (June 24, 2025), HHRG-119-VR09-20250624-SD006.pdf (House.gov).

[6] 38 U.S.C. § 7104(a).

Director, Government and Legislative Affairs, Tragedy Assistance Program for Survivors (TAPS); Mr. Evan Deichert, Acting Deputy Vice Chairman, Board of Veterans' Appeals, U.S. Department of Veterans Affairs; Mr. Kevin Friel, Executive Director, Pension & Fiduciary Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. James W. Smith II, Deputy Executive Director, Policy and Procedures, Compensation Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Dr. Colleen Richardson, Executive Director, Caregiver Support Program, Veterans Health Administration, U.S. Department of Veterans Affairs; Colonel (Ret.) Tiffany M. Wagner, USAF, Clerk of the Court, U.S. Court of Appeals for Veterans Claims.

The following individuals and organizations submitted statements for the record:

The Honorable Debbie Wasserman Schultz of Florida; Gold Star Spouses of America; Veterans of Foreign Wars; Vietnam Veterans of America; National Organization of Veterans' Advocates; Disabled American Veterans; Quality of Life Foundation; Jewish Federations of North America; Paralyzed Veterans of America; Administrative Conference of the United States; Afikim Foundation; American Legion; Shiron Collective; American Federation of Government Employees; Republican Jewish Coalition; Jonah Platt in their personal capacity; Shabbos Kestenbaum in their personal capacity; John Ondrasik in their personal capacity; Lizzy Savetsky in their personal capacity; Aviva Klompas in their personal capacity; Lee Trink in their personal capacity; Bethany Mandel in their personal capacity; Iddo Goldberg in their personal capacity; Liora Rezin their personal capacity; Jason Greenblatt in their personal capacity; Sarah Stern in their personal capacity; Nicole Neily in their personal capacity; Adam Zimmerman in their personal capacity.

SUBCOMMITTEE CONSIDERATION

On July 23, 2025, the Subcommittee on Disability Assistance and Memorial Affairs was discharged from further consideration of H.R. 3834.

COMMITTEE CONSIDERATION

On July 23, 2025, the full Committee met in an open markup session with a quorum being present, to consider H.R. 3834. During consideration of the bill, the following amendments were offered:

An amendment in the nature of a substitute to H.R. 3834 was offered by Chairman Bost to add a new section that would fully offset the cost of this legislation. This amendment in the nature of a substitute was adopted by voice vote.

A motion by Ranking Member Takano of California to report H.R. 3834, as amended, favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, no recorded votes were taken on amendments or in connection with ordering H.R. 3834, as amended, reported to the House.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives of H.R. 3834, as amended, are to ensure that veterans can submit new and relevant evidence to claims for VA benefits after a Court remand and ensure the Board does not deny relief solely on the basis that the veteran did not present new and relevant evidence on a supplemental claim.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3834, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the Congressional Budget Office cost estimate on this measure.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 3834, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

At a Glance

H.R. 3834, Protecting Veteran's Claims Option Act

As ordered reported by the House Committee on Veterans' Affairs on July 23, 2025

By Fiscal Year, Millions of Dollars	2026	2026-2030	2026-2035
Direct Spending (Outlays)	2	29	-39
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	2	29	-39
Spending Subject to Appropriation (Outlays)	1	8	18

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2036?	< $2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2036?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would:

- Require the Board of Veterans Appeals (BVA) to consider additional evidence in appeals for veterans' benefits
- Prohibit BVA from denying certain appeals for veterans' benefits solely because the appellant did not submit new evidence
- Extend the reduction of pensions that the Department of Veterans Affairs (VA) pays to veterans and survivors residing in Medicaid nursing homes

Estimated budgetary effects would mainly stem from:

- Paying additional VA benefits
- Increasing the number of appeals that BVA considers
- Reducing VA pension payments

Areas of significant uncertainty include:

- The number of additional claimants who would receive VA benefits

Bill summary: H.R. 3843 would require the Board of Veterans Appeals (BVA) to accept additional evidence from claimants when the Court of Appeals for Veterans' Claims (CAVC) remands certain appeals for veterans' benefits. BVA is a component of the Department of Veterans Affairs (VA) that hears appeals on matters affecting VA benefits. Further, the bill would prohibit VA from rejecting appeals of claims for veterans' benefits solely because the appellant does not submit new or relevant evidence. Finally, the bill would extend the reduction of pension payments for veterans and survivors who reside in Medicaid nursing homes.

Estimated Federal cost: The estimated budgetary effects of HR 3834 are shown in Table 1. The costs of the legislation fall within budget functions 550 (health) and 700 (veterans benefits and services).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 3834

	By fiscal year, millions of dollars—											
	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2026–2030	2026–2035
INCREASES OR DECREASES (−) IN DIRECT SPENDING												
Estimated Budget Authority	2	3	6	8	10	12	−26	−32	−30	8	29	−39
Estimated Outlays	2	3	6	8	10	12	−26	−32	−30	8	29	−39
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization	1	1	2	2	2	2	2	2	2	2	8	18
Estimated Outlays	1	1	2	2	2	2	2	2	2	2	8	18

Basis of estimate: For this estimate, CBO assumes that H.R. 3834 will be enacted early in fiscal year 2026 and that outlays will follow historical patterns for affected programs.

Direct spending: Provisions of H.R. 3834 would affect direct spending by requiring BVA to consider additional evidence in appeals for veterans' benefits, which CBO estimates would result in an increase in the number of people receiving disability compensation from VA.[1] It also would reduce pension payments to veterans

[1] Disability compensation is a monthly cash benefit paid to veterans who have disabilities or diseases that VA determines are connected to their military service. VA assigns a disability rating to veterans depending on the severity of their condition. The ratings range from zero to 100

Continued

and survivors who reside in Medicaid nursing homes. In addition, the bill would require BVA to hear certain appeals, which would increase that agency's workload. (That provision also would affect spending subject to appropriation.)

CBO estimates that, in total, enacting the bill would reduce net direct spending by $39 million over the 2026–2035 period (see Table 2).

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER H.R. 3834

	By fiscal year, millions of dollars—											
	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2026–2030	2026–2035
Additional Evidence:												
Estimated Budget Authority	2	3	5	7	9	11	13	15	17	19	26	101
Estimated Outlays	2	3	5	7	9	11	13	15	17	19	26	101
Pensions and Medicaid:												
Estimated Budget Authority	0	0	0	0	0	0	−40	−48	−48	−12	0	−148
Estimated Outlays	0	0	0	0	0	0	−40	−48	−48	−12	0	−148
Claims Workload:												
Estimated Budget Authority	*	*	1	1	1	1	1	1	1	1	3	8
Estimated Outlays	*	*	1	1	1	1	1	1	1	1	3	8
Total Changes:												
Budget Authority	2	3	6	8	10	12	−26	−32	−30	8	29	−39
Estimated Outlays	2	3	6	8	10	12	−26	−32	−30	8	29	−39

* = between zero and $500,000.

Additional evidence: H.R. 3834 would allow claimants to submit additional evidence when appealing certain decisions. Claimants can appeal to the Court of Appeals for Veterans Claims (CAVC) if BVA denies an initial appeal of a VA decision that denies a claim. Each year, CAVC remands about 7,250 appeals back to BVA. In many cases, CAVC directs BVA to reconsider its evaluation of the original evidence submitted in the claim. Under current law, appellants generally are not permitted to submit additional evidence to BVA when it considers a remanded case. Under the bill, appellants in such cases may submit additional evidence to support their claims within 90 days.

CBO estimates that, under the bill, about 1,000 veterans each year would submit additional evidence related to claims for disability compensation to BVA, and that about 100 would have their claims decided in their favor. Using information about the disability ratings of appellants, CBO estimates that about 25 veterans would newly receive disability compensation each year at an average annual amount of $16,000. CBO estimates that the remaining 75 veterans would have their disability rating increased and receive an additional $18,800 per year. In total, considering additional evidence during appeals would increase direct spending by $101 million over the 2026–2035 period, CBO estimates.

Pensions and Medicaid: Under current law, VA reduces pension payments to veterans and survivors who reside in Medicaid nursing homes to $90 per month. That required reduction expires November 30, 2031. Section 3 would extend that reduction for 38

percent and increase in increments of 10 percent; veterans with higher ratings receive more compensation.

months, through January 30, 2035. CBO estimates that extending that requirement would reduce VA benefits by about $10 million per month. (Those benefits are paid from mandatory appropriations and are therefore considered direct spending.) As a result of that reduction in beneficiaries' income, Medicaid would pay more of the cost of their care, increasing spending for that program by about $6 million per month. Thus, enacting section 3 would reduce net direct spending by $148 million over the 2026–2035 period.

Claims workload: As discussed below under the heading "Provisions that Affect Spending Subject to Appropriation and Direct Spending," CBO estimates that BVA's workload would increase as a result of the bill's requirement to hear each appeal on the merits of the claim, even if new and relevant evidence is not submitted. Some of the cost of that additional workload would be paid from the Toxic Exposures Fund, a mandatory appropriation. Direct spending for that requirement would total $8 million, CBO estimates.

Provisions that affect spending subject to appropriation and direct spending: H.R. 3834 would require BVA to consider an appeal for VA benefits in cases where the appellant does not submit new evidence to support the claim. Under current law, applicants for VA benefits who receive an unfavorable decision on their initial claim from the VA may appeal by filing a supplemental claim in which they submit additional evidence to VA to support their appeal. The submitted evidence must be considered new and relevant; otherwise, VA denies the appeal. Claimants may then appeal the decision directly to BVA. However, BVA typically also denies appeals in cases where a claim lacks new and relevant evidence.

The bill would require BVA to consider an appeal on the merits of the claim, regardless of whether new and relevant evidence is submitted. CBO anticipates that requiring BVA to consider such appeals would not affect the outcomes because claims would include the same information that resulted in the initial decision. However, considering those appeals would increase BVA's workload. Using information on the number of claims that are denied for lack of new and relevant evidence, CBO estimates the additional workload would be equivalent to that of 50 full-time attorneys. Those attorneys would receive an average total compensation of about $250,000, for a total cost of $26 million over the 2026–2035 budget window, CBO estimates.

CBO expects that some of the costs of implementing the bill would be paid from the Toxic Exposures Fund (TEF) established by Public Law 117–168, the Honoring our PACT Act. The TEF is a mandatory appropriation that VA uses to pay for health care, disability claims processing, medical research, and IT modernization that benefit veterans who were exposed to environmental hazards. Additional spending from the TEF would occur if legislation increases the costs of similar activities that benefit veterans with such exposure. Thus, in addition to increasing spending subject to appropriation, enacting the bill would increase amounts paid from the TEF, which are classified as direct spending.

CBO projects that the proportion of costs paid by the TEF will grow over time based on the amount of formerly discretionary appropriations that CBO expects will be provided through the mandatory appropriation as specified in the Honoring our PACT Act.[2] CBO estimates that over the 2026–2035 period, implementing the bill would increase spending subject to appropriation by $18 million and direct spending by $8 million.

Uncertainty: CBO's estimate of the bill's costs is subject to uncertainty about the number of veterans whose appeals would be adjudicated in their favor because they were able to submit additional evidence to the Board of Veterans Appeals. Costs could differ if the number of veterans who become eligible for benefits is greater or less than CBO estimates.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term net direct spending and deficits: CBO estimates that enacting H.R. 3834 would not increase net direct spending by more than $2.5 billion in any of the four consecutive 10-year periods beginning in 2036.

CBO estimates that enacting H.R. 3834 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2036.

Mandates: The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Estimate prepared by: Federal costs: Logan Smith; Mandates: Brandon Lever.

Estimate reviewed by: David Newman, Chief, Defense, International Affairs, and Veterans' Affairs Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; Christina Hawley Anthony, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

Federal Mandates Statement

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) is inapplicable to H.R. 3834, as amended.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3834, as amended.

Applicability to Legislative Branch

The Committee finds that H.R. 3834, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

[2] For additional information about estimated spending from the TEF, see Congressional Budget Office, "Toxic Exposures Fund—January 2025 Baseline" (January 2025), https://tinyurl.com/3xjr6d3h.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3834, as amended, would establish or reauthorize a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section would establish the short title of the bill as the "Protecting Veteran's Claim Options Act."

Section 2: Board of Veterans' Appeals: Jurisdiction; Evidence in certain cases

This section would amend 38 U.S.C. § 7104(a), by adding a new paragraph (2) that would stipulate that an appeals decision made on a supplemental claim may not be denied Board relief (including review of the merits) solely because that appellant did not present or secure new and relevant evidence on that supplemental claim.

This section would also amend 38 U.S.C. § 7113 to add a new subsection, which would require the Board shall consider evidence submitted by the appellant and their representative within 90 days of a remand by the Court. This section specifies that the Board shall consider evidence submitted in the provided time frame in the first instance and shall limit the evidentiary record to the evidence submitted in such cases and the record previously considered by the Board.

Section 3: Extension of certain limits on payments of pension

This section would extend the limitation of pension payable to certain veterans, their surviving spouses, and their children as established in 38 U.S.C. § 5503(d)(7), from November 30, 2031, to January 30, 2035.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * * * *

CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

* * * * * * *

§ 5503. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Department, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care.

(B) Except as provided in subparagraph (D) of this paragraph, where any veteran having neither spouse nor child is being furnished nursing home care by the Department, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care. Any amount in excess of $90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.

(C) No pension in excess of $90 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Department if such veteran is readmitted within six months of a period of care in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph.

(D) In the case of a veteran being furnished nursing home care by the Department and with respect to whom subparagraph (B) of this paragraph requires a reduction in pension, such reduction shall not be made for a period of up to three additional calendar months after the last day of the third month referred to in such subparagraph if the Secretary determines that the primary purpose for the furnishing of such care during such additional period is for the Department to provide such veteran with a prescribed program of rehabilitation services, under chapter 17 of this title, designed to restore such veteran's ability to function within such veteran's family and community. If the Secretary determines that it is necessary, after such period, for the veteran to continue such program of rehabilitation services in order to achieve the purposes of such program and that the primary purpose of furnishing nursing home care to the veteran continues to be the provision of such program to the veteran, the reduction in pension required by subparagraph

(B) of this paragraph shall not be made for the number of calendar months that the Secretary determines is necessary for the veteran to achieve the purposes of such program.

(2) The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a spouse but whose pension is payable under section 1521(b) of this title. In such a case, the Secretary may apportion and pay to the spouse, upon an affirmative showing of hardship, all or any part of the amounts in excess of the amount payable to the veteran while being furnished such care which would be payable to the veteran if pension were payable under section 1521(c) of this title.

(b) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension of any veteran for any part of the period during which the veteran is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

(c) Where any veteran in receipt of an aid and attendance allowance described in subsection (r) or (t) of section 1114 of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of the veteran's admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Department, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (*l*) or (m) of section 1114 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran's admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

(d)(1) For the purposes of this subsection—

(A) the term "Medicaid plan" means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

(B) the term "nursing facility" means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r), other than a facility that is a State home with respect to which the Secretary makes per diem payments for nursing home care pursuant to section 1741(a) of this title.

(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

(5)(A) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.

(B) The provisions of this subsection shall apply with respect to a child entitled to pension under section 1542 of this title in the same manner as they apply to a veteran having neither spouse nor child.

(6) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(7) This subsection expires on ⟦November 30, 2031⟧ *January 30, 2035*.

* * * * * * *

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

* * * * * * *

CHAPTER 71—BOARD OF VETERANS' APPEALS

* * * * * * *

§ 7104. Jurisdiction of the Board; decisions; notice

(a) *(1)* All questions in a matter which under section 511(a) of this title is subject to decision by the Secretary shall be subject to one review on appeal to the Secretary. Final decisions on such appeals shall be made by the Board. Decisions of the Board shall be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation.

(2) In an appeal of a decision under section 5108 of this title regarding a supplemental claim under section 5104C(a)(1)(B) of this title, the Board may not deny relief (including by denying review of the merits of the claim) solely on the basis that the appellant did not present or secure new and relevant evidence with respect to such supplemental claim.

(b) Except as provided in section 5108 of this title, when a claim is disallowed by the Board, the claim may not thereafter be readjudicated and allowed and a claim based upon the same factual basis may not be considered.

(c) The Board shall be bound in its decisions by the regulations of the Department, instructions of the Secretary, and the precedent opinions of the chief legal officer of the Department.

(d) Each decision of the Board shall include—

(1) a written statement of the Board's findings and conclusions, and the reasons or bases for those findings and conclu-

sions, on all material issues of fact and law presented on the record;

(2) a general statement—

(A) reflecting whether evidence was not considered in making the decision because the evidence was received at a time when not permitted under section 7113 of this title; and

(B) noting such options as may be available for having the evidence considered by the Department; and

(3) an order granting appropriate relief or denying relief.

(e) After reaching a decision on an appeal, the Board shall promptly issue notice (as that term is defined in section 5100 of this title) of such decision to the following:

(1) The appellant.

(2) Any other party with a right to notice of such decision.

(3) Any authorized representative of the appellant or party described in paragraph (2).

(f)(1) The Secretary may provide notice under subsection (e) electronically if a claimant (or the claimant's representative) elects to receive such notice electronically.

(2) A claimant (or the claimant's representative) may revoke such an election at any time, by means prescribed by the Secretary.

* * * * * * *

§ 7113. Evidentiary record before the Board of Veterans' Appeals

(a) CASES WITH NO REQUEST FOR A HEARING OR ADDITIONAL EVIDENCE.—For cases in which a hearing before the Board of Veterans' Appeals is not requested in the notice of disagreement and no request was made to submit evidence, the evidentiary record before the Board shall be limited to the evidence of record at the time of the decision of the agency of original jurisdiction on appeal.

(b) CASES WITH A REQUEST FOR A HEARING.—(1) Except as provided in paragraph (2), for cases in which a hearing is requested in the notice of disagreement, the evidentiary record before the Board shall be limited to the evidence of record at the time of the decision of the agency of original jurisdiction on appeal.

(2) The evidentiary record before the Board for cases described in paragraph (1) shall include each of the following, which the Board shall consider in the first instance:

(A) Evidence submitted by the appellant and his or her representative, if any, at the Board hearing.

(B) Evidence submitted by the appellant and his or her representative, if any, within 90 days following the Board hearing.

(c) CASES WITH NO REQUEST FOR A HEARING AND WITH A REQUEST FOR ADDITIONAL EVIDENCE.—(1) Except as provided in paragraph (2), for cases in which a hearing is not requested in the notice of disagreement but an opportunity to submit evidence is requested, the evidentiary record before the Board shall be limited to the evidence considered by the agency of original jurisdiction in the decision on appeal.

(2) The evidentiary record before the Board for cases described in paragraph (1) shall include each of the following, which the Board shall consider in the first instance:

(A) Evidence submitted by the appellant and his or her representative, if any, with the notice of disagreement.

(B) Evidence submitted by the appellant and his or her representative, if any, within 90 days following receipt of the notice of disagreement.

(d) CASES REMANDED BY THE COURT OF APPEALS FOR VETERANS CLAIMS.—(1) Except as provided in paragraph (2), for cases remanded to the Board by the Court of Appeals for Veterans Claims, the evidentiary record before the Board shall be limited to the evidence previously considered by the Board in such case.

(2) The evidentiary record before the Board for cases described in paragraph (1) shall include evidence submitted by the appellant and his or her representative, if any, within 90 days following such remand, which the Board shall consider in the first instance.

* * * * * * *